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Cooperation in Policing Schengen Area Borders: the Czech Republic/Austrian Example

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Transdisciplinary research on borders has flourished since the late 1980s, but most so called *Border Studies* focus on social and cultural life in border areas, or on the effects of frontiers on the experience and perceptions of local populations. In contrast to this now well-established trend in research, studies concerned with the practices and perceptions of professional groups stationed on the border – that is to say, the police – are relatively underdeveloped¹. Police cooperation on borders, as a specific aspect of policing activities, has received little attention by social scientists, as well. The few studies to be found are written by English-language researchers who often prefer to investigate supranational cross-border cooperation policies and the policing schemes such as Interpol in charge of enforcing them, rather than observing local cooperative practices on the borders themselves.

For Europe as a whole, research on border protection is particularly valuable, since border control is central to the EU project: the Schengen Agreement, signed by Belgium, France, Germany, Luxembourg, and the Netherlands in 1985, provides for the elimination of border checks within the Schengen area, in exchange for the reinforced control of its outer limits (with provisions made, essentially, by the Convention implementing the agreement, adopted in June 1990). The distinction between internal and external borders then became central to the EU project as well as to the integration of new member States.

The present research project, based on observations made between 2004 and 2007 at the border between Austria and the Czech Republic (an external frontier of the Schengen area at the time), attempted to determine how police border control practices were modified on a Schengen area border destined to become an internal EU border. To do so, interviews were conducted with upper-echelon police officers in Vienna and Prague, completed by field observations and interviews with border police officers stationed at the Czech/Austrian border.

Structural Conditions for Police Cooperation

One of the main symbolic functions of borders resides in their supposed ability to provide security for the inhabitants of a given territory, which promise is also fundamental to the legitimacy of States. Most governments are therefore reluctant, a priori, to relinquish part of their power with respect to border control and the protection of their internal security. Police management of borders, symbolic of State authority², involving protection of the territory, order-maintenance, and the control of crime, as well as the choice of methods for achieving these goals, has long been one of the most important spheres expressing national sovereignty. Many writers have stressed the fact that international cooperation between public policing institutions is intrinsically contradictory to their state-centred function. Consequently, the existence of such cooperation raises the question of police motivations for transnational cooperation³. According to the theoretical model developed by Mathieu Deflem, the police agencies engaged in forms of policing cooperation must, above all, dispose of reliable structural conditions making joint action possible. Most important requisites are sufficient autonomy of the policing institution on the national scene, and the need for the police forces involved to occupy similar positions within their respective administrations.

For the German and Polish police, for instance, whose cooperation is often cited as exemplary at the European level, the history of their respective institutions and their position in the national administration have been shown to constitute structural conditions theoretically auspicious to the development of joint action⁴. The Polish and East-German police departments were in close contact inasmuch as both countries belonged to the socialist block and the Warsaw Pact, and once the socialist regimes collapsed the demilitarized police agencies on both sides of the Oder-Neisse line rapidly engaged in various forms of bilateral cooperation. Conversely, the Czech and Austrian police forces were weighted down by their contrasting national – and corresponding institutional – histories, which seem to impede the development of transnational action. The fact that the Czech Republic used to be communist is an argument often heard from Austrian police officials and border guards to explain why they are somewhat reluctant to see the two institutions join up. Although they

¹ Studies include Josiah McC. Heyman's research on the police forces on the Mexican-American border, Alexandra Schwell's work on police cooperation on the German-Polish border, and the work of Azilis Maguer on the French-German border.

² ANDREAS P., 2001, *Border Games: Policing the U.S.-Mexico Divide*, Ithaca, Cornell University Press, 8.

³ DEFLEM M., 2000, Bureaucratization and Social Control: Historical Foundations of International Police Cooperation, *Law and Society Review*, 34, 3, 741.

⁴ SCHWELL A., 2008, *Europa an der Oder. Die Konstruktion europäischer Sicherheit an der deutsch-polnischen Grenze*, Bielefeld, Transcript Verlag, 74 ff.



hail the « advances » and « incredible efforts » of the new member States, the people interviewed in Austria stress the fact that « the difference between East and West is still considerable », that « in the new member States the police is still run along the old (socialist) model » and that « corruption (...) still exists, because wages are still much, much lower, especially for police officers »⁵.

*« Czech police officers are corrupt, they agree to close their eyes as soon as they are given money. It will take a long time for that to change. And it will be worse when they become part of Schengen »*⁶.

Moreover, the agitated history of the Czech-Austrian border regions seems to have contributed to the petrification of the border, with respect to both police border-crossing practices and their perception of the border area. So, although the development of police cooperation (and of binational patrolling, in particular) leads them to cross the national borders increasingly often on their job, most of the interviewed police officers, both Austrian and Czech, reported that they never crossed the border when off the job, whereas cross-border shopping is very popular with local people, and Austrians in particular, who take advantage of the lower prices for many goods such as liquor and cigarettes on the Czech side.

*« I went to M. (a Czech border town) once, to Prague twice, but I don't like the Czechs, actually. There are historical reasons: the border was closed for so long, people are different. Then, there's another historical reason: many of the elderly people here were chased out of the Czech border area, so they have a negative attitude toward the Czech Republic. (...) Most of us distrust them, and for good reasons... »*⁷.

This quote from an Austrian border guard illustrates the weight of history in the imagination presiding over perception of the border: there are repeated allusions to Czechoslovakia's 1945 Beneš decrees, on the basis of which the Sudetenland Germans were expelled from the Czechoslovakian border areas and sent to Austria and Germany. These are occasionally accompanied by personal reinterpretations:

*« My heart bleeds when I see that, that's all Austria. All of it belongs to Austria. My grandmother was chased out of that beautiful country... There's nothing good to be expected from the Czechs' coming into the Union and Schengen. Things are changing too fast, those people are too different, they have a different mentality »*⁸.

⁵ Interview with a high-ranking official in the Austrian Federal office for crime control (*Bundes kriminalamt*), Vienna, April 22, 2005.

⁶ A border guard at the Czech-Austrian border, interviewed on September 27, 2007.

⁷ *Ibid.*, September 27, 2006.

⁸ Quote from an Austrian border guard, September 26, 2006.

The Beneš Decrees: some history

Between 1933 and 1939, several thousand Germans fleeing Hitler's regime took refuge in Czechoslovakia. Most settled in *Sudetenland* (*Sudety* in Czech), an area bordering Bohemia and Silesia, very dynamic both economically and population-wise and instrumental in the country's rapid industrial expansion during the period between the two world wars. In September 1938, when the Munich agreements were signed, France and the United Kingdom acknowledged Germany's right to annex *Sudetenland*, in the hopes of avoiding a military conflict. The Nazi regime then forced the non-German peoples living in *Sudetenland* to flee the area, leaving their belongings behind.

In 1945, Czechoslovakia retrieved its original borders (Bohemia and Moravia had been annexed by Nazi Germany), including *Sudetenland* (with the exception of Subcarpathian Ruthenia). It soon became the Czechoslovakian Socialist Republic, a satellite of the USSR. As early as Spring 1945, Edvard Beneš, president-in-exile of Czechoslovakia, issued the « Beneš decrees » whose provisions include the expropriation and withdrawal of Czechoslovakian citizenship of the German (and Hungarian) population of Czechoslovakia, based on the idea of the « collective guilt » of *Sudetenland* Germans. The Potsdam Conference organized in July 1945 by the Allies to determine the fate of their enemies, and the forthcoming agreements, provided that those Germans who had remained in Poland, Hungary and Czechoslovakia be sent back to Germany, thus giving international legitimacy to the expulsions. Between 1945 and 1947, over 2.8 million Germans, representing about 25 % of the Czechoslovakian population at the time⁹, were expelled from the main cities of Prague and Brno, as well as, and above all, from the Czechoslovakian border areas, and sent to Germany and Austria. The number of people who died during the expulsions, en route or in camps, is estimated at close to thirty thousand¹⁰.

The Beneš decrees surfaced again on the European political agenda in 2002, during the negotiations for the Czech Republic's membership in the European Union. Several Hungarian, German and Austrian officials demanded that acceptance of the Czech Republic in the Union be conditioned by the repeal of the Beneš rulings (still in force at the time).

Police Cooperation, in Practice

Discourse aside, observing the day-to-day practical cooperation between Czech and Austrian police forces between 2004 and 2007 was interesting. Faced with the prospect, already scheduled, of having the Czech Republic become part of the Schengen area, with the Czech-Austrian border becoming an internal border, these practices primarily took three forms, briefly discussed below: the police cooperation centre, opened at the border between Moravia and Lower Austria in the fall of 2006, aimed at facilitating the exchange of information between the two police forces so as to enhance cross-border crime control; joint patrolling of the « green border » (the term designating the part of the border between the two frontier posts) by Czech and Austrian officers, coordinated since late 2006 by the police cooperation centre; and « one stop » checks, in which Czech and Austrian officers, working together, do border checks, so that travellers are only obliged to stop once.

The Czech-Austrian police cooperation centre is the cornerstone of cross-border cooperation. Plans call for it to employ 24 officers (12 Czech and 12 Austrian, all supposedly bilingual), but less than 10 were present in the period immediately preceding the entry of the Czech Republic in the

Schengen area. While some Czech officers assigned to the cooperation centre do speak German, the reverse is rarely true. This linguistic asymmetry is coupled with differences in on-the-job organisation and access to resources, which the grass-roots officers depict as curtailing cooperation. For example, the Austrian officers assigned to the cooperation centre are on duty 12 hours a day, as opposed to only 8 hours for their Czech counterparts – officially because of a personnel shortage in the Czech police force. But the Austrian officers view this apparently reduced investment as the result of the heavily bureaucratized Czech administration, as well as of reluctance to engage in transnational police cooperation. Furthermore, the Austrian officers, driving along the « green border » in their brand new, expensive, high-powered cars, condescendingly describe the run-down vehicles used by the Czechs, their rationed gas, and their low wages, « a third » of theirs. Designed as a place for free-flowing exchanges, this place where the two national police forces cohabit turns out, during its first months, to be essentially a place where the two institutions size each other up, sometimes even confrontationally, and at the same time one where former political and/or symbolic borders are reactivated.

Joint patrolling, presented as the « cement » of cross-border cooperation, and as such highly publicized, is also an excellent place for observing day-to-day cooperation practices. It is done once or twice a month by two Austrian officers and one Czech officer when conducted on Austrian territory, and the reverse on Czech territory. Although the upper echelons claim that only officers capable of speaking the language of the land in which the patrolling is

⁹ DRBOHLAV D., 2005, The Czech Republic: from Liberal Policy to EU Membership, *Migration Information Source* (downloadable from: <http://www.migrationinformation.org/Profiles/display.cfm?ID=325>).

¹⁰ GLASSHEIM E., 2006, Ethnic Cleansing, Communism, and Environmental Devastation in Czechoslovakia's Borderlands, 1945-1989, *The Journal of Modern History*, 78, 1, 65-92.

done are involved, the patrols observed during field work rarely had any language in common. On the eve of the entry of the Czech Republic in the Schengen area, when the border posts are supposed to disappear, to be replaced by reinforced joint patrols, the latter take place in daytime and usually focus on small roads. They make few encounters, with scarcely any probability of taking anyone in, as a result of which they are often cut short by the officers present, weary of staring down empty back roads. They justify the little enthusiasm generated by joint patrols and their extremely minor role in cross-border crime control by the fact that they are aimed, for the moment, at « getting to know each other », and that their functioning is not yet quite clear (although it is described in article 14 of the police cooperation treaty signed by the ministries of the Interior of the two countries on July 14, 2005):

« Actually, no-one really knows what our rights and duties are, for the moment. For example, we don't know whether we are supposed to do road checks, and we don't know what rights we would have, and what the rights of our Czech colleagues would be if something happened (that is, if an arrest was made) during a joint patrol »¹¹.

Last, « hand in hand » control operations set up by the Czech and Austrian police, according to which people crossing the border are to be checked jointly, have only been introduced at a small number of border posts. One of these posts is commonly cited as an example of how well Czech-Austrian cooperation functions, and the border guards working there are frequently asked by their superior to pose for picture-taking visitors (for journalists in particular). However, this is a small outpost, of very limited strategic importance for controlling illegal immigration and cross-border criminal offending. It is only open in daytime and is reserved for citizens who do not need a visa; it is therefore mostly used by local workers and tourists. Most of these people have been crossing the border regularly for several years now, and the officers therefore know them personally. Moreover, whereas the « hand in hand » control model theoretically calls for « one stop », the Czech and Austrian police continue to operate at separate posts a few meters distant, requiring that travelers actually stop twice. A Czech officer sums up the changes introduced by « hand in hand » controls as follows:

« In fact, I think that hasn't changed anything at all, it's just a political decision. Anyway, if you're working on controlling migrants, you'd be better off going somewhere else. There's nothing happening here »¹².

So, cooperation attempts are made in spheres of very limited strategic importance for the control of cross-border criminal activity and illegal immigration (marked as the key concern of cooperation). The legal

context in which joint patrols are run is rather vague (or at least perceived as such by officers), they take place during the slack periods of policing activity and in areas with remarkably low rates of offending. « One stop » checks are set up at strategically unimportant border posts cross-border-crime-wise, and actually are still « two stop » checks, while the functioning of the police cooperation centre is hindered by various forms of linguistic and material asymmetry. The outcome is that Czech-Austrian cooperation, in the form developed between 2004 and 2007, does not challenge the notion of national sovereignty in protecting the land against possible external threats.

Combating Cross-border Criminal Activity: the Difficulty in Developing a « Common Enemy »

Aside from the agitated history of Czech(oslovakian)-Austrian relations and the special role played by their shared border (owing to the large population transfers), there seem to be other reasons accounting for the Czech and Austrian police forces' lack of enthusiasm for cooperation. The theoretical model developed by M. Deflem also emphasizes the need for « operational reasons » for cooperating. In the case of cross-border police cooperation, these operational reasons primarily take the form of a shared myth regarding common enemies¹³, which is to say, illegal immigration, trafficking in migrants, or falsified papers. In other words, the organisations which are to cooperate must share some perceptions of these phenomena and of the means susceptible of combating them.

The Austrians are apparently convinced that combating illegal immigration is central to the mission of their police, with borders playing a key role in their control policy: as early as 1990, when most of the nearby newly independent post-communist countries were working toward transferring their border control to the civilian administration, the Austrian Cabinet decided to involve the army in border surveillance – a decision that has been repeatedly reiterated since, making Austria unique in Europe in this respect. Furthermore, the Austrian police's investments in border surveillance technology, the human resources allocated for border protection and the frequent advertising campaigns encouraging citizens to join together to control the outskirts of their land testify to the border's symbolic value as a protective rampart. The Austrian police department is relatively well accepted and viewed as socially legitimate. Its efficiency is repeatedly extolled by the most widely read populist newspapers, and a number of polls rank it among the institutions most trusted by the population¹⁴.

Conversely, in the Czech Republic the police department is widely described (by its members and by outside observers) as « crisis-ridden ». The immigration police, in particular, has had its powers restricted with respect to immigration control, to the benefit of non-policing departments of the ministry of the Interior. These restrictions, added to the uncertainty of immigration police workers as to the future of their job once their country's borders become internal Schengen area borders, starting on December 21, 2007, may account for the impression, gathered in the various interviews (with rank-and-file officers and people on the higher echelons of the administration), of slight police involvement in the immigration control policy.

The actual physical borders and airports – and their control – are definitely particularly good places for European agencies to evaluate the Czech Republic's ability to participate in the EU. However, aside from such observation periods, the actual physical border plays only a marginal role in the repertoire of activities engaged in by the Czech police to show its ability to control the territory. The reason is certainly the considerable visibility of border control and the hero-worship formerly surrounding border guards under the communist regime (as in the other Soviet Union-dominated countries)¹⁵. It seems inappropriate for the present non-communist regime to reactivate the discourse and control practices directly associated with the military tension characteristic of the borders under the socialist block. So border control becomes a relatively silent part of its national territorial security policy. Actually, for most of our police interviewees, the fight against illegal immigration as a manifestation of organised international criminal activity was not self-evidently central:

« I must admit that here, in the Czech Republic, the Arab and African countries don't represent any particular security risk. (...) Those are priorities for the EU, and for NATO of course, of which we're a member, so... we adjust »¹⁶.

Aside from the observable differences in the course followed by policing institutions in Austria and the Czech Republic and in their perceptions, as well as in the forms of control implemented, it is also probable that the geographic locations of the two countries determine how important borders are considered respectively, depending on whether or not they represent the outer borders of the Schengen area. At the time of our field work (between 2004 and 2007), Austria was still responsible for controlling the outer Schengen border, whereas the Czech Republic was bordered by Slovakia and Poland, which were then

system – 69 % and the army – 64 %) (downloadable from: http://ec.europa.eu/public_opinion/archives/eb/eb57/eb57_en.pdf, 9).

¹⁵ CŒURÉ S., DULLIN S., (dir.), 2007, *Frontières du communisme*, Paris, La Découverte.

¹⁶ An interview with a senior official from the Administration of the border and immigration police in Prague on September 5, 2006.

¹¹ Quote from an Austrian border guard at the Czech/Austrian border on June 4, 2007.

¹² Quote from a Czech border guard at the Czech/Austrian border on September 25, 2006.

¹³ DEFLEM, 2000, 746.

¹⁴ 74 % of Austrians questioned by the Eurobarometer 2002 cited the police as the institution they most widely trusted (ahead of the justice

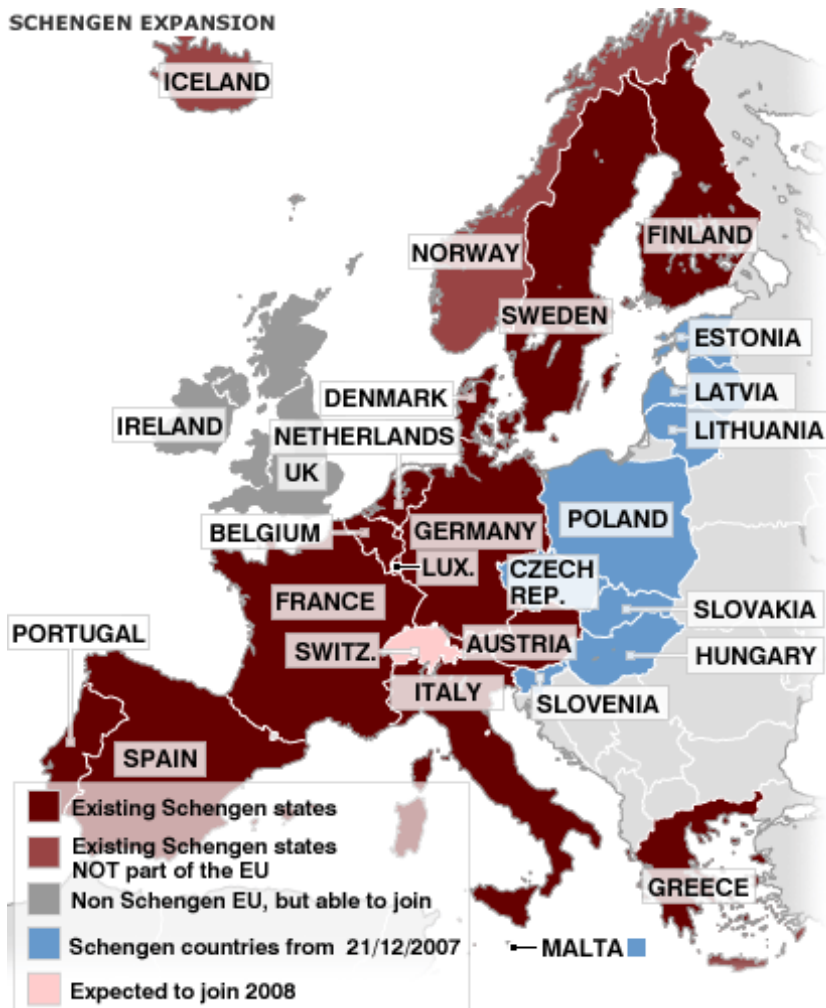
to shoulder responsibility for the external EU borders.

This asymmetry, both institutional and geographic, may at least partially explain why it seems difficult, a priori, to set up illegal immigration as a « common enemy » for the two national police agencies, resulting in the rather shaky cooperation developed, on the eve of the extension of the Schengen area, for combating cross-border criminal activity. The evolution in the months following the entry of the Czech Republic in the Schengen area, with its corresponding statistical changes in cross-border offending figures, actually fed previous reluctance and warnings expressed by police officers and local border zone residents. Both the newspapers and the townships in Austrian borderlands unanimously announced an increase in offending, and of property offences in particular, in the border areas. As for the Austrian ministry of the Interior, it announced a regrettable, unprecedented influx, starting at the end of December 2006, of asylum-seekers entering through the Czech Republic. Among other things, this situation was the object of a meeting between the Czech and Austrian heads of government in early 2008, with Austria accusing the Czech Republic of not shouldering its responsibility for border control. The Austrian extreme right-wing parties seized the opportunity to demand the reinstatement of border checks.

However, both a communications strategy and some form of bilateral policing were rapidly implemented so as to halt this process: starting in 2009, « micro-teams » combining Czech and Austrian police forces were set up, the goal being to facilitate the exchange of information and the more efficient control of cross-border criminal activity, especially theft. The Czech and Austrian police departments then began to make announcements in the press on the higher numbers of offenders taken in by the « micro-teams », and the benefits of cooperation for enhancing safety in the border areas. They also make sure to emphasize the lack of any increase in illegal immigration to the older EU member countries following the opening of the former Schengen borders.

What deductions can be made from these observations, with respect to the goals of transnational police cooperation? First, it should be clear that the observations discussed here took place in the context of unusual tension tied to the scheduled extension of the Schengen area: whereas border control is the grounds for basing officers on their country's boundaries, the latter often interpreted the proclaimed end of border posts not only as questioning their

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Source: <http://www2.le.ac.uk/>

professional legitimacy, but also as synonymous with great uncertainty as to their own career. This feeling may have been encouraged, shortly before the extension of the Schengen area, by the relatively unclear position of the upper echelons of the police department as to the future of the officers assigned to controlling borders that would no longer exist. This context of professional uncertainty and tension therefore most probably further fed the expression of reluctance, sometimes even of distrust, with respect to cross-border cooperation, the corollary of the extension of the Schengen area. The information collected between 2004 and 2007 should therefore be completed by further observation at the Czech-Austrian border since its transformation into an inner-EU border.

It is nonetheless possible, at present, to draw some preliminary conclusions as to the role and effects of cooperation at the Schengen borders, based on analysis of the policing practices and discourse reported here. Control, depicted as mechanical and inflexible, turns out to be random, whereas cooperation, touted as a vector of efficiency as well as a way of transcending divisions between countries, shows how nation-

nal frontiers retain their material existence in local perceptions. Because it is a fact that the Schengen border separating Austria from the Czech Republic is not only the focus of attempts to overcome the traumatic episodes of regional history, but also, concomitantly, the place where those episodes are constantly reactivated.

But police communication around bilateral cooperation actually seems more important than the results obtained, making this cooperation a particularly good tool for producing symbolism. The object behind the symbol is not so much « transnational », as the field of action of these police departments would lead us to believe, as « national »: before and after the extension of the Schengen area, the border remains the place where the State exerts, and above all demonstrates to its own population, its sovereign exclusionary power.

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