

# METROPOLIS 2009

## BORDERS ZONES AND MOBILITY

### A VIEW FROM EUROPE

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My aim in this presentation is to examine some aspects of the current state of EU policy on border control and mobility. I will review briefly the main elements of external border management and its impact on mobility, look at internal mobility within the EU and its management within the Schengen area and, finally, describe one of the more successful examples of internal mobility – that of crossborder commuting.

#### **Borders and Mobility in the EU: contradictions**

European Union policy on borders and mobility is in principle quite straightforward but nevertheless somewhat contradictory. **Internal borders** are considered as a barrier to European integration and an obstacle to the free movement of people, goods and services and should, therefore, be removed. **External borders**, on the other hand, which have come to be seen as the joint responsibility of all Member States, must be strengthened and carefully managed to high and common standards of efficiency to ensure the security of the EU as a whole. **Mobility within** these external borders is to be encouraged and facilitated in the interests of the economic, social, and political development

of the Union. **Mobility across** the constantly shifting physical borders, which mark the external frontiers of the Union, must be strictly controlled.

From the EU point of view, therefore, the **nature of border zones** is very different. Regions adjacent to internal borders can be considered as laboratories of European integration where labour mobility and interaction at all levels between local authorities, organisations and individuals should be facilitated. Regions next to an external border remain, more traditionally, zones where movement must be restricted so as to safeguard not just national but also European security. Cooperation between the states within such regions is to be encouraged but with a focus on the management of the border as a barrier to undesirable movement. The fact that over the years the external borders of the EU have been constantly moving outwards, means that many border regions have found themselves playing each role successively.

However, not everyone has the same **rights to mobility** within the EU. EU citizens may move freely, and their rights must be promoted - both in theory and in practice – in particular to encourage a mobile workforce within the Single Market. The mobility rights of third country nationals are limited depending on their status. Open borders, however, facilitate the free movement of everyone, regardless of their status, and so European legislation and other measures have been developed to control and manage internal mobility within the Schengen system.

Consequently we have seen a **Europeanisation** of border policy within the EU, or a pooling of responsibilities, with both a European approach to controls at the external frontiers, through the concept of integrated border management, and a common system for managing internal mobility in the Schengen area and to deal with security issues, as the abolition of internal border controls has gradually extended.

## **Management of the External Borders**

EU policy on the integrated management of the external borders of the EU concerns both the control of the physical border but also a series of flanking measures within the EU (such as the control of illegal employment) and in countries of origin and transit to deter irregular migration at its source (such as information campaigns, return and re-admission policies and development assistance). These policies are managed within other broader policy frameworks such as the Neighbourhood policy and the Global approach to migration. The main components of control of the geographical borders are:

- cooperation between Member States in which the FRONTEX agency now plays a key role, for example in organising joint operations in border areas, surveillance, and training of border guards;
- the development of a common corpus of legislation which includes local border traffic and document security, including the use of biometrics;
- cooperation with neighbouring third countries, and countries of transit and origin on both the management of the physical borders and of migration flows from outside the Union;
- substantial Community funding via the External Borders Fund.

Are these policies meeting their objectives – managing the movement of people to ensure economic growth while at the same time keeping the Union secure? The European Commission points to the fact that the external borders of the EU are crossed every year by more than 300 million people (EU and third country citizens combined). The EU remains the world's most important tourist destination and a major player in global trade and governance. Legal migration programmes have turned what were previously emigration countries into immigration ones and labour migrants have become a major factor in economic growth. So Europe is clearly not a fortress which prevents movement in and out and immigration has largely met labour market needs.

There has been a certain degree of harmonisation of legislation concerning the admission of third country nationals (for family members, students, researchers and most recently high skilled migrants). However the original intention of the common immigration policy of establishing European rules for the admission of all labour migrants has not been realised and it would seem that national legislation will remain in force in this area for the foreseeable future.

A major weakness has been the difficulty of preventing illegal migration in spite of the substantial efforts which have been made to control the external borders. Recent figures released by the Commission estimate the number of irregular migrants in the EU at some 8 million persons. Research indicates that probably the majority of these entered the EU legally, often as tourists, and subsequently overstayed or in other ways transgressed their visa conditions. Meanwhile the pressure of illegal migration from outside the Union continues, especially from the east and on the maritime borders to the south, as reflected in the recent decision by the EU to establish the EUROSUR surveillance system. Criminal activities across frontiers also continue in a range of different areas and involve increasingly sophisticated techniques, while the fight against terrorism remains a priority.

The Commission acknowledges these weaknesses and, based on experience over the last 4-5 years, considers that, as a response, the European approach to border management should be strengthened in the future. A number of measures will be included in the Stockholm programme which will set out the priorities for the 5 years from 2010. Some of these, such as automated borders with more sophisticated systems for controlling the movement of people, will have substantial impacts on EU as well as non-EU citizens crossing the external frontiers. The role of FRONTEX will be strengthened in a number of areas including its cooperation with third countries. Reinforcing cooperation with third countries in these areas should not, in the Commission's view, be seen as

externalising border control but rather as complementary measures essential in a world of increasing global movement.

However there is still no effective EU policy to deal with those irregular migrants who have already crossed the borders into the Union. The EU has focussed recently on the prevention of irregular employment and on return and re-admission policies, although these have shown themselves very difficult to organise and costly to implement. The European Pact on Immigration and Asylum has set itself against regularisations, except on a case-by-case basis, even though regularisation programmes have been used successfully in several countries over the last few years. However, the situation of irregular migrants is usually complex and they often fall in and out of legal status over time. There is a need for a fresh look at ways to resolve the social, economic and human issues involved.

### **Schengen: the management of mobility within the EU**

The coming into force of the Schengen agreement in July 1995 was a key step in the process of giving effect to the freedom of movement of EU citizens. The abolition of internal border controls between EU Member States is one of the most visible signs of European integration. The absence of border checks applies of course to both EU and non EU citizens, most of whom only have the right to move to other Member States for visits of 3 months or less.

The number of countries involved in Schengen has expanded from 7 in 1995 to 22 today, plus 3 non EU countries (Norway, Switzerland and Iceland) – a total of 25 in all . Only 5 Member States, on the periphery of the Union - the UK, Ireland, Romania, Bulgaria and Cyprus remain outside the Schengen area for the moment.

This has only been possible because of the development of a common approach to external border management, but also of a common visa policy, and of greatly enhanced police and judicial cooperation especially in criminal matters and in

the area of drugs. A number of major IT systems are essential elements of the policy, the Schengen Information System (SIS), also EURODAC with respect to asylum seekers and the Visa Information System (VIS) when it becomes operational. These are going to be managed in a single dedicated structure from 2012.

However, mobility within EU 27, which is seen as beneficial in terms of the Single Market, remains low even though there has been a gradual increase in recent years, particularly since 2004 with the accession of the EU12 countries. Of course many millions travel every year on holiday or for other purposes within the Union. But it is estimated that only some 10.5 million (2.1%) of EU citizens live in another country of which about 6.3 million are part of the work force.

This low level of mobility exists in spite of the vast range of programmes, incentives and measures which have been introduced over the years to facilitate labour mobility and to reduce barriers to it. These include the harmonisation of social security systems, promotion of the equivalence of qualifications, information and awareness campaigns such as the European Year of Mobility in 2006 and its follow-up action plan.

I should emphasise here that when talking about internal movement in the EU, I am referring mainly to EU nationals exercising their rights to mobility, including those from EU12 countries who are often misleadingly referred to as migrants. I do not include international migration involving third country nationals whose legal status is very different. The right of EU citizens to move to another Member State and to take up residence there is considered as one of the fundamental freedoms of the internal market. It was codified in 2004 in a new EC Directive (2004/38/EC) but nevertheless individuals still have to confront many practical problems when moving between Member States.<sup>1</sup> The accession of the EU12 has given a boost to inter-state mobility but it also showed up some

of the difficulties of exercising it. EU immigration policy has provided a limited extension of these rights to mobility, though under specific conditions, to certain categories of third country nationals, namely long term residents and high skilled migrants with the EU Blue card.

### **Cross border mobility in the EU**

However the mobility which is the main subject of this panel – cross-border mobility – does function increasingly well and I will end with an overview of the situation today in the EU. The establishment of the EURES system in 1994, which has been developed into an internet job mobility portal, enabled the Commission to promote and encourage this particular aspect of labour mobility. Already then there were areas where cross-border commuting was common – especially between France and Germany and the Benelux countries.

I am using the Commission **definition of cross-border workers** here as people who live on one side of a border and work on the other and who commute regularly (usually on a weekly or, more commonly, a daily basis). The development of better transport links in recent years, in particular motorways, infrastructure such as bridges and tunnels and fast trains, has led to the increase of cross-border commuting over longer distances, but I will concentrate on the majority of cross-border workers who generally live in a border region (defined largely as NUTS3).

These areas are the focus of enhanced cooperation between the employment services, local authorities, trade unions, vocational training and employers' organisations represented on each side of the border in the form of EURES cross-border regions. Their number has steadily grown and there are now 23 fully fledged regional partnerships and 17 cross-border initiatives involving a restricted number of partners. Of these partnerships and initiatives 22 including

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<sup>1</sup> COM(2009)313 of 2 July 2009

Oresund are within EU-15, three of which include Switzerland, 10 are within EU-12 and 8 between EU-12 and EU15 countries.

The number of cross-border initiatives will increase in the future as a result of feasibility studies in a number of areas which are currently being undertaken - mainly between EU15 and EU12 Member States, with the exception of that between Norway and Sweden.

Most cross-border working still takes place in the traditional 'heart' of Europe between France, Germany, Luxembourg, Belgium and The Netherlands but the main country of destination is outside the EU – Switzerland. Cross-border working is growing between the Scandinavian countries and along the Austrian border. While there are considerable differences between regions in terms of the number of people commuting and in the type of activity - overall numbers have grown substantially since the 1990's although they are still a small percentage of the overall EU work force. A recent report for the Commission on the mobility of cross-border workers within the EU-27, EEA and EFTA countries, calculates that there were about 800 000 cross-border commuters in 2006-7<sup>2</sup>.

The main countries of destination for outward mobility are Switzerland (206 000) Luxembourg (127 000), Germany (86 000) the Netherlands (58 000) Austria (48 000) and Belgium (39 000) which together receive about 75% of cross-border commuters.

The main countries from which they come are France (284 000) Germany (117 000) and Belgium (78 000) which provide about 60% of the total EU/EEA/EFTA number. Nearly 95% of cross-border commuters are working in EU15/EEA/EFTA countries since, while it is developing, cross-border mobility is low between the new member states. The EU12 countries account, however, for 15% of the total number of out-commuters with the main destinations being EU15 countries.

The MKW-Empirica report on crossborder mobility suggests that in general the decision to commute depends more on pull factors in the destination region, notably a strong economic structure with good prospects for finding a job and large income differentials, than push factors in the region of origin. The absence of border controls and the presence of well-developed transport links and differences in the housing market are also important. The creation of the Schengen area has, therefore, facilitated cross-border commuting, but seems to be only one factor. If the economic infrastructure differential does not also exist, cross-border working does not develop to any extent.

Barriers to mobility include the absence of these pull factors and also differences in language and lack of information - about job availability, tax and social security situations and about how qualifications might be evaluated. EURES aims to overcome this information gap. However, labour market restrictions, including the transition periods, have hindered cross-border mobility between EU12 and EU15 and there is evidence that this has contributed to the number of irregular cross border workers particularly in Austria coming from Hungary, Greece coming from Bulgaria and Italy coming from Slovenia.

Until the recent economic downturn the construction industry was the most important sector for cross-border commuting. This was followed by the hotel and restaurant sector then manufacturing and commerce and transport. Health and social work within EU15 and between EU12 and EU15 were also significant as was agriculture particularly within EU12. Cross-border workers were therefore mainly male, but since there was a male/female balance in the hotel and catering sector and a predominance of women in the health sector, the male/female balance overall is probably now more even. The higher skilled commuters are found mainly in EU15 and mainly in permanent jobs while EU12

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<sup>2</sup> Scientific Report on the Mobility of Cross-Border Workers within the EU-27/EEA/EFTA Countries, presented to DG Employment and Social Affairs by MKW Wirtschaftsforschung GmbH, Munich and Empirica Kft., Sopron, January 2009

commuters tend to be lower skilled and holding temporary or more peripheral jobs.

In most of the cross-border regions analysed, commuters were seen as a complementary labour force filling jobs that did not displace local workers except where there was a significant level of illegal employment (in Italy, Greece and Austria). Switzerland was a notable exception because it attracts high-skilled Germans in the health sector, although this has been seen as having positive rather than negative effects.

### **Future prospects for cross-border regions**

What are the implications of cross-border mobility for the process of European integration and for EU policy development? Current trends suggest that cross-border commuting will continue to grow essentially around economically important cities and regions situated near internal borders. There is potential for further development between and with EU 12 states particularly Slovakia, Estonia, Hungary and the Czech Republic. New areas will be opened up as the TEN network develops and new infrastructure projects (bridges, roads and tunnels) are completed. The existence of fast transport routes is also creating new forms of daily and longer term commuting between economic centres. For the moment the impact on the social and political life of cross-border regions seems to be limited by the fact that the majority of commuters live in their country of origin. As we see in the Oresund region, differences in the housing market can affect this situation but in most areas there are other barriers such as language and differences in educational systems. Unless differences in tax arrangements, in social security systems and in education are levelled out, and these are areas where Community competence is limited, it seems unlikely that this will change soon in most areas.

However, the EU regards cross-border regions as laboratories of European integration. The need for the development of coherent cross-border cooperation

between local and regional authorities in terms of planning and development is well understood. Inter-regional cooperation is supported by a number of EU programmes (notably INTERREG and URBACT) particularly the exchange of experiences and good practice. The sixth progress report on economic and social cohesion in the regions<sup>3</sup> issued this summer, emphasises the need to strengthen such cooperation.

Studying and learning the lessons from cross-border cooperation and the impact of cross-border exchange in those regions, such as Oresund, where there is significant movement, could well in the future throw new light on both the theory and practice of European integration.

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<sup>3</sup> COM(2009) 828 of 25 June 2009