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Mobility, control and technology in border areas : discretion and decision-making in the information age

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11. Summary in English

Controlling mobilities in the EU is increasingly depending on information and information technology. Abolishing permanent border control between Schengen Member States has created the dilemma of economic benefits versus security issues of the freedom of movement. The solution to this issue is often sought in the development and implementation of information and information technology. When not every person who wants to cross the border can be checked, information (technology) can assist in checking the right individuals at the right time and location without having to stop each individual. This enables making the most out of the limited possibilities of border policing allowed by the Schengen Border Code, as information technology should make border policing more effective, efficient and objective. While expectations of information (technology) are high, empirical research on how such border technologies are used in practice is scarce and subsequently little is known about to what extent the benefits are actually achieved. This dissertation aims to gain more insight in the use of information and information technology in controlling mobilities in intra-Schengen border areas by answering the following research question:

How does the increasing reliance on information shape and limit decision-making in migration control in border areas and what are the consequences thereof?

This question will be answered using a case study of the Mobile Security Monitor (MSM) as carried out by the Royal Netherlands Marechaussee (RNLM). The MSM is the Dutch interpretation of border policing allowed for by the Schengen Border Code aimed at combatting irregular migration, human smuggling and identity fraud. While MSM checks are carried out on highways, trains and airports, this dissertation focuses on MSM on the highways in border areas. In line with the broader developments of controlling mobilities, the RNLM increasingly uses information and information technology in the context of the MSM and has implemented an intelligence-led policing program. In addition, the RNLM has developed a smart camera system called Amigo-boras to assist the decision-making process of RNLM officers during MSM checks. Through extensive observations of MSM checks, focus groups with RNLM officers, interviews with RNLM staff members, discourse analysis of political debates and policy documentation and quantitative data, this dissertation aims to gain insight in the decision-making process on the political, organizational and street-level and the role of information and information technology therein.

The first sub-question addressed the decision-making process at a political and policy level. A discourse analysis of Dutch parliamentary and policy documentation was used to investigate how perceptions on migration had changed since the introduction of the MSM and subsequently how the MSM as an instrument for migration control was perceived. The results show that the perspective on migration at a political and policy level has changed significantly in the last two decades. Fears of terrorism, irregular migration, human smuggling, human trafficking and illegal drugs have spurred calls for more border security and are reflected in the changing goals of the MSM. While originally intended for migration control, politicians saw an opportunity to use the MSM for crime control. However, due to the Schengen Border Code the extent of the MSM is still limited, restricting the RNLN's options for migration checks in border areas. Following the trend observed in the broader context of the EU, Dutch politicians and policy-makers see information and information technology as a potential substitute for systematic border control, and as enabling more effective, efficient and objective decision-making.

The next step was to examine the border practices of RNLN officers and specifically their selection process. By not only studying which individuals were stopped but also why they were stopped gave insights into the aims and perspectives of the MSM at a street level. The results of the fieldwork show that selection and profiling in the context of migration control is complex. While officers used many factors in their selection process, the license plate of the vehicle and the ethnicity of the occupants were deemed to be the most important, as both were linked to nationality. Officers explained that as their task was to enforce migration law, it makes most sense to stop individuals who are less likely to be Dutch. An issue was the officers' association between certain nationalities and crime. Officers used the license plate and appearance of the occupants to look for specific nationalities that were linked to drug offences, human trafficking and money laundering. The logic of appearance equals nationality which equals crime resulted not only in non-white individuals being regarded as potential threats but also showed officers went beyond the scope of the MSM, which was aimed at irregular migration, human smuggling and identity fraud. The results also showed that there were little control mechanisms in place at an organizational level to prevent or correct these issues, creating a self-contained body of knowledge regarding selection practices.

The decision-making process of Dutch border patrol officers therefore showed selectivity and biases. The developments towards intelligence-led policing strategies and the application of information technology are often seen as being able to address these issues by guiding border practices with more objective information and information

technology. However, the observations and focus groups in the present study indicated that in practice, information and information technology has little impact on the decision-making process of border patrol officers. Officers indicated several issues with both the workings of the intelligence-led policing program as well as the Amigo-boras system. Officers did not see the added value of the information supplied by analysts or Amigo-boras as it was often too general; the information systems and Amigo-boras were not easy to use and took up a lot of time; the information and especially the profiles used by Amigo-boras were not always reliable; the information was often outdated; and due to transparency issues, officers did not fully trust the information and technology. As a result of all these factors combined, the decision-making process was still for the most part based on the experience and knowledge of the individual officers rather than the use of intelligence.

While the fieldwork indicated that the Amigo-boras system did not have a significant impact on the decision-making process of border patrol officers, further investigation of the system could elaborate on these findings with the aim of objective decision-making in mind. The combination of interviews and observation during the fieldwork revealed several issues regarding the objectivity of the Amigo-boras system. Although the RNLN presented Amigo-boras as an advanced profiling technology, the system only analyzes the license plate of every vehicle that passes and extracts the country origin of the license plate. When the country in question matched a country in a risk profile, the system would give a hit. Therefore, in the context of Amigo-boras, a country equaled a certain risk. A second issue was how the Amigo-boras system was supposed to interact with the knowledge and experience of the border patrol officers. The interviews with staff level employees indicated that the decision-making process should be a balance between human and machine, but officers did not think the assessments of Amigo-boras were useful and did not take them into account. Data on the outcomes of the stops initiated after a Amigo-boras hit could possibly give a different perspective on the role of the system in the decision-making process. However, the interviews made clear that no data on the outcomes of Amigo-boras was available. This not only made determining effectiveness and efficiency a difficult task, the lack of insight in the outcomes of Amigo-boras also implies a lack of accountability. Although the system is supposed to make the decision-making process more objective, determining to what extent this is the case is impossible when there is no data available on how Amigo-boras is used. These findings were supplemented by data from the Risk Classification Assessment, a risk tool used by the US Immigration and Customs Enforcement (ICE). This data shows that it is indeed important to keep track of how risk assessments are used in the decision-making process, as ICE officers deviated from the risk assessments made by the RCA

in a substantial number of cases. The combined cases of Amigo-boras and the RCA therefore give reason to doubt the role that risk assessment technology plays in the decision-making process and to what extent it makes decisions more objective.

The last sub-question addressed the development of information and information technology over time. The focus of the chapter was on the expansion of the application of Amigo-boras. While originally developed for migration purposes, new developments allow the system to be used for crime control purposes as well. Interviews with RNLM staff members, focus groups with border patrol officers and document analysis show that the expansion of the Amigo-boras system was to a large extent based on the idea that many criminals cross the border. At the same time the RNLM was limited to combatting irregular migration, human smuggling and identity fraud and Amigo-boras was designed and implemented to meet these goals. This created a mismatch in supply and demand: politicians, policy-makers and street-level officers felt a need to combat crime at the border, but legal restrictions prevented the RNLM from doing so. However, there are legal provisions for cooperation between the police and the RNLM which allow the RNLM to actively tackle criminal offences in addition to migration offences. The interviews indicate that this provision was used to connect Amigo-boras to criminal justice databases to circumvent the restrictions to the MSM and to enable RNLM officers to combat crime in the border area. This case of function creep in its turn resulted in mission creep. Now that Amigo-boras can be used to look for criminal offences in cross-border traffic, a significant element of crime control has been added to the MSM.

The above leads to the following answer to the main research question. The associations between migration and security put pressure on the abolishment of the permanent border control central to the Schengen Agreement. A demand for more secure borders can be observed on both in the political and street level as the current options for border policing are considered to be too limited for that task. Information technology is seen by policy-makers as a way to address this issue and make border policing more effective, efficient and objective. However, the fieldwork shows that in practice information and information technology is used to a very limited extent in decision-making. Border officers still for the most part rely on their experience and knowledge in carrying out the Mobile Security Monitor, as the information is considered to be too general, reports would be written by analysts unfamiliar with border practices and information technologies would have little added value. Therefore, while the reliance on information and information technology shapes the decision-making on a political and higher organizational level, it has a very limited impact on frontline decision-making.