Ireland North and South: Border Management Options


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Starting point

- Assumptions regarding post-Brexit Irish border:
  - "No return to borders of the past", business as usual
  - EU facilitates transcendence of nationalism for greater good
  - EU in favour of soft, ‘porous’ borders
  - Special arrangement can be found for case of island of Ireland
  - Island territory means that typical constraints placed on land borders of the EU do not apply

Challenges

- Assumptions regarding post-Brexit Irish border:
  - BUT border management no longer a bilateral matter
  - EU facilitates transcendence of nationalism for greater good
  - Security of the Union trumps national sovereignty but nation-state borders are still lines of significance
  - EU in favour of soft, ‘porous’ borders
  - Already hardening of treatment of borders for movement of people; precedent for differential treatment of EU citizens
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Current state of play in EU border management

- "Tolerance cannot come at the price of our security. We need to know who is crossing our borders. We will defend our borders with strict controls on everyone crossing them."

President Juncker, State of the Union address, 2016
Border Security Package (Schengen Area)

- Schengen Information System II (SIS II)
- Visa Information System (VIS)
- European, the European fingerprint database
- Eurodac, the European fingerprint database
- EU Entry-Exit System
- Eurosur

Monitor

- Systematic checks at external borders
- European Border Surveillance System (Jehis)
- Internal Security Fund (Borders package)
- Facilitators package
- European Border and Coast Guard (formerly Frontex)
- Rapid Border Intervention Teams
- European Border Guard Teams
- Temporary border fences within EU
- Fences on external borders

Block

- European Neighbourhood Policy
  - More funds for more reform
  - DCFTA (acquis)
- Non-granting of visas
  - Information Exchange
- ‘Intervention in transit’
  - NB This is in contravention with the right to leave one’s country under the Universal Declaration of Human Rights
  - Also breaches principle of non-refoulement, as enshrined in Article 35(3) of the 1951 Refugee Convention

Layers of border control

Pre-Entry

- Point of Entry
- Automated Point of contact

1) Pre-Entry

- European Asylum Support Office (EASO), Europol and Eurojust assisting member-states processing asylum applications
- European Border and Coast Guard coordinate return of ‘irregular migrants’
- Checks against relevant databases at external borders
  - Member States are obliged to systematically check third country nationals against all databases on entry and exit
  - PLUS Strengthen checks at external borders of Union citizens to ensure they do not pose a threat ‘to internal security or public policy’
- Juxtaposed controls
  - E.g. Turkey, Le Touquet UK/France
- Physical barriers...

2) On-Site

- ‘Hotspots’
  - European Neighbourhood Policy (ENP), more funds for more reform
  - DCFTA (acquis)
  - Information Exchange
  - ‘Intervention in transit’
  - NB This is in contravention with the right to leave one’s country under the Universal Declaration of Human Rights
  - Also breaches principle of non-refoulement, as enshrined in Article 35(3) of the 1951 Refugee Convention
Border Fences
Within the EU

- September 2015
  Hungary/Croatia
  - 148 km (92 mi) border

- September 2015
  Slovakia/Hungary
  - Slovakia announced the closure of its border with Hungary using the same technique that the United States had employed in Afghanistan and Iraq
October 2015
Hungary/Slovenia
■ In the area around Tornyiszentmiklós-Pince border crossing.

November 2015
Slovenia/Croatia
■ Slovenia began building a razor-wire fence along its frontier with Croatia to stem the estimated 30,000 migrants that were arriving at its borders every day.

November 2015
Austria/Slovenia
■ Also in November, Austria announced it was to erect a metal fence along its border with Slovenia.

Feb 2016
Hungary/Romania
■ Announced plans for 280-mile long razor wire barrier along border with Romania, completely cutting off itself from southern Europe.
July 2016
Austria/Hungary
- Austria ready for 100km border fence with Hungary

BORDER CONTROLS
3) Automated
- Two types:
  - Closed-set
  - Open-set
- What is checked:
  - Check the eligibility of the holder to use the system
  - Check the information against police databases
  - Compare the live info with biometric info stored on the chip.
- Limitations
  - This requires full disclosure of information about travellers before they depart
  - What happens in case of breach detection?
  - UK currently collects less biometric data on citizens than Schengen

Point control is likely to be more prevalent than border controls
- i.e. few restrictions on movement but on residency/work
- But this will not assist in problems relating to crime, smuggling, goods
- Much broader significance in terms of roles of individual citizens as 'border guards'

Examples of exceptions
The EU border regime is characterised by exceptions, often dependent on relations between states and their neighbours.
Some examples of accommodation existing in the EU that could be applied:
1. Citizenship beyond boundaries of the state
   - E.g. Moldovans with EU citizenship
2. Passport-free travel
   - E.g. Nordic passport union
3. Cross-border working
   - E.g. Polish-Russian Border Travel Zone
4. Automated border entry
   - E.g. enhanced-Immigration Automated Clearance System
Conclusion

Border Controls in the EU

- Points of Commonality
  - Hardening of borders driven by fear of migration
  - Surge of right wing parties
  - National criticism of EU capacity to address the issue

- Core lessons
  - Domestic policy drives border securitisation
  - EU momentum is towards ‘security union’
  - EU practices heavily focused on the ‘other’ but means increasing monitoring and checks on EU citizens
  - Electronic border controls are insufficient
  - Prospect of rise of control of individual citizens by citizens centred on increasing knowledge and monitoring of individuals