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"SCHENGEN": A RACE AGAINST THE TIME OR A FOOLS' GAME?

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The "Schengen area" crisis is not merely a crisis in solidarity, but also, primarily, a crisis in the trust between co-owners that have no wish to move out of their shared abode. It makes for a race against time between bringing back national border controls and the Europeanisation of external border controls, a race whose conclusion must allow us to reinforce Schengen. In this Viewpoint, Yves Bertoncini and António Vitorino focus on three key issues.

1. Addressing the migrant crisis: enforced solidarity, ongoing mistrust

Facing the migration crisis, the deficit in solidarity among the EU member states has manifested notably in the difficulty of establishing a balanced burden-sharing scheme for the flows of asylum-seekers. To remedy the situation, the Commission pushed through a relocation scheme, intending to relieve such swamped countries as Greece and Italy and calling to benefit 160,000 asylum-seekers over two years, but which has been implemented in a downright feeble manner (less than 300 relocations recorded in January 2016).

Yet the main tensions undermining the Schengen area are a result of a crisis in trust among the member states. It is because they suspect Greece and Italy of having neither the ability nor the will to effectively monitor the Union's external borders that the other countries consider them at least as much "culprits" to be blamed than "victims" to be helped. This mistrust is inevitable towards countries whose administrative capabilities do not enjoy a solid reputation, and which are also primarily transit countries for the migrants whom, in actuality, they have nothing to gain from registering and keeping on their soil. It was expressed throughout 2015, leading at this point to the reintroduction of controls on national borders in fully nine of the twenty-six countries in the Schengen area – a reintroduction that was totally legal, but that was frequently adopted in a spirit of non-cooperation among the countries involved.

In this context, the construction of centres for hosting asylum-seekers and for processing their applications ("hotspots") in Greece and in Italy and the much-welcome "European Border Guard Corps" project have the merit of responding at once to the lack of solidarity and to the lack of trust among the Schengen area's member states. On the pretext of helping the swamped countries in both financial and human terms, it is also a way of despatching national and European experts to areas where they can ensure that the Union's external borders are effectively monitored and that the asylum-seekers really are registered. That is exactly why these projects have sparked such reticence on the part of the countries that could benefit from them, especially if they do not work in parallel on an effective relocation of asylum seekers.

2. Addressing the terror threat: an instinctive solidarity, but a trust that has yet to be built

The terror threat and terrorist attacks trigger a far more instinctive form of solidarity among European countries, several of which have recently been targeted, whether members of the Schengen area or not. The numerous European heads of state and government's attendance at the march held in Paris on 11 January 2015 testified to this emotion-based solidarity, even if the French authorities subsequently had cause to note that that solidarity failed to translate into a sufficient number of concrete actions.

The 13 November 2015 attacks probably facilitated the final adoption of the PNR (Passenger Name Record) as well as the planning of several security measures at the European level, such as a stiffening of the law governing the sale of arms, a strengthening of the struggle against terror funding, a modification of the "Schengen Code" to allow the systematic monitoring of Europeans returning to our common soil, the first implementation of the solidarity clause envisaged under Article 42.7 of the TEU which allows countries

such as Germany to contribute to military operations in Syria, and so forth.

While 2015 may mark a turning point in mobilisation against terrorism at the European level, that mobilisation can only become effective if the member states nurture sufficient trust in one another, which seems to be anything but a given right now. For instance, the announcement of the reintroduction of systematic border controls on the border between France and Belgium was accompanied by a mutual questioning of the two countries' police services, when their cooperation is in fact crucial in ensuring the effectiveness of the struggle against the terrorist networks. But then, how is it possible to achieve a fluid and fruitful exchange of information, which is already difficult between national services, if we need to establish them between European countries that continue to spy on one another?

3. A crisis of co-owners to solve this Spring… or in 2018

A dual trend involving a reduction in the lack of trust and solidarity among the Schengen area's member states is under way, driven to revisit the rules governing their cohabitation. Despite all the prophecies predicting the "death of Schengen", we can recall that none of these member states wish to leave the common home, including in Central and Eastern Europe. This shows that "a race against time" has begun between the Europeanisation of external border monitoring and the temporary reintroduction of national border controls, which constitute an "application" rather than a "suspension" of the Schengen Agreement.

In the event of a specific threat to public law and order, member states can indeed inform the EU of their will to reintroduce systematic border control for two months (in an emergency), then for six months (in a planned manner): Therefore, ongoing safeguard clauses will expire in May 2016. In the event of a permanent threat to public law and order, they can also reintroduce it for two years in accordance with a procedure that requires the approval both of the European Commission and of the Council of Ministers. If such an agreement came in Spring 2016, it is in reality not until 2018 that the ongoing race against time will find its conclusion.

Such an extension of national border controls would conform to the text of the "Schengen Borders Code" but it would nevertheless go against its spirit and its purpose, because it would bring considerable economic, financial, and human costs, which drive national authorities to practice limited controls rather than "systematic" ones. This prolongation could only radicalize the terms of the central political question facing the people and the member states today: are they going to hold to a position seeking to maintain the rights associated with membership of the Schengen area (in terms both of freedom and of police and judicial cooperation) while agreeing to shoulder more of the duties that go with that (in terms both of solidarity and of border control)? Or are they going to let Schengen fall apart without improving their ability to deal with the migratory crisis or the terrorist threat?

The race against time between national and European border controls will be a fools' game if it obscures the fact that the essential thing for Europeans is to act beyond borders and attack the source of conflicts that have created a massive flow of refugees and terrorist safe havens. Once again, that entails a spirit of cooperation and solidarity between the countries of the European Union, which remain the first victims of their lack of efficiency on the diplomatic and military front, regardless of Schengen's fate.

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