Advanced Sciences and Technologies for Security Applications

Johann Wagner

Border Management in Transformation

Transnational Threats and Security Policies of European States

Springer

Advanced Sciences and Technologies for Security Applications

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Preface

In the twenty-first century, along with the process of globalisation, a constantly evolving security environment creates new dimensions of threats and challenges to security and stability of a trans-national nature. This seeks for comprehensive, multidimensional, collective and well-coordinated responses. The United Nations, European Union, Commonwealth of Independent States, Organisation for Security and Co-operation in Europe and other international organisations are able to really contribute in developing cooperative and coordinated responses to these threats by relying on its broad membership and profound expertise and experience.

This project looked into the processes of changes and renewals of border control and border management standards in relation to strategic security management during the past 25 years after the fall of the Iron Curtain, and the immense challenges in nation-building in Eastern and Southeastern Europe. The abolition of border controls within the *Schengen* area and the simultaneous introduction of necessary compensatory measures was an additional topic. In this work, it has been possible to create a comprehensive synopsis of the extent to which the EU and international organisations were able to use their influence in the modernisation and/or creation of state law enforcement agencies for ensuring effective border control, border surveillance and border management in line with the EU *acquis communautaire* and standards.

A modern, cost-benefit-oriented and effective border management should ensure both open borders as well as maximum security. At the same time, potential transnational threats must be clearly identified and cross-border organised crime combated consistently without compromise. Hence, cross-cooperation and information exchange are very important elements of the EU's integrated border management concept, which facilitates the coordination and cooperation between all relevant authorities and organisations in the fields of border control and border surveillance in achieving the jointly defined objectives in terms of open but at the same time secure borders. This applies within the respective border law enforcement agencies (intra-agency cooperation), as well as between other involved governmental departments and agencies of a country (inter-agency cooperation) and

also across borders in a bilateral and multilateral context (international cooperation).

The process to develop a new awareness of the dimensions of these major challenges is to clarify which standards and processes the international community needs to develop in order to combat the complexity of these potential threats effectively.

The book aimed to give an in-depth update on the extent to which innovative integrated border management models were developed, as well as demonstrating how the implementation of new "control filters" in non-EU countries has increased the quality of border controls and security.

Ruhstorf an der Rott, Germany Johann Wagner

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This project was supported by many people, without whom I would not have been able to make it a success.

First of all, I would like to express my special appreciation to Prof. Babak Akhgar, who has been a tremendous mentor for me. He not only has a rare combination of high professional competence, coupled with human warmth and thoughtfulness but also humour and empathy.

A big thank you goes to my friend, Dr. Holger Nitsch, and I would like to express my great appreciation to Prof. Dr. Saskia Bayerl.

My gratitude is extended to all the people linked to CENTRIC, which is a multidisciplinary and end-user focused centre of excellence, located within Sheffield Hallam University. The global reach of CENTRIC links both academic and professional expertise across a range of disciplines providing unique opportunities to progress ground-breaking research.

Furthermore, I want to thank the many interlocutors in my studies, who—despite their busy schedules—again and again made time for interviews, discussions, explanations, and who gave me access to their thoughts and observations, and generally allowed me to share their views and experiences.

With heartfelt gratitude to my beloved wife and my son, who are my greatest friends in life.

Johann Wagner

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About the Author

Johann Wagner Ph.D. Dr. Wagner is a senior expert in the areas of Strategic Security Management, Public Administrative Law, Police Management, Border Security and Management, Criminology, fight against Cross-Border Organized Crime, Risk Analysis, Counter-Terrorism and Foreign Terrorist Fighters, Cyber Crime and Artificial Intelligence in the context of transnational threats and fight against cross-border organised crime. He is a senior civil servant of the Bavarian Ministry for Internal Affairs (senior police officer) since 1979. He worked in all relevant areas and departments of the Bavarian Police and Border Police, both in mid- and senior levels.

Due to his outstanding professional expertise, he was continuously seconded as senior adviser and expert to international organisations since 1998. He worked for the European Union and with its agencies (Europol, Frontex), EU Commission and its Delegations in various countries, the Organization for Security and Co-operation in Europe (OSCE), United Nations (here peacekeeping missions, UNODC, UNOCT, ICAO), INTERPOL and with other supra-national organisations (for example, ICMPD, DCAF, etc.). He has proven competence, *inter-alia*, the following areas:

- Integrated Border Management and Border Police Management
- Intra-Agency, Inter-Agency and International Cooperation for law enforcement agencies
- Evaluation and monitoring processes related to public policies and administration systems

- Police Management and Leadership
- Law Enforcement, Criminal Justice and Criminal Investigation
- Criminology and Criminalistics
- Counter-Terrorism and Foreign Terrorist Fighters (FTF)
- Irregular Migration, including Trafficking in Human Beings (THB) and people smuggling Illicit Trafficking of Drugs, Small Arms and Light Weapons (SALW), Contrabands, etc.

Three outstanding nominations should be mentioned here, namely:

- From 2018 to 2019, he worked as the Senior Border Advisor within the NATO Counter-Terrorism Section in the areas of Rule of Law, Border Security and Management related issues towards Law Enforcement and Criminal Justice, Inter-Agency Cooperation, Counter-Terrorism and Foreign Terrorist-Fighters (FTFs), Public Administrative Law, Law Enforcement, General Police Management, Prevention and Counter of Transnational Threats, Risk Management and Threat Assessments, Capacity Building and Good Governance for Public Administrative Systems in countering terrorism and FTFs.
- From 2015 to 2017, he worked as Principal Adviser with the UNOCT in New York and provided key expertise to enhance institution and capacity building in the overall area of law enforcement and criminal justice and border security and management of Member States to counter-terrorism, stemming the flow of Foreign Terrorist Fighters (FTF) and combat cross-border organised crime.
- From 2005 to 2009, he served as a Senior Border Adviser within the OSCE Secretariat in Vienna and worked as the Principal Adviser for Governments of OSCE participating State's authorities on a variety of programs related to integrated border management, law enforcement and criminal justice, evaluation and monitoring, budgetary support issues and others across the OSCE area with its 56 participating States.

During his assignment as Principal Adviser to the UNOCT in New York, he developed the Good Practices Paper that was adopted in the 7th Ministerial Plenary Meeting of GCTF in New York, September 2016. This Good Practices Paper is now considered as the standard document in the area of border security and management to counter-terrorism and foreign-terrorist fighters and combat cross-border organised crime.

As German Senior Civil Servant, he was many times appointed as Team Leader responsible for the implementation of more than 30 international projects and evaluation and monitoring assessments (i.e. EU, OSCE, UN, UNOCT, UNODC) between 1998 and the present.

He has sound and proven academic education and working experience in evaluation and monitoring processes related to public policies and administration systems, institution and capacity building, project management and implementation, policy drafting, strategy and action plan drafting (from 1998 to present, see years of engagement working for the OSCE, EU, European Commission, various ECD's, UN, UNOCT, UNODC, ICMPD, IOM).

In this Ph.D. work, he examined the correlation of various forms of organised crime along with their different phenomenology and the impact on State's law enforcement agencies, their security policies and strategies and how to master these challenges. At this stage, it is assumed that his work has the ambition for recognition as a reference work in the areas of police science, law enforcement and criminal justice, criminology and integrated border management to provide comprehensive information and guidance for relevant State's authorities to increase capacities to prevent transnational threats and combat various forms of organised crime more effectively.

Acronyms

AFSJ	Area of freedom, security and justice
AGIS	Framework programme on police and judicial cooperation in criminal matters
AIS	Automatic Identification System
API	Advanced Passenger Information
BAB	Motorway (*Bundesautobahn*)
BAMF	Federal Agency for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*)
BDK	Association of Federal Criminal Inspectors (*Bund Deutscher Kriminalbeamter*)
BGHSt	Federal Court of Justice (*Bundesgerichtshof in Strafsachen*)
BIOPASS	Automated Biometric Border Crossing Systems for Registered Passenger at Four European Airports
BKA	German Federal Criminal Office (*Bundeskriminalamt*)
BMI	Federal Ministry of the Interior (*Bundesministerium des Innern in Berlin*)
BOMCA	Border Management Program in Central Asia
BPB	Federal Agency for Civic Education (*Bundeszentrale für Politische Bildung*)
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CBM	Cooperative Border Management
CCC	Command and Coordination Centre
CCC	Common Core Curriculum
CEAS	Common European Asylum System
CEPA	Central European Police Academy
CEPOL	Collège européen de police/European Police College
CFSP	Common Foreign and Security Policy
CID	Criminal Investigation Department
CIRAM	Common Integrated Risk Analysis Model

CIS	Commonwealth of Independent States
CMC	Common Mid–Level Curriculum
CRS	Computer Reservation System
CSCE	Conference for Security and Cooperation in Europe
CSDP	Common Security and Defence Policy
DHPol	German Police University (*Deutsche Hochschule der Polizei)*
DNA	Deoxyribonucleic Acid
e.g.	exempli gratia
EBGT	European Border Guard Team
EC	European Commission
ECJ	European Court of Justice
ECTS	European Credit Transfer System
EES	Entry–Exit System
ENPI	European Neighbourhood and Partnership Instrument
EP	European Parliament
EPA	European Police Academy
EPC	European Political Cooperation
EPN	European Patron Network
ESDP	European Security and Defence Policy
ESS	European Security Strategy
ESTA	Electronic System for Travel Authorisation
Et al.	and others
ETIAS	European Travel Information and Authorisation System
EU MS	European Union Member State(s)
EU	European Union
EUBAM	EU Border Assistance Mission to Moldova and Ukraine
EUFRA	EU Fundamental Rights Agency
EUGH	*Europäischer Gerichtshof*
EUPM	European Union Police Mission
EURODAC	European Database for the Identification of Applicants (dac from daktyloscopy)
EUROJUST	European Union's Judicial Cooperation Unit
EUROPOL	EU Law Enforcement Agency
EUROSUR	European Border Surveillance System
Falcone	EU Programme of exchanges, training and cooperation for persons responsible for action to combat organised crime
FBI	Federal Bureau of Investigation
FESTOS	Foresight of Evolving Security Threats Posed by Emerging Technologies
FJST	Frontex Joint Support Teams
Frontex	Frontières extérieures—European Border and Coast Guard Agency
FTF	Foreign Terrorism Fighters
GCCP	Global Container Control Program
GCTS	Global Counter–Terrorism Strategy
Grotius	Programme of incentives and exchanges for legal practitioners

GUA	Border Police Support Officers Abroad (*Grenzpolizeiliche Unterstützungsbeamte Ausland*)
GVB	Border Police Liaison Officers (*Grenzpolizeiliche Verbindungsbeamte*)
Hippocrates	Programme of incentives and exchanges, training and cooperation for the prevention of crime
i.e.	id est
IATA	International Air Transport Association
IBM	Integrated Border Management
IBMTF	INTERPOL Border Management Task Force
ICAO	International Civil Aviation Organization
ICMPD	International Centre for Migration Policy Development
ICONET	Informal Competence Net
ILECU	International Law Enforcement Coordination Units
Interpol	International Criminal Police Organisation (ICPO)
IOM	International Organisation for Migration
IPA	Instrument for Pre–Accession
IS	Islamic State
ISIS	Islamic State of Iraq and Syria (also *Daesh*)
JCC	Joint Cooperation Centre
LETS	Law Enforcement Training Scheme
LKA	*Landeskriminalamt*
LSTD	Lost and Stolen Travel Document
MCA	Maximum credible accidents
MedSea	The European Mediterranean Sea Acidification in a changing climate initiative
MEPA	*Mitteleuropäische Polizeiakademie*
MS	Member States
NATO	North Atlantic Treaty Organisation
NFP	OSCE Border Security and Management National Focal Point Networks
NGO	Non-Governmental Organisation
OBP	*Ohrid* Border Process
OC	Organised Crime
OFA	*Operative Fallanalyse*/operational case analysis
OISIN	Programme for the exchange and training of, and co-operation between, law enforcement authorities
OLAF	European Anti-Fraud Office
OSCCP	OSCE's South–Eastern Europe Cross–border Co–operation Programme
OSCE	Organisation for Security and Co-operation in Europe
PAG	Law on the tasks and powers of the Bavarian State Police (*Polizeiaufgabengesetz*)
PAMECA	Police Assistance Mission of the European Community to Albania
PCU	Port Control Units

PHARE	Poland and Hungary Assistance for the Restructuring of the Economy
PKS	Police Criminal Statistic (*Polizeiliche Kriminalstatistik*)
PNR	Personal Name Record
POG	Police Organisation Act (*Polizeiorganisationsgesetz)*
RABIT	Rapid Border Intervention Teams
RCC	Regional Cooperation Council
RIS	Right on informational self-determination (*Recht auf informationelle Selbstbestimmung*)
RTP	Registered Traveller Programme
SALW	Small Arms and Light Weapons
SDÜ	*Schengener Durchführungsübereinkommen*
SeBoCom	Secure Border Communications
SECI	Southeast European Cooperative Initiative
SEECP	South-East European Cooperation Partners
SEEPAG	South Eastern European Public Prosecutors Advisory Group
SELEC	South Eastern Law Enforcement Centre
SEPCA	South Eastern Police Commander Association
SIRENE	Supplementary Information Request at the National Entries
SIS	*Schengen* Information System (SIS I and SIS II)
SPOC	Stability Pact Initiative to fight Organised Crime
STOP	Programme for persons responsible for combating trade in human beings and the sexual exploitation of children
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the EU
THB	Trafficking in Human Beings
TOC	Transnational Organised Crime
UN	United Nations
UNCCT	United Nations Counter–Terrorism Centre
UNCTED	United Nations Counter–Terrorism Executive Directorate
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMEER	United Nations Mission for Ebola Emergency Response
UNOCT	United Nations Office of Counter-Terrorism
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime and the Protocols
UNWTO	United Nations World Travel Organisation
US-VISIT	United States Visitor and Immigrant Status Indicator Technology programme
VIS	Visa–Information System
WCO	World Customs Organisation

Part I
Introduction

Chapter 1
Thematic Introduction

1.1 Introduction of the Subject Area

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.[1]

State borders define a national territory. Sovereign nationhood is also defined in relation to the understanding of a modern and secure state, whether a state is able to effectively control crossings of its borders, and also being able to oversee and manage it. The access of persons, goods and services should be controlled and regulated, based on a consistent application of the principle of legality and the implementation of effective control mechanisms to enforce the domestic jurisdiction. Therefore, a state's legal capacities have a direct relationship to territory, personnel, training, equipment, technology, collaboration, both within the state institutions, as well as on national and international levels.

> The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.[2]

The exercise of sovereign state authority is in principle determined by its own state territory and is generally based on the jurisdiction of this territory that is ideally formulated and regulated through appropriate legal provisions and the implementing

[1] Treaty on European Union. Article 2 TEU. ABL 2008, C 115/13 of 9th May 2008.

[2] Treaty on European Union. Article 3 Par. 2 TEU. ABL 2008, C 115/13 of 9th May 2008.

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regulations. They serve as tools for the competent law enforcement authorities to enforce the state monopoly in accordance with the rule of law. According to Sauerland, a state is referred to as a state of law, in which political power is only performed within the legal framework.[3] In doing so, the recognition of sovereign acting is tied to a legitimate legal form and content requirements that serve to protect a person in his individual liberties against encroachments of the state. Although the idea of a legally bound state can be traced back to the beginning of modern times, the liberal-bourgeois societies in the early nineteenth century have also developed such characteristics of the rule of law as a recognised constitution.

According to Gärtner, a national monopoly on legitimate use of force exists to control a territory, if a state possesses an effective and functioning public administration system, with which it can control its resources and national law enforcement agencies (e.g., army and police) for the pacification of local conflicts as well as for disarmament of private acts of violence.[4] The sociologist Max Weber characterised the expression of the national monopoly on legitimate use of force already in 1919, according to which all practice of force is incumbent upon the state alone and must be regarded as the basis of a functioning constitutional state.[5] That applies, of course, also regarding an effective safeguard and control of international borders for each sovereign state, recognised from the community of states.

Therefore, Member States' competent border officials have to apply relevant standards in alignment with the "Practical Handbook for Border Guards" (*Schengen* Handbook) when carrying out the border control of persons.

> 'Border control' is the activity carried out at a border in response exclusively to an intention to cross or the act of crossing the border, regardless of any other consideration, consisting of border checks and border surveillance.
>
> 'Border surveillance' is the surveillance of borders between border crossing points and the surveillance of border crossing points outside their fixed opening hours, in order to prevent persons from circumventing border checks.[6]

However, initially these sets of rules often appear sufficient regarding the prevention and prosecution of transnational criminality and transnational threat scenarios. Offenders purposefully seek out gaps and weak points within the range of border surveillance and border controls, to increase their chances at profit maximization under simultaneous minimization of appropriate own risks. Other serious threat scenarios, such as for example, natural catastrophes, maximum credible accidents (MCA) regarding sensitive infrastructure, epidemic diseases, epidemics, and panzootics can affect neighbour states or even whole regions regardless of the existence of international borders.

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[3] Sauerland and Springer Gabler Publishing House (eds) [1].

[4] Gaertner [2].

[5] Ibid.

[6] Commission Recommendation 06/XI/2006 C (2006) 5186 final establishing a common "Practical Handbook for Border Guards (*Schengen* Handbook)" 'Border surveillance' (Definition no. 11) […]. 'Border control' (Definition no. 13) […]. P. 10.

> In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.[7]

In general terms, effective and efficient protection and control of external borders cause exceptional challenges against a state. This applies in particular to political, security related, socio-economically, environmentally and cultural aspects. Self-evidently, the protection and control of borders in conformity with the guarantee of public safety and order and rule of law coupled with effective control mechanisms are inevitable as well as the use of most modern technical infrastructure.

According to the annual report of the United Nations World Travel Organisation (UNWTO) in 2015, more than 1.184 million people were travelling to other countries.[8] This marks the sixth consecutive year of above-average growth with international arrivals increasing by 4% or more every year since the post-crisis year of 2010.[9] Some 50 million more tourists (overnight visitors) travelled to international destinations around the world in 2015 than in 2014. According to reports of the United Nations (UN), there is an ascending trend, in that more than 232 million people are living outside of their country of origin [4, p. 1]. The mass of the travellers consists mainly of tourists, business travellers, students and education travellers, refugees, migrants motivated to get gainful employment, asylum-seekers, refugees, as well as irregular migrants, who are for the respective country of destination either accepted or less welcome.

Mobility in cross-border areas has emerged as a major issue in both domestic and international viewing. It is the responsibility of the target country in issuing an entry permit as a precondition for the legal entry of a person on its territory, provided that such a person is not a national of the country. The design of border control and surveillance may contribute decisively as mobility can be steered and restricted individually, and options for entry control can be applied differently.

It seems as if the long-standing territorial and stationary border controls in relation to the rapidly rising numbers of travellers and its differentiators is no longer considered sufficient in changing globalisation. It is recognised that every government should use its abilities to act in accordance with the available resources and their priorities formulated to combat cross-border crime efficiently and effectively. Nevertheless, there remains a primary consideration for close cooperation and mutual support of the respective state law enforcement agencies in the fight against transnational threats (TNT) and organised crime (OC), both nationally and internationally. Borders are unique, not equal in their nature and have individual characters. These are divided into three categories; in the areas of land, water and air. Thus, it requires

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[7] Treaty on European Union—Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (2016/C 202/01). Article 3 (5).

[8] UNWTO Annual Report [3].

[9] Ibid.

very individual and specific solutions and models to create open, and yet at the same time, secure borders. However, it would be a misinterpretation to believe that only the physical crossing of borders must be associated to transnational crime. Our societies are under a huge influence in their economic, social and cultural lives in view of the rapid development of electronic networks.

Therefore, in the twenty-first century a large part of a state's duty of care is to be addressed in order to avert transnational threats and possible vulnerabilities of the public safety and order through attacks on the Internet. The opportunities for committing criminal offences and serious crimes, data theft and misuse of data, sabotage and espionage provide offenders with extensive anonymity, and their criminal acts usually remain unsanctioned. Cybercrime is understood as the perpetration of criminal acts, including attempting to commit criminal acts through the Internet, or those that happen with the support of Internet technologies.[10] Taking this into consideration, it is important to reflect whether border security and border management should be perceived in a fourth dimension and a framework for a virtual border management should be developed. This in turn requires an intensive, well-coordinated and trustful cooperation between states to prevent potential threats such as terrorism and violent extremism, foreign terrorist fighters (FTF), all forms of radicalisation, OC, drugs and arms smuggling, irregular immigration, trafficking in human beings (THB) and people smuggling, and other forms of crime in a cross-border context in order to successfully combat it, in accordance with the principles of prevention before repression.

Basically, most European countries are committed to implement international conventions in alignment with their national constitutions. This applies, *inter alia*, for the areas in effectively combating cross-border crime with a particular focus on OC, countering terrorism and FTF, violent extremism, radicalisation of religious groups, asylum abuse and irregular migration, THB and migrant smuggling, the overall area related to refugees with respect to monitoring of human rights and by necessity, good international police cooperation. Furthermore, developed standards and tested procedures, which by recognized agencies of the European Union (EU), such as EUROPOL, EUROJUST, FRONTEX and other agencies, as well as international organisations, such as IATA, ICAO, INTERPOL, IOM, OSCE, UNHCR, UNODC,

[10]Federal Criminal Police Office (*Bundeskriminalamt—BKA*) definition cybercrime: "Under, Cybercrime or, ICT crime is understood to mean crimes committed by taking advantage of modern information and communication technology, or against this. These are:

(a) all offenses for which elements of IT are included in the factual criterions (cybercrime), or in which ICT is/was used in the planning, preparation or execution,

(b) offenses relating to data networks such as the Internet, and cases of threat of information technology. This includes all unlawful acts against the integrity, availability and authenticity of electronic, magnetic or otherwise not immediately perceptible stored or transmitted data (hacking, computer sabotage, data manipulation, misuse of telecommunications, etc.)." Available from: https://www.bka.de/nn_205932/DE/ThemenABisZ/Deliktsbereiche/InternetKriminalitaet/internetKriminalitaet__node.html?__nnn=true. (Accessed on 15th August 2016).

UNCTED, UNOCT, UNCTITF, UNCCT, WCO and others are accepted and applied in alignment with the rule of law in order to achieve sustainability.[11]

1.2 Subject of Research

The state borders of some EU Member States and their eastern neighbours were exposed to some revolutionary changes during the last 25 years. The fall of the Iron Curtain, the German reunification, the formation of new states in South Eastern Europe, a progressive process of European integration of east adjoining states, coupled with an interaction of progressive globalisation, generated a legitimate hope for the further development of a policy of open, and at the same, time secure borders.

In the context of European integration, common standards have been developed and implemented through multifaceted efforts to strengthen border management, border control and border security in these countries. In the process of harmonisation of national identities and interests within the framework of the *Schengen* stationary border, although controls were abolished the boundaries were not dissolved as territorial frontiers with neighbouring states.

In reviewing the formation of the *Schengen* area, Gehler [5] even expressed his assumption that a development of *Entgrenzung* (i.e., *antonym* to dissolve boundaries) took place, in a way losing the natural sense of national borders in connection to the dissolution of stationary border controls. However, the events of the recent past of never-ending streams of refugees mainly across the Mediterranean Sea and the Balkan routes show that there was no dissolution of boundaries within the *Schengen* States.

The opposite seems to be the case, as can be seen by the example of Hungary. On 19th of August 1989, Hungary, at this time a member of the former Warsaw Pact, was the first country, which cut off the fence and some 25 years later it was the first EU MS, which built border fences with its eastern and south-eastern neighbours in June 2015.

Also, it became very clear that various national border authorities of EU MS and the eastern non-EU neighbouring countries along the refugee routes are unable to carry out effective border security and control in line with currently valid legal

[11] IATA—International Air Transportation Association.
ICAO—International Civil Aviation Organisation.
INTERPOL—International Criminal Police Organization (ICPO).
IOM—International Organisation for Migration.
OSCE—Organisation for Security and Co-operation in Europe.
UNHCR—United Nations High Commissioner for Refugees.
UNODC—United Nations Office on Drugs and Crime.
UNCTED—United Nations Counter-Terrorism Executive Directorate.
UNOCT—United Nations Office of Counter-Terrorism.
UNCTITF—United Nations Counter-Terrorism Implementation Task Force.
UNCCT—United Nations Counter-Terrorism Centre.
WCO—World Customs Organisation.

agreements and EU standards due to overload and insufficient capacities, or simply for not implementing relevant legislation.

The current state of research in terms of successfully averting transnational threats and effectively combating cross border OC, as well as newly identified challenges in the creation of modern border management systems, while ensuring common standards for border security and control, provides insights in respect of the following areas:

- The upheavals of state border guards and border police systems in the course of the past 25 years.
- The creation of the *Schengen* area, while simultaneously developing compensatory measures consistent with the principle of free movement.
- The establishment of the EU Frontex agency, tasked with border management and border control, as well as advanced systems for border surveillance.
- Models of extraterritorial border control.
- Irregular migration with respect to modern border management.

The research of this work goes beyond these areas and focuses on aspects of how the objectives of open, and at the same time, secure borders in accordance with the EU *acquis communautaire* (further referred to the work just as EU *acquis*) can be reached in a simultaneous development of models of modern border administrations in line with the implementation of national laws.[12]

The set out of objectives in Article 67 TFEU[13] make clear here that "the Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States". Further, it has to be ensured that no control of person(s) should take place at internal borders according to the *Schengen* Borders Code.

> 'Internal borders' are: (a) the common land borders of MS, including river and lake borders; (b) the airports of the MS for internal flights; (c) sea, river and lake ports of the MS for regular ferry boat connections.[14]

In addition, the EU ensures a common policy in the areas of asylum, immigration and control standards at external borders with third countries. The EU also works on further developing appropriate measures for the prevention and repression of cross-border crime and enhancing effective cooperation between the state authorities of

[12]Federal Agency for Civic Education (*Bundeszentrale für politische Bildung—BPB*) (2009): *Acquis Communautaire* (frz. common vested rights) encompasses all rights and obligations that are binding on all EU MS. This includes both the EU Treaty and the EC Treaty (primary law), on the other hand, the regulations, directives, decisions and recommendations of the EU institutions (EC, the EU and EP Council) were adopted and still be (secondary legislation), and the decisions of the European Court of Justice (ECJ). Available from: https://www.bpb.de/nachschlagen/lexika/pocket-europa/16627/acquis-communautaire. (Accessed on 16th August 2016).

[13]Treaty on the Functioning of the European Union—Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (2016/C 202/01). Art. 67.

[14]Regulation (EC) no. 562/2006 of the European Parliament and of the Council of 15th March 2006 […] (*Schengen* Borders Code). Art. No. 1 Definitions: Internal borders' [..].

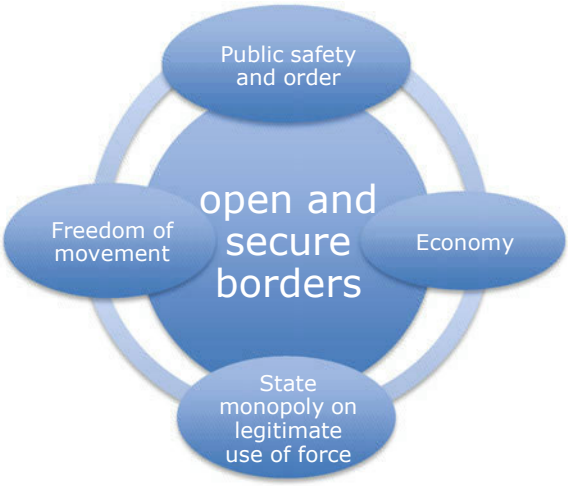

Fig. 1.1 Open and secure borders (own representation)

police services and the judiciary, as well as other relevant state institutions to strive to attain maximum security.

Consequently, the individual areas of interests of the economy and industry on the one hand and the right of free movement on the other are not necessarily contrary to the principles of public security and order and the constitutional enforcement of the monopoly on legitimate use of force. To a greater degree, it can be perceived as an opportunity, as these areas can complement each other (Fig. 1.1).

1.3 Integrated Border Management—An Initial Assessment

During the last two and a half decades, the world has dramatically changed and in some areas those changes are ongoing. The collapse of the Soviet Union, wars in South-eastern Europe, the attacks on the World Trade Centre in New York on 11th of September 2001 and the subsequent fight against global terrorism, the radicalisation in parts of Islam, the Middle East conflict, but also the current crisis in the Eastern Ukraine, and the lasting largest influx of refugees after the Second World War are major challenges regarding the protection against threats on the one hand and the adherence of security and peace on the other hand.[15]

The establishment of the EU, the creation of the *Schengen* area and the related challenges in terms of ensuring the principle of free movement, all affected in some

[15] Note from the author: The research focuses here primarily on Europe, Central Asia, North Africa, and the Middle East.