

The End of Schengen or a Future for Schengen?

Copenhagen 25 May 2016

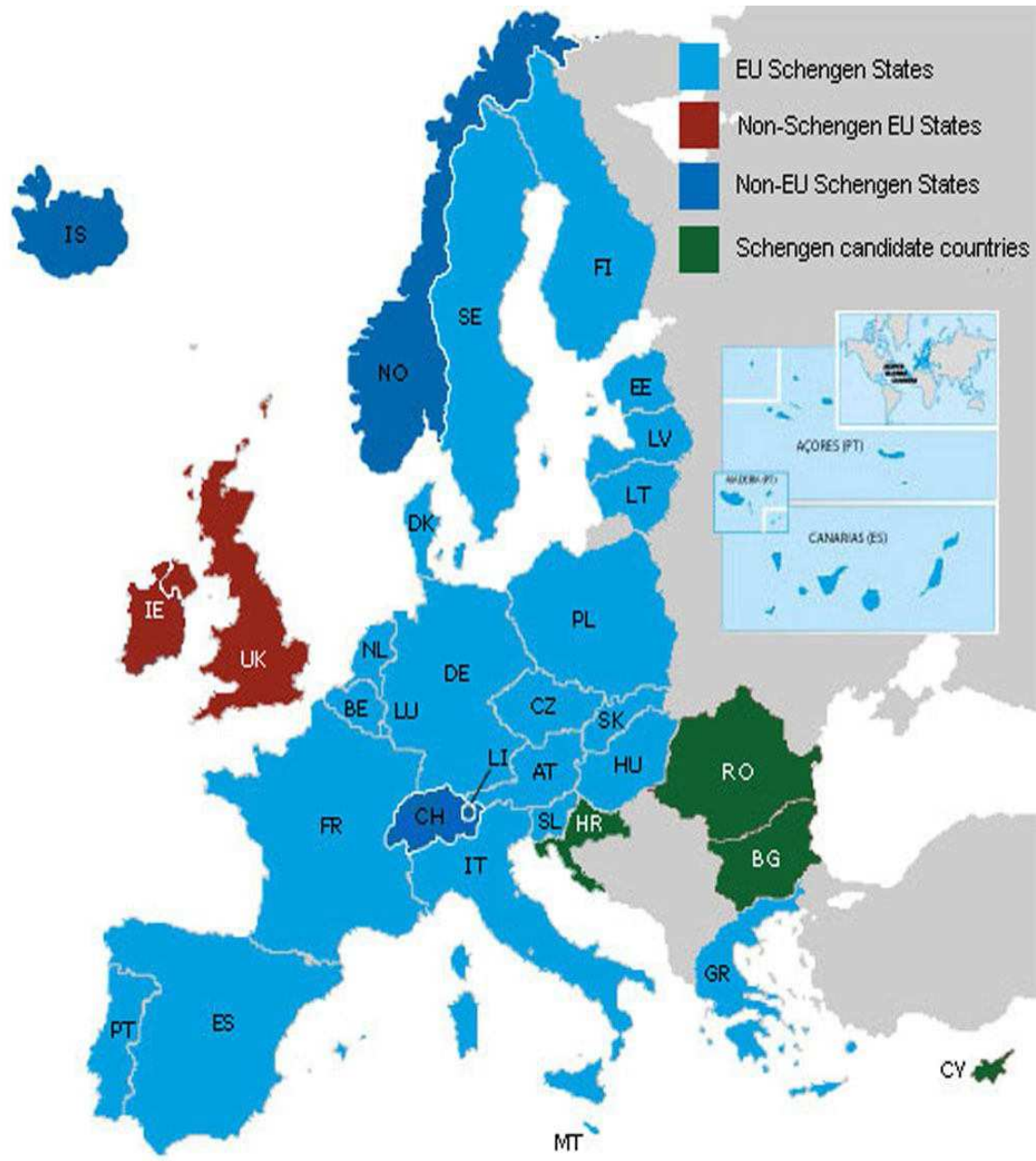
Schengen not new

Abolition of controls at internal borders:

- 1952 Common Travel Area (GB and Ireland)
- 1957 Nordic Union
- 1962 Benelux

Schengen a magnet

- 1984 Agreement Saarbrücken (GE + FR)
- 1985 Schengen Agreement (GE+FR + Benelux)
- 1995 Schengen operational in 7 states
- 2016: Schengen =22 EU + 4 non-EU Member States
- Schengen is magnet => diversity between MS
major problem (“myth of uniformity”)



Schengen is more than borders I

- Schengen was established mainly for *economic* and *political* reasons
- *Economic*: Internal Market, international transport, tourism, cross border employment
- *Political*: free movement reinforces relations and Schengen became core element of EU: Article 3(2) TEU and Article 67(2) TFEU

Schengen is more than borders II

Schengen co-operation (acquis) covers also:

- Common visa policy
- Free circulation up to three months
- Schengen Information System
- Dublin
- Police cooperation
- Drugs policy

Denmark fully participates in Schengen acquis

Schengen core element of EU law

- “The Union *shall offer its citizens an area of freedom, security and justice without internal frontiers*, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.” Article 3(2) TEU
- The Union “shall ensure the *absence of internal border controls for persons...*” Article 67(2) TFEU

Schengen Free movement of EU citizens

- **Schengen:** no controls at internal borders for all persons plus for lawfully resident Third Country Nationals (TCN) free travel in Schengen area up to three months; TCN **no** right to live and work in other Schengen states
- **Full free movement** only for EU citizens and family members: right to enter, to live and work in other EU Member State

Temporary re-introduction of controls at internal borders not new

- Rules in 1990 SIA + 2006 Schengen Border Code
- 1996-2015: a single state, 7 - 30 days, summits, int. conferences, football championships, etc.
- In 2015: high number of refugees, several states, and for several months; but **only in 6 of 26** Schengen states (AU, GE, SL, DK, SW, NO) and **only at small part of internal borders;**
- FR and BE introduced controls for other reasons
- Not in BE, FI, LU, NL, CH with many refugees

EU Council Decision 12 May 2016

- On basis Article 29 SBC; allows continuation of controls at some internal borders due to disfunctioning controls at Greek external borders
- Only in five Schengen states: AU,GE,DK,SW,NO
- Only at limited part of border, certain points
- For six months; reports to EC every 2 months
- Almost unanimous: opposition Greece + Slovenia
- No exclusion of Greece; no mini-Schengen
- Justification: many refugees => Greek borders?

Justification still present?

Registered new asylum seekers per month:

	Oct/Nov 2015	Mar/April 2016
Germany	206,000	16,000
Sweden	39,000	2.200
Netherlands	10,000	1,200
Denmark	5,000	< 800

Boarder controls real and symbolic

- Controls at external and internal borders have effect on movement of persons
- Border controls are partly symbolic, giving feelings of security, but never fully effective, even barbed wire (Hungary) or German electric wires at Belgian-Dutch border in WW-I
- Border control ineffective for fighting most forms of criminality (lack of focus)

End of Schengen?

- Not first time press + politicians: “End of Schengen” or “Can Schengen be saved?”
- 1995-1996: conflict FR NL drugs policy; solution => integration Schengen in EU
- 2011: conflict Italy France: Tunisian migrants; solution => better evaluation system and longer re-introduction of controls in SBC
- 2016: this possibility now applied by Council

A Future for Schengen

- Advantages of Schengen co-operation outweigh risks and disadvantages (magnet)
- High economic and political costs
- Safety valvet in Schengen Border Code works
- Until 2015 only 'peer review' by Member State, now Commission cycle of external expert control
- Commission proposals December 2015 for more systematic checks at external borders (EU citizens) and for EU Border Guard
- Each 'crisis' in EU results in more EU

Costs re-introduction controls at Schengen internal borders

- Report French government costs for France
- Short term: 1 – 2 billion euro: less tourism (50%), cross border employment (38%) and losses international transport (12%)
- Long term: 10-20% less intra Schengen trade
- Yearly loss France 10 billion euro = 0,5% GDP
- Bertelsmann report: loss Germany 8-24 billion plus political and social costs