



Organization for Security and Co-operation in Europe

The Secretariat

Conflict Prevention Centre

A NEW FOCUS ON BORDERS

Introduction

The rapid evolution of the European security environment over the last decade and the changing nature of the threats and challenges to security and stability in the region have placed a new accent on issues related to borders and their roles. The sheer increase in the number of borders as a consequence of the emergence of new states after the end of the Cold War require special focus on their management and security to avoid that they themselves become a factor encouraging divisions and a barrier to cooperation and the development of good neighbourly relations. On the other hand, the new challenges we face, especially in the aftermath of 11 September, have inevitably placed an increasing accent on the need to ensure that properly managed borders remain an effective barrier against terrorism, trafficking, proliferation and other cross-national threats.

Thus, border management is 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 of 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 the threats of illegal cross-border activity, it is becoming increasingly difficult, especially for countries in transition, to obtain concrete results in addressing these new threats. For instance, police and border forces in these countries often need stronger political support and better training to develop the necessary professional competence to take steps to combat what they may see as transient problem, where illegal traffic enters and exists through porous borders without necessarily creating local threats. Low salaries and sometimes weak judicial systems give little

incentive to the forces of law and order to tackle such problems, especially when there is the threat of armed force from gangs prepared 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 immediate future. Hence there is a real need for the international community to increase its efforts of assistance in the fields of border management and security.

Most international, regional and sub-regional organizations have some focus on border issues within their respective mandates and are paying increasing attention to these issues. The net result is that there is a need to further increase levels of co-operation between respective organizations on border related issues, be it legislative, economic, environmental, terrorism related, police related, or a combination of them all.

To combat these increasing threats the EU, under the Schengen system, has adopted increasingly restrictive external frontier border controls, visa requirements and asylum policies. Yet, this neither addresses the root causes of the problems, nor does it require the nations from where the illegal goods/migrants originate to take steps to tackle the problem.

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 to develop working definitions, which could be along the following lines:

Border Management is the overall term that 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 seize 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/Border Guards, which are then genuinely

responsible for the execution of border related governmental decisions and duties.

'Border Security' is the responsibility of civilian border police forces, who are considered to be the leading border management agency. In order to provide this security, border police forces will, inter alia, provide surveillance of a border by patrolling on land (the so called 'green borders'), on water (patrolling the national coastal territory on land and in harbours) as well as from the air. They will also controls all cross-border traffic, including the checking of documents and the right to cross the border at road checkpoints, railway checkpoints, airports and harbours. Border search measures at checkpoints and at the 'green borders' will also be a part of this action.

Border Policing includes the practical execution of border control measures at both recognized checkpoints and at the 'green border' (migration), border surveillance by patrolling and postings along the border line as well as in the border zone (e.g. through 'border community policing'), border search measures at checkpoints as well as in the border zone, and all other preventive and offensive measures necessary for maintaining 'Border Security' in general and in special cases and situations, including preventing indictable offences and searching for the persons responsible for committing them.

OSCE role in border security management and policing.

The OSCE's comprehensive approach to security makes the organization suitable to assist participating States in all three aspects of border issues. This role is firmly anchored in a number of official Documents, such as the Budapest and Porto Ministerial Declarations. In Budapest (2001), Ministers identified a number of risks and challenges to security and reaffirmed the importance of the strengthened role of the OSCE in setting up effective cooperative mechanisms to address them. It was agreed that dialogue would be broadened within the OSCE as would co-operation with other international, regional and sub-regional organizations and institutions, all on the basis of the Platform for Co-operative Security. Additionally, the role of the OSCE bodies, institutions and field operations in addressing these threats to security and stability would be defined, thus furthering the concept of the common, comprehensive and indivisible security based on sovereign equality and solidarity of the States.

These principles have been reconfirmed 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 current Chairmanship's focus on trafficking), which has resulted in increasing attention to border issues in general. Moreover, several decisions were adopted in Porto, i.a. tasking the Permanent Council with developing a strategy to address threats to security and stability and organizing an Annual Security Review Conference, where border related issues will receive specific attention.

At the field level 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, thus helping identifying the issues, and to be aware of the activities of other organizations on the ground, and in many cases can supply the 'framework' by which other national and international actors may interrelate in a country. Regular information sharing meetings are a feature of field mission life, and in this way overlap can be avoided just as easily as gaps in programmes can be identified. Field missions, in providing this framework by which other national, and international partners not represented in country, can operate, are able to assist in many ways. This can include in-country briefings, providing the facilities or even the secretariat for meetings, assistance with forming closer relations with government interlocutors, right through to being implementing partners in projects. Given these assets, the OSCE's potential to play its part in combating these new threats of the 21st century, is significant. Equally important at the more strategic, headquarter, level is the need to ensure that border related work is channeled and shared accurately with those responsible, for the likelihood of overlap and loss of focus when drafting terms of reference and projects is just as high. The OSCE has recognized this and has established a post of Border Issues Co-ordination Officer, as a focal point within the CPC. His main role will be to ensure that specific activities reach the department or unit responsible, whilst at the same time maintaining the widest possible knowledge of all border related issues in order to maintain a substantial overview of all such matters being dealt with internal departments, by the institutions, by regional initiatives and by our 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 Conflict Prevention Centre (CPC) has launched an internal co-ordination process for sharing information within the Secretariat and developing specific border projects.

Field Operations

Missions can though clearly play a role in assisting host governments in obtaining political support for improved border security, management policies and legislation generally. They can also assist with building institutional support at both 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 area. But it is true to say that throughout the OSCE region, only in SE Europe is there a focus on border related issues, but there is not yet a well developed approach – only broad agreement that they 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 in respect of influencing decision making, but the best would be one that involved a regional, co-ordinated common approach, perhaps with the option of providing conditional assistance as well. The Stability Pact for SE Europe, under its Working Table three, has gone some way in its task of co-ordinating specific initiatives but it has limitations, and it is not the instrument to produce the co-ordinated approach mentioned above.

The Ohrid Conference

An example of successful co-operation and interaction among international organizations in addressing border issues at a regional/subregional level is the May 2003 Ohrid Conference on border security and management. This Conference has been jointly organized, following a NATO invitation, by NATO, the EU, the Stability Pact and the OSCE, which have developed, in close consultation with all countries concerned, a Common Platform setting out political goals, objectives, principles and instruments as guidelines for the Partner Organizations and the countries of the region in their further work in this area.

The overall purpose of this conference was to promote enhanced co-operation and co-ordination in border security and border management in the Western Balkans. OSCE's comprehensive concept of security and its expertise in the field provide the Organization with both the conceptual basis and the practical experience to contribute to the aims of the Ohrid Conference. OSCE's practical contribution in this area will mainly focus on civilian aspects of:

training of and advice to police/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”); assistance to and facilitation of institution building, in particular of national and regional co-ordinating bodies; promotion of regional co-operation, in particular cross-border bilateral co-operation.

Any additional OSCE role in support of border management will need to be practically-oriented and fit in with 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 sub-regional level. Yet, this will remain subject to the decision of participating States to the extent that it may require additional resources.

The Border Monitoring Operation of the OSCE Mission to Georgia

In Georgia, the OSCE is closely involved in monitoring of 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 decided 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*”. The Border Monitoring Operation (BMO) of the Mission started its activities shortly thereafter. Subsequent, geographical expansions of the BMO activities took place 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. Furthermore, 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.

In fulfilment of the mandate, the OSCE border monitors are deployed along the 280-km long stretch of the border. At present there are 8 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 border monitors during the summer period (16 April – 15 November) and 111 border monitors during the winter period.

The BMO personnel are unarmed and have no enforcement responsibilities. They act with full respect for the sovereignty of the Georgian authorities and Georgia’s borders. The border monitors do not take over responsibilities of

the Georgian authorities. Security of the operation is provided by a special Security Detachment of the Georgian Border Guard. Freedom of movement of the OSCE personnel is guaranteed by the Georgian authorities.

Monitoring is done 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 very demanding even during the summer since they operate at altitudes reaching 3500 meters above the sea level.

Despite a highly complex geo-political situation in the region and difficult periods in its activities, the BMO have considerably contributed to the reduction of tensions along the border. The presence of the OSCE monitors represents an important confidence-building instrument between the two participating States concerned. This was recognized by the OSCE participating States. For instance, the last two OSCE Ministerial Council meetings (in Bucharest and Porto, respectively) acknowledged the BMO to be a “*significant contribution to stability and confidence in the region*”. Furthermore, deployment and subsequent geographical expansions of this operation illustrate the ability of the Organization to react immediately and adequately to requests of participating States to launch conflict prevention activities in view of security developments of potential concern.

Anti-terrorism

In the aftermath of September 11 events, it has become clear that there is a need to do more to meet emerging threats. Border security and the threat of international terrorism are clearly issues of international concern. The challenge is to find ways to enhance border security to a level that is commensurate with the threat of trans-national terrorism, while at the same time facilitating legitimate cross-border travel and commerce, and protecting human rights. 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, bulk cash smuggling, all of which can be used to finance terrorist acts, as well as the use by terrorists of fraudulent, stolen or counterfeit documents, and trans-national bribery to facilitate the illicit movement of goods and persons across borders. Viewed from this 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 nature of focused border monitoring with a view to interdiction. Some of the areas within border management where the OSCE could make a difference include any activities that include, inter

alia, the promotion of OSCE and other internationally accepted standards on combating illicit trafficking activities, model legislation on trans-national bribery, the promotion of linked database systems of migration, capacity building in the area of detecting stolen, counterfeit and travel documents, promotion of measures for detection of inadequate export/import procedures, promotion of cross-border co-operation and co-ordination of border officials.

Anti-trafficking

In its attempts to prevent trafficking in small arms and light weapons, the OSCE has adopted a significant set of commitments designed to prevent such illegal activity. These commitments are enshrined in the OSCE Document on Small Arms and Light Weapons (SALW), a wide-ranging agreement which takes a comprehensive approach to the issue. Rather than focus on border security and law enforcement, the Document aims to prevent the diversion of small arms and light weapons at source, through the implementation of strict export, import and transit legislation. Furthermore, the Document places emphasis on the removal of military-style weapons from society, especially in post-conflict settings.

Here 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 concluding 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 at this level, and encourages participating States to facilitate and provide “regional, sub-regional and national training programmes and joint training exercises for law enforcement, customs and other appropriate officials”.

Border Policing

In the field of policing the OSCE now has some 25% of its international human resources committed to police related activities, and the Strategic Matters Police Unit (SPMU) has a role to play in promoting border policing capacity. Activities begin with a critical assessment of needs by international experts, and is followed by the formulation of a programme of assistance incorporating both host State requirements and whenever possible, the associated activities of international partner organizations. The promotion of a long term vision aimed at separating border policing from border guarding

and therefore amending state border legislation is one area. Providing training on recognizing false documents is another.

Tentative negotiations are underway in South East Europe with a view to refurbishing and equipping a regional border guards academy which would serve as a centre of excellence for the training of new border guards. At the same time the SPMU will be in a position to review the training curricula of courses run at all levels.

The OSCE recognizes that trafficking in human beings is an increasing problem and is committed to the necessity of enhancing anti-trafficking efforts in defence of human rights and the fight against trans-national organized crime. Trafficking in human beings remains for such criminals a low risk operation with high profits, but at the same time it has serious repercussions on the security of states because it makes the borders porous for crime. It is also commonly acknowledged that there is a link between trafficking in human beings and other trans-national criminal activities like trafficking in arms.

As OSCE participating States, field activities and Institutions engage in a coherent and co-operative approach to combat trafficking in human beings, especially women and children. It is apparent that victims of trafficking are increasingly transferred from establishment to establishment, even across borders, in an attempt to avoid identification of the traffickers involved. Trafficking of a commodity by one group of individuals does not preclude trafficking in any other. Criminals will pursue activities which are lucrative and pose an acceptable or no level of risk. From the law enforcement standpoint, the focus must be on criminals not the crime – hence the need for intelligence led investigations. Intelligence led investigations require the skills, equipment and systems to manage and analyze crime and criminal information, and for such systems 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. There is currently being prepared a strategy on how the Organization, and in particular field missions, tackle this problem. As with similar crime-related activities, missions members must not become involved in specific cases but use the lessons learned in order to inform the direction of change.