

Challenges and strategies on border management and return in the European Union

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Abstract

A critical aspect and integral part of migration management as a complex and multifaceted phenomenon is border management and return. Border management and return involve several key components and processes such as border control, customs procedures, search and rescue activities, return management as well as migration management.

Several challenges in this area exist and the impact of the relevant risks and threats cannot be underestimated. Instrumentalization of migration in some cases, war in Ukraine, cross border crime, hybrid threats, terrorist threats are only a few of the risks and threats identified for the next decade.

Addressing those challenges involves various aspects of immigration, security and humanitarian concern. Moreover, it requires comprehensive strategies that prioritize security, human rights, and efficient administration. The goals to be achieved through those strategies are related to the facilitation of legitimate border crossings and increased efficiency of return policy, prevention and detection of cross border crime, safe, secure and well-functioning external borders, good governance and other equally important goals. Those goals should be aligned with the needs and priorities of each MS and SAC but also in broader context, in European Union level. This paper aims to provide an overview of the existing challenges in border management and return in the European Union area, as well as approaches and strategies for addressing them and achieving defined goals.

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1. Historical Data of border management challenges and strategies:

Article 3 of the Treaty on European Union states inter alia that “the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime”, in order to build the basis for an ever closer union between the people of European countries, in full respect and protection of fundamental rights.

Moreover, the foundations of a borderless area inside Europe were laid down with the signature of the Schengen Agreement on 14 June 1985 by five of the ten Member States of the European Economic Community, which was supplemented by the Schengen Convention and entered into force in 1995. With the “Schengen acquis” the abolition of internal border controls was introduced inside the so-called Schengen area, which currently includes 27 European countries. Since then, the Schengen Borders Code constitutes the basis for the external border management.

With the founding and functional Treaties of the European Union and the Schengen Convention and Agreement was placed the basis of the free movement of persons and goods within this area. Currently, ‘the border-free *Schengen* Area ensures free movement to more than 400 million EU citizens and non-EU nationals living in the EU as well as for tourists visiting the EU, student exchange, or for business purposes’ (Wagner, 2021)¹⁰. Further, it was fully conceived that to succeed in this policy it was fundamental to have effective migration management.

Nevertheless, in recent years the unprecedented pressure of the European Union area from the extreme migratory flows, have highlighted the shortcomings and in parallel the necessity and importance of effective integrated migration management in a long-term basis. The migratory crisis of 2015-2016 raised up this issue and made this policy area as one of the first priorities of the European Union community to ensure the continuity of the prosperity, security, and safety. Therefore, European Union bodies took important initiatives and decisions related to this policy. One of the important initiatives is related to the preparation of two consecutive regulations, (EU) 1624/2016 (EU Regulation, 2016) and (EU) 1896/2019 (EU Regulation, 2019) with which there were set new EU political guidelines for the materialization of the new objectives as regards migration and border management policies.

2. Challenges in Border Management

Challenges and threats in border management have persisted and evolved over the years. Migration and Refugee crises, terrorism and radicalization, cybersecurity threats, illegal trade activities, public health emergencies are few of the main risks and threats European Union is facing. Those risks are related mainly with the instability in neighbouring or other non-EU countries, such as the invasion of Russia to Ukraine or the conflicts in the middle East, Libya, Syria, but also Azerbaijan, or the political instability in Tunisia and other countries, the impact of which is profound on the border management of the European Union as they have and will continue to have consequences as regards migration and border management in the European Union. Moreover, equally important pull factor influencing migration patterns, necessitating a proactive and comprehensive approach to migration management is the climate crisis which over the last many years appears to influence lives of more and more people and countries (floods, fires, extreme weather conditions leading to progressive lack of water and food), or big virus outbreaks such as COVID-19 pandemic. Those challenges have significant impact of course at the EU external borders.

Main identified Risks are related to FRONTEX Risk Annual Analysis (2023):

1. Irregular migration at the sea borders
2. Irregular migration at the land borders
3. Clandestine entry
4. Document Fraud
5. Secondary Movements
6. Risks related to returns
7. Smuggling of illicit drugs
8. Firearms smuggling
9. Detection of stolen vehicles and parts
10. Tobacco smuggling
11. Trafficking in human beings
12. Terrorism

More specifically, the instrumentalization of migration continues to be used in the context of regional conflicts and growing violence which generates large inflows of Third Country Nationals and asylum seekers, complex diplomatic relationship with Iran, Turkey and several countries in Africa which might decide, for example, to ‘turn a blind eye’ to orchestrated/coordinated flights towards countries neighbouring the Union to exercise pressure on the EU should the East/West divide continue to grow.

Moreover, cross-border crime on the EU’s external borders will continue to pose a grave threat to the internal security of the EU. And as recently observed few Member States and Schengen Associated Countries decided to

reintroduce border checks inside Schengen border area which results on delays on journeys but most importantly financial cost due to the delays of products and leads further to the risk of ruining the reputation of the European structure.

3. Policies, strategies and plans to address existing and evolving challenges in the border management

Nowadays in a globalized world, and due to continuous instabilities in many regions of the world deriving from wars, invasions, climate change phenomena and other factors, effective external border management in the European Union constitutes one of the main priorities for maintaining the fundamental objectives and guiding principles of the Treaties which created the European integration.

Furthermore, border management involves a range of initiatives and developing strategies to ensure effectiveness and reach all the goals towards the evolving challenges. As above mentioned, the crucial turning point in the recent years, as regards irregular migration phenomenon, was in 2015 with the unprecedented migration crisis in European Union due to the war in middle East in addition to the continuous instability in many regions of the African continent. Since then, it became thoroughly understood from the decision makers that the policies and strategies as regards migration management and mostly border management should change and being adapted to the new more complicated environment. Therefore in 2016 a new Regulation (EU Regulation, 2016) had been established for the enhancement of the mandate of European Border and Coast Guard Agency. However, the relevant framework still needed to be further improved and therefore at the end of 2019 the new, “improved” Regulation (EU Regulation, 2019) had been introduced, through which it was given an even stronger mandate to the European Border and Coast Guard Agency to address all the emerging challenges by placing emphasis to provide all the necessary capabilities in an integrated way. With those two Regulations the approach on border management changed in a more coherent and integrated way as an issue of common interest and shared responsibility for all the Member States of the European Union and the Schengen Associated Countries.

More specifically, with the last Regulation two main novelties have been established. The first one was the setup of a European Border and Coast Guard Standing Corps which is being characterized as the operational backbone of the European Border and Coast Guard Community and the purpose of which is to complement the efforts undertaken by the Member States in national level. The capacity of the Standing Corps should be up to 10.000 operational staff.

The second novelty introduced is related to Integrated Planning. The complex and multifaceted challenges in migration management had proven that in order to have effective integrated border management it was necessary to have integrated planning between the Member States and the Agency within border and return operations. Therefore, according to the relevant Regulation (EU Regulation, 2019) an integrated planning process should be established, including Operational, Contingency and Capability Development Planning. In more details, as regards contingency plans, the Member States shall describe all the necessary capabilities and measures to be taken in case of crises. As regards Capability Development Planning there is obligation for the Member States to adopt Capability Development Plans in line with their National integrated border management strategies which will describe the medium to long term development of national capabilities in border management and return. And the EBCG Agency shall prepare an Overview of the National CDPs and a Capability Roadmap, a Multiannual Acquisition Strategy and Multiannual planning as regards Standing Corps. Last component of the integrated planning is the adoption of operational plans in border management and return by the Member States / Schengen Associated Countries and the EBCG Agency (Frontex).

Cooperation/Collaboration with Third Countries in EU level efforts. A representative example is the EU-Turkey Statement (EU-Turkey Statement, 2016) established on 18 March 2016 to address the migration crisis affecting Europe at the time. The crisis saw a significant influx of refugees and irregular migrants crossing from Turkey to Greece seeking asylum in EU countries. The agreement was a joint effort between the European Union and Turkey to manage and reduce irregular migration flows. The objectives of the EU-Turkey Statement were (EU-Turkey Statement, 2016):

1. Return of irregular migrants: Any newly arrived irregular migrants crossing from Turkey to the Greek islands after the entering of the Agreement into force should be returned to Turkey,

2. Resettlement of Syrian Refugees from Turkey to Greece: For every Syrian irregular migrant returned to Turkey, a Syrian refugee from Turkey would be resettled in the EU,
3. Financial assistance to Turkey: In order to support with the needs of the Syrian refugees to Turkey,
4. Visa liberalization for Turkish Citizens,
5. Re-energizing EU Accession Negotiations with Turkey,
6. Humanitarian support and projects for Syrian refugees in Turkey and
7. Implementation, monitoring and regular review to assess progress and make the necessary adjustments.

In parallel, and as the crisis of 2015 revealed the lack of preparedness as regards not only the processes in national and European level but also the capabilities, equipment (aircrafts, vessels, vehicles), adequate and well trained staff, necessary IT systems and other related resources, the decision makers realised the need for a dedicated EU Fund which would have as central goal the support of the Integrated Border Management through enhancing the capabilities of the European Border and Coast Guard Community, both Member States and Frontex. Therefore, although there was a predecessor fund with two areas, the so called Internal Security Fund, within the new Multiannual Financial Framework 2021-2027 in addition to the Internal Security Fund it has been created the Border Management and Visa Instrument (EU Regulation, 2021) as part of the Integrated Border Management Fund, and it has two specific objectives (Integrated Border Management Fund): (i) to support an effective European integrated border management at the external borders, implemented by the European Border and Coast Guard as a shared responsibility with the national authorities responsible for border management, to facilitate legitimate border crossings, to prevent and detect illegal immigration and cross-border crime and to effectively manage migratory movements and (ii) to support the common visa policy, to ensure a harmonised approach with regard to the issuance of visas and to facilitate legitimate travel, while helping to prevent migratory and security risks.

Quality Control Mechanisms: Schengen Evaluation and Vulnerability Assessment mechanisms which are complementary for guaranteeing the quality control of the Schengen area. The latter is performed by European Border and Coast Guard Agency, based on objective criteria in order to assess the capacity and readiness of the Member States to face current and future challenges at the external borders.

4. Conclusions

The recent crises, especially those of 2015 in the Central Mediterranean area and that of 2022 due to the invasion of Russia to Ukraine as well as the emerging risks and threats as regards irregular migration deriving from the instability in middle East and African continent , made clear in practice more than ever that it is of utmost importance to build high and uniform EU standards to ensure security and stability at the external borders, with solidarity, shared responsibility and full respect and protection of fundamental rights with the aim to safeguard the right of all the persons in need to be accepted and protected within European Union and Schengen area. Besides, this has been pointed out from the decision makers of the European Union many times currently:

It is apparent that irregular migration together with other forms of cross border crimes are multifaceted phenomena and therefore it is needed to be confronted in an integrated manner and with systematic approach. Since nowadays, it is a necessity to integrally confront the emerging challenges by policymaking, strategic and integrated planning to be able to predict the future risks and threats, cure any vulnerabilities and prevent the potential cross border crimes which jeopardise the principles of the Treaties upon which, inter alia the European integration was created.

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