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Karamanidou, Lena; Kasperek, Bernd

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From exceptional threats to normalised risks: Border Controls in the Schengen Area and the governance of secondary movements of migration.

As a direct response to the migrations of 2015, seven Schengen member states re-introduced border controls at their national borders, with five of them extending these controls continuously since then. Citing the impact of the migration movements, they invoked the clauses of the Schengen Borders Code (SBC) temporarily allowing for such measures in order to counter exceptional threats. Based on a qualitative analysis of the notifications of the member states in question to the European Commission and its response, we examine how migration and migratory movements have been framed as a security issue in order to legitimise the extension of border controls. Drawing on critical security theory and the different conceptualisations of threat-based and risk-based security, we show that despite the frequent invocation of a frame of threat – as mandated by the SBC –, the underlying rationales for upholding border controls are progressively constructed along a frame of risk. This is consistent with a prevalence of risk-based conceptions of security at the level of the European Union. We conclude that the shift from threat-based rationales to risk-based conceptualisations of security undermine the spirit of the Schengen area as an area of free circulation since they tend to normalise the hitherto exceptional measure of internal border controls.

Keywords: Schengen, internal border control, risk, threat

Introduction

One of the legacies of the movements of migration in 2015/16 are the continuously upheld Schengen-internal border controls in contravention to the spirit of the Schengen as an area of movement without border checks. In late 2015, eight Schengen member states introduced controls at their national borders under article 25 of the Schengen Borders Code (SBC), citing the impact of the migration movements in that year. When the time limits imposed by the SBC were exhausted, five of them prolonged internal border controls a further three times under the exceptional procedure of Article 29 concerning serious deficiencies of external border controls, thus following a recommendation by the European Commission (2016a). When this procedure was exhausted in November 2017, the Commission recommended their repeated prolongation under Article 25 and proposed legislative amendments to relevant provisions of the SBC (European Commission 2017a). While this proposal is still pending, the five states extended border controls three further times to May 2020 (European Commission 2019). Despite being envisaged as a temporary measure, by November 2019 they were in place for over four years.

The question we explore in this article is why and how a mechanism that was envisaged as an exceptional measure, to be activated in specific, narrow circumstances for a delimited period of time, has come to be normalised to such an extent as a mechanism of governing migratory movements within the Schengen area. The original activation of the mechanism did take place in circumstances that were constructed by the European Union and its member states, however contentiously, as a ‘crisis’, drawing on existing narratives and practices of securitisation which

characterised both long term responses to migration and to the migratory movements of 2015 (Ceccorulli 2018; Jeandesboz and Pallister-Wilkins 2016; Triandafyllidou 2018). Yet, both the construction of the ‘summer of migration’ (Kasperek and Speer 2015) as a crisis, and the continuing use of ‘crisis’ discourse to the present, is a political, instrumental choice tied to the governance of migration within the European Union (Jeandesboz and Pallister-Wilkins 2016; Cantat *et al* 2019). Drawing on literature on the governance of migration, securitisation and risk, we explore how the introduction and subsequent prolongation of temporary internal have been discursively legitimated since 2015 in notifications issued by Schengen member states. We draw specifically on the concepts of ‘threat’ and ‘risk’ as illustrative of two modes of conceptualising and governing migration within the European Union (Aradau *et al* 2007; Neal 2009; Paul 2018). The former reflects a securitised mode of governance that relies on socially constructed threats referenced by political institutions in order to call for exceptional responses. The latter, in contrast, relies on a logic of anticipating risk that calls for precautionary, pre-emptive responses that are normalised rather than exceptional (Aradau *et al* 2007; Neal 2009; van Munster 2009).

We argue that the prolongation of temporary internal border controls can be understood as the normalisation of an exceptional measure legitimated through a shift from a frame of threat to a frame of risk. Both Schengen member states and the European Commission moved to increasingly framing of migratory movements as a risk in order to render temporary internal border controls an acceptable governance response for both. However, the preferred policy responses of Schengen member states on the one hand and the Commission on the other diverged, with the latter championing the quick return to a Schengen area free of internal border controls. Legal developments since then – in particular the proposed reform of the SBC in 2017 – have been interpreted as a sign of persistent intergovernmentalism over the supranationalisation of Schengen governance (Ceccorulli 2018; Niemann and Speyer 2018). We propose that interpreting the governance of post-2015 migratory within Schengen through a lens of governing risk rather than responding to immediate, urgent threats can elucidate policy responses beyond the intergovernmentalism/supranationalism duality.

The Schengen mechanism and the 2015 Schengen ‘crisis’

The existence of the mechanism for the re-introduction of temporary border controls is in itself the outcome of a ‘crisis’. The 2013 revision of the SBC was triggered largely by the ‘Arab Spring’, and its subsequent migrations to Europe (Hess and Kasperek 2017; van der Woude and van Berlo 2015; Pascouau 2013; Zaiotti 2013). The ‘Schengen Governance Package’ subsequently proposed by the Commission reformed of rules on the temporary reintroduction of border controls (European Commission 2011b). The revised provisions of the SBC, which entered into

force in 2013, stipulate that member states can introduce temporary internal border controls through three procedures which carry different time limits and potential for extension. For 'foreseeable events', temporary internal border controls can be introduced for thirty days and can be renewed for up to six months (Art. 25). In response to 'urgent cases', where immediate action is required, temporary internal border controls can be introduced initially for ten days but can be extended for up to two months (Art. 28). When 'serious deficiencies' of external border controls endanger the functioning of the Schengen Area, controls can be extended for up to two years if the Commission and the Council agree (Art. 27-29). The last provision is particularly noteworthy, since before the reform, member states could only refer to a threat concerning their own territory (Pascouau 2013).

The reformed Schengen Borders Code explicitly posits the mechanism for the introduction of temporary internal border controls as an *exceptional* one. Paragraph 22 of the Preamble stipulates that it should be activated in 'exceptional circumstances' that posit serious threats to security and 'should only be effected as a measure of last resort, for a strictly limited scope and period of time' (Preamble, 23) which should be the 'bare minimum needed to respond to a serious threat to public policy or internal security' (Preamble, 22). The necessary exceptional conditions for activating the mechanism are balanced out with the imperative to maintain Schengen as an area of free movement. It further explicitly states that

Migration and the crossing of external borders by a large number of third-country nationals should not, per se, be considered to be a threat to public policy or internal security (Par 26)

Thus, justifying the introduction of temporary border controls would necessitate that Schengen member states argue the existence of threats independent of migratory movements however large. Two such threats are mentioned in the SBC: terrorism and organised crime (Preamble, 25) although the phrasing of Article 25 - 'including' - makes clear that the possible grounds are not limited to these. Schengen member states need to provide detailed justification of the reasons for introducing temporary internal border controls, which are assessed by the European Commission (Preamble, 23).

The mechanism was tested against the migratory movements of 2015 and what was deemed as the failure to control the external borders of the European Union, particularly in Greece. With the subsequent establishment of the Balkan corridor of migrants moving from Greece towards Central Europe (Kasperek 2016a), the prevention of secondary movements became a central issue for member states, because of - real or perceived pressures on their reception and asylum systems and domestic political concerns over migration (European Commission 2016a; Guild *et*

al. 2016). Eight Schengen states introduced temporary internal border controls in September and October 2015, invoking internal security and public policy considerations triggered by increased numbers of migrants arriving through the Balkan route¹ (European Commission 2016a). While Slovenia and Hungary lifted the temporary controls introduced under Article 25 within a month, Germany, Austria, Denmark, Sweden and Norway still have controls at their internal borders throughout 2019. Both the Council of Ministers and the European Council were supportive of the member states' choice to do so (European Council 2016; CoEU 2017a).

The position of the Commission has been more ambivalent. Initially, it held that the introduction of temporary internal border controls by Germany and Austria was proportionate and necessary, and initiated an evaluation of external border management in Greece using the Schengen Evaluation mechanism which identified serious shortcomings (European Commission 2016a; 2016b). In May 2016, the Commission proposed a Council Implementing Decision for the prolongation of temporary internal border controls using Article 29 of the SBC which was adopted by the Council on 12 May 2016 (European Commission 2016c; Council Implementing Decision 2016/894). It was followed by three further prolongations: in October 2016, January 2017 and May 2017 (Carrera *et al.* 2018). Based on these implementing decisions, Germany, Austria, Sweden, Denmark and Norway prolonged temporary internal border controls at specific parts on their borders three times (Carrera *et al.* 2018).

At the same time, the roadmap *Back to Schengen* and other Commission communications suggest that the Commission was also concerned with the costs for free movement within Schengen, preferred weaker measures such as internal police checks, and intended to lift temporary internal border controls by the end of 2017 (European Commission 2016a). The Commission's ambivalence became even more evident in September 2017, after the exhaustion of Article 29 re-introductions. On the one hand, it reiterated the above-mentioned concerns and yet again suggested the use of internal police measures. On the other, it issued an opinion that the re-introduction process under Article 25 could restart from blank, which was duly applied by the five Schengen states (European Commission 2017a; Carrera *et al.* 2018). More significantly, it issued a proposal for amending the provisions of the SBC regarding their re-introduction under Article 25, apparently at the request of the five countries maintaining temporary border controls. The revised articles would allow the introduction of border controls under Article 25 for one year, which could be extended under exceptional

¹ The exception was Belgium, which introduced temporary border controls because of movements allegedly triggered by the destruction of the Calais camp in France (Anonymous 2016).

circumstances cited in the revised article 27a to two years (European Commission 2017a; Carrera et al. 2018).

These developments have so far been explained as a struggle between member states and the EU institutions representing them – the European Council and the Council of the European Union – on the one hand, and the European Commission on the other. The actions of Schengen member states to unilaterally introduce temporary border controls has been interpreted as a sign of intergovernmentalism (Niemann and Speyer 2018) and effect of the securitisation of migration (Ceccorulli 2018). The latter has also been argued in the case of the Commission (Ceccorulli 2018), although its preferred course of action differed from that of the Schengen member states. Rather, the Commission envisaged a return to a fully functioning Schengen area (European Commission 2016a) supported by measures aimed at strengthening the external borders of the Union, such as the establishment of the European Border and Coast Guard and EU-assisted (and dictated) efforts to improve Greece's capacity to control its external border (Ceccorulli 2018). However, a full return to Schengen has not so far materialised, with policy developments suggesting that the Commission, through the proposed reform of the SBC, essentially accommodated the preferences of Schengen member states (Jasiewicz 2018).

Yet, analyses of Schengen governance drawing on securitisation and Europeanisation do not fully explain how a measure envisaged by the SBC as exceptional has come to be normalised as a mechanism for governing migratory movements for such a prolonged period. Scholars rightly point to processes of securitisation, both historical and deeply embedded in Schengen governance and contextual to the 2015 movements (for example, Ceccorulli 2018) to explain the introduction of temporary internal border controls as a response to migratory movements that both states and European institutions depicted as a threat to European polities. However, they do not explain the consequent normalisation of the mechanism against a context whereby migratory movements, both at the external borders and within Europe – in the form of secondary movements – were reduced considerably and thus could no longer be characterised as an immediate, urgent or existential threat. In order to overcome these limitations, we focus on the distinction between two key concepts – threat and risk – and their potential for understanding Schengen governance.

Threat, securitisation and risk: implications for governance

'Threat' and 'risk' are both central concepts in securitisation theory² and securitisation-based approaches to migration. In the Copenhagen School tradition, threats are socially and discursively constructed 'security issues' that pose urgent, imminent dangers to state and societal security and are activated through speech acts of securitisation (Waeber 1995; Balzaq et al 2016; van Munster 2009). 'Threats' can cause serious harms to the existential security of referent objects – be it a state, its citizens, or governance arrangements (Corry 2012). Risk, on the other hand, differs from threat in that it is not defined by immanence. Rather, it refers to potential, future dangers and harms (Corry 2012) which 'are not imbued with the same sense of danger, urgency and survival' (Aradau *et al* 2007).

The process of securitising migration in Europe and the European Union – constructing migration as a security issue – has been the subject of a considerable body of research (for example Bigo 2002; 2014; Huysmans 2006; Van Munster 2009). The concept of threat in such literature is considerably wider than in the original Copenhagen School scholarship, which is primarily concerned with threats to identity and state security (Balzaq *et al* 2016). Political and social actors thus construct migration as a threat to societal, cultural or national identity, which encapsulates the existential character of threat. Similarly, constructions of migration as a threat to state security, often through the association of migration with conventional security threats such as terrorism and organised crime (Squire 2009; Van Munster 2009), can assume an equally existential character. Yet other constructions may be less existential or urgent: for example, migration has been constructed as a threat to the economy, public services – including to asylum systems – or to public order (Huysmans 2000; Squire 2009).

Taking into account the diversity of these conceptualisations is helpful in understanding the content of the notion of 'threat'. However, from the perspective of distinguishing modes of governing migration as a securitised issue, the key difference of the conceptualisations of risk and threat is one of time – whether a threat is imminent or in the future. In threat-based approaches to governing security, invocations of threat activate 'exceptional' measures to defend the security of the referent object (Aradau et al 2008; Corry 2012). The notion of exceptionality, borrowing from Schmitt's politics of exception, thus points to a specific mode of governance whereby normal politics is suspended (Aradau *et al* 2007; Scott 2010). It calls for extraordinary measures to eliminate harm, which may contravene existing legal and normative frameworks. The exceptionality of responses also invokes the need for urgent action. As Balzacq

² Scholars such as Aradau et al (2003) and Scott (2010) differentiate between securitisation and risk-based approaches to security, seeing them as distinct theoretical perspectives, with the latter deriving from Beck's risk theory and risk analysis while the former from the social constructivist accounts of security associated with the Copenhagen School (Corry 2012)

(2005:173) notes, it makes a claim that 'a specific development (oral threat or event) is threatening enough to deserve an immediate policy to alleviate it'.

Risk-based approaches, on the other hand, dictate a mode of governance which is based on predicting and anticipating future harms. According to Aradau *et al.* (2008), the notion of risk is associated with uncertainty and the unknowable rather than with concrete dangers or harms. It is concerned with the possibility of danger and harm in the future and the conditions that can produce them (also: Corry 2012). The governance of risk does not rely on exceptional measures, but for precautionary and pre-emptive ones that make risk knowable in order to render harm less likely to occur. It thus calls for technologies of 'routinised practices of bureaucracies where risk analysis, calculation and management play an increasingly important role' (Aradau *et al.* p 149). These techniques aim at the management of populations and conditions that can produce harm.

Literature on the governance of migration as a securitised phenomenon have drawn extensively on these perspectives. Scholars working within the Paris School tradition such as Jeff Huysmans and Didier Bigo have focused on security practices and the bureaucratic governance of migration, both at the level of states and the European Union. In this strand of work, the concept of risk is central. It requires both a specific mode of knowledge production – risk analysis – in order to identify potential, future dangers, but also a mode of governance relying on the routine, normalised practices of security actors such as national police and security experts or European agencies such as Frontex (Bigo 2002; 2014; Huysmans 2006; Leonard 2010).

Indeed, the increasing prominence of risk-based approaches to security and migration governance within the EU can be illustrated particularly well with reference to the European Border and Coast Guard Agency Frontex (Horii 2016; Paul 2018). It maintains a dedicated risk analysis unit (RAU) at its headquarters. The agency has adopted the so called Common Integrated Risk Analysis Model (CIRAM), a methodology that leads to the creation of a variety of reports. Andrew Neal points out that the emphasis on risk which is so prominent in the agency can be analysed as a reaction to the failure of threat-based approaches to security. With reference to Bigo, he analyses the choice for the 'alternative modality of risk' (Neal 2009: 333) as leading to 'processes and practices [that] are driven not simply by a logic of crisis, emergency and exception, but through the formation of linkages between diverse policy areas, different technologies and security professionals of different specializations' (352).

Methodology

We adopted a discourse analytical approach in order to locate the use of the notions of 'threat' and 'risk' in the selected texts. We conceptualise 'threat' and 'risk' as two distinct 'frames' - so-

cially constructed sets of ideas that are rooted in specific institutional contexts - which are used to shape the understanding of social, political or policy issues, and legitimate courses of action (Coman 2019; Matthes 2012). Frame analytical approaches have been previously used to explore social and political processes pertaining to construction of borders and their effect on legitimating policy choices (Coman 2019; Cvetkovic and Pantic 2018). However, here we also draw on Critical Discourse Analysis (CDA), and specifically on its discourse-historical (Reisigl and Wodak 2009) and political variants (Fairclough and Fairclough 2012) which are equally concerned with the construction of social and political issues in specific institutional and historical contexts and the justification of responses towards them (Reisigl and Wodak 2009; Fairclough 2009;2013). By combining these approaches, we seek to understand if and how actors designate temporary border controls as a mechanism governing threats or risks, and interrogate the consequences of this framing for the governance of Schengen and migratory movements.

CDA furthers the analysis in two ways. First, it allows the systematic exploration of *themes* (Reisigl and Wodak 2009) – such as terrorism or secondary movements - that accompany constructions of ‘threat’ and ‘risk’. Themes are significant for understanding how speakers construct what is being threatened or designate the source of threat or risk and how claims are supported through the argumentation of speakers (Reisigl and Wodak 2009)– in this case the necessity of introducing or prolonging internal border controls. Second, CDA allows for the examination of linguistic features such as metaphors and qualities attributed to phenomena and actors which are significant in the construction of ‘problems’ and the legitimization of policies (Baker et al 2008; Reisigl and Wodak 2009).

We created a corpus of documents suitable for exploring the use of the frames of ‘threat and ‘risk’ comprised of notifications by state authorities and official documents by the Commission. With regard to state notifications, we selected the five countries – Austria, Germany, Denmark, Sweden and Norway³– that maintained internal border controls continuously since 2015. Notifications by other countries that introduced temporary internal border controls for shorter periods were excluded from the analysis as they were not useful for exploring the longitudinal changes in the use of frames. Equally, we excluded notifications for introducing temporary border controls for reasons other than migratory movements. To allow for the examination of changes in framing over time, we examine documents issued between September 2015 and November 2019. The second body of textual data includes eleven Commission documents. The main criterion for their selection was relevance in addressing the introduction or prolongation

³ Norway participates in Schengen arrangements even though it is not a member of the European Union.

of internal border controls. We used the EU's document register search engine⁴ to locate notifications by Schengen states. However, not all notifications were available there - in particular German and Austrian notifications since 2017 were missing. Using online search engines, we managed to locate missing notifications in the database of the Austrian Parliament⁵. In total, we located 81 state notifications (Table 1). The European Commission documents were sourced from the 'European Agenda on Migration – Legislative documents' webpage, which contains documents relating to post-2015 policy responses to migratory movements⁶. The full list is provided in Table 2.

The analysis followed both deductive and inductive steps. The analytical framework included our two key categories of 'threat' and 'risk' which were defined based on the existing literature discussed in the preceding section. In order to differentiate their definitions and facilitate the analytical process we adopted two criteria. To code a text under the frame of threat it should contain a) an expression of the exceptional nature of migratory movements referred to in the context of the notification and b) statements regarding the perceived dangers or harm caused by migratory movements. The concept of threat can of course encompass a wide range of meanings depending on the context it is employed in, such as threats to national or cultural identity or to the welfare state which can be politically and emotionally charged. However, we adopted a narrower definition for this paper attuned to the context of Schengen governance and reintroducing temporary internal border controls. Conversely, in order to code a text under the frame of risk, the criteria were a) references to potential, likely dangers or harms that b) were located in the future. Hence, the mere presence of the word 'threat' - for example when quoting the grounds for activating the temporary border controls - was not sufficient for concluding that a frame of threat was used. Rather, we determined whether migratory movements were constructed as posing urgent, exceptional threats, or future, potential ones.

The documents were first coded manually in order to locate the 'risk' and 'threat' frames. During the manual coding stage, which was undertaken to aid familiarity and in-depth engagement with the documents (Basit 2003; Maher et al 2018), we also identified key themes emerging in relation to the two frames. A list of these themes – as well as of the results of coding - is provided in Table 3. Themes such as 'terrorism' and 'secondary movements' and references to areas of social activity threatened occurred in relation to constructions of threat and risk and reinforced the case for the introduction or prolongation of controls. In addition, we coded linguistic fea-

⁴ <https://www.consilium.europa.eu/register/en/content/int?lang=EN&typ=ADV>

⁵ <https://www.parlament.gv.at/PAKT/EU/>

⁶ https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package_en

tures which were used to enhance perceptions of threat – for example the use of adjectives such as ‘enormous’ and ‘unprecedented’.

The corpus was then entered into NVivo qualitative analysis software and the coding was applied digitally (Basit 2003; Gilbert 2002). This process served at locating errors and ensure consistency in coding as well as enhancing the analysis, for example by exploring correlations between the two frames and themes (Richards 2002). Nodes such as ‘year’ and ‘country’ were added to examine the change in frames and themes over time, and any significant relations between national contexts and the employment of specific frames and themes.

Threat framing

Threat framing occurs primarily in notifications issued in 2015 and the first half of 2016 by the two countries, Austria and Germany, where arrivals were significantly higher than in previous years. The exceptionality of the situation is conveyed by discursive terms that accentuate the scale and uniqueness of the 2015 migratory movements. This type of language is particularly evident in the notifications of Austria and Germany: they refer to ‘enormous migration flows’ (CoEU 2015a, AU) ‘massive influx of third country nationals’ (2015b, AU); ‘enormous influx of third country nationals’ (CoEU 2016a; 2016b AU); the ‘uncontrolled and unmanageable influx of third country nationals’ (CoEU 2015c); ‘the uncontrolled and massive influx of third country nationals’ (CoEU 2015d); ‘an unprecedented and uncontrolled influx of migrants seeking asylum’ (CoEU 2015e). Terms such as ‘influx’, ‘flow’ and ‘inflow’, used in both state notifications and Commission documents (e.g. CoEU 2015b 2015f 2015h; European Commission 2016a), further accentuate the uncontrollability of migratory movements and evoke lack of control against human movements likened to elemental forces and natural disasters (Gabrielatos and Baker 2008; Greussing and Boomgaarden 2018:1751).

Reflecting the repertoire of threat construction associated with migration, the notifications list a wide range of societal domains that are argued to be harmed by the migratory movements. Notifications refer to reception capacities, the resources of the police, army, emergency services, and NGOs(AU), public services such as housing, healthcare and education, and asylum systems being under pressure by an increased number of applications (SWE) (CoEU 2015a; 2015b; 2015f; 2016a). Both Austrian and German notifications invoke threats to security. Internal border controls are justified in terms of ‘maintaining law and order’ (CoEU 2015b) or ‘to maintain public order and safety’ (CoEU 2015c). These harms are accentuated by references to crime and smuggling (CoEU 2015c; 2015d), and in one instance, terrorism through a reference to ‘persons who have been radicalised in crisis and conflict regions’ (CoEU 2015e). These

constructions of threat are central in discourses and practices of securitisation in the European Union and its member states, and to the expansion of both domestic and European Union border regimes (Huysmans 2006; Van Munster 2009; Walters 2010). In short, the threat-framing relies on existing repertoires of designating migration as a threat (Huysmans 2006; Van Munster 2009). It also circumvents the limitation placed by the SBC that migratory movements in themselves are not a sufficient reason for introducing internal border controls.

Seen against the context of events at the time, the introduction of temporary internal border controls is presented as a response to an exceptional situation of increased arrivals which, in conjunction with the states' constructions of threats to security and public services, require urgent measures. In the first few months of 2016, both states maintain this urgency by claiming that there was no significant decrease in arrivals (CoEU 2016a; 2016c). This move legitimates the continuing use of Article 25 for prolonging internal border controls. While Ceccorulli (2018) has argued the introduction of temporary border controls at the time did not constitute 'exceptional' politics, as it was within the existing Schengen framework, we would consider it as an example of threat-based governance.

The European Commission official response to the introduction of temporary border controls did not challenge the threat framing in the German and Austrian notifications, or the states' case for introducing and maintaining temporary internal border controls. The Commission's opinion *on the necessity and proportionality of the controls at internal borders reintroduced by Germany and Austria* echoes the threat framing of the notifications of the two countries, referring to the 'uncontrolled influx of exceptionally large numbers of undocumented/improperly documented persons' which rendered internal border controls 'necessary' (European Commission 2015 opinion p 8). The acceptance of the states' framing and course of action is reiterated in the roadmap *Back to Schengen*, which recognises that 'several Member States have resorted to reintroducing temporary internal border controls' because of 'serious deficiencies at parts of the Union's external borders' and the 'wave-through approach applied by some Member States' (European Commission 2016). In addition, , the roadmap also announced the Commission's intention to propose the introduction of temporary border controls under article 29.

Risk framing

One of the surprising findings of this analysis is the absence of threat framing in the notifications of the three Nordic countries. With the exception of the first Swedish notification of November 2015, all consequent Swedish, Norwegian and Danish ones utilise risk framing, even in the 2015-2016 period. Swedish notifications refer to a 'strained situation that *'is likely* to remain so for some time' or *'expected* to remain for still some time', which suggest that the

dominant frame is risk, as they refer to future probabilities of threat (CoEU 2015g; CoEU 2016d).

Norwegian notifications similarly express a 'fear' that despite 'a further decrease in the number of asylum seekers in Norway' this *might change* if the internal controls are lifted' (CoEU 2016e; similarly 2016f). The case of Denmark is different. Temporary internal border controls were introduced not because of dramatically increased arrivals or asylum applications, but because of their introduction in neighbouring Sweden. They consequently use risk framing to justify this decision in terms of the potential impact of the Swedish and Norwegian internal border controls on Denmark, which according to the notifications, pose a serious *risk* to public order and internal security because a large number of illegal immigrants *maybe* stranded in the Copenhagen area within a short period of time' (CoEU 2016g; 2016h). Thus, in the case of the Nordic countries, risk framing reflects both the geographical distance from the main routes of migratory movements, but also an absence of exceptional, urgent harms. Conversely, some of the 2015/2016 Austrian and German notifications also contain elements of risk framing which coexist with the dominant frame of threat, referring, for example, to the unpredictability of migratory movements or to estimations that they will not decrease in the future (CoEU 2015g; CoEU 2016b). They are early indications of a shift to conceptualising temporary internal border controls as a mechanism to manage potential future risks.

Risk Framing in Commission documents and the turn to secondary movements

Following the exhaustion of the Art. 25 grounds, the Commission issued a proposal for the reintroduction of temporary border controls on the basis of Article 29 in May 2016. Most of the ensuing state notifications do not contain any framing until the resumption of reintroductions in the autumn of 2017. The analysis of the framing used in these opinions suggests that the European Commission frames migratory movements in terms of risk rather than threat:

Despite the sharp decrease in the number of arrivals of irregular migrants and asylum seekers in the European Union notably due to the implementation of the EU-Turkey Statement, there is still a significant number of irregular migrants (about 60 000) stranded in Greece who may reasonably be expected to seek to move irregularly to other Member States (European Commission 2016d)

An important number of irregular migrants is still present in Greece and along the Western Balkans route, part of whom are not registered. The *risk* of irregular secondary movements within the Schengen area of these migrants remains. (European Commission 2017b)

Risk framing in the extracts above does not solely occur through the use of the word 'risk', but through the construction of the threats associated with migratory movements as potential, future and hypothetical. The word 'may' suggests the possibility, rather than certainty, of movements towards Central and Northern Europe. This element of uncertainty, which is inherent in the concept of risk, is reinforced through references to the perceived fragility of conditions in Greece and the Western Balkans:

the situation in Greece and along the Western Balkans route remains fragile and there is an important pressure in the Member States most affected by the secondary movements of irregular migrants coming from Greece. (European Commission 2016d)

Therefore, the overall situation still remains fragile and the Member States concerned remain exposed to the risk related to irregular movements; additional efforts are necessary in order to further stabilise the situation (European Commission 2017b)

The risk framing in the Commission documents reflects decrease of migratory movements through the Eastern Mediterranean route from 885,386 in 2015 to 42,319 in 2017 (Frontex 2019). Against this backdrop, it is *secondary* migration movements, rather than arrivals, that are framed in terms of risk. This move constitutes a significant shift in framing strategies. It not only designates a specific migrant population as risky but, as will expand in the following section, normalises temporary internal border controls as a tool for their governance.

With the resumption of temporary border controls in the autumn of 2017, we observe the same shift towards risk framing in terms of the uncertainty of secondary movements in the notifications by Germany and Austria:

Although the situation on the western Balkan route is stable at present, experience shows that this could change very rapidly when weather conditions become more clement. [...] we continue to consider the overall situation as to *be unstable* and are still facing the increased risk of migrants continuing their journey in an irregular manner. (CoEU 2017b AU)

The Federal Republic of Germany is still strongly affected by the irregular secondary migration of persons mainly coming from the south-eastern and southern external Schengen Borders. We continue to have considerable applications, which in July and August 2018 were around 15,000 a month [...] we currently do not expect irregular secondary migration to effectively decrease anytime soon given the apprehensions at the external borders and along the transit routes (CoEU 2018a)

Risk framing in both extracts focuses on secondary migration movements, stressing the element of uncertainty. Yet, in contrast to earlier state notifications, it is the secondary movements themselves that are designated as a risk, through the estimations of the two states that arrivals

and asylum applications remained too high. Such statements do not reflect the situation on the ground, since 2017 both arrivals – based on statistics on apprehension and the border and inland and asylum applications in Germany and Austria fell dramatically (EMN 2018a; 2019b). Although there are references to risks posed by smuggling and crime networks (ref) the main risk that justifies the continuation of temporary border controls is terrorism, which represents the second significant shift in the framing of migratory movements.

Risk framing: the shift to terrorism

In the opinion issued in October 2015, the Commission rejected the German authorities' reference to terrorism as grounds for the introduction of temporary border controls, stating that it 'would need to be further substantiated to be considered in itself as constituting a serious threat to public policy and internal security'. Before September 2017, terrorism was occasionally mentioned but, although the Commission suggested that police checks within states, cooperation among police forces and measures at the external border were sufficient responses. More explicit references are made in the documents issued in September 2017, after grounds under Article 29 were exhausted, where terrorism is cited as one of reasons for persistent security threats which necessitate the reform of the Schengen provisions.

In nearly all subsequent notification of states on the renewed Article 25 grounds, the risk framing of secondary movements intersects with the theme of terrorism:

The many failed, foiled and completed terrorist attacks carried out in EU member states in 2016 and 2017 have demonstrated in all their horror that terrorist groups are *likely* to try to get advantage of deficiencies in our border controls – that crossing the external and internal borders of the Schengen area is part of their strategy, which often involves preparing attacks in one Member State from the territory of a neighbouring member state (CoEU 2017c).

The head of the Swedish security service has decided that the threat level in Sweden remains at the current elevated level (level 3 out of 5) [...] Shortcomings in the protection of the external borders persist and contribute to this threat as they enable potential terrorists and other criminals to enter the Schengen territory unnoticed (CoEU 2018b)

we continue to be faced with a criminal and terrorist threat, particularly as terrorists *might* use of these migratory movement for their own purposes, movements and operations (CoEU 2019a)

The above extracts use the language of risk rather than urgent threat: they refer to the *probability* of terrorists exploiting secondary movements to carry attacks in Schengen countries. In some cases – Sweden and Germany - the perception of risk is informed by attacks that took place while temporary border controls were in place. Yet, the extent to which the migratory movements that triggered the reintroduction of temporary are linked to terrorism is debatable, since the perpetrators of these attacks were not linked to migration movements through the Eastern Mediterranean route (The Independent 2016). However, member states created an associational link (Squire 2009) between secondary migration movements and terrorism. Such an association is not a novelty in the EU context. However, it is a risk used to justify the prolongation of internal border controls, and in the case of three of the states – Sweden, Norway and Denmark – the *only* one. In tandem with the focus on secondary movements, it suggests that internal border controls become a mechanism for governing risk rather than exceptional threats.

Internal border controls as a mechanism for governing risk

The utilisation of risk framing, in particular since 2017, suggests that the mechanism for the re-introduction of temporary border controls reflects a mode of governance that is aimed at anticipating risk rather than exceptional, urgent dangers. This logic of anticipation is evident in state notifications:

Norway is still concerned over the number of irregular migrants residing in parts of Europe, and we must take steps to reduce the risk exposed by large secondary movements. (CoEU 2017d)

Another element that points to temporary internal border controls as a tool for managing ‘risky’ populations (Aradau *et al* 2008). Primarily, the population to be managed is people engaging in secondary movements. The prevention of secondary movements is deeply embedded in the EU migration governance framework and in particular the Dublin Regulation (Schuster 2011; Kasperek 2016b; Picozza 2017). Yet, the mechanism for the introduction of temporary internal border controls was not envisaged for this purpose. The comparison to other occasions, both before and after 2015, that Article 25 was activated is illuminating: sports events and political summits (European Commission 2019). In contrast, since 2017 in particular internal border controls are presented as a mechanism for managing a population and their movement. The reconfiguration of the Schengen mechanism as a risk governance technology aimed at populations - rather than specific events that pose urgent dangers – is also achieved through using risk as a framing device to form a new association between migration and terrorism. Threat-based governance would require addressing security measures at specific individuals on

the basis of intelligence (Aradau *et al* 2008) or in response to specific events. The logic of risk, in contrast, designates the entire population of (secondary) migration as the target of control. This is precisely the manner in which states construct the use of internal border controls in their notifications:

This uncontrolled irregular migration creates serious threats to public security and order, with a risk of persons suspected of having terrorist intentions posing as refugees. Norway's targeted border controls at selected ports has been vital to prevent and detect the entry of persons posing a security concern (CoEU 2017e).

the latent threat of terrorism throughout the European Union requires appropriate controls to prevent the entry of potential perpetrators. (CoEU 2018c; 2019a)

The shift to managing the risk of secondary movements entails a further technology of risk governance; that of routine, normalised practices of border control. Austrian and German notifications provide several examples of this logic:

I consider such border controls, both aimed at preventing illegal migration in the direction of Central Europe, and at combating smuggling of migrants still to be necessary. On a daily basis, large groups of illegal migrants are being apprehended, either within the control area of border crossings or along the green borders (CoEU 2017f, AU).

The number of illegal entries detected [...] and effective refusals of entry at the German-Austrian border [...] remains too high. It is therefore clear that we are not yet in position to end temporary checks at the internal border [...] (CoEU 2019b, DE)

The types of border control activities mentioned in these extracts – apprehensions and refusals of entry - are not exceptional measures but part of routine controls normally performed at the borders of the European Union. Performing these routine activities in the context of internal border controls activated on Article 25 grounds suggests that the mechanism moves from being exceptional to being routine, reflecting the shift from threat-based to risk-based governance. Conclusion: risk governance and its implications for Schengen

Conclusion

The introduction of internal border controls, a mechanism envisaged at best as a short term response (European Commission 2016a) to exceptional events and circumstances, have been prolonged for over four years. Rather than analysing the use of this mechanism since 2015 as a crisis discourse, or under a resurgent intergovernmental paradigm, we conducted an inquiry into how the use of the mechanism was legitimised and how this legitimisation referred to the concepts of 'threat' and 'risk' as two distinct modes of governance. In other words, we inquired whether temporary internal border controls were framed by Schengen member states and the European Commission as a response to perceived threats or risks by migratory movements, and

the implications of these framing processes for the governance of migratory movements in Schengen.

Our analysis suggests that threat-framing, which relies on the construction of urgent, exceptional harms to state and societal security, was temporally and geographically limited. It was employed mainly in the notifications of Austria and Germany, two Schengen states that were destinations of the migratory movements of 2015. In contrast, the notifications of three Schengen states that were further away from these movements utilised risk framing from the earliest notifications in the autumn of 2015, focusing on the constructions of potential, future harms associated with migratory movements. While our analysis suggests that the Commission accepted the threat framing of member states, it primarily conceptualised the internal controls mechanism as one governing risk

Risk framing, however, is far more dominant in both Commission documents and state notifications since 2016. There are two elements that point to risk being the dominant form of conceptualising internal border controls. First, they are presented as a mechanism for anticipating future, potential risks, including terrorism and crime. Secondly, they are targeted at populations that are constructed as 'risky' in particular secondary movements which, since 2017 in particular, associated with the *potential* presence of terrorists among them. Thirdly, internal border controls are conceptualised as allowing for routine, normalised practices of border control in order to manage risky migratory movements.

We argue that the dominance of risk-framing is crucial for understanding the maintenance of temporary border controls for such a long period of time. They were originally envisaged as a mechanism to be activated in exceptional circumstances in order to address urgent, serious threats, in delimited time frames. If conceptualised as a technology for governing exceptional and urgent threats, their legitimation becomes problematic in a context of migratory movements that were objectively diminishing since 2016. Reconfiguring internal border controls as a mechanism for governing risk, however, allows for their prolongation: unlike threats, risks cannot be eliminated (Aradau *et al* 2008), and call for normalised mechanisms for their governance. The introduction of internal border controls, transformed into a risk-governing technology, can be legitimated for long periods of time -there will always be migratory movements and populations designated as risky.

This move, however, has significant implications for the governance of Schengen. A shared understanding of internal border controls as a mechanism for governing risk can suggest a conciliation of the positions of the commission and the member states, which have been often described as antagonistic. For example, it might explain the Commission's interpretation of

Article 25 in September 2017 which allowed for the extension of temporary border controls to six months and their proposal for legislative reform to the same end. However, it also suggests a contradiction within the governance of Schengen. As a risk-governance technology, internal border controls can legitimately be in place for long periods of time, which is at odds with the aim of a full return to Schengen. Such a move could have serious consequences for the European project, freedom of movement and more importantly, for the mobility and rights of migrants trying to move within Schengen.

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