Schengen area: Update and state of play

Passport-free travel across the Schengen area has been called into question as a result of pressure on certain internal EU borders from the rising number of asylum-seekers and migrants seeking to reach certain Member States, as well as security concerns in the wake of the Paris terrorist attacks. In addition to the loss of personal freedom involved, the reintroduction of borders could well bring significant economic costs, which would be felt both within and outside the Schengen area. This briefing provides an update on recent developments and studies on the issue.

Introduction

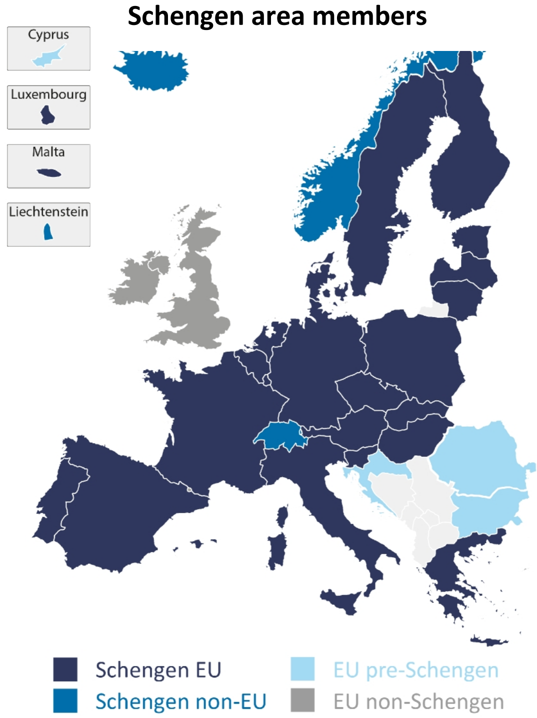
The free movement of goods, services, capital and people within the EU's Single Market has to date been one of the greatest achievements of the European Union. With its 26 member countries, the Schengen area is an important complement to the Single Market, giving tangible reality to the 'four freedoms' set out in the Treaties.

The benefits of Schengen are clear, with the 'four freedoms' allowing greater personal freedom and a more efficient allocation of resources within the EU. Free movement of EU citizens fosters economic growth by enabling people to travel, study and work in another Member State, and by allowing employers to recruit from a larger pool. Mobility of workers has a positive impact on economies and labour markets.

However, the Schengen area faces major challenges today. In response to the considerable influx of refugees into the EU in 2015, and then across internal EU borders, a number of Member States have reintroduced temporary internal border controls at certain crossings. Even on a temporary basis, these border controls are already disrupting the flow of goods and services within the Single Market, with economic costs for business and citizens. In that context, the European Commission has set out a roadmap for a return to the normal functioning of the Schengen area by the end of 2016.

A number of studies have tried to assess the likely impact of re-establishment of border controls within the Schengen area. They identify a threefold impact: firstly, border controls within the Schengen area have certain direct, immediate costs; secondly, they undermine the general progress of the past 20 years; and thirdly, they endanger the future benefits of Single Market and EU integration.

Schengen area members



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PE 579.109

State of play on Schengen

Background

The 1985 Schengen Agreement and the 1990 Convention implementing the Schengen Agreement were formally codified in EU law by the Schengen Protocol to the 1997 Treaty of Amsterdam. In addition to providing common rules on people entering the Schengen area and travel free of internal frontier controls, Schengen-related measures provide for enhanced police and judicial cooperation. Schengen also makes the four freedoms that are the cornerstone of European integration more tangible for individual citizens, by facilitating free movement. Under the Treaties, Schengen-related measures are subject to parliamentary and judicial scrutiny and are part of the *acquis* to be adopted by candidate countries.

The Schengen Borders Code (SBC) of 2006 codified most of the relevant Schengen rules (from the Schengen Implementing Agreement 1990 and other Schengen instruments) concerning controls at external borders, removal of controls at internal Schengen borders (and their temporary reintroduction), and police controls in the zone behind the internal border. In 2011, the European Commission proposed a series of major amendments to the SBC that took the form of two separate instruments that came into force in 2013. These amendments set out the circumstances, time-limits and grounds under which participating Schengen states are entitled to reintroduce intra-state border controls on persons. The SBC also charges the Commission with ensuring that there is an evaluation of the reasons and application of such emergency measures. The Commission may also recommend that the Member State so evaluated takes specific measures with a view to ensuring compliance with the SBC (Article 19b SBC).

Current challenges

The combination of a rising number of asylum-seekers, increasing migratory pressure, security concerns and a fragile economic recovery has put the Schengen area under stress, and called into question its functioning. A 'wave-through' approach applied by some Member States led to the creation of a route through the Western Balkans, allowing mixed flows of asylum-seekers and economic migrants to travel across external and internal EU borders. In response, several Member States reintroduced temporary internal border controls to manage increasing flows of entrants. Over the past year, eight[1] of the 26 Schengen countries have temporarily reintroduced controls on at least some of their borders. These unilateral decisions were based on Article 25 SBC, which allows controls to be reintroduced at internal borders for a period of up to two months. With no significant improvement, controls have been prolonged, on the basis of Articles 23 and 24 SBC, which allow reintroduction of controls at internal borders for a period of up to six months and for an overall period of up to eight months.

Furthermore, in February 2016, the Council adopted a recommendation requiring Greece to address serious deficiencies in the application of the Schengen *acquis*, within three months, under threat of suspension from Schengen for up to two years, as provided for under Article 26 SBC.

Legal framework

Regarding the wave-through approach, the question is to determine when a Member State should allow the entry of third-country nationals at the border and when it should refuse such entry. Article 6 of the Asylum Procedures Directive stipulates that, if a third-country national requests asylum in a Member State, including when the application is made at the border, the Member State must grant that person access to the asylum procedure. The question as to whether that Member State remains responsible for the handling of the particular application is then decided in accordance with the relevant provisions of EU law, including the Dublin Regulation.

However, third-country nationals who have not applied for asylum, despite having had the opportunity to do so, should be refused entry at the external border (Article 5 SBC). Member States that have temporarily reintroduced controls at internal EU borders should also refuse entry to third-country nationals who do not satisfy the entry conditions, irrespective of their intention to apply for asylum in another Member State.

The temporary reintroduction of border controls is provided for as a last resort, in case of a foreseeable or unforeseeable event that poses a serious threat to public policy or internal security, or when a Member State is not able to control the external borders of the Schengen area (Articles 23 to 26 SBC). However, the SBC explicitly states that migratory flows per se cannot be used as a reason to impose border controls.

If serious deficiencies in external border control persist, Article 26(2) SBC may apply. According to this provision, the Council (on a proposal from the Commission) may, as a last resort and as a measure to protect the common interests within the area without internal border controls, where all other measures are ineffective in mitigating the serious threat identified, recommend that one or more Member States decide to reintroduce border controls on all or some internal borders. Should the Council adopt the Commission's recommendation, border controls would still be temporary, and be in place for the shortest possible period in view of the threat addressed. Any longer-term reintroduction of temporary border controls, or a temporary suspension, would require amendment of the SBC or the Treaties. Any temporary internal border controls outside the scope of the SBC would be illegal, and thus subject to infringement proceedings.

Expert views

Some commentators have cast doubt on the substantive case for suspending Schengen rules and re-imposing border controls as a response to the current refugee influx, given that the SBC (Article 3) expressly exempts asylum-seekers from Schengen rules on unauthorised entry across the borders, and that the EU's Asylum Procedures Directive requires Member States to process asylum applications made at the borders.[2] Others have noted that closing internal borders may simply cause a redirection of migrant flows to new routes, rather than a reduction of entries.[3] It has been argued that a reform of the Dublin system (rather than Schengen) and the reinforcement of the EU's common asylum system would provide more appropriate responses to the migration crisis, for instance through addressing the lack of effective and harmonised external border management.[4]

A number of analysts have warned of the potential impact of the suspension of Schengen on other areas of EU law[5] – such as the potential weakening of police and judicial cooperation on terrorism and organised crime; hindrances to intra-European trade; and obstacles to free movement of people, goods and services that could result in an estimated loss of more than €100 billion for the EU economy. Other observers suggest that the Schengen area needs to evolve in a direction similar to that of the euro area,[6] by creating a common institution to guard the external borders and reinforce the existing framework for internal controls. The UNHCR urged the EU and Member States to use and further strengthen the tools and instruments they have developed over time in the Common European Asylum System, in order to ensure more effective arrangements for those in need of protection and for those who do not qualify for it.

Costs of the reintroduction of border controls

Several recent studies have looked at the potential cost of reintroduction of border controls. The analysis below is taken directly from the sources referenced.

Categorising the costs
The immediate costs appear to fall under four categories:

1. Impact on cross-border transport of goods
The highest and most immediate impact of border controls would be felt by the road haulage sector. It is estimated that the additional waiting time for lorries at border crossings could represent an increase in direct costs of between **€1.7** and **7.5** billion each year.[7]

Member States such as Poland, the Netherlands and Germany would face over **€500** million in additional costs for the road transport of traded goods, while others, such as Spain and the Czech Republic, would see their businesses paying over **€200** million in additional costs.[8] In the case of France, it is calculated that extra waiting time of half an hour at border crossings would result in additional costs for goods transport of **€124** million a year in total for imports and exports.[9]

Beyond the transport sector, a simulation by Morgan Stanley suggests that manufacturing is likely to be significantly affected by a 5% increase in transport costs. Assuming that companies have little possibility of passing on the higher transport costs, the study shows that a suspension of Schengen would reduce the level of gross operating surplus (GOS) in the manufacturing industry by 2%,[10] which represents €11.1 billion.

Eventually, these additional costs are likely to have a considerable impact on intra-Schengen trade. The reintroduction of border controls inside the Schengen area is equivalent to a 3% tax on the value of all trade flows between countries currently in the Schengen area. Such a situation could lead to a decrease in average bilateral trade between Schengen member countries from 12.5% to 10.5% by 2025, depending on whether the importing country and the exporting country are also members of the European Union.[11]

2. Impact on commuting workers
There are 1.7 million workers in the EU who cross a border every day to go to their work. These citizens would see their quality of life significantly affected. According to the Commission, border controls would cost commuters, as well as other travellers, between **€1.3** and **5.2** billion in terms of time lost.[12]

In addition, increased commuting time would reduce cross-border job opportunities: for France, for instance, it could equal a loss of 5 000 to 10 000 cross-border workers, and thus represent an economic loss of **€150-300** million annually.[13] More broadly, such a situation would lead to greater differences in regional job markets and more uneven economic development, including of property prices.[14]

3. Impact on tourism
The reintroduction of border controls within the Schengen area would also affect tourism, and particularly cross-border day-trips. The loss of time for EU citizens due to controls at borders is expected to lead to a decline in short trips for leisure or shopping, with a noticeable loss of revenue, in particular in locations close to borders.[15]

Overall, the Commission estimates[16] that at least 13 million tourist nights could be lost in the EU due to the reduction of intra-Schengen tourist trips caused by cumbersome border controls, with a total cost of **€1.2** billion for the tourism sector. In the case of France, which is a major tourist destination, the loss in revenues would amount to around **€500 to 1 000** million per year.[17] And if border controls also lead to fragmentation of the EU's common visa policy, the potential impact for the EU tourism industry could multiply to between **€10** and **20** billion per year.

4. Border control costs for the public sector

Between **€600** million and **€5.8** billion in additional administrative costs would have to be paid by Member-State governments, due to the need for increased staff for border controls. Investment in the necessary infrastructure would add several billion.[18] However, these estimates do not take into account the indirect effects on law-enforcement capacity and priorities in other sectors, for instance the displacement of resources that would otherwise be used to fight crimes unrelated to borders, such as corruption or cyber-crime.

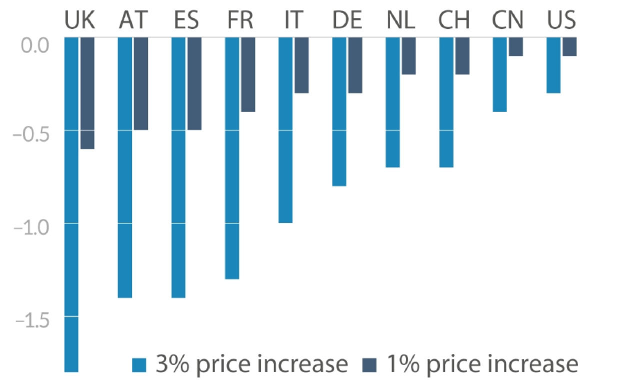
Indirect costs

As regards social costs, there would be an impact on cross-border communities, as well as risks of discrimination at border checks. Moreover, cultural exchanges, cross-border movements and experiences of life across borders would decline. There could be a loss of trust of citizens in their Member States and the EU's ability to uphold the rule of law, including border control and security measures. By definition, a reduction in freedom of movement would jeopardise one of the most visible and powerful symbols of European integration, which the Schengen area has represented.

Impact on overall GDP

According to a cautious forecast made by the Bertelsmann Foundation, the GDP growth rates of western European countries could be between 0.02 and 0.06 percentage points lower per year, based on a one per cent increase in import prices in intra-European trade. In its more pessimistic scenario, based on a three per cent increase in prices, GDP growth rates would be between 0.07 and 0.18 percentage points lower. (Figure 1 shows the cumulative effect of the changes on GDP growth rates in certain countries up to 2025.)

Figure 1 – GDP 'deviations' from reference scenarios, 2025 (in percentage points change for the whole period)



Data source: Bertelsmann Foundation (Prognos AG).
(CH: Switzerland, CN: China, US: United States)

By 2025, the cumulative economic performance of the EU overall would be between **€500** billion and circa **€1 400** billion lower than in the case of EU internal borders remaining open. (See Table 2 overleaf.)[19]

The expected loss of growth in Germany would amount to at least **€77** billion by 2025. Under more pessimistic assumptions, macroeconomic costs would add up to **€235** billion. Other EU Member States, such as France, Spain, the United Kingdom, Austria and Poland, would also be strongly affected by a suspension of the Schengen Agreement. French GDP would be 0.5% lower in 2025 compared to a 'business as usual' scenario, according to a report prepared by France Statégie for the French government.[20]

Table 2 – GDP variations in western Europe, 2016-2025

	Scenario 1 – 1% price increase		**Scenario 2 – 3% price increase**	
	Deviation from reference scenario in % points p.a.	**Cumulative effect in € billion**	**Deviation from reference scenario** in % points p.a.	**Cumulative effect in € billion**
Germany	–0.03	–77.2	–0.08	–234.8
France	–0.04	–80.5	–0.13	–244.3
United Kingdom	–0.06	–87.2	–0.18	–264.3
Italy	–0.03	–48.9	–0.11	–148.5
Austria	–0.05	–14.2	–0.14	–143.2
Switzerland	–0.02	–9.4	–0.07	–128.7
Spain	–0.05	–46.2	–0.14	–140.8
EU-24	**–0.04**	**–470.5**	**–0.12**	**–1 430.1**

Source: Bertelsmann Foundation (Prognos AG).

According to the Bertelsmann Foundation, border controls would have particularly significant consequences for the economies of Austria, Spain and the United Kingdom.[21] According to the France Stratégie study, the consolidated GDP of the Schengen area would be 0.86% lower in 2025, which is equivalent to a loss of more than **€100** billion.[22]

The Morgan Stanley analysis estimates that the overall loss of growth resulting from a 5% rise in transport costs would amount to 0.2% of GDP, which represents €27.8 billion,[23] once the direct impact on transport and indirect effects on other sectors are taken into account.

Impact on specific Member States

As illustrated above, the costs of suspending Schengen fall into four main categories (impact on cross-border transport of goods, on cross-border commuters, on tourism, and on public sector expenditure).

Based on this categorisation, it appears that Europe's smaller and more open economies would be the most strongly affected, with Hungary emerging as the most vulnerable to a reversal of free movement on the continent. Countries such as Estonia, Croatia, Luxembourg and Slovakia would also be disproportionately hit by fragmentation of the Single Market. By comparison, the relative impact on France, Germany, Denmark and Sweden would be less pronounced, since these countries are larger and thus, in relative terms, more closed economies. For further indications of the different impacts on individual Member States, see the annexed table, adapted from the Morgan Stanley analysis.

The European Added Value Unit of EPRS is currently conducting two studies regarding the reintroduction of border controls. The first will assess the economic impact, setting out the microeconomic mechanisms through which restrictions within the Schengen area create economic costs and estimating the macroeconomic costs of 'non-Schengen'. The second study will be an assessment of the economic, social and political costs of the reintroduction of border controls among Schengen Member States.

Latest political developments

The **European Council** of 18-19 February 2016 gave a clear mandate to restore, in a concerted manner, the normal functioning of the Schengen area, to apply fully the Schengen Borders Code, while taking into account the specific nature of the maritime borders, and to end the wave-through approach.

As a follow-up, on 4 March, the **European Commission** presented a roadmap, setting December 2016 as the target date for the end of exceptional measures. Action is planned in three main areas: addressing the deficiencies identified in Greece's management of the external border; ending the wave-through approach and restoring compliance with EU law; and introducing a coordinated approach to temporary border controls, with the aim of lifting all internal border controls by December 2016.

In addition, wider structural deficiencies in the protection of external borders will be addressed by the regulation on a European Border and Coast Guard, proposed by the Commission in December 2015 and currently under discussion. According to the Commission's roadmap, the European Border and Coast Guard system should be operational in August 2016 and undergo its first vulnerability test in September. The proposed targeted modification of the SBC and the forthcoming revision of the Dublin Regulation should provide means to reinforce the security of external borders, while preserving free movement and complying with international protection obligations.

Finally, cooperation with third countries on the Balkans route, the implementation of the EU-Turkey Joint Action Plan and the prompt mobilisation of EU resources and of Member States' contributions will be critical on the road 'back to Schengen'.

The Commission's roadmap was endorsed in a statement of 7 March by the EU Heads of State or Government. The European Council of 17-18 March reiterated the priority given to the common implementation of a comprehensive EU migration strategy, and to regaining control of the Union's external borders.

Despite the challenges it is currently facing, the Schengen area is considered one of the great achievements of the EU. For many European citizens, passport-free travel is one of the EU’s most important and recognisable accomplishments, and its disappearance would therefore represent a significant loss.[24] The current roadmap is aimed at avoiding this situation, even if more extensive reforms may be required in the longer term.

Endnotes

[1] Belgium, Denmark, Germany, Hungary, Austria, Slovenia, Sweden and Norway; The Commission publishes a list of Member States’ notifications of temporary reintroduction of border controls at internal borders.

[2] S Peers, 'Can Schengen be suspended because of Greece? Should it be?', EU Law Analysis blog, 2 December 2015.

[3] E Guild, E Brouwer et al, 'What is happening to the Schengen borders?', CEPS, December 2015.

[4] E Guild, C Costello et al, 'Enhancing the Common European Asylum System and Alternatives to Dublin', CEPS, September 2015.

[5] M. Menghi & Y Pascouau, 'The Schengen Area Under Threat: Problem or Solution', Jacques Delors Institute, 2 September 2015.

[6] E Guild, E Brouwer et al, op. cit.

[7] Communication from the Commission, Back to Schengen – A Roadmap, 4 March 2016.

[8] Idem.

[9] France Stratégie, The Economic Cost of Rolling Back Schengen, February 2016.

[10] For the EU-28, gross operating surplus in 2015 was €557 billion, of which 2% amounts to €11.1 billion.

[11] France Stratégie, op. cit.

[12] Communication from the Commission, Back to Schengen – A Roadmap, 4 March 2016

[13] France Stratégie, op. cit.

[14] Bertelsmann Foundation, Departure from the Schengen Agreement, February 2016.

[15] Idem.

[16] Communication from the Commission, State of Play of Implementation of the Priority Actions under the European Agenda on Migration, 10 February 2016.

[17] France Stratégie, op. cit.

[18] Communication from the Commission, Back to Schengen – A Roadmap, 4 March 2016

[19] Bertelsmann Foundation, op. cit.

[20] France Stratégie, op. cit.

[21] Bertelsmann Foundation, op. cit.

[22] France Stratégie, op. cit.

[23] In 2014, EU-28 GDP amounted to €13 921 billion, 0.2% of which is €27.8 billion.

[24] J Nancy, 'Parlemeter 2015' European Parliament Eurobarometer, Part I: Main challenges for the EU, migration and the economic and social situation, European Parliament, October 2015.

Annex: Scorecard – Impact of the suspension of Schengen

Rank		Degree of openness to international goods trade (%)*	Share of intermediate goods trade in total trade (%)*	International haulage (% of total haulage)*	Share in intra EU maritime transport (%)	Share of outbound passengers (intra-EU) in total passengers carried by air (%)*	Share of net foreign tourism receipts in GDP (%)*	Tourism (direct) GDP (% of total GDP)	Overseas Visitors (as % of domestic population)*	Share of cross-border commuters (%)*
1	HU	144.2	58.6	74.2	NA	79	3	5.5	46.8	2.3
2	HR	62.7	54.8	53.1	33.6	82.1	15.2	10.4	269.4	0
3	EE	113.6	53.2	73.4	62.7	76.3	2.5	4.6	150.7	3.3
4	SI	121.3	57.3	88.1	27	56.9	4	4.9	115.2	NA
5	LU	71.1	46.1	91	NA	83.1	1.6	2.1	188.9	1.8
6	SK	164.8	52.9	84.9	0	80.3	0	3	27	5.6
7	PT	60.3	55.7	73.3	39.9	79.3	5	9.2	92.9	NA
8	MT	78.1	48.4	20	NA	90.6	11.9	0	329	0.6
9	BG	108.6	61	73.5	22.2	70.4	5.2	NA	38.5	0
10	CZ	138.7	56.2	72	NA	68.2	1.5	2.9	77	0.6
11	AT	75.5	55.6	42.8	NA	68.7	2.3	5.5	261.5	1.2
12	LT	128.7	54.1	90.4	50.9	77.6	1	NA	46.1	0
13	LV	94.7	50.6	78.1	75	71.6	1	NA	71.5	1.5
14	BE	115.1	58.6	42.1	32.7	69.6	-1.8	NA	70.4	2.2
15	RO	67	61	63.2	15.4	85	-0.1	1.8	9.6	0
16	ES	48.6	52.8	34.1	29.3	81.4	3.3	10.9	114.7	NA
17	EL	39.4	56.4	23.3	41.6	76.9	5.7	5.3	131.8	0
18	IE	103.7	47.5	21.7	76	85.4	1.4	3	48.7	NA
19	PL	79.6	53	59.5	58.7	76.9	0.6	2.1	14.4	0.8
20	NL	115.3	50.9	57.4	26.4	60.2	0.2	3.7	82.7	0.5
21	FI	52.7	61.7	14.2	72.2	72.7	-0.2	2.5	50.1	0.1
22	CY	46.6	41	2.5	46.7	66.9	5.8	NA	225.6	NA
23	IT	46.2	52.7	12	39.6	73.6	0.6	3.7	85	0.4
24	SE	58.7	51.9	8.4	79.1	74.3	-1	2.8	56.6	1
25	FR	43.3	50.2	9.2	26.6	54.4	0.5	7	70	1.7
26	DE	69.5	52.2	16	39.7	59.8	-1.3	4.4	40.7	0.6
27	DK	61.3	44.6	24	73.5	69.7	-1.1	1.7	43.8	0.3

Indicators marked with * are included in the country score. The other indicators were not considered due to limited data availability.
Source: Morgan Stanley Research; Original data sources: Eurostat, OECD, Morgan Stanley Research.

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