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CRITERIA FOR SUCCESS AND FAILURE IN THE ESTABLISHMENT OF BORDER GUARD SECURITY

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Executive Summary

In the paper, some of the main ideas concerning the creation of a successful border security system in the Post-Cold War era are discussed. At the workshop as well as in the papers, six general principles have been considered:

- Despite increasing globalisation and inter-dependency, the legitimacy and integrity of states continue to depend on their ability to ensure the security of their citizens.
- In the Post-Cold War era, security has been redefined to include a wider range of issues, *inter alia*, that of transnational threats. Border security, in all its complexity, is no longer only a national security concern but it plays an important role in confidence building and the creation of international alliances.
- The creation of a border security system must be based on clear and appropriate definitions and a realistic situational assessment.
- Border guarding should be carried out by a special police force.
- Border security systems should be designed with co-operation in mind.
- Effectiveness and efficiency can be achieved only if proper co-ordination is in place.

Upon examination of some successful border security models, it can be stated that:

- European countries face common threats and thus, they develop common policies to combat them.
- The FRY will face problems and challenges similar to those of EU applicant and candidate countries. Therefore, it is desirable that she should apply the Schengen standards as a basic criterion for development.
- The wider European and international dimensions of today's border police work should be also considered. Co-operation must be present at all levels. The work of units (such as headquarters and ministries) within national authorities must be included because co-operation must extend to all border-related agents. It must involve transit countries and migration-affected countries, as well as internal and external border areas. The overall objective should be the development of internationally co-ordinated, mutual actions by border police and other law enforcement agencies. Co-operation is at its best if it is based on common principles.

The basic guidelines regarding border control have been laid down in the Schengen *acquis* that was integrated into the EU framework in 1999 when the Treaty of Amsterdam came into force. These basic Schengen guidelines are:

- Movements across the European Union's external border must take place at official border crossing posts guarded by member states;
- Control of persons crossing the external border shall be the responsibility of member states' authorised and competent officials;
- Crossing the external border at a point other than an official border post without special permission is illegal;
- Crossing the border outside the operating hours of the border post is not permitted (locations and operating hours of border posts are to be determined by each state independently);
- Effective control of border sections in between border crossing posts shall be ensured by mobile patrol or other suitable means, and the external borders shall be guarded along their entire length by the member states;
- The effective control of the external borders presupposes the co-operation of border guard personnel

In order to be able to carry out the tasks deriving from these issues, in compliance with EU guidelines, aspirant countries should be in possession of a certain degree of "administrative capacity" and "implementation performance". On the basis of the authors' personal experiences as well as in accordance with the models discussed, it is suggested that the establishment of effective border control requires:

- An efficient, well-functioning, independent governmental organisation and a command and control system possessing the skills and the capability to raise the readiness level and to concentrate forces at critical locations;
- Aircraft, coast guard ships, patrol boats and the creation of a electronic and visual observation network that is integrated into a uniform border control system with passport checkpoints and border guard sectors;
- Uniform basic training for all forces responsible for border control tasks;
- Legally guaranteed and regulated criminal intelligence and investigation capacity;
- Close co-operation between the various levels of internal security sectors because border control, immigration and policing underpin law and order;
- Centralised and effective official contacts with neighbouring countries.

Ensuring that the FRY's borders are properly managed is best achieved by entrusting the task to a separate, professional and multi-purpose police force operating under the Ministry of the Interior. This needs a unified, independent and professional law enforcement organisation, with its own clear and unambiguous command line over and within the organisation where all organs involved must have precisely defined responsibilities as well as means to act according to these.

To achieve this, changes are required in the legal framework, infrastructure, organisation and ethos of FRY frontier authorities. In order to successfully carry out such reforms, all personnel should be adequately qualified and therefore, training programmes should be developed. Technical equipment should be acquired, staff numbers upgraded. Such reform has fiscal implications but can be facilitated by training and staff exchanges between FRY BPS and co-operation partners, and by the study and utilisation of successful models such as those considered in the paper.

Finally, we should keep in mind the fact that development is never complete. We should continue to assess and evaluate the chosen system so as to be able to accommodate new situations. Flexibility (that is, the ability to change) is a key component to success. In this regard, comprehensive fundamental ideas, and self-initiative are crucial factors in any creation and transformation process. Similarly important is to achieve support to them from partners in and outside the country.

Introduction

Security used to be seen in terms of military threats and capabilities but this is no longer the case. It was redefined in the post-Cold War context to include issues such as combating terrorism and proliferation, reducing the trade in illegal drugs and arms, and preventing the smuggling of people and goods. One feature that each of these threats has in common is that they cross borders. Ensuring the security of states and their citizens therefore requires an efficient and effective border management system.

All states must police their borders and the best agents for border control are generally agreed to be professional border guards¹. Nowadays the task of border control is a matter of law enforcement, rather than national defence, so most states categorise their border guards as police. The most successful border security systems share other features too. They tend to have unambiguous tasks, and their methods are transparent and understandable to those crossing their borders. Their officers are accountable, and their activities are assessed by legislatures, specialised parliamentary committees, and executive authorities, as well as by the population at large.

The task of creating such a system now confronts the Federal Republic of Yugoslavia (FRY). The creation of an appropriate system is never easy but it is a challenge that many countries have met successfully. In order to develop appropriate recommendations for FRY, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) therefore brought together experts from states — Estonia, Finland, Germany and Hungary² — widely regarded as having successful border security systems. Each professional expert was asked to identify the criteria taken into consideration when their national model was chosen, and the historical and political context influencing the resulting decision. Each evaluated the factors that made his service successful and efficient, and the means by which failure was avoided and vulnerabilities mitigated. Each assessed which of the many lessons learned might be relevant to FRY. Each identified general criteria for the establishment of a modern system that can be easily integrated into the Schengen framework. The resultant reports (see annexes) were presented at a workshop on 'Criteria for success and failure in the establishment of border security', Geneva, 23-26 November 2001. They form the basis of our recommendations to FRY.

This study is organised as follows. The main features of the chosen border security systems are introduced first because they represent the source of the general principles the workshop identified as common to successful systems. After discussing the missions and objectives of the modern border guard, the Schengen requirements and the formal '*acquis*' of the European Union (EU) are described. Finally, general recommendations are made to FRY followed by ones based on the Schengen's requirements.

The recommendations of the paper put forward by specialists are not to, in any way, question the achievements of FRY in the field of border security, on the contrary, they are to support already existing concepts and to serve as a 'depository' of ideas and criteria from which the most appropriate ones can be chosen, applied and used during the reform carried out by the Yugoslav authorities.

Border Security Models Put to the Test

¹ In the paper, the phrases "border guard" and "border police" are synonyms. The phrase "border guard" is used to stress that it is differentiated from the national police force and to emphasise the importance of an independent, specialized, multi-purpose organization subordinate mostly to ministries of the interior.

² The Russian expert was unable to attend the workshop but his paper has been included in the Annexes.

Guaranteeing the security of its borders is one of the main goals of every sovereign country. Consequently all sovereign countries build structures to achieve this goal. According to their border security model, states can be divided into two main groups:

- states with a unified border guard authority,
- states having no unified border guard authority.

In both groups, there are states which belong to both EU and NATO, states which belong only to EU as well as non-aligned ones. This shows that the model most suitable for a country depends mainly on the particular features of that given country. The diversity of political, cultural and other characteristics of any given case limits the elaboration of a universally applicable model. At the same time, the incredible value of lessons learned from existing models cannot be overlooked and are worth studying and utilising by other countries.

In countries without a unified border guard authority, border surveillance and passport control functions are shared by two or more authorities, which are often under the subordination of different ministries. In some of the above-mentioned countries, these functions are carried out by local police units. Unlike in EU member states, in some countries, border protection is carried out by the armed forces. This is considered by the EU less desirable as in the view of the EU member states, the field of internal security should be subordinate to the ministry of the interior.

According to the European Union principles defined in the Tampere European Council, border control is a task for specially trained professionals. The effective implementation of national border controls is thought to require one special organisation responsible for border control at all borders, whether on land or sea. As most European countries are either member of the EU or aspirant countries (and thus in the process of creating border security systems conforming to EU requirements), DCAF decided to examine models taken from aspirant countries as well. At the same time the familiar examples were to be compared to the more distinct Russian case, which is worth examining because it is the biggest service in Europe and has a long and rich tradition. Of the four border services examined, two (Finland and Germany) are models by EU countries with a long democratic tradition and successful economies. They represent the most developed, professional, effective and integrated systems in Europe. The two candidate countries (Estonia and Hungary) are generally regarded as models for successful development and transformation according to EU standards. They are newly established or 're-established' democracies and have been in transition for more than a decade. They still have the handicap of having limited resources in comparison with the other two countries.

The four models share common features:

- All four services meet the following EU principles:
 - Unified border security authority responsible for guarding the whole length of the borders,
 - Authorities organised according to the principle of professionalism;
 - Organisations carry out co-operation on several levels and between national, regional and international bodies.
- All four models can be used for multiple purposes encompassing the whole spectrum of security sector, but only for tasks stipulated by law;
- All four authorities are subordinated to their respective ministries of the interior.

At the same time, the models differ substantially in some respects:

- Three countries have vast experience in border guard management whereas border protection was disrupted for fifty years in the case of the fourth;

- Three models form part of their respective states' external security system while the fourth has some specific role in guaranteeing internal security beyond the traditional border guard tasks;
- One country has a federal border guard service while the others do not;
- Three border guard services have a centralised command line, while the fourth lacks a national operative command;
- Although all have the same core missions they carry out very distinct additional tasks.

Border guard services in Finland, Estonia, Germany and Hungary

1. Finland

The Finnish approach towards border security is comprehensive. It is based on Schengen principles and is the result of long experience of external border control. Finland's experience shows that it is no longer possible for states to combat transnational organised crime alone and by means of a fixed borderline. It emphasises that border security systems must be complex and flexible. National and international co-operation at all levels is thus of great importance, and one of its most important elements is functional co-operation between neighbouring countries. This is an issue that is of particular significance in the case of FRY.

The channels and means of international co-operation adopted by Finland with regard to Russia are of special interest because the two countries have developed rules and practices on their common border that has resulted in the best-managed external border in the EU. As a result, there is frontier co-operation between Finland and Russia at all levels.

At the highest level, the Frontier Guard chiefs exchange strategic information on illegal cross-border phenomena. At the regional level, border delegates exchange information relating to regional phenomena and individual cases. Any incidents occurring on the frontier are processed at the regional level by border delegates and never go to the capital; in other words, professionals, who continue to do their job even during times of political tension, deal them with. At the lowest level, individual frontier crossing points co-operate. Co-operation is further facilitated through liaison officers.

The control of both external and internal borders also calls for efficient national co-operation. Given the nature of the modern border security system as a complex and wide entity there is a need to have effective national co-ordination and a clear division of tasks between the authorities involved. It suggests that objectives and powers should be clearly defined and reinforced by training.

The Finns have managed to avoid the stereotype of the Cold War frontier and ensure that a well-run frontier need not hamper legitimate and traditional contacts across borders.

2. Estonia

Estonia has passed through the developmental phase that FRY is now in. She had no frontier controls before 1990 but her border security system now conforms fully to Schengen's requirements. At the same time, the tradition of free small-border traffic between Estonia and Russia has been protected and Russian nationals living in the frontier region are issued free-multiple-entry visas. Everyone crossing the frontier is checked but the legitimate movement of people and goods has been fostered, not hindered. Estonia (which received assistance and training from countries such as Finland) has managed to achieve this despite the fact that border treaties with neighbouring countries were missing, land borders were entirely open, and no border guard-related infrastructure existed.

The Estonian model is a particularly good example of how a small county with limited resources can build a successful border security system linking professional police functions with tasks of guaranteeing external security.

3. Germany

The German case is different and special. Established in 1951 as a buffer organisation between the two military blocks, the Federal Border Police (BGS), was organised in border battalions like a string of pearls along the Iron Curtain. It had to be re-constructed in 1992, after the 1989 reunification. At the same time, the borderline of Germany changed and a complete reorganisation of the BGS was necessary. The BGS had to re-energise its mission with new goals, new qualifications for its personnel, and greater efficiency.

The German border protection system is based on four principles:

- Securing the borders (by means of professional training, an EU-orientated strategy against border crossing criminality, improved tactics, and sophisticated technical equipment);
- Measures in the countries of origin (so called 'pre-border measures');
- International co-operation;
- National co-operation.

The BGS's high standards of personnel management and career planning for all border guards is particularly noteworthy, as is its citizen orientation.

4. Hungary

The fourth case, that of Hungary, is distinct because the reform of the security sector is still ongoing. The process of reform continues as the border security system changes from the old military organisation to a modern law enforcement authority that fulfils Schengen's requirements. The Hungarian Border Guard is considered to be an element of national military defence but only a few of its tasks are military and it intends to become a purely law enforcement authority.

Much of the work required for this has been completed; the constitution has been amended, new laws introduced, a fully professional organisation established in 1998, and in 2000, a border control agreement was signed with the EU. Areas requiring further improvement include staff numbers, information technology, reconnaissance techniques, mobility, law enforcement equipment and organisational location.

As with border guards in Finland and Estonia, the Hungarian Border Guard has been extensively involved in international co-operation, particularly in the field of training, strategic issues, and in fora aimed at helping FRY. This last factor is important because there are two reasons why the Hungarian model is of special relevance to FRY. First, Hungary had to cope with challenges similar to those confronting FRY and its original system was similar. Second, the two countries are neighbours; operational contact between Hungarian and Yugoslavian authorities were maintained during the civil war in Yugoslavia.

In summary, the improvement of external frontier controls has become increasingly significant for EU member states, applicants, candidates and those countries that are in transition and wish to eventually join the EU. The countries of Europe share similar problems and build joint structures to combat their common threats. If the FRY would like to join this family of countries she should increasingly harmonize her arrangements with the Schengen standards as a basic criterion for developments.

GENERAL PRINCIPLES TO BE FOLLOWED IN CREATING A SUCCESSFUL BORDER SECURITY SYSTEM

During the workshop and in the papers, six general principles have been emphasised:

1. Although increasing globalisation and integration has challenged the autonomy of the state, states are expected to ensure the security of their citizens — their legitimacy and integrity depends on it. Thus, it should be the pre-eminent interest of states to provide for an effective border security service.

States have to earn the right to govern by providing services such as security, law and order, justice, and welfare measures. The services that are regarded as essential vary according to context but the state and its institutions is invariably expected to provide security. The original function of the state was and continues to be the provision of physical security and the defence of group values - territorial integrity remains one of its fundamental functions. Thus territorial integrity is directly linked to state legitimacy and, by extension, border security. The first and foremost role of the state is that of being a security provider.

The capability of the state to accomplish this service and to protect its borders is the foundation of its legitimacy. Border guards provide the *functional security* associated with this task. This mission involves several tasks which reach beyond the provision of physical security like that of law enforcement. Furthermore, they should carry out their tasks with showing respect and without violating basic human rights. In other words, border guards represent a security organisation serving the citizen.

2. Border security policy should not reflect only national interest. In our present inter-dependent world, it plays a major role in confidence building between international actors and thus, should work hand in hand with foreign policy.

Security concerns have dramatically changed and become more complex in the post-Cold War world. Military definition of border security – which characterised the Cold War era – is no longer relevant given the changed security environment. The notion of security has extended from its narrow politico-military basis pre-1989 to a wider concept encompassing dimensions like: political security concerns, economic and fiscal security concerns, social and health security concerns, environmental security concerns, military security concerns. We can see that the guarding of borders is in relation with most if not all of these dimensions. Furthermore, it is also an increasingly significant means of foreign policy.

In the case of EU member states, border security is, moreover, closely related to the common foreign policy of the EU as well as to the policies deriving from the 'four freedoms'³. Today, there is a political will to define common interests and form common policies and to actually take appropriate actions in support of the stated interest and policies. The common objectives are expressed in the Schengen requirements, and countries wishing to harmonise their border security systems with those of EU member states must take such factors into consideration. Domestic circumstances are important but Schengen's requirements must be addressed if the ultimate aim of the country in question is integration into the EU in either the short or the long run.

Due to the indivisibility of security and growing inter-dependency, border security is no longer only a national issue but a field calling for international inter-action.

3. The creation of a border security system must be based on clear and appropriate definitions and a realistic threat analysis.

First of all, the legal basis of border guarding should be established, preferably on the basis of one core law that can be adapted or amended if necessary, for the creation process

³ Namely, the free movement of persons, goods, capital and services.

may need to be treated as an evolutionary matter. Building a system of protection is unimaginable without a proper situational assessment. It should be carried out taking into consideration relevant international, regional and domestic factors, for security is interdependent and states cannot exist in isolation. The reliable evaluation of the situation is essential also for the identification of those fields where the resources should be focused. It should also form the basis of the strategy underpinning the creation of a border security system. A clear and comprehensive concept or plan should be created. Unambiguous decisions should be taken as to the type of border security system that should be developed and as to the infrastructure required to achieve it.

4. Border guarding should be carried out by a special professional force integrated into the policing system.

Border guarding should not form part of the regular state police but neither should it belong to the national defence forces. For this reason it is suggested that border guarding is not a duty for conscripts either though conscripts can be used for restricted tasks and in limited areas when necessary during the initial stages of development. We should therefore think of border guarding in terms of a distinct and special profession which is different from policing as well as from defence. It requires specialised skills and qualifications as well as special means. This necessitates the employment of a specially trained staff who can use and make work this integrated system consisting of elements like green border patrols, passport check points, a visual and technical observation network, border patrol ships and planes, criminal investigation and intelligence, etc.

Legal means of regulation are an important way to achieve the desired effect but an appropriate human resource management, coupled with extensive and qualified training, is also essential. For the task does not finish with recruiting and training able people; retention is critical and people should be kept in the system by proper means of motivation, backed with career management and career planning. Nevertheless, even the best human labour cannot make up for serious deficiencies in technical means or material resources.

5. Border security systems should be designed with co-operation in mind.

Co-operation can serve a number of purposes, such as increasing effectiveness, improving the level of inter-operability, and sharing relevant operational lessons. Co-operation should be carried out on all levels; this may be national (i.e., inter-agency co-operation) based on clearly defined tasks and responsibilities or international (bilateral, regional, EU) based on shared responsibilities and mutual trust. It is easier to create co-operative conditions if the organisations concerned are based on the same or very similar structural, operational and educational criteria, if they are inter-operable. Problems can be tackled successfully only if all addresses them concerned. Co-operation is especially important for countries with limited resources because it can facilitate their optimal use. Procurement should be undertaken in the light of national and local requirements, resources and, ideally, interoperability with systems used by EU member states. One can assume that in most cases, it is more cost-effective to build than to re-build meaning that if the final aim is EU accession then all developments should orientate towards this aim.

6. Effectiveness and efficiency can be achieved only if proper co-ordination is in place.

According to lessons learned, the most beneficial structure is to have a single unified border security system based on a centralised authority. There should be clear responsibilities and an unambiguous command line within this institution. In this respect, the border security authority has to be a strictly disciplined and strongly hierarchical organisation; laws and regulations must be created to this end. However, this centralised management cannot be effective if regional branches (in possession of deeper knowledge about regional

problems and characteristics) are not empowered to tackle problems and solve issues effectively.⁴ Certain decision-making processes may require decentralisation.

Co-ordination is important in both regional and international co-operation as the ultimate aim can be achieved faster and more easily if all efforts are concentrated and targeted towards one direction.

Missions and Objectives of the Border Guard

Border police should have a public security mission that:

- ensures effective and citizen-oriented protection of borders for the benefit of citizens preserving and strengthening their safety;
- it carries out its mission within a national and international security alliance.

Its objectives are:

- Preventing and precluding illegal entries and the trafficking of human beings;
- Detecting and warding off other crimes and dangers that are relevant for the border police;
- Preventing and warding off risk within the scope of its jurisdiction;
- Repatriating foreigners who have entered the country illegally or legally, or who have to leave the country;
- Providing legally guaranteed assistance and protection to other authorities (in their capacity as a multi-purpose police force);
- Representing a border police service centre for citizens.

The area of operations is not only the borderline itself for border protection covers the area on both sides of a borderline. The current phenomena of migration — a dynamic process of geographic and temporal waves of movement — and cross border crime means that public security and order cannot be handled by means of static or sectoral strategies alone. Instead, border areas represent a coherent and complex operational environment that must be managed by flexible and easily changed methods.

Specific offences that may occur in border areas include

- Use of forged and falsified personal documents;
- Offences covered by laws pertaining to aliens and/or asylum;
- Trafficking in human beings;
- Drug crimes;
- Property offences (in particular transferring stolen vehicles to other countries);
- Weapons crimes.

This extensive list of offences requires a specialised law enforcement authority like a border guard, which is multi-functional in its approach, if we are to restore or maintain security in the border area.

Bearing in mind that cross-border criminality is primarily a matter of organised crime, international experience suggests that inter-linked and coherent operational concepts can successfully combat border related crimes. In this context, border protection requires:

⁴ The 'appropriate' level of decentralisation can be determined by the characteristics of the country in question.

- Police control of the cross border traffic at border crossing points, border-related areas, inland, and in the hinterland along defined migration routes;
- Monitoring the sections between border crossing points on land- and sea-borders (green or blue borders) in the hinterland;
- Monitoring ports and landing-piers;
- Monitoring and detecting crime (including follow-up criminal investigations) in all border related areas, including inland, air and territorial waters;
- Readmitting foreigners that have been obliged to leave the country;
- Integrating national and international elements to optimise the filter effect of the border police.

Finally, the European and international dimensions of today's border police work should be considered. The work of units (such as headquarters and ministries) within national authorities must be included because co-operation must extend to all border-related agents. It must involve transit countries and migration-affected countries, as well as internal and external border areas. The overall objective should be the development of internationally coordinated, mutual actions by border police and other law enforcement agencies. Relevant agencies can include Schengen authorities, CIREFI, EUROPOL, Budapest Conference, ICAO FAL-Panel, and networks of border police liaison officers.

Guarding the Border According to the Schengen Requirements and The Formal *Acquis* of the EU in the Field of Border Security

As it has been discussed above, one of the central features of a sovereign state is its ability to control its borders and prevent the violation of its territorial integrity. But today's integration processes mean that European border control now has a broader meaning. As a result of the transition that has taken place in Europe, the effectiveness of external frontier controls has become a matter of common concern for European states. The way in which one member controls its borders affects the security of the others. Therefore, a union of countries has emerged to 'take care' of common matters. Philosophy of mutual trust - as it has been underlined before - has to be the core idea in the establishment and development of border security systems as well as in their co-operation.

Basic guidelines regarding border control have been laid down in the Schengen *acquis* that was integrated into the EU framework in 1999 when the Treaty of Amsterdam came into force. These basic guidelines are:

- Movements across the European Union's external border must take place at official border crossing posts guarded by member states;
- Control of persons crossing the external border shall be the responsibility of member states' authorised and competent officials;
- Crossing the external border at a point other than an official border post without special permission is illegal;
- Crossing the border outside the operating hours of border post is not permitted (locations and operating hours of border post are to be determined by each state independently);
- Effective control of border sections in between border crossing posts shall be ensured by mobile patrol or other suitable means, and the external borders shall be guarded along their entire length by the member states;
- The effective control of the external borders presupposes the co-operation of border guard personnel.

The *acquis* also includes the following issues:

- Legal basis;
- Border crossing procedures;
- The aim and content of border checks;
- Acceptable travel documents;
- Clear division of tasks between the authorities;
- Co-operation with neighbours;
- Visa policy & practices;
- Demarcated and defined borders.

In order to be able to carry out the tasks deriving from these issues in compliance with EU guidelines, aspirant countries should be in possession of certain 'administrative capacity'. The elements of this are:

- National strategy;
- Specialised, trained professionals;
- One special organisation under the authority of the ministries of justice or the interior;
- Co-operation with all authorities;
- Effective commanding and communication structure.

As we can see, the 'administrative capacity' needed to comply with the Schengen requirements corresponds with the above mentioned general criteria according to which border security system should be established. Compliance with Schengen will be addressed later in more detail.

In order to avoid failure, the following main principles should be observed:

- The functions and tasks of the border guard should not be dispersed among several authorities/agencies.
- Border Guards should not be the target of internal political disputes, and political debates (such as those concerning the location of border line) should not disrupt the normal functioning of border control.
- Insufficient financing hinders the basic goals and the proper functioning of the border guard as well as other areas of the defence system, and the level of financing can have a direct impact on morale and ethical standards.
- The border guard should be regarded as a specialised profession that requires specialised training.

Finally, we should keep in mind the fact that development is never complete. We should continue to assess and evaluate the chosen system so as to be able to accommodate new situations. Flexibility (that is, the ability to change) is a key component to success.

Recommendations to FRY on Building a Border Security System

GENERAL RECOMMENDATIONS

The framework described to this point in course of the paper is applicable to FRY. There are three reasons why they can serve the Border Police Service (BPS) in guarding Federal borders and in the organisational development of a BPS:

1. The outlined principles are suitable for governing control of the borders of all Balkan countries inside or outside the Federation, considering that the adoption of a common visa zone makes them comparable to the EU.
2. The integration of FRY into the Western community presumes that developments taking place in the EU member countries are taken into consideration. Following the principles governing border control within this Community can be regarded as one of the preconditions for FRY integration into the EU. The same postulates should serve to guide neighbouring

countries in organising the control of their national borders; there is in these common positions an excellent basis for co-operation between neighbouring border police services.

3. Application of the EU's external border guidelines is also motivated by the need to block entry along FRY frontiers by criminals and to hinder the development of criminal contacts across the border as well as to guarantee the safeguarding of political and economic interests at the border.

Drawing on the personal experiences of the authors of this paper and in accordance with the examined models, it is suggested that the objectives of border control can be summarised as follows:

- To make familiar with and to ensure implementation of the Schengen visa regime;
- To hinder smuggling, as well as arms, ammunition, narcotics and radioactive material from being illegally moved across the border;
- To hinder criminal groups from entering FRY territory and to guarantee the security of border area inhabitants;
- To hinder illegal alteration of the border and to maintain border markers and installations in good order.

Furthermore, also on the basis of the authors' personal experiences as well as in accordance with the models discussed, it is suggested that the establishment of effective border control requires:

- An efficient, well-functioning, independent governmental organisation and a command and control system possessing the skills and the capability to raise the readiness level and to concentrate forces at critical locations;
- Aircraft, coast guard ships, patrol boats and the creation of a radar and visual observation network that is integrated into a uniform border control system with passport checkpoints and border guard sectors;
- Uniform basic training for all forces responsible for border control tasks;
- Close co-operation between the various levels of internal security sectors because border control, immigration and policing underpin law and order;
- Centralised and effective official contacts with neighbouring countries.

These principles may be elaborated as follows. The administrative system responsible for ensuring internal security in FRY should be based on a distribution of duties, which each authority shall carry out in the whole of the country. In today's Yugoslavia, the authorities in question are the Police Department, the Border Police Service, the Migration Office, the Rescue Service and, to a lesser extent, the Waterways Administration. All these authorities have clearly defined basic functions that they alone can carry out. It is, however, possible for an authority to assist other authorities in the fulfilment of their duties in extreme situations. This may also be acceptable on a daily basis if the authority concerned can fulfil its own functions in an acceptable manner.

Within this system, the FRY BPS could carry out the following duties:

- Guaranteeing the integrity of the borders of the Republic of Yugoslavia and hindering illegal alterations of the border and violation of border markers;
- Hindering unlawful border crossings inside and outside border post areas, and detecting and detaining illegal border crossers;
- Hindering criminal groups from entering FRY territory, and protecting the inhabitants of border areas and their property against criminal cross-border activities;
- Incorporating special criminal investigation units into front line service stations (as well as in the chain of command) in order to investigate border related crime;
- Regulating cross border traffic involving the movement of individuals and vehicles at predetermined points;

- Carrying out customs inspections in the waters of border-forming rivers (after agreement with the Customs Administration) in areas where the Customs Administration does not normally operate, and hindering smuggling in areas located between border posts;
- Hindering the unlawful transport of explosives, poisons, radioactive material, narcotics, arms, ammunition and other goods, in collaboration with the Customs Administration and the Police Department;
- Ensuring compliance with obligations arising from international agreements on border regime matters;
- Participating in the protection of the natural environment, natural resources and objects, and supervising the observance of regulations concerning fish protection and hunting in Yugoslavian territorial and inland waters and other border areas;
- Participating in search and rescue operations at sea and on other border-forming waters;
- Ensuring the security of the personnel and the area in which border control is carried out.

Recommendations to FRY in Light of the Schengen Principles

The rigorous standards which the EU *acquis* defines as a condition of success as well as the strict regulations of the Schengen Agreement are critical factors for candidate and aspirant countries. The Schengen frontier control regime – as it has been already described - is based on specially organised and trained frontier police units under the full control of interior ministries. It relies on mobile units with sophisticated technical equipment, and on modern control techniques such as risk-profiling and risk-testing that allow for different degrees of intensity of checks depending on the risk criteria fulfilled by certain categories of persons and border areas.

On the basis of a recent report⁵ concerning the challenges faced by the candidate countries in satisfying the existing Member States requirements, the following conclusions can be made:

The EU applicant countries, together with countries in transition as well as those intending to apply for EU membership in a later stage of development - like FRY - must upgrade their external frontier control regimes to the legal, organisational and technical standards of the EU countries – with particular emphasis on those of Schengen agreement. This requires a great legislative, administrative and financial effort. It also means that such countries have to introduce a range of tighter and more restrictive measures at their frontiers (this applies particularly to Central and Eastern European candidates with eastern frontiers). Such measures include checks on persons and transport of goods, improving matters concerning the issue of visas and other aspects related to the crossing of frontiers. Later on, other important elements of the regime, such as the Schengen Information System (SIS), may be added. In the meantime, inter-service co-operation and the overall border management strategy must also be improved.

In the case of FRY, the required standards could be slightly lower than those demanded of EU applicants. Even so it would be sensible, in the interests of medium and long run objectives, to apply the same criteria, which should thus be taken into consideration from the very beginning of the process.

⁵ *Seventeenth Report by the Select Committee appointed to consider the European Union documents and other matters relating to the European Union: Enlargement and EU External Frontier Controls*, Brussels, 24 October 2000.

The challenges which should be addressed include the following. Extensive organisational and structural changes should be carried out in FRY to improve frontier controls. The existing system (based on regular army patrols, watchtowers and heavy-units in line with the traditional military perception of frontier security) does not fit the Schengen frontier control regime. The FRY should transfer the control of external frontiers from the former military to the new civilian structures, and should make efforts to gradually adapt to the very different control techniques and standards of the EU states. In order to carry out the necessary reforms successfully, FRY should also improve the qualification of her personnel and develop appropriate training programmes for both newly recruited staff and higher ranks. Staff numbers, training and technical equipment should be upgraded.

In this regard, current developments are very welcome as essential steps to the right direction and must be reinforced.

The challenge is financial as well as institutional. It is financial not only because the necessary developments are expensive but also because of the indirect costs of disruption that may be caused to existing cross-border economic links. Financial resources are needed to raise low salaries (thus reducing the risk of corruption), improve working conditions, and replace obsolete equipment. Although fiscal means are usually difficult (though not impossible) to obtain, managerial and personnel reforms can be facilitated by training and staff exchanges.

Conclusion

Ensuring that FRY's borders are properly managed is best achieved by entrusting the task to a separate, professional and multi-purpose organisation operating under the Ministry of Interior. This needs a unified, independent and professional law enforcement organisation, with its own lines of command and control. To achieve this, requires:

1. A uniform (and unified) system/authority into which the following forces and equipment are concentrated:

- Units for border surveillance between border check-points on the green border and at sea;
- Units, carrying out passport control in border checkpoints;
- Units for criminal intelligence and investigation;
- Units for education and training;
- Technical and electronic border surveillance means such as vessels and aircraft, radar and other electronic surveillance systems, computers and databases.

2. An independent organisation

The functions of a border police service and the means by which they are carried out presuppose the existence of an independent centralised (i.e., federal) organisation, with decentralised responsibilities according to geographical conditions and criminal facts. It means that real success can be achieved only through co-operation with the other government agencies that are carrying out their duties in the frontline or behind and through international co-operation with frontier services of neighbouring countries. At the same time though, BPS must be able to carry out its duties independently.

Given the fact that all these functions serve common objectives, their fulfilment demands a co-ordinated approach. For this reason they should be handed over to one specialised agency, the Border Police Service, regardless of the desirability of inter-agency co-operation. The idea of reflecting FRY's political structure and establishing a regionally

based border control system, where each region would operate a separate organisation, should be strongly resisted. For we are dealing with a common frontier and a uniform border regime so the border regime must be a federal one.

It would serve no useful purpose to have the forces and the means needed to accomplish these tasks spread out among different government agencies. It is not appropriate, for instance, to assign the tasks of passport and border control in between border posts to the police Department, maritime border control and customs inspection to the Waterways Administration, or law enforcement functions to the military.

It is essential that all personnel involved in border control receive the same basic training and that every border post, border checkpoint, electronic observation network, ship and aircraft work closely together, continuously share information. It should be possible, depending on the situation at the border, to transfer necessary personnel and equipment to any location, whenever circumstances so require. This would not be possible with a regionally based border control structure.

The nature of the border mission means that the Border Police must function as a comprehensively skilled body, capable of using not only its own specific methods but also those employed by the state police and customs.

3. A law enforcement organisation with a clear command and control line.

The border police command system should:

- Consist of a clear chain of command with an appropriate number of levels of command and control;
- Be operational;
- Have a flexible structure;
- Be functional.

The objective should be to ensure a uniformly functioning permanent state of readiness at all levels, together with the potential for rapid mobilisation and the deployment of reserve forces along the entire border.

The command system in place should at the same time allow border guard units to be used in crisis and emergency situations, and to be easily integrated into the national civil protection structures that under the command of the Ministry of Interior.

4. A professional organisation

In view of the complexity of its tasks, the range of knowledge and skills needed to fulfil them, and the required ethical qualifications, the FRY BPS should be made up of professional border police officers and policemen.

Most transition countries have insufficient qualified personnel. The use of conscripts can solve the problem though their lack of training means that they cannot perform border control tasks effectively. For this reason it is better to provide them with professional training throughout their service period and to use them for strengthening the border regime or as reserves only in extraordinary situations. Trained conscripts can in this way serve as a pool of potential recruits to the professional organisation.

In summary, changes are required in the legal framework, infrastructure, organisation and ethos of FRY frontier authorities. In order to successfully carry out such reforms, all personnel should be adequately qualified and to achieve this, training programmes should be developed. Technical equipment should be acquired, staff numbers upgraded. Such reform has fiscal implications but can be facilitated by training and staff exchanges between FRY

BPS and co-operation partners, and by the study and utilisation of successful models such as those considered here.