

# NOTHING BUT SCHENGEN MATTERS

UPDATING SCHENGEN:  
POLITICAL AND TECHNOCRATIC PATCHES



## CREDITS

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# POLICY PAPER

## Nothing but Schengen Matters

### Updating Schengen: political and technocratic patches

*The European Union (EU) has tried to leave behind the 2015-2016 political crisis triggered by mismanaged migration flows. But Turkey's decision in early March 2020 to encourage thousands of migrants to try to pass to Europe and the coronavirus epidemics have brought back the anxiety. The longevity and resilience of the Schengen zone is now being questioned again. Migration pressures from outside of the EU risk refuelling right-wing nationalism and political divisions. The coronavirus (COVID-19) pandemic that began rapidly spreading in Europe in March 2020, moreover, presents a new kind of test.*

*This piece aims to evaluate the progress of the past years, highlight the potential scenarios for Schengen zone and propose recommendations on how to fix it in order to improve its functionality.*

### INTERNAL AND EXTERNAL PRESSURE FACTORS ON THE SCHENGEN SYSTEM

The current spike in anxiety indicates that the EU did not sufficiently use the relative calm after the storm in 2016 to enact necessary reforms. The Schengen Area, however, has survived the challenge of high migration flows and the terrorism scare, albeit with the introduction of (limited) border checks. This outcome demonstrates that the system, as a whole, is resilient and that its added value outweighs the costs. However, an upgrade and update of the system is still overdue.

To make free movement feasible, so-called compensatory measures are required and many have already been introduced. These include the enhanced and coordinated protection of external borders, police and customs cooperation, and shared databases of entry-exit records. Schengen is not in an existential crisis. It does not even need a complete overhaul or a grand vision to replace its current mandate. The task is more mundane: as with other areas of integration in Europe, the process must be "completed". Underlying compensatory mechanisms need to be updated and upgraded for Schengen to withstand both recurring and new challenges in the imminent future.

There are several factors putting pressure on the Schengen system, with internal and external elements closely interlinked: continuing migration flows, terrorism and cross-border crime, and the

Europe-wide inward-looking tendency to seek national solutions.

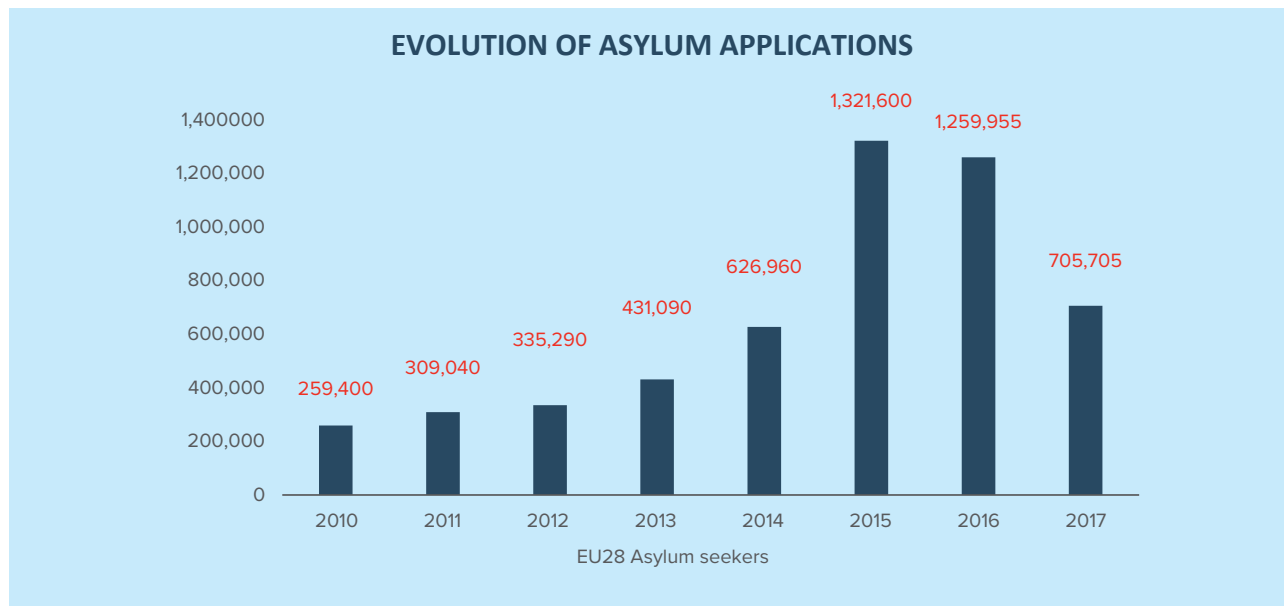
While the Schengen Code was not designed to address these problems, these issues can, for practical and political reasons, severely impact the environment in which the border free zone functions.

### MIGRATION FLOWS WILL NOT DISAPPEAR

According to Frontex, preliminary data for 2019 showed a 6% fall in illegal border crossings along the EU's external borders, which is 92% below the record numbers of 2015.<sup>1</sup> The number of asylum applications more than halved since 2015 (see graph).

Nonetheless, these numbers are unlikely to continue to abate or remain at low levels. Instability in the Middle East and economic problems, security concerns, and climate change inflicted poverty in sub-Saharan Africa will continue to displace populations. The implosion of the EU-Turkey agreement, furthermore, illustrates the potential fragility of third-country deals. Even though the agreement was never meant to be permanent - and few counted on it being so - it effectively, albeit temporarily, has shielded Europe from needing to adjust to higher migration flows. The latest developments of this case, consequently, underscore the need for Europe to be better prepared to manage relatively high migration flows in the future.

<sup>1</sup> "Flash Report – Irregular migration into EU at lowest level since 2013", FRONTEX, 8 January 2020, <https://frontex.europa.eu/media-centre/news-release/flash-report-irregular-migration-into-eu-at-lowest-level-since-2013-n5pHiA>



Source: UNHCR, Eurostat<sup>2</sup>

## KNOWN CASES OF TERRORISM PERPETRATORS ABUSING OPEN BORDERS

The future of open borders has been an integral aspect of discussions on the threat of terrorism in Europe following attacks in Paris in 2015 and Brussels in 2016. Both attacks happened against the backdrop of long-term cooperation between jihadi networks in France and Belgium and the lack of proper coordination between governments in European countries.<sup>3</sup> Several examples showcased how counterterrorism operations failed because perpetrators were able to escape by moving to or through another EU country without detection. For example, the Belgian police conducted a raid on a terrorist cell at the same time that its leader (Abdelhamid Abaaoud) was in Greece. Because of a lack of coordination with Greek authorities, Abaaoud escaped. French police, meanwhile, stopped the car of a cell coordinator (Salah Abdeslam) on the day of the Paris attacks but let him go because the Belgians hadn't shared relevant information about him being on their watch list.<sup>4</sup>

In addition, failure to control migration at external borders has led to fears that terrorists are abusing the flows of asylum seekers and utilizing the migration crisis to stage attacks in Europe. Asylum seekers have been involved in terror-related attacks

in the EU in the years following the 2015 crisis, including, for example, in Würzburg, Ansbach, and the Berlin Christmas market (all in Germany in 2016) and in Stockholm in April 2017. Three of the perpetrators had their applications rejected and one was still awaiting a decision on his application. These instances, albeit an infinitesimal number compared to the overall numbers of asylum seekers, have turned public opinion against what seems like uncontrolled migration through very porous EU borders.

The Schengen Border Code was not invented to deal with terrorism. But a borderless zone can, nonetheless, be abused for nefarious means. For Schengen to function properly, intelligence, police, and judicial cooperation must continue to improve.

## EUROPE-WIDE NATIONALISM

Nationalist, anti-globalization, and anti-migration sentiment have all been growing in Europe (and elsewhere) for years. "Regaining border control" has been a consistently popular narrative since the 2015 migration crisis, even though the underlying reasons for the increasing use of nationalist rhetoric and measures go far beyond the free movement of people in Europe. Now that Europe is suffering from the coronavirus pandemic, these inclinations are being bolstered again though and fuelling discussions about national borders.<sup>5</sup>

<sup>2</sup> Definition of "asylum seekers": Asylum seekers are people who make a formal request for asylum in another country because they fear their life is at risk in their home country. More: "A Welcoming Europe?", The European Parliament, 2018, [https://www.europarl.europa.eu/infographic/welcoming-europe/index\\_en.html#filter=2016](https://www.europarl.europa.eu/infographic/welcoming-europe/index_en.html#filter=2016)

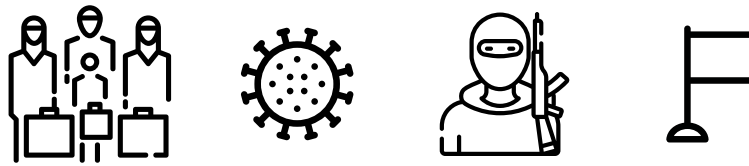
<sup>3</sup> P. Colomina, O. de France, D. Saverot, "The In-Betweeners? Links Between Crime and Terror in France", GLOBSEC, 2018, <https://www.globsec.org/wp-content/uploads/2018/05/From-Criminals-to-Terrorists-and-Back-Quarterly-Report-2018-France.pdf>

<sup>4</sup> A. Chrisafis, "Paris attacks inquiry finds multiple failings by French intelligence agencies", The Guardian, 5 Jul 2016, <https://www.theguardian.com/world/2016/jul/05/paris-attacks-inquiry-multiple-failings-french-intelligence-agencies>

<sup>5</sup> D. Trilling, "Migrants aren't spreading coronavirus – but nationalists are blaming them anyway" The Guardian, 28 February 2020, <https://www.theguardian.com/commentisfree/2020/feb/28/coronavirus-outbreak-migrants-blamed-italy-matteo-salvini-marine-le-pen>

## INTERNAL AND EXTERNAL PRESSURES ON THE SCHENGEN SYSTEM

### MIGRATION | COVID-19 | TERRORISM | NATIONALISM



Source: Author

To contain and slow the spread of coronavirus infections, one by one, most Schengen zone member states have introduced border checks. Several countries - Austria, Switzerland, and Slovenia – started by introducing controls at the border with Italy. Some countries, including Slovakia and Czechia, quickly sealed off borders entirely, only permitting the entry of nationals and foreigners with residence permits or work contracts and cancelling international flights and trains. Many others followed shortly, including Germany. With new measures being introduced hourly, the result is an enormous smorgasbord of not particularly coordinated measures.

The EU Commission has called for measures to be coordinated at the EU level and to be operational, proportionate, and effective. While not favouring a general travel ban based on WHO advice, the Commission justified a certain level of proportionate measures, particularly in the area of health screening. Most importantly, the Commission has been seeking to prevent countries from taking unilateral measures

that could cause a domino effect and uncontrollably disrupt the Single Market.<sup>6</sup> With these efforts quickly becoming futile, the Commission eventually introduced, in coordination and with approval of Member States, the temporary restriction on non-essential entry to the EU with the goal to preserve the functionality of the Single Market and to not render Schengen meaningless. This decision was preceded by guidelines aiming to ensure at least a smooth transport of goods to sustain supply chains.<sup>7</sup> As of 18 March, EU countries have not yet lifted internal borders though and there is scepticism that all countries, if any, will do so soon.<sup>8</sup>

The fact that border checks will be in place and that more countries will be introducing various forms of restrictions, for at least the next several weeks, seems to be accepted as necessary. The more consequential discussion will begin in several months once the state of emergency and highly restrictive quarantine measures are eventually lifted domestically.

<sup>6</sup> “Remarks by President von der Leyen at the joint press conference with Executive Vice-Presidents Vestager and Dombrovskis to present the economic response to the Coronavirus crisis”, The European Commission, 13 March 2020, [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_20\\_465](https://ec.europa.eu/commission/presscorner/detail/en/statement_20_465)

<sup>7</sup> European Commission, Guidelines for border management measures to protect health and ensure the availability of goods and essential services, 16 March 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316\\_covid-19-guidelines-for-border-management.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf)

<sup>8</sup> L. Bayer, H. Cokelaere, “The EU Travel Ban Explained”, 18 March 2020, <https://www.politico.eu/article/the-eu-european-union-coronavirus-covid19-travel-ban-explained/>

**Border controls in countries of Schengen zone due coronavirus COVID-19, as of 20 March**



## Austria

- Land border checks with Switzerland and Liechtenstein
- Banning air and rail links from Switzerland, Spain, and France (16 March)
- No direct air links between Austria, the UK, the Netherlands, Ukraine and Russia (18 March)
- Do direct flights and trains between Austria and Italy
- Closed borders with Slovakia, Czech Republic, Germany, Hungary Italy, and Slovenia
- Austrian Citizens, Austrian Residents and non-citizens traveling through Austria en-route to their own country without stop may enter by car, or they must have the approved medical certificate – medical confirmation with negative test result, no more than 4 days old in English or German

## Belgium

- The Government of Belgium has declared that travel outside of Belgium which is not considered essential will be prohibited (until 5th April)
- Travelers and Belgium citizens arriving in Belgium from abroad are not currently being asked to quarantine

## Czech Republic

- Citizens or foreigners with a permanent or temporary stay of more than 90 days are not allowed to leave the country
- all travellers without permanent or temporary residency for more than 90 days cannot enter the country
- 16 – 24 March nationwide quarantine – foreigners are not allowed to enter and Czechs travelling abroad

## Denmark

- March 13th temporary closed borders to non-citizens
- Danish citizens and those who have residence in Denmark, Greenland or Faroe Islands can enter the country

## Estonia

- From 17th March only Estonian citizens and foreigners with Estonian residence may enter the country
- Other foreigners are prohibited to enter
- Foreigners are only allowed to transit Estonia on their way home if they do not show symptoms of COVID-19
- Flight restrictions only operated within Minsk, EasyJet from London, Lufthansa from Frankfurt, Ryanair, and Turkish Airlines from Istanbul – only for citizens and foreigners with residence in Estonia
- Operating ferries between Helsinki and Tallinn – only for citizens and foreigners with residency in Estonia

## Finland

- Borders closed since 19th March
- Finish citizens and holders of permanent residence can enter the country

## France

- Since 17th March European Union external borders closed for 30 days
- Travellers being evacuated from the country by French government
- Travel across the borders of the Schengen Area is significantly restricted
- Flights from China, Hong Kong, Macao, Singapore, South Korea, Iran, and affected regions in Italy arriving at Charles de Gaulle airport in Paris are met by medical professionals to answer questions and take into care any person presenting symptoms

## Germany

- Border controls since 16th March - Austria, Denmark, France, Luxembourg and Switzerland
- Affected entries for people traveling by plane or ship from non-EU-citizens and citizens of non-Schengen state – may be rejected if they will not provide proof of urgent reason for their entry
- EU-citizens and citizens of Great Britain, Iceland, Liechtenstein, Norway and Switzerland and their family members will be allowed to transit through Germany to reach their home countries.
- Passengers, arriving from China, Iran, Italy, Japan or South Korea by plane or ship, must provide information on their flight/trip. They will be handed a disembarkation card for this purpose. Disembarkation cards will also be mandatory on trains, if a suspected case on the train arises.

## Greece

- Greek authorities announced all international travelers who arrive in the country must undergo a 14-day mandatory self-quarantine (16th March)
- Greece closed its borders with Albania and North Macedonia
- Flights from Italy and Spain are suspended; ferry service from Italy to Greece is also suspended
- Cruise ships and tourism boats cannot dock in Greece (15th March)
- The Greek government announced that from March 18 through April 18, non-EU citizens may not enter Greece except for spouses or minor children of EU/Schengen nationals, long-term residents, members of government delegations, and passengers in transit
- No particular documentation to enter/exit Greece is needed at this time

## Hungary

- The Hungarian government has closed all land borders to non-Hungarian citizens, with the exception of EEA citizens holding a residence permit
- For outgoing road or rail travellers, the latest information is that all of Hungary's contiguous land borders are closed to all except citizens of a respective country
- Massive

## Iceland

- The government of Iceland has not closed borders
- Iceland is excluded from the complete ban on non-EU travellers
- All vessels arriving in the country abroad must now provide the Coast Guard with a specific health certificate for COVID-19 before being authorized to enter the port
- Tourists travelling to Iceland do not need to go quarantine

## Italy

- All travellers flying into Italy are subject to temperature screening in Italy's major airports, and the country has suspended flights from China and Taiwan.
- 10 March – 3 April lockdown of country
- Only Italian and foreign tourists still on holiday who need to come back to their places of residence are allowed to move. Airports and railways stations are open just to allow these people to come back to their own places

## Latvia

- Stopped nearly all foreigners entering the country
- The Latvian government has decided to close all its international air, road, sea and railway borders starting from 17 March
- Latvians and foreigners with residency rights in Latvia are able to enter the country
- Foreigners will be allowed to leave the country

## Liechtenstein

- Liechtenstein border authorities have the authority to decide who may enter.

## Luxembourg

- No official border closures however, Luxembourg borders with Germany, France and Belgium. France and Germany introduced border controls and therefore the Luxembourg government has issued a specific work certificate.
- Employers may complete this certificate to prove the employment relationship with their non-resident employee
- Upon presentation of the form, commuters are exempt from border crossing restrictions.
- Upon presentation of the certificate, cross-border workers residing in Belgium are thus exempt from border crossing restrictions between Belgium and Luxembourg.
- To facilitate the entry of cross-border workers into the Grand Duchy during such border controls, the Luxembourg government has issued a certificate to demonstrate the need to cross the German-Luxembourg border for employment reasons

## Malta

- On 13 March, Malta introduced a mandatory 14 day self-quarantine period for all arrivals into Malta
- Asymptomatic visitors can choose to either enter mandatory self-quarantine or to return to their country of origin as soon as possible
- All flights into Malta will be suspended as of 23:59 on 20 March

## Netherlands

- The Dutch government has taken the decision to tighten the entry conditions for persons wishing to travel to the Netherlands from third countries from Thursday 19 March 2020 at 18.00 hours.
- The travel restriction does not apply to the following categories of persons:
  - EU citizens (including UK nationals) and members of their families;
  - Nationals of Norway, Iceland, Switzerland, Liechtenstein and their family members;
  - Third-country nationals holding a residence card or a residence permit in accordance with Directive 2003/109/EC (LTR Directive);
  - Third-country nationals who derive their right of residence from other European Directives or from the national law of a Member State;
  - Holders of a long-stay visa, including persons with a temporary residence permit (MVV);
  - Other persons with an essential function.

## Norway

- All internal borders – closed
- From Monday, March 16 at 8:00 a.m. the Government will be closing the border to foreign nationals who lack a residence permit in Norway
- All Norwegian citizens and persons who live or work in Norway will continue to be let into the country
- Exemptions will be provided for European Economic Area (EEA) citizens and their family members who reside in Norway. Exemptions are also being prepared for EEA citizens who work in Norway
- Norwegian airports are not closing
- The police are instituting temporary entry and exit controls at the inner and outer Schengen border, but no border crossing points are being closed.
- To limit the spread of infection by people arriving in Norway from other countries, extensive border controls are being introduced with effect from Monday 16 March at 8 a.m.

## Poland

- Land borders with Czech Republic, Slovakia, Germany, Lithuania, sea borders, air borders;
- As of March 15, Poland will ban foreigners from the country, suspend international air and rail services for citizens and border controls will be temporarily restored

## Portugal

- From midnight on 18 March, flights from Portugal to countries outside the EU/EEA, with the exception of the UK, USA, Canada, Venezuela, South Africa and Portuguese speaking countries will be suspended.
- From 16 March until 15 April, there will be border controls on the land border with Spain.
  - Cross border workers, goods traffic and people entering or leaving Portugal to return to their place of residence will be allowed to travel.
  - All travellers will be subject to health screening.
  - The Portuguese authorities have also suspended all flights, rail and ferry connections between Portugal and Spain and implemented health screening at airports on the Portuguese mainland.

## Slovakia

- From 13th March 2020 the ban to enter the territory of the Slovak Republic is applicable to all foreign nationals except for the following categories:
  - Foreign nationals residing in the Slovak Republic based on the residence permit
  - Close relatives (spouse, minor child, parent of a minor child)
  - Foreign nationals employed in the Slovak Republic regularly travelling to the territory of the Slovak Republic for the work purposes
  - Holders of the local border traffic permit entering the territory of the Slovak Republic through the border between the Slovak Republic and Ukraine
  - Diplomatic personnel of diplomatic missions.
- No international trains or bus connections are operational.
- All airports are closed.

## Slovenia

- The Government of the Republic of Slovenia issued the Ordinance on the prohibition to perform air service in the Republic of Slovenia (applicable since 17 March 2020)
- The control of passengers is implemented at the border between Italy and Slovenia.
  - Persons will have to submit the certificate on testing negative for SARS-CoV-2 (COVID-19) as issued by a competent authority
  - If an individual fails to submit the certificate, they are still granted entry to the Republic of Slovenia if their temperature is under 37.5 °C and they do not display any obvious signs of upper respiratory tract infection (coughing, sneezing, aggravated breathing).
  - Goods, bus and railway transport between Slovenia and Italy is suspended (except for the transport of postal items, medicinal products, protective equipment and medical devices, and humanitarian aid).

## Spain

- all land borders
- Strict lockdown policies including restrictions on travel in and out of the country are in place
- On March 16, the Spanish government announced the closing of its land borders, allowing only citizens, residents and others with special circumstances to enter the country
- Borders between Spain and Portugal are closed, leaving only nine active crossings open to allow for the transit of products and workers who are required to cross the border

## Sweden

- The Government decided on 17 March to temporarily stop non-essential travel to Sweden
- The decision takes effect on 19 March and will initially apply for 30 days
- All travel to Sweden will not be stopped. Swedish citizens and people who are resident in Sweden will be able to return to Sweden.
- The entry ban applies primarily to foreign citizens attempting to enter Sweden from a country outside the EEA or from Switzerland. Citizens from the following countries are therefore allowed to enter Sweden: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland and the United Kingdom.

## Switzerland

- The borders of all neighbouring countries will be controlled from midnight.
- People who CAN CROSS the border include:
  - Swiss citizens
  - Those with a valid passport AND
  - A Swiss residency permit. Diplomatic IDs are residency permits;
  - Those with a professional justification who have registered with the government;
  - Those transporting goods;
  - Those traveling directly through Switzerland with the intent of going a different country; OR
  - Those with credible emergency situations.
- Restrictions on entry by air are still being discussed by the government.



Schengen countries will be expected to lift border controls once the crisis subsides. Countries might, however, prove resistant to obliging to these rules, as exemplified following the migration crisis of 2015-2016.

Far-right politicians in several European countries, in fact, had already demanded the reintroduction of border controls to protect domestic populations from the spread of the coronavirus during the early stages of the epidemic. Rassemblement National's Marine Le Pen professed that "a border protects populations, in any situation".<sup>9</sup> Alice Weidel, the Alternative for Germany's leader in the Bundestag, connected the epidemic to the "fixation on the dogma of open borders".<sup>10</sup> This rhetoric is unlikely to dampen following a period of extreme disruption to public life and the economy and a death toll numbering in the thousands.

Arguments have also been put forward linking migration with the spread of disease. The Greek government, for example, has employed the coronavirus crisis, and the risk of its spread, as a reason for proceeding forward with the building of confined camps for asylum seekers on Greek islands<sup>11</sup>. Viktor Orban, Prime Minister of Hungary, meanwhile, referred to a "clear link between illegal migration and the coronavirus epidemics as many immigrants are coming from or through Iran" as justification for suspending the admission of asylum-seekers into transit zones where they can apply for asylum.<sup>12</sup>

The emergence of this rhetoric is, in fact, not a novel development. Jarosław Kaczyński, a former prime minister of Poland and leader of the Law and Justice party, warned back in 2015 that migrants carry "very dangerous diseases long absent from Europe," "all sorts of parasites and protozoa"<sup>13</sup>. The fact that disinformation is rapidly spreading on social media, including any number of conspiracy theories regarding both migration and coronavirus, is only further exacerbating fear-mongering<sup>14</sup>.

In light of this public rhetoric, governments may be tempted to maintain certain border control measures to further send a signal to domestic populations that adequate steps are being taken and that governments are in control of the situation.<sup>15</sup> Governments facing upcoming elections, in particular, may fall prey to the tendency of seeking to outbid potential opposition in providing national security "protections" to the population.

The combination of migration, terrorist, and - now - health epidemic concerns, buttressed by anti-globalization sentiment, will continue to make the border narrative an important part of domestic discourses and policies across Europe. These issues have all impacted policies of governments since 2015, including the reintroduction of border checks, and will determine the direction and feasibility of reforms to the Schengen acquis and auxiliary measures.

9 A-C. Coudray, "Coronavirus: Marine Le Pen réclame "des contrôles aux frontières", POLITIQUE, 23 February 2020, <https://www.lci.fr/politique/video-coronavirus-marine-le-pen-reclame-des-contrôles-aux-frontieres-2146220.html>

10 A. Weidel, Twitter, 25 February 2020, [https://twitter.com/Alice\\_Weidel/status/1232290095820148736](https://twitter.com/Alice_Weidel/status/1232290095820148736)

11 "Police and protestors clash on Greek islands over new migrant camps", The Guardian, 25 February 2020, <https://www.theguardian.com/world/2020/feb/25/police-and-protesters-clash-on-greek-islands-over-new-migrant-camps>

12 "Prime Minister Viktor Orbán informed his EU counterparts about situation in Hungary", News, Prime Minister Office, 10 March 2020, <https://www.kormany.hu/en/the-prime-minister/news/prime-minister-viktor-orban-informed-his-eu-counterparts-about-situation-in-hungary>

13 J. Cienski, "Migrants carry 'parasites and protozoa,' warns Polish opposition leader", POLITICO, 12 February 2016, <https://www.politico.eu/article/migrants-asylum-poland-kaczynski-election/>

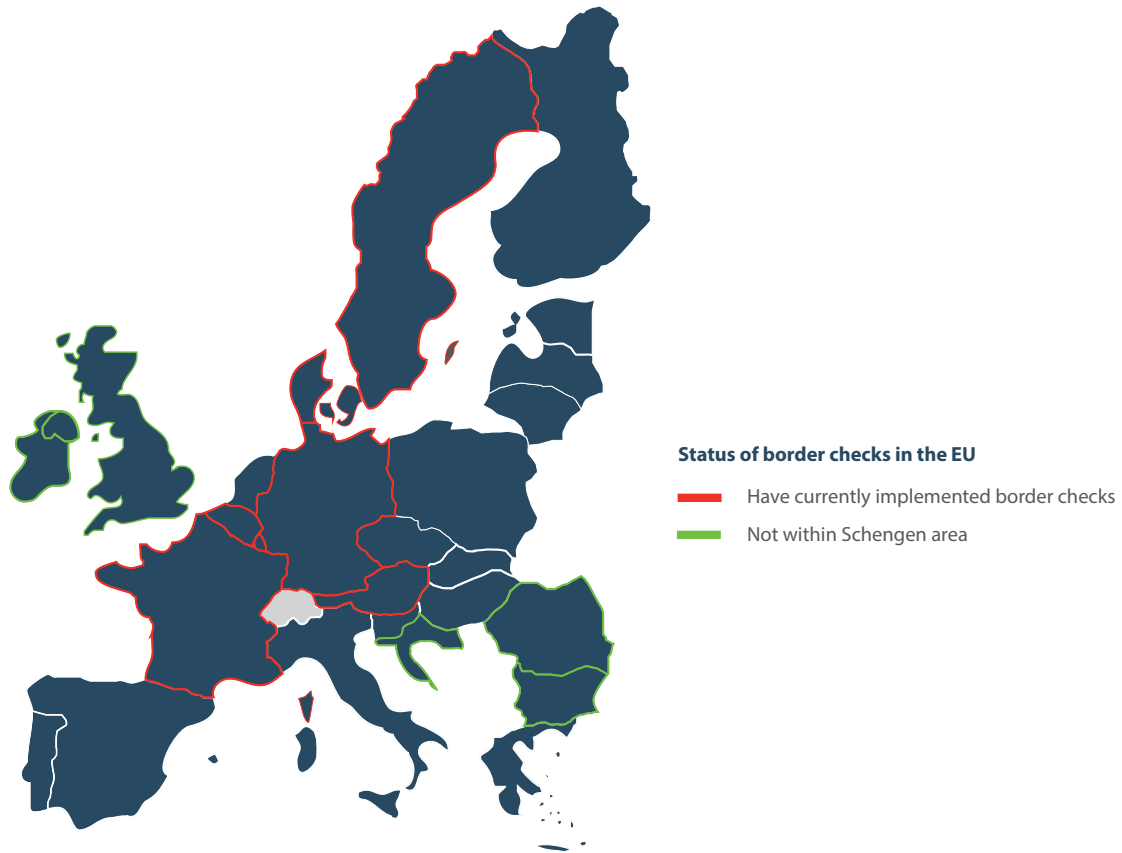
14 V. Pop, "EU, tech firms renew pact to fight coronavirus disinformation", Wall Street Journal, 11 March 2020, <https://www.wsj.com/articles/eu-tech-firms-renew-alert-system-to-fight-coronavirus-disinformation-11583946710>

15 P. Zerka, "Ill will: Populism and the coronavirus", European Council on Foreign Relations, 5 March 2020, [https://www.ecfr.eu/article/commentary\\_ill\\_will\\_populism\\_and\\_the\\_coronavirus?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosfutureofwork&stream=future](https://www.ecfr.eu/article/commentary_ill_will_populism_and_the_coronavirus?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosfutureofwork&stream=future)



## RECENT DEVELOPMENTS. OVERVIEW OF REFORMS AND CURRENT BORDER CHECKS

Following the 2015 migration crisis, six European countries introduced border controls.



The legal mechanism that authorizes the reintroduction of temporary border controls was not created as a response to the 2015-2016 crisis. In fact, 2015 was not the first time where increased migratory pressures prompted countries to reintroduce border checks. Following the Arab Spring in 2011, significant numbers of North Africans entered Italy and continued on to other countries. France responded by introducing border checks, in the process triggering lengthy debate and negotiations with Italy and the EU. Article 29 was consequently introduced to the Schengen Code to permit internal border controls to be maintained for periods of more than six months and up to two years, if the EU Council of Ministers recognises a systemic threat to the Schengen zone.

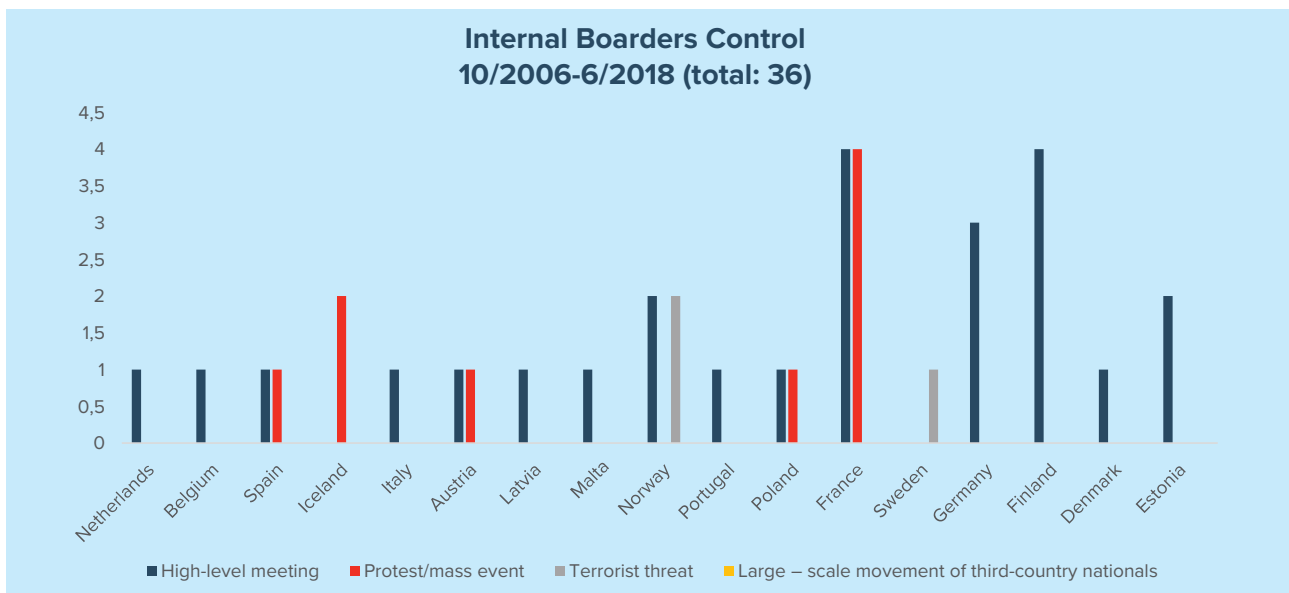
Citing the inability of countries along the external borders to cope with the high numbers of arrivals, Germany, Austria, Denmark, Sweden, and Norway used this legal provision to warrant the reintroduction of internal border controls. France, however, relied

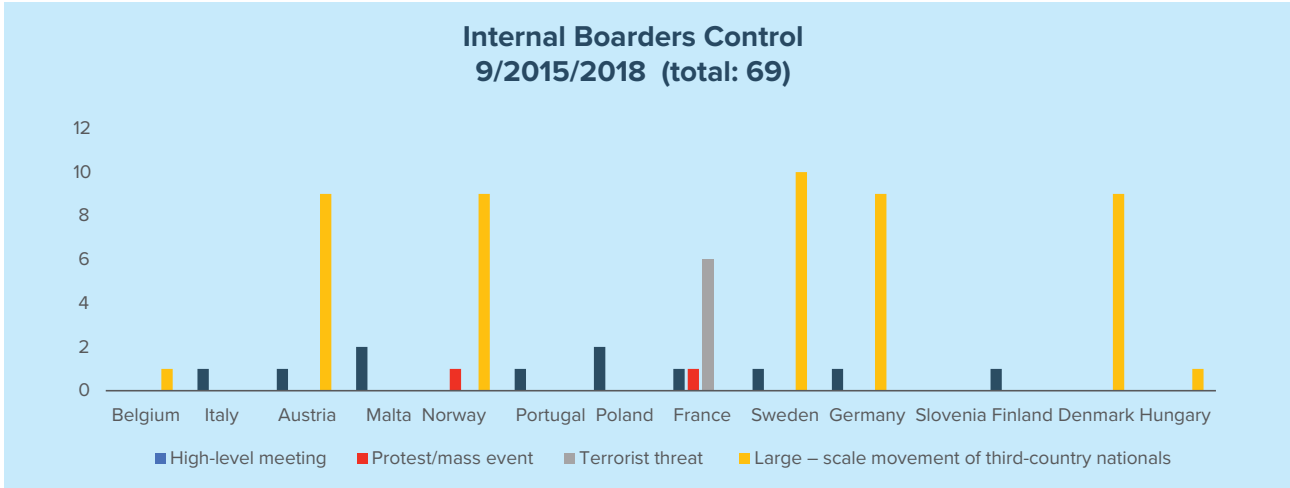
on a different mechanism - Article 25 - citing national security threats. France declared a national state of emergency following terrorist attacks in November 2015 and reintroduced border controls as there were known cases of perpetrators moving freely within Europe.

Initially, these measures taken throughout Europe received scant criticism. Gradually, the checks were randomized and came to increasingly rely on technological solutions (e.g. automatic license plate scanners and X-ray cameras on the Oresund Bridge on the Denmark-Sweden border) that significantly mitigated the impact on commuters and local economies. But most importantly, the public apprehension emerging from the perceived loss of control during the crisis and the associated widespread demand for the nationalisation of borders, coming at the same time as the Brexit vote in 2016, lent justification to the need for temporary border checks.

## CURRENT TEMPORARILY REINTRODUCED BORDER CONTROLS – DOES NOT INCLUDE CONTROLS INTRODUCED AS A RESPONSE TO CORONAVIRUS EPIDEMICS

- Norway (12 November 2019 - 12 May 2020) ▶ Terrorist threats, secondary movements; ports with ferry connections with Denmark, Germany and Sweden;
- Sweden (12 November 2019 - 12 May 2020) ▶ Terrorist threats, secondary movements; ports with ferry connections with Denmark, Germany and Sweden;
- Denmark (12 November 2019 - 12 May 2020) ▶ Terrorist threats, organized criminality from Sweden; land border with Germany and with Sweden, ferry connections to Germany and to Sweden;
- Germany (12 November 2019 - 12 May 2020) ▶ Secondary movements, situation at the external borders; land border with Austria;
- Austria (12 November 2019 - 12 May 2020) ▶ Secondary movements, risk related to terrorists and organized crime, situation at the external borders; land borders with Hungary and with Slovenia;
- France (31 October 2019 - 30 April 2020) ▶ Persistent terrorist threat, upcoming high profile political event in Paris, secondary movements; all internal borders.





Source: S. Heinikoski, "Schengen and its challenges in 2005-2018"<sup>16</sup>

The more problematic and contested aspects of border checks began in 2017. With migration flows receding significantly and France lifting its declared state of emergency, the EU Commission recommended that all border checks be dismantled, a proposal also backed by the majority of EU countries. In November 2017, the two-year limit provided in the legal code on temporary border checks, moreover, expired. Instead of following the recommendation of the Commission and heeding the calls of other Schengen members to remove border checks though, Germany, Sweden, Austria, Norway, and Denmark switched their policy and, in accordance with Article 25, justified continued temporary border checks based on the purported high risk of international terrorism. In practice, however, the checks are largely focused on irregular migration.

This piecemeal interpretation of EU law and random patchwork of migration policies is harmful in several ways. First, the use of the threat of terrorism and national security competencies in a rather arbitrary manner, with no established objective indicators and without consultations with other countries, risks making the "temporary" border checks a normalized permanent phenomenon. The shifting from one legal basis to another, furthermore, questions the credibility of arguments to invoke border controls.<sup>17</sup> Second, the bending of legal rules sets a precedent for countries to avoid compliance when it suits them, consequently hindering the efficiency and credibility of the free movement arrangements.

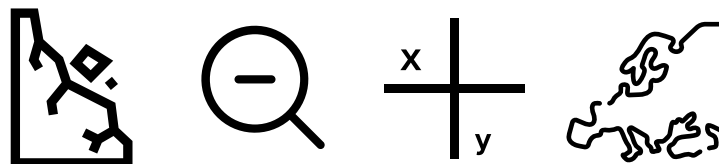
Where the Schengen area goes from here can unfold in accordance with several scenarios.

## WHAT NEXT: SEVERAL SCENARIOS

When discussing the future of the Schengen zone, four scenarios should be taken into account. These are: "Total collapse", "A smaller Schengen or Schengens", "Status quo", and "Smooth Schengen without any border checks".

### 4 SCENARIOS FOR FUTURE OF SCHENGEN

**"TOTAL COLLAPSE" | "A SMALLER SCHENGEN OR SCHENGENS" | "STATUS QUO" | "SMOOTH SCHENGEN WITHOUT ANY BORDER CHECKS"**



Source: Author

<sup>16</sup> S. Heinikoski, "Schengen and its challenges in 2005-2018", Presentation, Europe on the Move: Open or Closed Borders?, GLOBSEC, 2-3 March 2020, <https://www.globsec.org/projects/futureofeuropa-diffgov/#events>

<sup>17</sup> M. de Somer, "Schengen and international border controls", European Policy Centre, 12 November 2019, [https://www.epc.eu/en/Publications/"#2e1cb0](https://www.epc.eu/en/Publications/)



## 1. TOTAL COLLAPSE




Schengen is an important enabling institution of the Single Market, embodying its fundamental freedoms, particularly the free movement of goods and persons, and the European integration project itself. The costs – both economic and ideational – accrued by a political entity with internal borders (i.e. a non-Schengen zone) would, in fact, be considerably higher than the security and irregular migration consequences emanating from the borderless zone. As the non-Schengen costs would be incurred by both big and small states, it is unlikely that the Schengen system will collapse entirely.

According to a European Parliament estimate, the cost of a permanent suspension of the Schengen Agreement, calculated over a ten-year period, would equate to a loss of up to 0.14% of EU-GDP annually. The costs associated with the set-up and

operationalization of the border checks alone would range between €1 and €3 billion annually and could be as high as €19 billion. Significantly higher costs would be incurred as a result of time losses accrued during border waits, both by passenger vehicles and heavy-duty vehicles (trucks and buses), customs controls that disrupt the single market, and price increases associated, in part, with a decline in market competition in individual countries.<sup>18</sup>

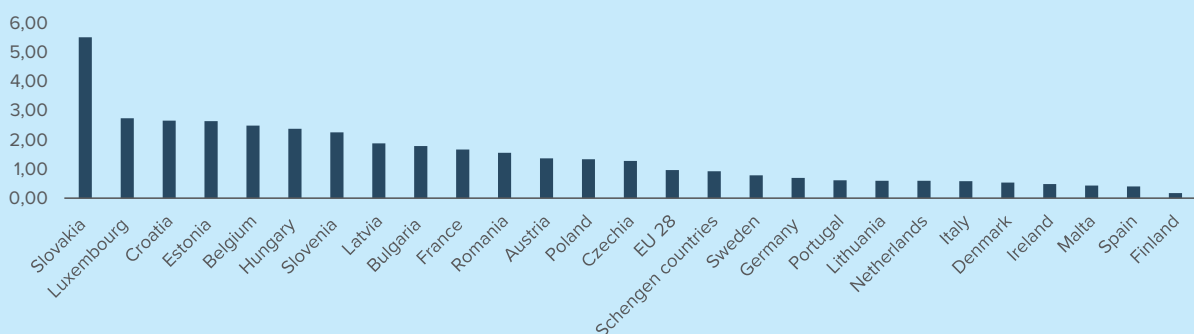
A reintroduction of borders would also result in the disruption of daily commutes for purposes of employment and hinder cross-border business travel, in the process negatively impacting the lives of millions of Europeans and stifling economic activity. In 2018, over 1.9 million Europeans crossed borders to go to work. The number of EU citizens commuting to work in another Schengen country, in fact, equates to nearly 1% of all employed citizens. The share is particularly high in Slovakia where 5.5% work across the border.

### ECONOMIC COSTS OF NON SCHENGEN

| Commuting   | Trade  | Tourism   |
|---|--|---|
| Delays on community to work in the Schengen zone                                    | Additional time impact on free movement of goods and services  | Impact on revenue from short-term visits  |
|  |   |  |
| €3-4 bn per year<br>€ 1.6 – 6.1 bn per year   | € 6.5 – 13 bn per year (in delays)<br>> € 100 bn in 10 years in trade  | € 0.5 – 1 bn per year<br>€ 0.02 – 0.05 bn per year                                    |
| Bruegel (2016), France Strategie (2016), Europe Economics (2016)                    | Bertelsmann Stiftung (2016), Bruegel (2016), France Strategie (2016), Europe Economics (2016), European Commission (2016), Morgan Stanley (2016) | Europe Economics (2016)   |

Source: RAND Europe, 2016<sup>19</sup>

### Cross-border commuters as a share of employed population (2018) in %



Please note that these figures represent the share of a country's employed residents who commute out of the country to go to work.

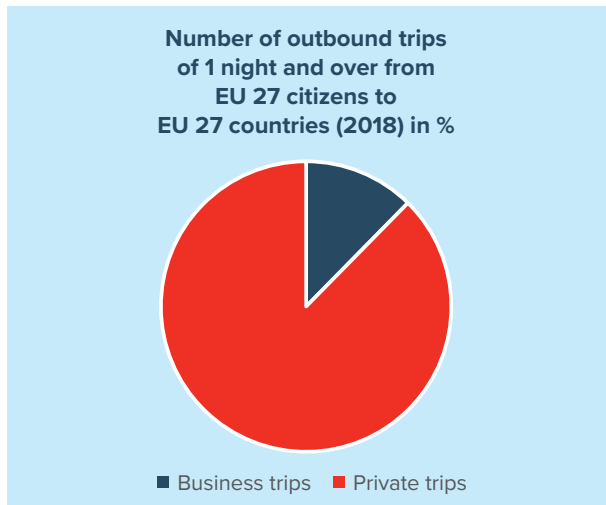
Source: Bruegel, 2020<sup>20</sup>

18 "Cost of non-Schengen: the impact of border controls within Schengen on the Single Market", The European Parliamentary Research Center, May 2016, [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578974/IPOL\\_STU\(2016\)578974\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578974/IPOL_STU(2016)578974_EN.pdf)

19 M. Hafner, J. Taylor, M. Stepanek, S. Grand-Clement, M. Sacher, E. Dujso, M. Barberi, S. Hoorens, "A Research Paper on the Costs of Non-Schengen from a Civil Liberties and Home Affairs Perspective" [in:] "The Cost of Non-Schengen: Civil Liberties, Justice and Home Affairs Aspects: Cost of Non-Europe Report", RAND Europe, Brussels, 2016, p. 36-146 [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/581387/EPRS\\_STU\(2016\)581387\\_EN.pdf#page=40](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/581387/EPRS_STU(2016)581387_EN.pdf#page=40)

20 R. Meninno, G.B. Wolff, „As the Coronavirus spreads, can the EU afford to close its borders?" Bruegel, 22 February 2020, <https://www.bruegel.org/2020/02/as-the-coronavirus-spreads-can-the-eu-afford-to-close-its-borders/>

Furthermore, in 2018, EU citizens made around 320 million trips, spanning at least one night, to other EU countries.



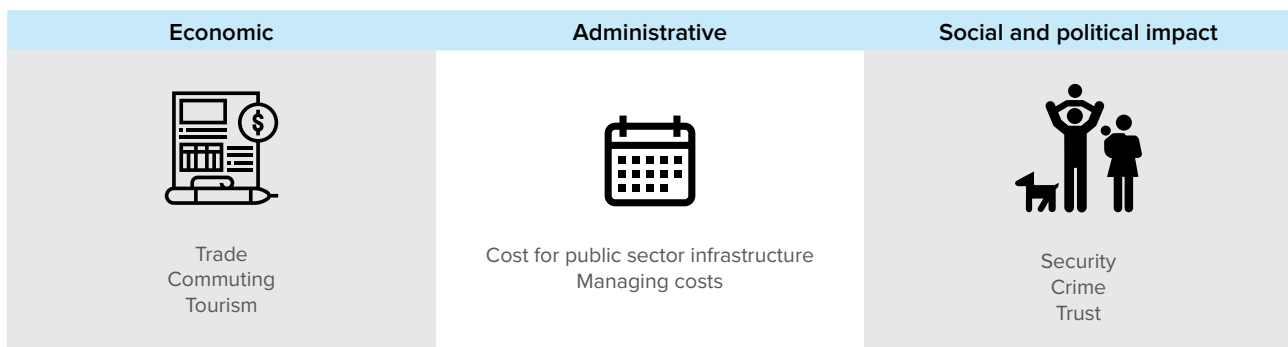
Source: Bruegel, 2020<sup>21</sup>

Other losses are less tangible but equally consequential in the long run. The abandonment of the Schengen Agreement will lead to a significant decline in cross-border movements, integration, confidence in the Single Market and the euro, and cross-national interactions between citizens.

According to Eurobarometer, seven in ten Europeans consider the Schengen Area to be one of the most important achievements of European integration.<sup>22</sup> The dissolution of Schengen is likely to undermine the legitimacy of the European project and generate a loss of confidence, among citizens, in the European integration process.

This situation underscores the fact that countries have a high stake in preserving, at least in some form, the free movement of goods and people.

### COST OF BRINGING BACK BOARDER CONTROLS



Source: Author

## 2. A SMALLER SCHENGEN OR SCHENGENS

### 2.1. MINI SCHENGENS

While a total collapse and return to national borders is highly unlikely, a less staggering scenario involves the abolition of the free movement zone in its current constitution and the formation of “mini-Schengens” between more tightly-knit and like-minded countries. These more compact free movement zones could include, for example, the Nordics, Benelux, and select add-ons like France, Germany, and other countries.

### 2.2. A SMALLER SCHENGEN: SOME COUNTRIES QUIT OR ARE FORCED TO EXIT

The composition of the Schengen area could also change as a result of some countries choosing to quit the arrangement or being forced to quit.

Denmark, for example, has long had uneasy feelings about its Schengen membership, apprehension that could intensify if other countries insist on lifting the temporary checks that Denmark has had in place.<sup>23</sup> While Denmark has an opt-out from the EU’s Justice and Home Affairs policy, the country has decided in the past to voluntarily adopt amendments to the Schengen regulation. Increased pressure to abandon all border checks though might lead to Denmark dropping out of the Schengen zone altogether.

In 2016, Greece was under pressure to do more to protect its external borders or face removal, at least temporarily, from the Schengen zone. Germany,

<sup>21</sup> Ibidem.

<sup>22</sup> “Special Eurobarometer 474. Summary: Europeans’ perceptions of the Schengen Area”, Kantar Public, Brussels, 2018; “Standard Eurobarometer 88: Public opinion in the European Union”, European Commission 2017b.

<sup>23</sup> C. Sorensen, “The future of Schengen”, Think Tank Europa, 31 October 2018, <http://english.thinkeuropa.dk/politics/future-schengen>

Austria, and Sweden were particularly vocal in pronouncing this threat, with the EU Commission affirming that Greece was neglecting its obligations to protect its external borders.<sup>24</sup> The accusations were put forward in a context in which there had been hundreds of thousands of irregular arrivals to the EU. Greece, in particular, bore responsibility as a first country of entry obligated with registering and processing new arrivals.

The re-introduction of border checks has often been driven by concerns regarding the secondary movement of migrants. In this vein, the composition of the mini-Schengens would also be determined by two factors: the degree to which the asylum and migration systems of the respective countries are approximated and the extent to which migration flows are evenly distributed. While in the ideal case a common asylum system would preclude secondary movement considerations, in reality, aspirations for achieving a Common European Asylum System are encountering a protracted stalemate at the European level. Formation of a mini-Schengen would make it considerably more feasible to link a common asylum system to border-free arrangements. A precondition for joining a mini-Schengen would not only be trust in other countries' ability to control external borders but also in their capacity to jointly manage migration and asylum.

During the 2015 migration crisis, Dutch Prime Minister Mark Rutte had already floated the idea of creating a mini-Schengen that would have consisted of the Benelux countries and a couple neighbours.<sup>25</sup> The Netherlands is, moreover, a virulent opponent of the bids of Bulgaria and Romania to join the Schengen zone, despite the Commission's assessment that Bulgaria and Romania are ready to join.<sup>26</sup>

Nordic countries also are not entirely resistant to the idea of reverting back to the Nordic Passport Union that existed before the Schengen zone. The expansion of Schengen membership to Central and Eastern European countries raised public fears, particularly regarding immigration and crime emanating from these countries. Although there are currently checks between Denmark and Sweden,

if there is no improvement to the situation at the European level, a return to a Nordic mini-Schengen is not an unrealistic scenario.

Similarly, French President Emmanuel Macron argues in favour of the renegotiation of the Schengen agreement, including even if it results in a smaller Schengen space with fewer countries. In his vision, the Schengen zone can only function if it is coupled with stringent border controls and a common asylum system where countries also demonstrate solidarity in sharing migration burdens. Consequently, so the argument goes, "free-riding" countries that don't want to participate in migrant relocation schemes should not be members of the Schengen zone.<sup>27</sup>

Outside of the current Schengen configuration, the Western Balkans have a regional initiative that looks to replicate the Schengen model and create a free movement area. If finalised, as planned in 2021, it would guarantee the free movement of goods, capital, services, and people, significantly enhance trade, and unify the labour market.<sup>28</sup>

The creation of mini-Schengens or a core Schengen zone with fewer members are both scenarios that could be premised on the principle of differentiated integration, a practice that has the potential to enable deeper integration through the bypassing of countries dragging their feet.

Approaches that restrict Schengen to new members or permit the formation of mini-Schengens provide the advantage of both appealing to sceptical countries to stay put and facilitating cooperation when broader agreement is not possible. It would also make it possible to explicitly link Schengen provisions with solidarity and burden sharing on migration.

The disadvantage, on the other hand, would be the significant descaling of free-movement ambitions that would accompany such moves. Furthermore, for many countries, the Schengen zone is one of the most attractive aspects of the European project and their exclusion would decrease the incentive for these countries to cooperate and compromise

24 I. Traynor, H. Smith, "Greece hits back after EU's Schengen threat", The Guardian, 27 January 2016, <https://www.theguardian.com/world/2016/jan/27/greece-warned-control-borders-schengen-european-commission>

25 P. Cluskey, "Dutch PM proposes 'mini Schengen' amid calls for new Fortress Europe", The Irish Times, 27 November 2015, <https://www.irishtimes.com/news/world/europe/dutch-pm-proposes-mini-schengen-amid-calls-for-new-fortress-europe-1.2446480>

26 G. Gotev, "Rutte pours cold water on Bulgaria's Schengen and Eurozone dreams", EURACTIV, 7 February 2018, <https://www.euractiv.com/section/justice-home-affairs/news/mark-rutte-pours-cold-water-on-bulgarias-schengen-and-eurozone-dreams/>; "Dutch PM: Romania Will Join Schengen Zone 'When It Complies With the Rule of Law and Democracy'", Schengen Visa Info, 10 May 2019, <https://www.schengenvisainfo.com/news/dutch-pm-romania-will-join-schengen-zone-when-it-complies-with-the-rule-of-law-and-democracy/>


27 J. Barigazzi, "Macron: EU migration holdouts should be booted out of Schengen", POLITICO, 19 April 2019, <https://www.politico.eu/article/emmanuel-macron-eu-migration-frontex-holdouts-hungary-viktor-orban-should-be-booted-out-of-schengen/>; E. Macron, "Dear Europe, Brexit is a lesson for all of us: it's time for renewal", The Guardian, 4 March 2019, <https://www.theguardian.com/commentisfree/2019/mar/04/europe-brexit-uk>; G. Gotev, "Macron pleads for Schengen renegotiation, possibly with fewer members", EURACTIV, 29 April 2019, <https://www.euractiv.com/section/justice-home-affairs/news/macron-pleads-for-schengen-renegotiation-possibly-with-fewer-members/>

28 "Mini-Schengen" initiative remains open to the region, next meeting in Belgrade", European Western Balkans, 21 December 2019, <https://europeanwesternbalkans.com/2019/12/21/mini-schengen-initiative-remains-open-to-the-region-next-meeting-in-belgrade/>

on common EU rules. There is also uncertainty about the future strength of the Euro as a currency in a context where borders are reintroduced and/or


where some countries are excluded from Schengen arrangements.

### ADVANTAGES AND DISADVANTAGES OF DIFFERENTIATED INTEGRATION IN SCHENGEN ZONE



The opportunity to keep the sceptical countries in and facilitate cooperation when broader agreement is not possible.

It would also allow to explicitly link the Schengen provisions with solidarity and burden sharing on migration.



Decrease in incentive to cooperate and compromise on common EU rules.

Uncertainty whether Euro can be a strong currency with a reintroduction of borders or a much smaller Schengen zone which potentially excludes some of the Eurozone countries.

Source: Author



### 3. STATUS QUO

The maintenance of the status quo would involve the Commission continuing to allow countries to stretch existing regulations and introduce border controls, as they see fit, regardless of the objective justification behind it. This lacklustre implementation of existing rules arguably helps alleviate domestic political pressures and migration and security fears in the countries introducing them. EU infringement actions against such measures, at the same time, risks further politicizing migration and border issues and alienating general publics that could perceive Brussels institutions as acting against their interests and will as expressed at the national level.

A situation in which “temporary” border controls last in perpetuity would result in costs in the areas of border maintenance, wait times, and movement disruption. This strain, nevertheless, would be low in comparison to those that would be incurred through a comprehensive reintroduction of borders.

Under the status quo option, political confrontations between member states would be largely unavoidable, with certain countries likely to be the central targets of increased border controls. Countries located at the external borders of the Schengen zone will suffer the most. German airports, for example, targeted Greek airlines for selective checks in 2017, leading to increased tensions between Germany and Greece.<sup>29</sup> These countries that are most impacted by border checks will, moreover, aim their animosity towards the Commission if it continues its turn-a-blind-eye approach. Spain, for example, importantly

relies on the free movement zone to sustain its tourism and export sectors.<sup>30</sup> Central European countries, meanwhile have a significant number of cross-border workers who commute daily to neighbouring countries and these countries are also tightly integrated into manufacturing supply chains in Europe. And as noted earlier, free movement is a central pillar of the EU for Central European countries and is frequently cited by citizens as the main association with and benefit of the European Union.<sup>31</sup>

Central and Eastern European countries would be hard hit by the reintroduction of border controls. Temporary checks have already become a source of complaints from Poland, Hungary, Slovakia, and other countries. The frustration of these governments is warranted in light of the fact that the “temporary” border checks have been maintained in a state of minimal transparency in terms of their justification by countries that introduced them. The refusal by Western EU members, in a manner that is dragging out the length of process, to allow Bulgaria and Romania to join Schengen only adds to the perception of an imposed “second-class” status on the region and an impression that the interests of the region are less pertinent or legitimate.

On the other hand, the stalemate is unlikely to be resolved without concessions by Central European countries in other areas. Central Europeans use the unwillingness of bigger Western countries to abandon border checks, as legally questionable as they are, to justify their own lack of cooperation in the area of migration management (e.g. revision of

29 A. Carassava, “Greeks condemn controversial German airport checks”, Die Welt, 28 November 2017, <https://www.dw.com/en/greeks-condemn-controversial-german-airport-checks/a-41547470>

30 T. Etzold, R. Bossong, “The Future of Schengen”, German Institute for International and Security Affairs (SWP), Comment 2018/C 44, October 2018, <https://www.swp-berlin.org/en/publication/the-future-of-schengen/>

31 Standard Eurobarometer 88: Public Opinion in the European Union, Kantar Public, Brussels, Autumn 2017, [https://data.europa.eu/euodp/en/data/dataset/S2143\\_88\\_3\\_STD88\\_ENG](https://data.europa.eu/euodp/en/data/dataset/S2143_88_3_STD88_ENG); Special Eurobarometer 474: Europeans’ perceptions of the Schengen Area, Kantar Public, Brussels, December 2018, [https://ec.europa.eu/home-affairs/news/what-do-europeans-think-schengen-area-results-special-eurobarometer-schengen\\_en](https://ec.europa.eu/home-affairs/news/what-do-europeans-think-schengen-area-results-special-eurobarometer-schengen_en)



the common asylum system, potential distribution of migrants across Europe). Western Europeans, in turn, are likely to keep the border checks in place unless border countries register asylum seekers and agree to accept a larger share of migrants.<sup>32</sup>

Southern European countries like Italy, Spain, and Greece already perceive the Dublin system, with its placement of the migration burden on countries at the EU external borders, as not serving their interest. If they additionally must absorb the harmful economic, political, and symbolic consequences associated with the introduction of border checks, they are unlikely to enthusiastically comply with their obligations under the Dublin system. If Germany, Denmark, and Austria are permitted to bend the rules in their favour, Southern countries will equally feel entitled to stretch other rules in their own direction. For countries impacted by border checks, the argument that the national security concerns of six member states should be effectively prioritized through the use of internal border checks is not at all persuasive, particularly in light of the lack of evidence of their efficacy and the random and spasmodic nature in which they have been implemented. The domino effect set in motion through these policies will result in only further erosion of the Dublin regulations.

Despite the aggregation of disagreements, the status quo might remain intact for some time, until there is another crisis.



#### **4. SMOOTH SCHENGEN WITHOUT ANY BORDER CHECKS**

The EU Commission, in 2016, published a “Back to Schengen” roadmap that includes concrete steps for bringing order back into the management of the EU’s external and internal borders and lifting all internal border checks.<sup>33</sup> Both the Commission and Member States realize, though, that “returning back” to a normally functioning Schengen is hardly possible without comprehensive reforms of the system. Primarily, stringent border controls based on integrated migration management arrangements, enhanced cooperation on internal security, and progress towards a common migration and asylum system are pre-requisites for a sustainable free movement zone.

If the current weaknesses of the Schengen arrangements are resolved, we will not go “back”

to Schengen but forward to a new, much smoother version of it.

The Schengen system has indeed already improved its security mechanisms to compensate for free movement. Laudable steps have been taken particularly in the area of border control, including through the strengthening of Frontex and an emphasis on a “Smart Borders” package facilitated by the incorporation of better technological solutions.<sup>34</sup> It will take more time and more trust building to enhance cooperation between security agencies across EU countries to combat terrorism and cross-border crime.

The reform of the migration and asylum system has, nevertheless, not moved nearly fast enough to ensure that the Schengen system will be able to withstand another crisis. The EU has focused largely on external migration management, including through the establishment of deals with third countries, readmission agreements, and the return of individuals not granted the right to stay in the EU. Through these arrangements, migration management has been linked to development aid, trade deals, and security assistance. These different measures have been subject to a host of criticism concerning their compatibility with the EU’s international obligations in the areas of asylum and human rights and/or their effectiveness. But even in the most ideal scenario, these measures are unlikely to entirely stymie migration flows to Europe. The Turkish decision to halt implementation of its deal with the EU and instead openly encourage Syrian refugees to cross into Europe is, furthermore, an example highlighting the fragility, unreliability, and inhumane nature of this system of third-country arrangements.

At the same time, the EU seems to have reneged on its effort to find a compromise between conflicting interests of its members and develop a better internal migration policy and a common European asylum system.

#### **THE CASE OF CENTRAL EUROPE**

For Central Europe, freedom of movement has been one of the most important achievements, endowed with both symbolic and practical value, of European integration. Furthermore, embedded deeply into European production chains, Central Europe would be hit particularly hard by the introduction of border controls. The total collapse of Schengen would be

<sup>32</sup> “Rutte: grenscontroles als Oost-Europese landen geen asielenzoekers opnemen, NOS, 16 May 2019, <https://nos.nl/nieuwsuur/artikel/2284866-rutte-grenscontroles-als-oost-europese-landen-geen-asielenzoekers-opnemen.html>

<sup>33</sup> “Legislative train schedule towards a new policy on migration”, The European Parliament, 15 December 2019, <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-back-to-schengen-roadmap>

<sup>34</sup> “Smart Borders”, The European Commission, 2016, [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/smart-borders\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/smart-borders_en)

detrimental to the region. For citizens and political leaders alike, Schengen is, consequently, high on the list of regional priorities.

The securing of a smooth functioning of Schengen is the ideal outcome for the region. The challenge, therefore, concerns how the region can contribute to steering the entire arrangement from the status quo to a structure premised on smooth and frictionless operations and relatedly how it can come to be perceived as constructive good-faith players in these initiatives.

Well-aware of the benefits that the borderless zone brings, the countries in the region are prepared to cooperate on compensatory mechanisms in the area of security. They are also in favour of enhanced external border protection and openly prioritise measures with this aim as key in controlling migration flows in addition to “solving the root causes of migration”. The disagreements with Western countries lie in the area of migration burden sharing as Central Europeans staunchly oppose schemes centered on the relocation of migrants or that involve “Europeanizing” asylum provisions. The latter opposition will remain an important factor for the Western countries as high levels of migration are likely to continue (see earlier section).

The risk here is that if compromise is not found and Europe follows the “mini-Schengen” scenario, Central Europeans will suffer severe economic and political strain. Any “ousting” of countries in the region from the core group of states will also likely have ripple effects that would lead to growing discrepancies in economic development instead of convergence. If it comes down to redefining the Schengen composition, Central Europeans would need to demonstrate that they treat the security and humanitarian concerns of their Western counterparts as their own and be ready to compromise.

## CONCLUSIONS

Schengen is not only an example of flexible integration where special rules for individual members are possible and where non-EU members can take part. It also has the potential to generate positive externalities and integration spill-overs in other issue areas. Given the strategic value of Schengen, Member States are likely to jointly work on compensatory measures to maintain free movement. The Schengen system has managed in the past to develop enhanced security mechanisms to compensate for the free movement of people. This process is very likely to continue evolving.

Schengen is only possible where there is trust between Member States. This trust, in turn, is generated from successful cooperation that can then be transmitted to other areas.

In light of the strategic importance of Schengen, **the real challenge is to find a way to move from the status quo to a smoother functioning Schengen under which** compensatory measures have been properly developed. To maintain open borders in an age of populism and nationalism, fixes will need to be enacted to improve the functionality of the Schengen zone and related arrangements, refine communication, and enhance understanding of the benefits that the Schengen zone delivers.

**RECOMMENDATIONS:**

- ▶ Internal cooperation between security stakeholders should further improve to create a compensatory mechanism and prevent abuse of the borderless area. Communication channels between security stakeholders should not only be inter-state in nature (e.g. a civilian security service from one country with their counterpart from another country) but also internationally cross-departmental. This means establishing cross-cutting liaison connections between governments, civil services, security services, and police forces between and within countries.<sup>35</sup> The EU can facilitate this exchange. Further strengthening of Europol, including as a means to improve communication between member states, should continue.
- ▶ Ongoing Schengen reforms focused on including clear deadlines and justifications and clarifying further outstanding issues should be carried out. These measures will improve confidence, prevent erosion of the Dublin system, and restore the credibility of the EU Commission.
- ▶ The EU should rely more on peer-review assessments and joint monitoring. These mechanisms can be deployed for the evaluation of law enforcement in countries, the efficiency of and compliance to asylum provisions, and/or the purported need for the reintroduction of border controls. To be credible and build trust between members, these mechanisms will need to target all countries equally with the same criteria and benchmarks applied to all countries. No country can be singled out for monitoring or be evaluated based on more stringent or less objective criteria.
- ▶ A clear path should be provided for Bulgaria, Romania, and Croatia to join the Schengen zone.
- ▶ While external measures should be continued to curb migration and improve the situation in the countries of origin of migrants, it would also be prudent for EU members to reinvest in efforts to reform the Dublin system and initiate, at minimum, measured steps towards the establishment of a common asylum system. Although there is no legal link between the Schengen Code and shared responsibilities in the area of asylum, without resolving the problem of secondary movements of migrants within the EU, some countries will continue to be inclined towards reintroducing internal

border controls. The EU must move forward in making the Common European Asylum System a more common and more European institution. The placement of responsibility primarily on countries located at external borders is unsustainable. The processing of asylum cases should, furthermore, be carried out in a much faster and more efficient manner.

- ▶ The implementation of border control and police cooperation increasingly depend on the integration of technological solutions. Not all countries, though, have the administrative, financial, and technological capacity to develop or integrate these measures rapidly. EU funds and expert support mechanisms need to be made available to facilitate this cooperation. This includes the provision of expert support and equipment for Member States that require it, for example, in the areas of digital forensics, encryption, database maintenance, and surveillance.
- ▶ The Juncker Commission has already made interoperability of databases a priority and several laws have been enacted to facilitate the process. Still, data collection and sharing and database maintenance and interoperability remain the areas where significant improvements are possible and needed and where they can deliver a return on investment.
- ▶ The new Commission has declared its intention to make Europe fit for the digital future. The same applies to border protection and internal security. Modern technological solutions will need to be developed and integrated to improve efficiency but also because they are already used for nefarious purposes by those who try to undermine Europe's security. Border monitoring powered by artificial intelligence, drones, facial recognition, data forensics, and other technological advancements will need to be compliant with European privacy and human rights regulations. This means that no single EU agency can do it alone. A cross-agency and cross-DG approach will be needed to facilitate investments in technological development, integrate human rights provisions, and pool solutions and resources from related areas like defence. Furthermore, the private sector will have to be an integral part of the solution as technological progress is primarily driven by the private sector. In addition to providing technological solutions that cohere with border protection and/or internal security needs, more

35 K. Rekawek, S. Matějka, V. Szucs, T. Beňuška, K. Kajzarová, J. Rafay, "Who are the European Jihadis?", GLOBSEC, 1 August 2018, [https://www.globsec.org/wp-content/uploads/2018/09/GLOBSEC\\_WhoAreTheEuropeanJihadis.pdf](https://www.globsec.org/wp-content/uploads/2018/09/GLOBSEC_WhoAreTheEuropeanJihadis.pdf)

work needs to be done to ensure that private enterprises adopt standards that curb the abuse of the online sphere for criminal and terrorist activities.<sup>36</sup>

- ▶ The EU-Turkey deal heralded an era focused on prevention through the striking of deals with third countries like Turkey, Libya, and Niger to contain migration flows to Europe. Turkey's decision in early March 2020 to declare that "doors are open" to Europe and encourage migrants to attempt to reach Europe, however, illustrates that these moves are extremely fragile and captive to geopolitical shifts and political decisions. The EU, consequently, must remain prepared to deal with crises. Only efficient, well-coordinated, and managed crisis responses will help minimize both human suffering and political divisions within Europe.
- ▶ Such crisis readiness will require consolidation of the lessons learned from the 2015-2016 responses and continuous refinement of measures: a robust early-warning system, EU-wide contingency planning, the ability to trigger the crisis mode promptly, emergency financial reserves and simplified procedures to make use of these allocations, better institutional coordination and the filling of competency gaps between various agencies, and appointment of a single point of contact and coordination for migration crisis situations.<sup>37</sup>
- ▶ Nationalism is in great political demand today. More effort should be invested in communicating the value of the Schengen zone and compensatory security mechanisms to assuage fears of concerned citizens across Europe.
- ▶ Member states need to focus on implementation of "boring" operational measures rather than on making bold statements and articulating grand visions. The latter bring more political capital. But it's the former, the everyday actions of security, which deliver much needed progress and solutions.

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36 R. Ueberecken, "Schengen reloaded", Center for European Reform, November 2019, <https://www.cer.eu/publications/archive/policy-brief/2019/schengen-reloaded>

37 E. Collet, C. Le Coz, "After the storm: Learning from the EU response to the migration crisis", Migration Policy Institute Europe, Brussels, June 2018, <https://www.migrationpolicy.org/research/after-storm-eu-response-migration-crisis>



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