



FIXING THE FRONTIER

Lina Kolesnikova discusses the work being achieved by FRONTEX to secure the EU's borders, and calls for a Europe-wide approach to illegal immigration and cross-border criminality

After the 9/11, Madrid and London bombings of the last decade we are witnessing the continued securitisation of migration issues within the EU. In part this is in recognition of the fact that links between terrorism, migration and borders, irregular migration and cross-border crimes pose a threat to common internal security. Border security is therefore considered to be part of a unique challenge to the EU's security.

The Schengen area, which extends along 42,672km of external sea borders and 8,826km of land borders, and comprises 25 countries (including a number of non-EU states), allows for the free internal movement of nearly half a billion people. But the removal of checks at internal borders makes the control of external borders much more important, since all Schengen members are now reliant on the checks made by other members. According to common opinion in Brussels, the Schengen area border is only as strong as its weakest link.

The number of illegal immigrants and overstayers

(people who entered the EU legally but then broke the law by not leaving before their visas expired) has now reached around eight million. EU officials also openly state that they do not expect the migratory pressures on the EU's southern maritime borders to diminish in the near future. On the contrary, demographic statistical data indicates that migration is set to rise as the population of the 50 least developed countries is likely to more than double, from 800 million in 2007 to 1.7 billion in 2050 (UN Population Division). The phenomenon of unaccompanied minors claiming asylum in the EU also has become a visible problem in recent years.

On 26 October 2004, the Council of the European Union established FRONTEX, a new external borders agency for the EU. It was set up as an independent legal body with a management board made up of the border chiefs of member states. Its stated purpose was the "co-ordination of intelligence-driven operational co-operation at EU level to strengthen security at the external borders". On

About FRONTEX (FRONTEX, 2009)

- 1,792: the number of designated border crossing points
- 500m: of total number of border crossing per year
- 3-8m: the approximate number of irregular migrants inside the EU
- 300,000: the number of refused entries each year (excluding 600,000 refusals in Mellila and Ceuta, Spain)
- 80%: the proportion of irregular migrants inside the Schengen area
- 50%: the proportion of irregular migrants who entered legally

©FRONTEX

3 October 2005, FRONTEX started to work as an organisation. On that day, 27 experts were seconded from national border guard authorities, along with 17 administrative staff. In 2006, FRONTEX mounted its first major maritime operation, Joint Operation HERA, which was a response to the enormous surge in irregular immigration from West Africa to Spain's Canary Islands in the Atlantic Ocean. It was also first operation in which FRONTEX co-operated with third country. Today, FRONTEX has 270 staff and is still growing.

The Rapid Border Intervention Teams (RABITs) were established in 2007 as part of the agency's founding mandate, and represent one of the cornerstones of FRONTEX's role as a supporting agency of the Commission and the EU member states. The basic idea of these teams was to create such a mechanism that could allow, in case of urgent and exceptional migratory pressure, rapid deployment of border guards on a Europe-wide level. These teams are intended to provide short-term assistance, and

responsibility for the control and surveillance of external borders continues to lie with the member states. A member state is entitled to request the assistance of the RABITs while facing the situation of urgent and exceptional pressure, especially the arrival of large numbers of third-country nationals at the external borders who are trying to enter the territory illegally.

From the beginning, FRONTEX's Executive Director, Ikka Laitinen, had a vision of the organisation as an operational body. He strongly believed that border security does not start or end at the border; it is just one area where duties are performed. Only when there are no barriers between law enforcement in the member states and third countries does he believe that border control management will be successful.

During the five years of its existence, FRONTEX has faced a number of challenges. First of all it was realised that it was impossible to maintain national approaches to border security any more; it was instead necessary to think European-wide. But in spite of this, nationally-oriented approaches remain for things such as eligibility for asylum and refugee status, work visas, etc.

Detention periods for undocumented immigrants can range from 18 months in one EU country to just a few days in another. The lack of a common EU immigration policy, together with the different practices of national authorities, have an immediate feedback effect for border services because, not surprisingly, traffickers and other criminals adapt their own methods to the policies and practices of individual member states.

Another complexity is the return operations. In one sense this is the end of the process of border control, when migrants have exhausted all legal avenues allowing them to stay in Europe and national authorities return them to their countries of origin. FRONTEX's contribution is to co-ordinate joint return operations, which involve a number of member states working together. Apart from the obvious logistical and financial complexities of return operations, there are legal, political and diplomatic questions that are beyond FRONTEX's control. Returns can only be made via bi-lateral agreements with receiving countries, are made on the basis of national legislation, cost a great deal of money and are potentially very sensitive to political developments. The outcome of these return operations also has considerable and immediate impact on immigration routes and the modus operandi of people traffickers. However effective it may be, therefore, border control is only part of the puzzle.

The next issue is the "dark figures" dilemma. While we know how many people were caught at the borders, no one knows exactly how many others have got through. It is therefore vitally important that security players co-operate and share intelligence between them. It is also an issue of internal evaluation, which is very politically sensitive area.

Finally, there is the information management challenge. From the beginning, FRONTEX was named as an intelligence-driven organisation, but it lacks the ability to process information containing personal data. This is a sensitive issue from a data protection point of view, and it is understandable that protection must be put in place. But if FRONTEX is not able to process all relevant information, including that which contains

FIXING THE FRONTIER

personal data, it will not be able to fulfil the potential of the agency.

This is frustrating when the answer to a crime could lie in information which cannot be touched or analysed properly. It is a choice between data protection and operational needs. In particular, this influences the possibility of intercepting the “facilitators” (human traffickers and smugglers) of irregular immigrants. Border guards are potentially the first and last officials that are in contact with a victim of trafficking when entering or leaving the EU. This is one of the reasons why the Commission proposal for a new FRONTEX Regulation, which is currently being negotiated in the Council Working Groups and in the European Parliament, is so important. The judicial authorities, as well as police, depend on the first-hand information collected at the border. Here too, the lack of a common EU-wide definition of victims and traffickers is a key hurdle in the detection and prosecution of human trafficking. Moreover, irregular immigration cannot be effectively managed with short-term solutions (such as, for example, short-term RABIT operations).

It is necessary to emphasise the need to develop a better rapid response capacity to deal with unforeseeable events. FRONTEX definitely needs a regional touch via establishing FRONTEX operational offices (FOO) in places of particular vulnerabilities (a pilot office was opened recently in Greece). Once that has been achieved, FRONTEX needs equipment to avoid being so dependent on member states.

What happens at the EU's external and internal borders is not the whole story. Awareness of what is happening beyond the border and inland, and co-operation between the myriad services and agencies involved in border control-related activities – particularly in gathering information and intelligence – are fundamental to improving border security. CEPOL, Eurojust, Europol and Frontex have to improve interagency co-operation among the EU law enforcement agencies. The Lisbon treaty has entered into force, allowing for much better inter-agency co-operation on all matters affecting border security. The Stockholm programme, together with the EU internal security strategy determine EU Justice and Home Affairs policy for the next few years, including border security.

FRONTEX was given the task of assisting member states in training national border guards and establishing common training standards across the EU. FRONTEX training is as broad as it is deep. From 2006 to 2007 it tripled the delivery of training activities such as fundamental rights, language instruction, air crew training, dog handling, detection of stolen vehicles, identification of forged documents and many others. The training of border guard officers based on the Common Core Curriculum developed by FRONTEX guarantees common quality measurable standards comparable within all the EU member states and



Frontex Executive Director Ilkka Laitinen visits RABIT officers at the Greek-Turkish border

Schengen-associated countries. Moreover, common training tools have also been prepared by FRONTEX for member states to use in their training programmes for third countries. The Common Core Curriculum is divided into four modules: general, air, land and sea borders. Border guards not only acquire basic skills, but can also take specialist modules which are added according to national needs. Last year FRONTEX, together with its European and international partners, started the development of a special Traffic of Human Beings training module for European law-enforcement officers, with the aim of raising and harmonising standards of practice in this area. Having received the training, an officer should be able to prevent and combat the crime itself and – equally importantly – be able to deal with victims and potential victims of trafficking.

The EU's borders are by definition permeable, and EU economic development depends on it. But they should and could be less permeable to illicit users. Integrated border management is just one answer to a much larger problem that requires an overall strategy. Intercepting illegal migrants or cross-border criminals is all very well, but if there is no coherent and uniform method of dealing with them afterwards in an efficient, effective and humane way, then effective border control is of little use.

Without a coherent Europe-wide approach to illegal immigration and cross-border criminality, FRONTEX will be of little use at the forefront of responding to all these European-level border challenges. Fighting crime at the border is a key objective of the Lisbon Treaty, one of the cornerstones of which is full respect for fundamental rights. There is no need to compromise between these two goals because they are complementary and can be achieved in tandem.

Lina Kolesnikova is a Russian-born, Brussels-based associate of CS&A Risk and Crisis Management Consultancy. She provides consultancy to a number of organisations within both the private and public sectors.