



The Schengen Zone: While Croatia Joins, Further Enlargement Faces Challenges

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In December, EU interior ministers unanimously supported the expansion of the Schengen zone to include Croatia. At the same time, the Council did not agree on the membership of Romania and Bulgaria. The former was opposed by Austria, and the latter by both Austria and the Netherlands. Although Croatia's smooth integration into Schengen may weaken the arguments of sceptics of further enlargement, without deep reforms of the entire system and the EU's migration policy, it will be very difficult to obtain consent for membership of other candidates.

Croatia's accession to Schengen is the first extension of the border-free zone since 2011, when Liechtenstein joined the group. It is also the first enlargement of this area since a series of crises—mass migration and the pandemic—which undermined the mutual trust of members, weakening the coherence of Schengen.

Croatia's Path to Schengen. Based on the 2011 agreement on accession to the European Union, after its accession in July 2013, Croatia started to implement the Schengen *acquis*. Less than two years later, in March 2015, it declared its readiness to undergo verification of the application of the *acquis*. The evaluation process was carried out by teams of experts from the European Commission (EC) and the Member States from June 2016 to May 2019. They assessed Croatia in terms of data protection, police cooperation, visa and return policy, border management, implementation of the Schengen Information System (SIS), firearms legislation, and judicial cooperation in criminal matters.

The experts' recommendations resulted in the need for Croatia to introduce adjustment measures, including in the judiciary (e.g., reform of the criteria for the appointment and promotion of judges), anti-corruption system (intensification of investigations conducted by such institutions as the Office for the Suppression of Corruption and Organised Crime, or USKOK, or a police unit specialising in combating corruption and organized crime, or PNUSKOK), as well as protection of human rights (e.g., creation of a mechanism for monitoring

human rights as part of border operations). As a result, on 22 October 2019, the EC decided that this country had taken the necessary steps to meet the conditions necessary for the application of all relevant parts of the Schengen *acquis*. On 10 November 2022, the European Parliament (EP) issued a positive opinion on this matter. On 8 December 2022, the Council of the EU decided to admit Croatia to Schengen.

On 1 January 2023, checks on persons at the internal land and sea borders between Croatia and other Schengen countries will be abolished, as well as all restrictions on the use of the SIS by this country. Croatia's borders with Serbia, Bosnia and Herzegovina, and Montenegro will become external Schengen borders. On 26 March, checks at airports between Croatia and the other countries of the zone will disappear.

Countries Waiting for Accession. Bulgaria, Romania, and Cyprus are still in the queue for Schengen. Their membership is foreseen in EU accession agreements. Although these agreements were signed much earlier than the one with Croatia, these three countries' accession to Schengen has still not been approved by the other members of the zone.

In accordance with the 2005 Act of Accession, Bulgaria and Romania started the implementation of Schengen rules with their accession to the EU in January 2007. The process of evaluating their progress started in 2009. In June 2011, both the Council and the EP agreed that the review was successful. Despite the positive assessment, however, for

over a decade the Council has not made a decision on the accession of these countries to the zone. In order to break the deadlock, in March 2022 Bulgaria and Romania invited a team of experts coordinated by the Commission to re-examine the application of Schengen rules on their territory. Although a voluntary evaluation mission in October 2022 did not diagnose problems with the application of Schengen rules in Romania and Bulgaria and both countries made a number of diplomatic efforts to convince countries opposed to enlargement, the issue of their membership is still pending.

Cyprus' accession to the Schengen area is problematic due to the territorial division of the island since 1974. In May 2019, the country declared its willingness to join the area and its readiness to undergo an evaluation of the application of the Schengen *acquis*. Currently, a team of experts is conducting an evaluation, several monitoring missions have been carried out since November 2020, and in August the EC proposed to include the country in the SIS.

Criticism of Further Enlargement. The arguments of the opponents of further Schengen enlargement focus on both the internal situation in the candidate countries and the condition of the zone itself. Upon accession to the EU, the EC included Bulgaria and Romania in the Cooperation and Verification Mechanism (CVM) in order to monitor progress in the field of judicial reform and combating corruption, and in the case of Bulgaria, also organised crime. Although formally the mechanism is not related to Schengen, insufficient progress in implementing the EC's recommendations within the zone framework is an argument for opponents of accession. In a December vote, the Netherlands took advantage of it, justifying its opposition to admitting Bulgaria as a member of the zone.

Austria argues that the lack of consent to enlargement is primarily due to the zone's internal weaknesses. After a series of crises, many Member States, including Austria, maintain checks on selected sections of internal borders, extending their duration beyond the limits provided for in the Schengen Borders Code. Without agreement on reform of the entire zone, assumptions for which were presented by the EC in June 2022, Austria does not plan to change its position on further enlargement. The more so that, according to the Austrian government, the migration situation on the Balkan route leading to the EU is deteriorating, which results in an increase in the number of unregistered migrants arriving in Austria (about 75,000 people this year). The development of migration challenges on the Balkan route is confirmed by Frontex data: in the

period from January to November this year, 139,000 irregular crossing attempts were registered there, three times more than in the same period in 2021. Austria's fears related to the development of a crisis in this region were not alleviated by the presentation of a new action plan for the Western Balkans by the European Commission on 5 December. It assumes strengthening border management, accelerating asylum procedures and supporting the reception capacity of the Balkan states, combating people smuggling, strengthening cooperation for readmission and returns, and changes in visa policy.

Conclusions and Perspectives. Consent for Croatia's Schengen membership, while opposing the accession of Bulgaria and Romania, results in a number of challenges. First of all, it undermines trust in the EU mechanisms for evaluating the technical and legal capacity of the candidate countries for membership, giving priority to political arguments in this matter. The green light for Croatia's membership in Schengen was linked to the Council's earlier decision to join the euro area at the beginning of 2023. The abolition of border controls is important for the economy, so blocking Croatia's Schengen membership could have had an adverse impact on the monetary union.

Even though Bulgaria and Romania are seeking both euro and Schengen membership, and the Swedish presidency, starting in January 2023, plans to return to voting on the accession of these countries to the zone, it will be difficult to overcome the resistance of the enlargement opponents. Distrust in EU mechanisms for evaluating candidates for membership is another, spurred by doubts related to the possibility of some members to protect the external border because of yet another crisis in the zone, which has been eagerly used in domestic political games. The search for a compromise on the accession of Bulgaria and Romania will increase the pressure to speed up the reforms of the Schengen Border Code and EU asylum policy. The migration situation on the Balkan route and progress in the implementation of the EU action plan for the Western Balkans could be significant.

It is in Poland's interest to include Bulgaria and Romania in Schengen and to counteract the divisions that have grown in the EU due to the blocking of their accession. However, a compromise allowing for enlargement of the zone should not open the door to further expansion of the possibility of restoring internal controls without also developing solidarity mechanisms to relieve the asylum systems of frontline states.