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Differentiated Cooperation in Action Part #4: Schengen zone and European Migration Policy
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Schengen and its challenges in 2005-2018

Written summary of workshop presentation

INTRODUCTION:

- The Schengen Borders Code entered into force in 2006, providing the current measures for the reintroduction of internal border controls, including the duty to notify the other states and to report afterwards.
- The first nine years of the reintroduction of internal border controls involved mainly high-level meeting and mass events such as demonstrations and only a couple events related to terrorist threat. There were only 36 incidents of reintroduced border controls in total during the almost nine years, whereas the following three years witnessed 69 incidents, mostly by the six Schengen member states that have the controls in place continuously since autumn 2015: France, Germany, Austria, Sweden, Denmark and Norway. France established controls after November 2015 terrorist attacks in Paris and justifies the controls on the basis of a terrorist threat, while the other countries have relied on the need to control the large numbers of people crossing the borders.

MAIN POINTS:

- The approach towards Schengen seems to oscillate between trade and migration, with mainly Commission and German leaders emphasising Schengen's importance for the internal market. I looked at this in my doctoral dissertation I defended in 2017 and in a forthcoming book based on it. On the basis of my analysis, I here present some findings related to the national discourses on the Schengen area between 2005 and 2016. France and Germany emphasise a common approach. Italy prefers to keep its borders open while requiring EU states to support each other. Romania, in contrast, has still been not accepted in the Schengen area, and they consider not having full free movement yet.
- In the Commission discourses, Schengen is presented as essential for European integration and the internal market. The Commission has mainly supported the views of the member states and has not always been able to convince member states to take action. In 2008, Commission President Barroso suggested the creation of a common immigration policy, promoted especially by France and Spain at the time. In 2011, Home Affairs Commissioner Malmström already recognised the need to close some parts of the internal borders temporarily, if a part of the external border comes under heavy unexpected "pressure", referring to people seeking entry to the Union. Migration Commissioner Avramopoulos in 2016 tried to convince the member states to discontinue the temporary border controls, but failed, as all six countries will continue the controls in spring 2020. This is contrary to the

rules of the Schengen Borders Code, and the EU institutions have been unable to agree on the new Regulation on the temporary reintroduction of border controls (proposed in 2017).

- French leaders suggest that Schengen is essential for European integration, which needs to move forward. In 2005, French President Chirac presented France as one of the pioneer countries and promoted the idea of differentiated integration, where the arrangements should stay open for all those that are ready to join them. He cites Schengen as an example, but Schengen has not been very easy to join by all countries. For example, Bulgaria and Romania have been eager to join ever since they became EU members in 2007, but have still not been accepted. French President Sarkozy promoted the idea of a common immigration policy in 2008, when the French-led initiative of a European Pact on Immigration and Asylum was adopted. What is also interesting is that even though Hollande in 2016 compared internal border controls to the reintroduction of internal currency and internal law and the break-up of Europe, France continues to uphold the internal border controls.
- German leaders discuss the Schengen area as an essential part of a functioning internal market, European unification, economic growth and something that citizens appreciate. However, the necessity of Germany to uphold the temporary border controls seems to be justified by the inability to create European solutions. For example, Minister of the Interior de Maizière acknowledged that the border controls had to be reintroduced due to a large number of people at the border and called for a European approach.
- Italian leaders suggest that Schengen should mean supporting other Schengen states. As we see also in the corona case now, Italy is reluctant to reintroduce internal border controls. Indeed, Italy has never reintroduced internal border controls due to the number of migrants. Migrants usually cross internal borders from Italy in order to enter other EU countries, not the other way around. In 2005, Italian Minister of the Interior supported the decision of France to reintroduce temporary border controls, but the two countries have also had heated quarrels on French border controls in the 2010s. After higher numbers of migrants arriving across the sea since 2011, Italian Minister of the Interior Maroni also suggested the establishment of a common immigration policy, although other Italian leaders have not been so active in the issue. In 2016, Prime Minister Matteo Renzi also called for more cooperation with third countries in order to prevent a systemic crisis, without much progress.
- For Romanian leaders, Schengen membership seems essential to grant to all EU member states. According to their logic, a country becomes a proper European Union member state with full free movement rights only when it is accepted into the Schengen area. In 2010, when France conducted the much-criticised expulsions of the Roma, and Romanian President Băsescu suspected the Roma issue could be related to Romania not being accepted in the Schengen area. Prime Minister Viktor Ponta further claimed that other countries have more to lose than Romania in not accepting the country in the area. The incumbent President Klaus Iohannis, in turn, considered that Romanian entry would improve the security of the Schengen area and send a message in support of the free movement of people.

CONCLUSION:

- Leading figures from the Commission and the largest member states seem to agree on the need to maintain the Schengen area, because it is economically beneficial, essential for integration and appreciated by the citizens

- Although common rules are called for by all states, this seems to be extremely difficult to realise in practice. For example, five EU member states continue conducting internal border checks for more than four years uninterrupted, ignoring the Schengen Borders Code. At the same time, the Council should be agreeing on the new Regulation on the temporary reintroduction of the internal border controls that the Commission proposed already in 2017 and the Parliament has already reached a position.
- Now that Frontex will also have its own corps progressively from next year on and the European capacity is being strengthened in border management, will this respond to the oft-repeated need for more effective and shared control of external borders, possibly removing the need for internal border controls?

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