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From West Germany

Opening the Borders in the European Community: Perspectives on Internal Security

European police face growing concerns about internal security in light of proposed elimination of common borders in the European community.

Introduction

In the Agreement of Schengen (1985), the governments of West Germany, France, and the Benelux countries agreed to eliminate all controls at their common borders on January 1, 1990. At their summit in Luxembourg the same year, members of the European Community agreed to eliminate controls at their common borders by the end of 1992.

Since these agreements, security experts have stressed that border controls contribute significantly to crime control and arrests. For example, over 60 percent of all drug seizures and 60 percent of arrests of wanted persons continue to take place at the West German borders. In 1988, German border police detained a total of 104,500 persons, 42,000 of whom figured on the wanted list. The others were stopped for immigration offenses (31,000), document forgery (13,000), property offenses (12,000), and drug offenses (6,500).

In response to security concerns, member countries of the Agreement of Schengen have delayed the border openings until urgent security questions are resolved. Other European governments, especially Great Britain, have expressed growing concern about eliminating controls in the European community. In the following articles, West German criminal justice experts question whether the future open borders will necessarily amount to a loss of internal security.

The Emergence of a European Security Consciousness

by Min. Dirigent Reinhard Rupprecht

Because of the growing threat of international crime, a European security consciousness must emerge even before the borders officially open. A carefully orchestrated collaboration among the European police forces can compensate for the loss of border controls. Many components of such a joint effort should be initiated as soon as possible: the exchange of criminological experiences, joint police training projects, shared development of extensive data collections, and coordinated research projects. These are especially important since the heads of international crime organizations are almost never apprehended at the borders.

Addressing security concerns

When border controls are eliminated, additional security measures will become necessary. During negotiations on implementation of a border-free Europe, the West German delegation demanded that outer borders surrounding the European community be tightened after internal border controls are relaxed. The delegation has also called for a uniform standard of control at all sea and land borders which serve the security needs of every community member. Further, the West Germans insist on even closer collaboration between the European police forces. One vital facet of such a collaboration will be a common criminal policy,

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especially regarding narcotics, gun control, and immigration/asylum issues.

Multinational negotiation efforts

European consciousness emerging. Though concerns for national sovereignty often slow negotiations, a European security consciousness is clearly emerging to meet these needs. Several agreements, including treaties to ease extradition and to fight terrorism, have been ratified. In the Council of Europe, task forces are exploring common opportunities for crime prevention: the International Crime Prevention Information Network is promoting information exchange; the Pompidou Group is working to prevent and combat drug-related crimes. Further, the European Civil Aviation Conference (ECAC) has made joint recommendations for improving air safety.

Cooperating against terrorism. The European Community has also formed the TREVI Group, initiated in 1975 to protect member countries against terrorism and political radicalism. In semi-annual meetings, 3 task forces, representing the 12 member countries, have already made significant progress toward exchanging information about known international terrorists, cooperating in terrorist arrests, and sharing information on weapon and explosives thefts related to terrorist activities. A fourth TREVI task force was formed to address the specific impact of the open border policy. While the TREVI Group focuses on practical issues, the European foreign secretaries have been negotiating binding agreements on common political responses to crime.

INTERPOL has added a European regional office with the purpose of analyzing European criminality and developing counter-strategies. These multilateral efforts are further supplemented by bilateral crime resistance agreements, such as the Federal Republic of Germany maintains with Austria and France.

Though numerous unresolved problems and gaps remain, the European security network is tightening and could conceivably meet Europe's requirements completely in the future.

The Schengen Information System—Technological and Legal Concerns

by Bernd Schattenberg

The Agreement of Schengen includes several security measures to compensate countries for the loss of border controls. The core of these measures is the Schengen Information System (SIS), an automated data base that will store information about wanted persons and objects.

Border control features centralized data base

The purpose of the system is to help control Europe's outer borders and conduct police controls within the community's territory. The data base will include names of persons wanted for criminal offenses, persons who should be refused entrance at the border, missing persons, and persons registered for the purpose of covert police surveillance. Objects listed in the data base include missing vehicles, weapons, documents such as passports and driver's licenses, and registered bank notes.

Members maintain identical data bases. According to a 1988 feasibility study, all member countries will maintain identical data bases to which they can supply online updates. To ensure data security, all information will be maintained in coded form. In addition, a centralized data base containing all backup data will re-create the national systems if they should fail.

Speed and size requirements are considerable. Such a system makes considerable technical demands, many of which have been resolved. The base must have enough capacity to store data on 800,000 persons and 6.7 million objects with 3.1 million updates being provided every year. The system should also have a 30 percent reserve capacity to accommodate new search categories or member countries. The response time should not exceed 5 seconds per request, and the central computer should be able to handle at least 10 transactions per second.

System to ease cooperative searches

One goal of the SIS is to streamline cooperative searches by establishing standardized guidelines acceptable to all European countries.

Legal issues to be resolved. A number of legal problems remain unresolved, however. For instance, arrest and extradition policies vary from country to country. INTERPOL currently assists in issuing international arrest warrants and provides other liaison services, but countries cooperate on a strictly voluntary basis. Under the SIS concept, the country originating a search message will verify the legality of the message and confer with partner countries only when cases are legally or politically doubtful. The arresting country can then analyze the legal status of the case after the suspect has been apprehended.

Data security is another problem area. Negotiations on this topic have been slow and complicated. Technology has outpaced legislation, and most nations, including Belgium and The Netherlands, have incomplete data security laws. Any future data security agreement must resolve who is responsible for the accuracy of the data, how the data will be used, how long a message will be stored, and who is authorized to receive information from the data base.

Because of these technological and legal challenges, the SIS will not be completed until 1991. In fact, the system is emerging as the major obstacle to a border-free Europe, since most member countries agree that it must be operational before the borders can be opened.

Criminal Investigation Perspectives on Opening the Borders

by Heinz Lenhard

Police experts agree that additional protective measures are needed to compensate for the loss of border security. However, the "compensatory measures" currently being negotiated by the member countries of the Agreement of Schengen do not provide for sufficient security.

Negotiations for police pursuits

One of the most important compensatory measures is the ability of the police to pursue criminals into another country. It is preposterous to allow criminals free passage throughout Europe while pursuing police forces must stop at the border.

Clearly defined offenses. Current negotiations allow pursuit across the border for only a few, clearly defined offenses: first and second degree murder, rape, arson, counterfeiting, robbery, abduction of minors, hostage taking, drug trafficking, and arms dealing. However, this narrow spectrum does not include such organized criminal activities as gambling, theft rings, and/or credit card fraud.

Restrictions on pursuits. Further, the police can only act within a radius of 10 kilometers (about 6.5 miles) beyond the border, a distance that presents no obstacle for criminals using modern transportation. Because pursuit is only allowed in public buildings, a criminal need only enter a private dwelling to escape from the police. Spontaneous pursuit efforts are further hampered by requirements that the pursuers be uniformed officers and drive a police vehicle; plainclothes detectives are not allowed to cross the borders. The police must immediately surrender captured criminals to the host country and then initiate formal extradition procedures. In meeting these requirements, officers lose valuable time they might have used to secure evidence or obtain a confession.

Response by host country. The police may also enter a country to observe a suspect if the neighboring country's police decline to take over at the border. However, this option is only available for "serious offenses," a term which has yet to be defined. In addition, the host country must grant permission within 5 hours of the crossing or the observation must be stopped. Unfortunately, no provisions exist for followup observations. It would be more expedient for the two police forces to continue the observation together rather than to turn the investigation over to a new force that is totally unfamiliar with the case.

Several other compensatory measures also have severe weaknesses. For instance, the categories for listing missing property in the Schengen Information System are not comprehensive enough. Stolen checks, credit cards, and sophisticated entertainment technology, which already constitute a booming international crime business, are not included in the system's search messages.

Improving European security

Tightening outer borders. Current negotiations provide for balancing the lack of interior controls by placing tighter controls at the European community's outer borders. It is doubtful that police forces, especially those in the Mediterranean area, can manage such a task alone. Since the South American cocaine cartels and the Cosa Nostra have responded to strict U.S. controls by expanding their European markets, Spain has become the main point of entry for cocaine. Italy is rapidly becoming the central point of entry for drugs from North America. The dealers know that once they bring the drugs into the European continent, they face few obstacles. Europe may have to call on military units to match the effectiveness of the United States' border controls.

Streamlining cooperative efforts. In addition, the process by which the police departments of partner countries supply legal assistance should be accelerated. Currently, a French request for legal assistance may well wait 6 months for a West German police response. To speed up communications, central police agencies of the West German states should be able to communicate directly with departments of the partner countries without involving INTERPOL. Police officers in border areas should be able to waive formalities when visiting a neighboring country's police department to gather detailed information on a particular crime. To curtail red tape even more, major police departments should be able to approve an officer's foreign travel for the purpose of obtaining legal assistance.

Internal measures also required

Even if all compensatory measures work as planned, the level of security provided by current border controls—where people can be stopped without specific reason or suspicion—cannot be matched. The West German police must, therefore, also consider internal measures to enhance security: routine controls in areas with frequently changing demographics; constant surveillance of such high-crime locations as railroad stations, airports, and highway stops; nationwide "crackdown" days devoted to searching for particular persons or property; increased waterway patrols; and expanded use of television messages to locate wanted persons.

How European Police Forces View Border Openings

by Redigiert von KD Hans-Martin Zimmermann

In 1989, a group of recent graduates of the West German police academy visited seven other European countries to learn what their police think about the planned opening of the borders. Four of these countries are members of the Agreement of Schengen. The other three—Denmark, Great Britain, and Austria—are not, but as next-door neighbors, they look toward

the future with interest and concern. The views the West Germans heard are not necessarily those of the official governments, but they did provide an enlightening portrayal of each country's criminal justice concerns.

Police observations from neighboring countries

Belgium. The Belgian police force shares West Germany's cautious views about the future open border policy. In particular, Belgians anticipate increased drug trading and the transfer of stolen vehicles and goods across the unrestricted borders. At international airports, they foresee greater problems with refugees and requests for asylum. Like the West Germans, the Belgians insist that border controls cannot be eliminated until the Schengen Information System is complete and operating.

Luxembourg. In Luxembourg, the West German graduates were especially interested in the experiences of the Benelux countries (Belgium, The Netherlands, and Luxembourg) where controls at common borders were eliminated in 1960. Luxembourg police stressed that since that time, security control procedures had resulted from close cooperation between the Benelux countries. Special measures include an accelerated extradition process and permission to arrest and interrogate a suspect within 10 kilometers of a member country's border. After the European borders are opened, Luxembourg's only controls will be at the airport, but the police welcome this development and anticipate no problems.

The Netherlands. Though police in The Netherlands do not expect increases in serious crime, they believe that a gradual opening of the borders cannot begin until the Schengen Information System is completed. They welcome closer European police cooperation and would allow neighboring forces to operate within their borders if accompanied by a Dutch police officer. However, a major obstacle to such cooperation—and to the development of a common European criminal justice policy—has been the Dutch handling of drug offenses. Rotterdam, the world's largest harbor, plays a crucial part in shipping cocaine from South America and heroin from Turkey and Pakistan. While the Dutch police aggressively prosecute hard drug operations, possession of soft drugs goes virtually unpunished. Although this policy is far more permissive than those of other European countries, Dutch police stress that they do not intend to change this focus on hard drugs because they have found it effective in limiting the use of hard drugs. They do, however, offer to extradite persons who have violated another European country's narcotics laws.

France. Though French police are aware of potential problems or difficulties in enforcing security agreements, they would support opening the borders by 1992. In fact, police anticipate important positive results, including expanded police training to help future officers learn about the specific criminological interests of each country. French police already work closely with other forces, exchanging information and liaison officers, especially in the areas of violent crimes, drugs, and organized crime. The police officers did, however, see potential problems growing out of the diverse drug laws, weapons laws, and immigration or asylum laws within the European community.

Denmark. Denmark is not a member of the Agreement of Schengen. Police and justice representatives cite political reasons for rejecting total elimination of border controls. If the country were to join the Agreement of Schengen, Danish police would be obligated to conduct strict controls at their northern borders. These controls, however, would be unacceptable to the Danes, who have historically maintained close political ties to their northern neighbors. Instead, Denmark is considering establishing special border crossings, with less rigid controls, for European Community members. Some of the provisions in the agreement meet with Danish criticism. For example, the Danes believe that the SIS or a similar common European police information system is too large and cumbersome to be useful for national police forces.

Great Britain. Like Denmark, Great Britain does not participate in the Agreement of Schengen. Further, the Government has stated its intention to maintain border controls as usual beyond 1992. Thus, the "Eurotunnel," an underwater train tunnel currently being built between England and France, will have passport and customs control areas on both the English and French sides.

For the British police, the Agreement of Schengen leaves too many unanswered questions and areas of legal concern. In fact, the British consider it an imposition to have to look out for the security of other countries when guarding their own borders. The British also stressed that they would not permit foreign police officers to operate on British soil, though they would welcome increased collaboration with other European police forces.

Austria. A neutral country, Austria has not joined the Agreement of Schengen. Instead, the country has taken a position of guarded observation without moving toward open borders or joining the agreement. This reluctance will cause complications for the West Germans. If Austria does not become a member country, the West German border with Austria will become an "outer" border which, according to the agreement, requires intensive controls. Such controls would, however, violate an existing bilateral agreement between Austria and West Germany that simplifies border controls. Austria shows no great interest in increasing European collaboration, stressing that they have already close relations with other European police forces, especially the West Germans.

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