20 years on: rethinking Schengen

by Roderick Parkes

Recent proposals for the reform of the Schengen Area focus on turning it into a 'proper' border regime: one with features such as firm outer borders and a border guard. But Schengen was never meant to be a classic border regime when it was established back in 1995. Quite the reverse: it adapted Europe's traditional system of borders to a new era of globalisation. Now Europe once again faces a radically-altered international environment, and Schengen must adapt, too. But reform proposals could do with taking its innovative legacy into account.

A 'delayed' warning system

There have been calls for the EU to create a classic migration early-warning system (EWS) as employed by various western states. In the case of a sudden influx, an EWS would give the EU enough time to mobilise all the resources at its disposal – everything from its 'Dublin' refugee-relocation database to its civil-protection arrangements. The EU already has at least one monitoring system to warn of wars and other 'push factors' abroad, and it is creating another to flag up 'pull factors' such as weak spots in its own border management. These twin monitoring systems could easily be joined up to create a classic EWS.

However, a body like the EU may not actually need an EWS. It may rather need a 'DWS' – a *delayed* warning system. The EU is surrounded by unpredictable and overlapping conflicts, in Ukraine, in Syria and elsewhere. As a result, there can be a considerable delay – often lasting years – between the onset of tensions abroad and the migration flow actually reaching the EU. The Schengen Area comprises 42,673 km of coastal and 7,721 km of land borders, and it is managed by 26 member governments. Such an entity simply cannot remain on high alert for a protracted period. Nor, indeed, can it hope to mobilise maximum resources when a flow is imminent.

If the EU is to be properly prepared, it needs to monitor the long period *in between* the initial conflict and the eventual arrival of migrants. The current flows from Syria and Libya are a good example of this. Back in 2011, in response to the Arab Spring, the EU braced itself for an immediate wave of at least 300,000-400,000 migrants. But, that year, barely a ripple was felt. By mid-2012, EU governments had not only reopened their borders, they were offering reformist Arab countries the carrot of greater migration opportunities. By this time, however, irregular flows were on the rise. The EU had mobilised

too quickly, and ended up unprepared for the eventual flows.

The reasons for the delay in the flow are complex but instructive. In the decade leading up to 2011, Arab workers had come to the EU in large numbers and, in the initial aftermath of the Arab Spring, many returned home again, hoping for a better future. These return-flows probably had a destabilising effect on the region. Even more disruptive was the way local migrants fled the democratic revolutions in Libya and Egypt, often leaving their jobs and possessions behind. This disrupted North Africa's delicate remittance networks and created demand for smuggling services. It also freed up heavily-armed militiamen who had been working for the region's authoritarian regimes.

Four years on, the EU still lacks proper data about how the flows will develop. While Frontex collects regular information on new arrivals, and the European Asylum Support Office (EASO) counts asylum claims on a weekly basis, these raw data sets provide only rudimentary pointers about future trends. For example, 70% of the new arrivals are men. They are thus likely to remain in Europe for an extended period (middle-aged women – generally perceived as an unthreatening group – are typically the quickest to return home). But there are few clues as to the answer of the really important question: when will further family members follow these young men?

To be able to answer such questions, the EU needs to focus less on the basic 'push' or 'pull' factors bookending flows, and more on the complex 'intervening variables' which delay or expedite migration. One obvious example is the existence of people-smuggling services. Smuggling networks have proliferated in the past four years, echoing and subverting the structures and services which European tourists once used. They will likely form a focus of a project EASO is launching, exploring why asylum-seekers make certain choices. This data could then usefully be at the heart of any new European EWS.

This is not just about readiness and reactiveness. A classic EWS is probably the right tool for a state seeking to hone its policies in repose to a

migration flow. But a DWS is the right tool for a player seeking to influence migration flows as they unfold. Schengen relies on the ability of the EU to tackle migration flows at source. As this becomes trickier, a DWS could at least help the EU manage flows as they develop. If the EU succeeds in persuading Eritrea to end its policy of forced conscription, for example, will this stem the flow of refugees? Or will it simply create a volatile pool of idle youths in Africa? What happens if Gulf labour markets remain closed to these underemployed youths?

'Dysfunctional' border management

There are also calls for the EU to reinforce its external border. But, again, a body like the EU, which has enlarged its territory at least seven times over the last forty years, does not have outer borders in the traditional sense. Instead, it has a series of cooperative arrangements with neighbours, which are not easily 'hardened'. The EU's south-eastern border is a case in point. This border is long (skirting 13,676 km of Greek coast) and varied (cutting through former Yugoslav countries). But, above all, it is blurred: citizens of five of the EU's six Western Balkan neighbours can cross into the EU with just a passport, while Kosovars are currently undertaking domestic reforms to gain this right and Turks are increasingly demanding it, too.

This blurring is a product of an explicit political agenda. The EU has been pursuing 'functional integration' in the region. It has encouraged the spread of cross-border economic links – of labour migration, trade flows and multi-national business – so as to depoliticise the region's ethnic tensions, and force local politicians to overcome their differences. The EU, as the major market for the Western Balkans, harnesses and steers these functional economic forces for strategic ends. It has pushed Western Balkan states to demarcate their borders, improve their domestic governance and cooperate with each other, in return for market access.

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The trouble now is that the region's most vibrant cross-border networks are rooted in the illegal economy. Crime networks earn millions bringing migrants from the Middle East and South Asia

into Greece and then on, up through Serbia and the former Yugoslav Republic of Macedonia into the rest of Europe.

These people smuggling gangs incorporate many of the qualities associated with well-functioning white-collar firms: they are multi-ethnic, entrepreneurial, and remarkably good at gaining international customers. They also are known for delivering on their promises (criminal gangs can get a migrant from Turkey to Germany in under four days). Sadly, these groups are also highly dangerous and illicit.

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These crime networks are pushing the Western Balkans towards a kind of functional disintegration. The people smuggling gangs are highly skilled when it comes to getting their Syrian, Iraqi and Afghan clients past local populations and authorities undetected. In November, huge numbers of migrants – 3,000-4,000 per day – were still moving out of Greece and into Serbia and the former Yugoslav Republic of Macedonia. This is despite the fact that the numbers entering Greece in the first place are now down to 500 per day. This migration wave is now spilling out in every direction, as smugglers offer new paths out through Albania to Italy, or possibly directly into Romania by sea. Unsurprisingly, this surge is fuelling social and political fragmentation in the Western Balkans.

Worse still, the smugglers sometimes prove more effective even than the authorities at handling the migrant flows. When EU rules prove too unwieldy, smugglers simply bypass them. Greek NGOs go so far as to say that EU policies need to 'compete' with the smugglers: the EU refugee-relocation scheme must be more efficient than the smuggling services at getting people to where they have a right to go.

Competing is a tall order. Refugees are in a hurry, and the EU relocation system is still bogged down by disagreements with commercial airlines. Moreover, not all EU destination states are currently participating in the relocation scheme. Yet the option of 'closing' the EU's borders, and cutting off ties, is not realistic. In fact, the very idea is fuelling disorder. Locals are getting out of the Balkans while they still can: in the EU, 29% of asylum claims currently take longer than six months to process, allowing Albanians and Serbs the opportunity to abscond after having claimed asylum.

Those left behind are losing faith in the EU visa-liberalisation process, with Kosovars now opposing the demarcation of their borders. Old power imbalances are also returning. Serbia is of such a size that almost all migrant routes pass through it. And while this gives Belgrade a burden to carry, it also provides it with new political clout and scope to 'deflect' migration flows towards its neighbours.

If there is a silver lining, it lies in the emergence of a kind of 'dysfunctional integration'. In recent weeks, Balkan countries have begun to catch up with mainstream European asylum standards – despite the Herculean task of creating 6,000 reception places in Serbia alone. They have resisted their status as mere migration 'transit zones' and demanded greater say in EU policy, mooting ideas such as a Balkan relocation programme. And their law enforcement agencies – highly effective when they wish to be – are proving rather cooperative on issues like counterterrorism. This messy, dysfunctional integration might eventually provide for more solid relations than simply 'closing the border'.

Freedom of 'onward movement'

The flows through the Balkans put the very principle of free movement in peril. The EU, Norway and Switzerland have recorded a massive number of asylum claims this year; so far, 1.07 million in total. Of these, as many as 97% are new arrivals rather than repeat-claimants. Moreover, a large proportion consists of young unaccompanied minors (UAM) from Afghanistan, Pakistan, Somalia and Albania. These UAMs are not just 'forerunners' who open the door to further waves of family members, they are children smuggled out of conflict zones by their families to live alone in Europe – a particularly tricky group for EU governments to manage.

The EU is adopting a classic federal approach to resolving this problem: relocation. On the basis of a clear formula, refugees are assigned to live in a certain state, from whence their onward movement is heavily restricted. To this end, European authorities are taking quick and definitive

decisions about where refugees should be sent, involving a myriad of considerations. They take into account refugees' nationality and possible family-links in a member state, as well as language and professional skills. And they factor in the individual member states' current economic performance and population size.

More than 160 refugees have been relocated in this way, after having been identified as eligible by authorities in Greece and Italy. As such, the scheme is proving rather more workable than an earlier pilot project in Malta, where asylum-seekers first had to be processed and recognised as refugees. And yet, there are concerns about the heavy burden placed on the authorities (in the case of the Lesbos registration centre, a team of just ten administrators). European border officials do not just have to identify relocation candidates but also build up permanent local reception capacities, as well as search for criminals and terrorists. Mistakes may be made.

In this context, one addition to the existing relocation mechanism seems thinkable. This is the option of giving refugees a long-term opportunity to choose their destination country. Already 20 years ago, governments discussed creating a European migration convention. This would have established a right of refugees to claim residence in another member state after a certain period. Governments did indeed give economic migrants this right to move, but refugees were excluded. This is largely because Member states had had negative experiences with the onward flow of Somali refugees, who gained EU citizenship in one member and then moved to another, often creating serious integration problems.

This option is of course no silver bullet. Yet, it might just turn out that the best way to safeguard the European principle of free movement is in fact by reasserting the European principle of free movement. Young unaccompanied minors have their whole lives ahead of them, and member states' economic and demographic profiles will change significantly in that time. Giving these young refugees a future prospect of free movement would create some kind of corrective mechanism in the initial relocation decision. This new right of 'onward' movement could be hedged by creating certain thresholds for the refugee when it comes to time spent in the EU or level of economic attainment.

Such an approach might also allay some incipient security concerns in the EU, specifically the problem of radicalisation of migrant groups.

Since the 2004 Madrid bombings there has been a marked shift in the EU towards 'home-grown terrorism', particularly amongst second-generation migrants. One source of frustration for migrants is the perceived double standards when it comes to European values. Establishing some kind of right of onward movement would go some way to preventing this among today's refugees. It would avoid the risk of their becoming 'trapped' in a certain member state, let alone of their looking outside the EU to conflicts and ideologies for inspiration.

Revamping Schengen

It is worth underlining that this is not about upholding a European value for its own sake. Free movement is rooted in hard commercial interests (Schengen still saves the express parcel industry an estimated €80 million each year), as well as providing the EU with a considerable source of political leverage in the world. But these commercial and political interests can only be maintained if EU citizens see mobility not as a threat but an opportunity.

And more can be done: despite the freedoms enjoyed for years, only around 14 million – less than 3% – of EU citizens currently live outside their country of birth.

Schengen was conceived as a novel means of managing territory – a victory of commercial and political goals over territorial divisions. The project's viability depended on the EU's capacity to spread good governance in third countries. Member states needed to be able to tackle the root causes of migration and crime abroad to safely lift customs controls.

The world has now changed, and the EU finds it far harder to leverage free movement in order promote its core values. Nevertheless, this novel international environment again requires an innovative response, rather than replicating at an EU level the classical attributes of a national model.

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