



## **YOU CAN'T HAVE YOUR CAKE AND EAT IT: MIGRATION, BORDERS CONTROL AND SOLIDARITY**

IED Research Project: “Migration, borders control and solidarity: Schengen at stake?”

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*Abstract: The subject of this paper is to clarify policy interactions between border-free travel, cooperation in the realm of homeland security, integrated border management, migration and asylum policy and regional engagement, then building a policy coherence index for the 28 EU Member States based on official positions of their governments regarding these five aspects. Unsurprisingly, more integrated border management; a fairer migration and asylum policy and deeper regional engagement have been found weakly supported by a majority of Member States, even those which declare to be committed to save the Schengen acquis. It is hoped that this paper will contribute to provide arguments to the European Parliament, the Commission and governments that have already understood that status quo in the realm of justice and home affairs is not an option, to convince other countries to make a clear choice and do what it takes to save Schengen, or leave it.*

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### **1. From the “migrant crisis” to questioning Schengen**

“Greece warned EU will reimpose border controls”, the influential daily Financial Times run as a headline on December 1, 2015<sup>1</sup>. While Slovakia and Austria have been the most radical on the issue, raising the threat of exclusion from the Schengen area, the European Commission itself, which cannot be suspected of hostility towards border-free travel, has also shown signs of exasperation regarding Greece's inability to manage migrant flows and its refusal to receive outside assistance.

So far, neither Greece, nor any other country has been formally suspended from the Schengen area, but 10 states out of 26 parties to the Agreement have at some point during the past 12 months taken this decision for themselves and on their own initiative: Austria, Belgium, Denmark, France, Germany, Hungary, Malta, Norway, Slovenia and Sweden.

Similarly to the euro crisis, the integrated group crumbles in two directions: “upwards” for countries convinced they cannot trust their partners and that they will better cope alone (or within smaller coalitions, like a Germany-led hard currency union, a mini-Schengen or Schengen II), and “downwards” for allegedly less capable states on Europe's

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<sup>1</sup> . Alex Barker, Kerin Hope, Duncan Robinson, “Greece warned EU will reimpose border controls”, *Financial Times*, 1 December 2015.

southern periphery. This decomposition scenario assumes that the gap between the core and the rest has become too wide to be filled, and the South is unable or unwilling to stick to commonly agreed rules, be they the Stability and Growth Pact in the economic realm or the Dublin regulation on asylum policy.

Interestingly, though many recognize in both cases that the rules themselves are fundamentally ill-designed and that they aggravate problems more than they contribute to solve them, the urgent character of these crises has encouraged EU institutions and Member States to focus on “firefighting”, postponing to a later date an overhaul of the whole migration policy and its different components – asylum policy, border management, but also cooperation with third countries and intelligence sharing, whose necessity has been repeatedly demonstrated over the last months in the wake of Paris and Brussels bombings.

That is not to say that the European Union waited for the so-called “migrant crisis” to be the hot topic of the day to consider revising its policy on migration. In July 2014, when newly elected president of the European Commission Jean-Claude Juncker presented his programme to the European Parliament, migration was one of ten points mentioned, though far below economic matters<sup>2</sup>. The European agenda was at that time dominated by poor growth prospects and the Russian-Ukrainian war while migration, despite the highly publicized shipwreck off Lampedusa island in October 2013, did not trigger the same level of reaction as would, two years later, the photos of a Syrian child found drown on Turkish beaches.

What were the main elements proposed by President Juncker in his political guidelines? The only major changes actually had to do with legal migration, seen from an economic and demographic perspective – thus not in relation with asylum seekers – and border control. Concerning the latter, three instruments were discussed: enhanced cooperation with third countries, strengthening Frontex and more severe sanctions against human traffickers.

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<sup>2</sup> . Jean-Claude Juncker, “A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change – Political Guidelines for the next European Commission”, Strasbourg, 15 July 2014, [https://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines\\_en.pdf](https://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines_en.pdf) (accessed 3 May 2016).

Asylum policy, however, was to remain based on “*the newly agreed common asylum system*”, with one possible innovation: “*using the European Asylum Support Office to assist third countries and Member States authorities in dealing with refugees and asylum requests in emergency situations, where appropriate on the ground in a third country that is particularly concerned*”<sup>3</sup>.

In other words, the cardinal rule of the Dublin system, i.e. that responsibility for examining asylum applications falls on the first EU country of entry, was to be left unchanged, even if it creates a disproportionate burden on Member States located along EU external borders or reputed to offer better living conditions – over the last years, on average, 5 Member States received more than 75% of the total of asylum applications lodged in the EU-28<sup>4</sup>. The only foreseen remedy was to provide them with technical “*assistance of the Commission, other Member States, EASO and other relevant Union agencies*” in case of “*particular pressure*”<sup>5</sup>, but this was no exception to the Dublin mechanism, as responsibility for examining applications was to remain on these countries.

## 2. Towards a revision of the Dublin system?

The unfair character of the Dublin system has been well identified for years. In a communication of 2011 entitled “Enhanced intra-EU solidarity in the field of asylum – An EU agenda for better responsibility-sharing and more mutual trust”, the Commission explicitly made mention of a relocation mechanism, “*consist[ing] of transferring beneficiaries or applicants for international protection from one Member State to another, with the receiving Member State assuming responsibility for examining the application or for integration measures*”<sup>6</sup>.

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<sup>3</sup> . *ibid.*.

<sup>4</sup> . Author's own calculations based on Eurostat, “Asylum statistics”, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics) (accessed 3 May 2016).

<sup>5</sup> . Regulation (EU) N° 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, Art. 33 §1, [2013] OJ L 180/31.

<sup>6</sup> . European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on enhanced intra-EU solidarity in the field of asylum. An EU agenda for better responsibility-sharing and more mutual trust*, COM(2011) 835 final, Brussels, 2 December 2011.

Yet, because the idea was perceived as “contentious” and in absence of an urgent need to open the Pandora box of the Dublin mechanism, “*the Commission [did] not consider useful to propose an EU mechanism for relocating applicants for international protection for the moment*”. One had to wait May 2015 to see the Commission eventually acknowledge the necessity to set up a relocation mechanism, not only as a temporary response to an emergency but as a “*lasting solution*” in the form of “*a permanent system for sharing the responsibility for large numbers of refugees and asylum seekers among Member States*”<sup>7</sup>.

The proposal, which was a major shift compared with the content of President Juncker's political guidelines expressed less than one year before, was also bold in relation to the European Council's statement released a month earlier. At the end of its special meeting on migratory pressures in the Mediterranean, the European Council committed to “*increase emergency aid to frontline Member States and consider options for organising emergency relocation between all Member States on a voluntary basis*”<sup>8</sup>, but without paving the way for a revamp of applicable rules in ordinary times.

The Commission, for its part, tried to justify its U-turn by explaining that “*when the Dublin system was designed, Europe was at a different stage of cooperation in the field of asylum. The inflows it was facing were of a different nature and scale. When the Commission undertakes its evaluation of the Dublin system in 2016, it will also be able to draw on the experience from the relocation and resettlement mechanisms. This will help to determine whether a revision of the legal parameters of Dublin will be needed to achieve a fairer distribution of asylum seekers in Europe.*”

Unsurprisingly, a majority of Member States did not share the Commission's diagnosis, and even dismissed<sup>9</sup> its proposal to relieve Italy and Greece from 40,000 asylum

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<sup>7</sup> . European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration*, COM(2015) 240 final, Brussels, 13 May 2015.

<sup>8</sup> . European Council, “Special meeting of the European Council, 23 April 2015 – statement”, <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/> (accessed 3 May 2016).

<sup>9</sup> . Euractiv, “Ministers reject Commission’s immigrant quota proposal”, 17 June 2015, <http://www.euractiv.com/section/justice-home-affairs/news/ministers-reject-commission-s-immigrant-quota-proposal/> (accessed 3 May 2016).

seekers by relocating them across the EU<sup>10</sup>. A blur compromise was later found at the European Council level to dispatch 40,000 asylum seekers, but on a “voluntary” basis and according to a distribution key that was yet to be agreed<sup>11</sup>.

Because the effects of extraordinary inflows of immigrants were mainly felt in frontline countries, with limited consequences elsewhere, the majority of Member States was still not decided to see the “migrant crisis” as a common problem, and except among opposition parties of a few countries like France, it was not really associated with the most important benefit of the Schengen area: border-free travel. Therefore, EU officials could celebrate the 30<sup>th</sup> anniversary of the signature of the Schengen Agreement without thinking that it might soon come close to an end.

### 3. Same causes, same effects

The fact that France has been one of the most critical countries regarding the Schengen *acquis* – without always being very clear on which parts exactly were considered as flawed – is no coincidence. To some extent, the current “migrant crisis” is a repetition on a wider scale of a situation experienced by Paris and Rome in 2011 when Italy, flooded by large waves of Tunisian migrants *en route* to France, was accused by the French authorities to grant them travel documents in order to wave them through.

In reaction, the French government decided to re-establish checks on the border with Italy, until the two countries eventually convinced their European partners to accept a limited reform of the Schengen Borders Code<sup>12</sup>. The new regulation, however, did nothing to tackle the roots of the dispute, that is the refusal of EU Member States to bring assistance to Italy in dealing with growing flows of immigrants.

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<sup>10</sup> . European Commission, *Proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece*, COM(2015) 286 final, Brussels, 27 May 2015.

<sup>11</sup> . Georgi Gotev, “EU migration meeting turns into fracas”, *Euractiv*, 26 June 2015, <http://www.euractiv.com/section/justice-home-affairs/news/eu-migration-meeting-turns-into-fracas/> (accessed 3 May 2016).

<sup>12</sup> . Yves Pascouau, “The Schengen Governance Package: The subtle balance between Community method and intergovernmental approach”, European Policy Centre, 12 December 2013, [http://www.epc.eu/documents/uploads/pub\\_4011\\_schengen\\_governance\\_package.pdf](http://www.epc.eu/documents/uploads/pub_4011_schengen_governance_package.pdf) (accessed 3 May 2016).

Four years later, during the second half of 2015, Greece had to manage not tens, but hundreds of thousands of asylum seekers whereas its administrative capacity, notoriously low, had been all the more weakened by years of sharp austerity regime. Unable to register all the migrants, provide them with decent conditions and examine their applications, Athens, intentionally or not, let many continue their journey forward along the Western Balkan route through Macedonia, Serbia, Hungary or Croatia, then Austria and Germany as final destinations.

Besides the difference in volume, the length of the path and the lack of coordination between states made the problem worse and worse. For instance, the erection during the summer of a fence on the Hungarian-Serbian border redirected and concentrated flows on Croatia, bringing further chaos in this country. Also, Chancellor Merkel's decision in August to unilaterally suspend the application of the Dublin rule of the first country of entry and accept all asylum requests from Syrian citizens encouraged more migrants to get to Germany, making flows even less manageable for transit countries of the Western Balkan route.

In front of such a disorder, not caused but made possible by the freedom of movement enshrined in the Schengen *acquis*, some Member States came to the conclusion that suspending the latter would be the quickest way to regain control on migrant inflows, at least within their own national borders. That is how, at the end of the year, Europeans ended up questioning the very existence of the Schengen area, as they felt powerless in fixing defects more directly connected to migration policy.

On top of this, a series of terrorist attacks in EU countries, averted or executed, added to the debate a thick security layer going far beyond the mere question of massive flows of immigrants. Lack of intelligence sharing, or simply negligence in scanning incoming visitors to the Schengen area despite the fact that after the first point of entry, people can travel wherever they like with very little probability to be detected by the police in countries at risk, turned out to be lethal.

Again, it would be wrong to think that the authors of the Schengen Agreement had not understood the connection between freedom of movement and the subsequent necessity

to strengthen cooperation between law enforcement and intelligence services. Already in the original document<sup>13</sup> and its implementing convention<sup>14</sup>, signed in 1985, one can read provisions related to police and customs cooperation, as well as to an information exchange system, the SIS (Schengen Information System).

The latest exhaustive strategy on Justice and Home Affairs, the 2010 Stockholm Programme<sup>15</sup>, also shows the broad range of issues linked to freedom of movement, including the fact that “*internal security is interlinked with the external dimension of the threats*”, the usefulness of “*an electronic system for recording entry to and exit from Member States [...] in order to allow [them] to share data effectively*” or the need to “*develop prevention mechanisms, in particular to allow the early detection of signs of radicalisation or threats, including threats from violent, militant extremism*”.

It results from the above that not only problems have been identified for years – solutions too have been proposed, but never implemented. Member States' long reluctance to move forward on areas considered sensitive from the point of view of sovereignty have eventually reversed the “ratchet effect” described by functionalist theories: interconnection between policy fields, instead of driving up integration among those which are lagging behind, has started to corrode what was so far seen as “*acquis*”, i.e. freedom of movement across the Schengen area.

The good news is that in their majority, EU countries and their inhabitants are attached to Schengen<sup>16</sup> and its most visible feature: border-free travel. However, their inability or refusal to see its strong links with other policy areas, including asylum policy, border management, cooperation with third countries and intelligence sharing, is at the end of the day most likely to lead to the collapse of the Schengen system, even if this was not intended.

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<sup>13</sup> . Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 14 June 1985, [2000] OJ L 239.

<sup>14</sup> . Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 14 June 1985, [2000] OJ L 239.

<sup>15</sup> . European Council, “The Stockholm Programme – An open and secure Europe serving and protecting citizens”, 4 May 2010, [2010] OJ C 115.

<sup>16</sup> . European Council on Foreign Relations, “ECFR Flash Scorecards. The Future of Schengen”, [http://www.ecfr.eu/specials/scorecard/schengen\\_flash\\_scorecard](http://www.ecfr.eu/specials/scorecard/schengen_flash_scorecard) (accessed 4 May 2016).



#### **4. A policy coherence index**

The subject of this paper consists in building, for the 28 EU Member States, a policy coherence index based on four pillars which, in our opinion, are essential for the proper functioning of border-free travel. These are enhanced cooperation in the realm of homeland security (justice, police and intelligence), more integrated border management, a fairer migration and asylum policy and deeper regional engagement. A fifth criterion, freedom of movement, serves as a point of reference because we might find cases where a country rejects all of these five elements, expressing nonetheless a perfectly coherent position. Policy interactions are explained in a more detailed manner in Table 1.

Though the maps of the EU and the Schengen area do not fully match, as some states belong to one of these legal constructions but not to the other, we assume that possible progress in the four above-mentioned pillars would first be initiated by the EU and then followed – or not – by partner countries, rather than vice versa. It cannot be excluded however that enhanced cooperation in the realm of freedom, security and justice would start at the sub-EU level, with a group of EU countries determined to keep border-free travel and to take necessary steps in related policy fields, even if it means breaking away with some current parties to the Schengen agreement (mini-Schengen or Schengen II scenario). For these reasons, we limit our review to the EU-28.

	... enhanced cooperation in the realm of homeland security	... more integrated border management	... fairer migration and asylum policy	... deeper regional engagement
<b>How freedom of movement interacts with...</b>	In an area of border-free travel, as attacks in Paris and Brussels have demonstrated, it is very easy for terrorists or other criminals to enter the Schengen zone in a country where they are not under observation, then moving to their final destination e.g. by land without being further controlled. That is why police and intelligence databases should be better connected and adequately filled-in by all participating countries.	Since states located at the external borders of the Schengen area are <i>de facto</i> carry out border control operations for the whole zone, related costs should be fairly shared between all participating countries. On the other hand, this should provide guarantees that states located at the external borders fulfill their mission correctly, a problem that has been underlined e.g. in regard to Greece, accused of “waving through” migrants.	The rule of the country of first entry creates a disproportionate burden on states located at the external borders to examine asylum applications and take care of potential refugees. As in the case of border management, if the system is deemed unfair, there is a high risk that countries of first entry “wave through” what they consider as a problem, especially since asylum applicants prefer to go to countries located deeper in the EU, such as Germany, the United Kingdom or Sweden.  At the same time, it is necessary to harmonize conditions offered to asylum seekers and beneficiaries of international protection in order to limit secondary movements, which undermine the proper functioning of relocation and resettlement schemes.	Many Member States have rightly drawn the attention on the fact that in the long term, even well designed asylum policies are doomed to fail if the number of asylum applicants in the EU keeps growing, as the capacity of the EU to take refugees is in the end limited.  Therefore, the roots of these migration trends must be addressed, not only in relation to transit countries such as Turkey to better control population flows, but most of all regarding regions where civil war forces millions of people to leave their homes in order to save their lives.

**Table 1: Policy interactions in the realm of freedom, security and justice**

Our analysis is further narrowed by the type of source taken into account. We base our work on decisions and declarations of the most decisive players in the policy field of justice and home affairs, that is national governments, in power until the date of writing of this paper – May 2016. While it is true that in some countries, the role of parliaments is crucial and that overall, the executive branch also has to deal with public opinions, we assume that governments have, at the national level, the best position to understand public policy interactions and that the duty of explaining them to national parliaments and public opinions falls first and foremost on them.

Their decisions and declarations are collected from news reports and, when available, voting results at the EU Council of Ministers. In each pillar, a concrete policy proposal has been selected in order to better capture a Member State's position in regard to the more general direction of status quo, inevitably leading to renationalization, or deeper integration. These associations are showed in Table 2.

<b>Enhanced cooperation in the realm of homeland security (justice, police and intelligence)</b>	Acceptance to make a more systematic use of the Schengen Information System and readiness to extend its scope, e.g. to EU nationals
<b>More integrated border management</b>	Acceptance to establish a European Border and Coast Guard
<b>Fairer migration and asylum policy</b>	Support to the Commission's temporary relocation scheme of asylum-seekers and in the longer term, to the proposal of establishing a permanent relocation mechanism which would reform the Dublin system
<b>Deeper regional engagement</b>	Involvement in negotiations with transit countries and in conflict resolution efforts regarding states from which asylum-seekers originate

**Table 2: Policy directions and related flagship proposals**

The results are compiled in Table 3 with two different codes: (+) for support and (-) for rejection. Coherence is measured by the sum of (+) or (-) in comparison with the position regarding freedom of movement, which is also noted (+) for support and (-) for rejection or readiness to relinquish it. A score of 4 means perfect coherence – even if it can be against the preservation of the Schengen area – whereas a score of 0 characterizes states that declare to be favourable to border-free travel, but are not willing in practice to take required actions to keep it possible.

	<b>Freedom of movement</b>	<b>Enhanced cooperation in the realm of homeland security</b>	<b>More integrated border management</b>	<b>Fairer migration and asylum policy</b>	<b>Deeper regional engagement</b>	<b>Total</b>
<b>Austria</b>	Though Austria is not openly hostile to border-free travel, it is ready to relinquish it if such a step would be necessary to keep its own borders secure.  (=)	Then Austrian Interior Minister Johanna Mikl-Leitner has acknowledged in March the need to create a “platform for intelligence exchange”.  (+)	No public declaration has been found on Austria’s position regarding the establishment of a full-fledged EU Border and Coast Guard, however it supports the creation of a “bridging mission” to complement Frontex’s efforts.  (+)	Austria receiving one of the highest numbers of asylum applications in proportion to its population, it is in favour of a fairer sharing mechanism, but is opposed to a revamp of the Dublin system and has taken controversial measures to cut migrant flows.  (-)	Vienna regularly serves as a neutral place of meetings regarding Syria and Libya but Austria itself shows limited engagement in conflict-resolution efforts. Moreover, its diplomatic initiatives towards the Balkans are not always aligned with the EU strategy.  (-)	(=)
<b>Belgium</b>	Belgium, one of the founding parties to the Schengen agreement, remains attached to it.  (+)	Belgium is favourable to a more systematic use of the Schengen Information System, its Prime Minister Charles Michel even calling for the creation of a “European CIA”.  (+)	Belgium is favourable to the Commission’s proposal to set up a European Border and Coast Guard.  (+)	Belgium supports the adoption of a fairer sharing mechanism of asylum seekers between EU Member States.  (+)	Belgium is an active participant in the military operations against ISIS in Iraq and Syria.  (+)	4
<b>Bulgaria</b>	Bulgaria has not joined yet the Schengen area but still wants to do so.  (+)	Bulgaria has limited influence on the evolution of the Schengen Information System because it is not yet a full-fledged member of the Schengen area but on a bilateral basis with Romania, it has agreed to intensify intelligence exchange.  (+)	Bulgaria recognizes that the protection of the EU external borders is a shared responsibility, but is cautious on transferring more power to EU institutions in this matter.  (-)	Bulgaria sees acceptance of mandatory quotas for asylum applicants as a trading horse for joining Schengen.  (+)	Bulgaria has done little to enhance cooperation with transit countries and improve the situation in war-torn regions.  (-)	2

<b>Croatia</b>	<p>Croatia started last year the process to become a member of the Schengen area.</p> <p>(+)</p>	<p>Croatia is not yet a member of the Schengen area, but it has expressed readiness to cooperate more intensively with Europol and to intensify information exchange.</p> <p>(+)</p>	<p>Croatian former Prime Minister Zoran Milanović is “reserved” about the Commission’s proposal to set up a European Border and Coast Guard.</p> <p>(-)</p>	<p>Croatian former Prime Minister Zoran Milanović recognizes that the Dublin mechanism is unfit to the current situation and its government has accepted to take a few hundred people under relocation and resettlement schemes.</p> <p>(+)</p>	<p>Croatia has done little to enhance cooperation with transit countries and improve the situation in war-torn regions.</p> <p>(-)</p>	<b>2</b>
<b>Cyprus</b>	<p>Cyprus does not belong to the Schengen area and it is unclear whether it really wants to join it.</p> <p>(=)</p>	<p>Cyprus has taken actions to enhance information exchange with Europol and other European databases.</p> <p>(+)</p>	<p>Cyprus is said to be sceptical about the Commission’s proposal to set up a European Border and Coast Guard.</p> <p>(-)</p>	<p>Cyprus has accepted the Commission's relocation scheme and has started to take up a few hundred asylum applicants. However, its position about the possible overhaul of the Dublin system is unclear.</p> <p>(+)</p>	<p>Cypriot President Nicos Anastasiades has declared he would be ready to veto the EU-Turkey agreement if he does not obtain recognition of his country by Ankara.</p> <p>(-)</p>	<b>(=)</b>
<b>Czech Republic</b>	<p>The Czech Republic belongs to the “Friends of Schengen” group and together with its Visegrad partners, is “determined to preserve Schengen so that European citizens and businesses continue to fully enjoy its benefits”.</p> <p>(+)</p>	<p>The Czech Republic does in principle recognize “the need to improve information and intelligence sharing within Europe”.</p> <p>(+)</p>	<p>Czech authorities support the creation of a European Border and Coast Guard, President Miloš Zeman even willing to provide it with more personnel.</p> <p>(+)</p>	<p>The Czech government voted in September against the Commission's proposal to introduce a temporary relocation scheme and has repeated its opposition to “all permanent redistribution quotas”.</p> <p>(-)</p>	<p>Despite limited means, the Czech Republic plays the role of the honest broker by keeping open its embassy in Damascus, Syria, and liaising between the EU, the US and Bashar al-Assad's regime.</p> <p>(+)</p>	<b>3</b>

<b>Denmark</b>	Denmark has restored temporary border controls but in accordance with Schengen rules and its government has not made any declaration regarding the possibility to quit the agreement.  (=)	The current Danish government is in favour of strengthening cooperation with the EU over intelligence matters, however Danes blocked this move during a referendum held in December last year.  (=)	Denmark considers every country is responsible for its own borders and refuse more EU involvement in the matter.  (-)	Denmark consequently opposes EU mandatory relocation schemes and reforms of the Dublin rules.  (-)	Denmark takes part in the military coalition against Daesh in Iraq and Syria and is one of the world's largest donors of humanitarian aid to Syria in proportion to its wealth.  (+)	(=)
<b>Estonia</b>	Estonia is committed to preserve the Schengen area.  (+)	Though Estonia is before all concerned by threats coming from Russia and cybercrime, it supports enhanced cooperation and data exchange with Europol.  (+)	The Estonian government is rather in favour of the establishment of a European Border and Coast Guard, upon the condition it will not replace national border guards.  (+)	Estonia agreed on the Commission's temporary relocation scheme submitted in September but is not favourable to an overhaul of the Dublin mechanism.  (-)	Estonia has done little regarding transit countries or war-torn regions.  (-)	2
<b>Finland</b>	Finland is committed to preserve the Schengen area.  (+)	No public information has been found on Finland's position regarding cooperation in homeland security matters.  (=)	Finland considers Member States are primarily responsible for border control and is not enthusiastic towards the idea of creating an obligation to accept EU assistance if necessary.  (-)	Finland abstained during the voting session on the Commission's temporary relocation scheme submitted in September and remains attached to the Dublin mechanism.  (-)	Finland has done little regarding transit countries or war-torn regions, and has made budgetary cuts in its development policy.  (-)	0

<b>France</b>	<p>As a founding party to the Schengen agreement, France remains committed to uphold it and for President Hollande, the end of Schengen would be “the end of Europe”.</p> <p>(+)</p>	<p>France has been campaigning for a more systematic use of the Schengen Information System (SIS) and its connection to other databases, such as EURODAC.</p> <p>(+)</p>	<p>France is favourable to the Commission’s proposal to set up a European Border and Coast Guard.</p> <p>(+)</p>	<p>After having first shown reserves regarding the Commission's proposal of a relocation scheme for asylum applicants, France changed its position and now supports it, including the permanent version. Yet Prime Minister Manuel Valls still considers that the Dublin rule of the first country of entry should remain the basis of the European asylum policy.</p> <p>(=)</p>	<p>France is one of the most active participants in military operations against Daesh in Iraq and Syria and is also present in West Africa.</p> <p>(+)</p>	<b>3</b>
<b>Germany</b>	<p>Chancellor Angela Merkel has made clear Germany “wants to reinstate Schengen”.</p> <p>(+)</p>	<p>The German government supports enhanced intelligence sharing between EU countries, though it is not ready to go as far as establishing a “European CIA”.</p> <p>(+)</p>	<p>Germany is favourable to the Commission’s proposal to set up a European Border and Coast Guard.</p> <p>(+)</p>	<p>Chancellor Angela Merkel recognizes that “the Dublin process, in its current form, is obsolete” and supports the Commission's proposal to create a permanent relocation scheme for asylum applicants.</p> <p>(+)</p>	<p>Germany has been one of the key negotiators of the EU-Turkey agreement.</p> <p>(+)</p>	<b>4</b>
<b>Greece</b>	<p>Greek authorities want their country to remain in the Schengen area.</p> <p>(+)</p>	<p>No clear information has been found on Greece's willingness to go further in terms of intelligence sharing, but it has accepted a mission led by Europol to detect potential terrorists in refugee camps.</p>	<p>Greece is reluctant to accept EU support to protect its borders.</p> <p>(-)</p>	<p>As a country of first entry overwhelmed by asylum-seekers, Greece obviously supports the Commission's proposal to create a permanent relocation scheme and aims at revising the Dublin mechanism.</p>	<p>Greece has done little regarding transit countries or war-torn regions.</p> <p>(-)</p>	<b>2</b>

		(+)		(+)		
<b>Hungary</b>	Hungary belongs to the “Friends of Schengen” group and together with its Visegrad partners, is “determined to preserve Schengen so that European citizens and businesses continue to fully enjoy its benefits”.  (+)	Hungary does in principle recognize “the need to improve information and intelligence sharing within Europe”.  (+)	Hungary is said to be hostile to the Commission’s proposal to set up a European Border and Coast Guard.  (-)	Hungary has challenged before the European Court of Justice the decision concerning the temporary relocation scheme of asylum applicants and refuses to reform the Dublin system.  (-)	Hungary is virtually absent from debates regarding Syria or Libya and though it has supported negotiations with Turkey, it has not been playing a constructive role in the discussion.  (-)	<b>1</b>
<b>Ireland</b>	Ireland is not part of the Schengen area but recognizes it is a “profoundly important achievement”.  (+)	Even if Ireland is not part of the Schengen area, it is preparing to fully integrate the Schengen Information System II (SIS II) and is willing to go further on intelligence sharing.  (+)	Ireland is not interested in the European Border and Coast Guard, as it is not part of the Schengen area.  (-)	Ireland considers the Dublin system to be “a cornerstone of the whole Common European Asylum system” and it “strongly supports it”, even though it is open to discussions on possible reforms and has accepted on a voluntary basis to take up several thousand of asylum seekers.  (=)	Despite being small, Ireland has sent ships to participate in rescue operations in the Mediterranean and has provided tens of millions of euros in humanitarian aid.  (+)	<b>2</b>
<b>Italy</b>	Italy has been over the past years one of the most vocal advocates of the Schengen area, its Prime Minister Matteo Renzi having even said that “Italians will not allow [the destruction of	Italy supports enhanced cooperation on intelligence exchange and increased use of European databases.  (+)	Italy is favourable to the Commission’s proposal to set up a European Border and Coast Guard.  (+)	As one of the countries bearing a disproportionate part of responsibility for patrolling EU external borders, Italy is unsurprisingly very much in favour of an overhaul of the	Italy is active in rescue operations in the Mediterranean (Mare Nostrum, Triton) and is committed in helping Libya to form a unity government and retake full control over	<b>4</b>



	Schengen]”.			Dublin system and a fairer mechanism to share asylum applicants and refugees.	its territory.	
	(+)			(+)	(+)	
<b>Latvia</b>	Latvia is attached to the Schengen area, which it calls “one of [the EU] greatest achievements”.	Though Latvia is before all concerned by threats coming from Russia, it supports enhanced cooperation between intelligence services.	Latvia “supports the creation of a European border guard and coast guard”.	Latvia is opposed to mandatory relocation schemes of asylum applicants but is open to discuss the revision of the Dublin mechanism.	Latvia has done little regarding transit countries or war-torn regions.	<b>2</b>
	(+)	(+)	(+)	(=)	(-)	
<b>Lithuania</b>	Lithuania considers the Schengen area should remain “functional”.	Lithuania is supportive of efforts to enhance intelligence sharing in the EU.	Lithuania is generally in favour of the idea of a European Border and Coast Guard, but is skeptical towards the possibility to deploy it without a Member State’s consent.	Lithuania is “skeptical about the European Commission's proposal for a shake-up of the Dublin Regulation” and refuses mandatory relocation schemes for asylum applicants.	Lithuania has done little regarding transit countries or war-torn regions.	<b>1</b>
	(+)	(+)	(=)	(-)	(-)	
<b>Luxembourg</b>	The Minister of Internal Security declared that “in no case we should abandon Schengen, which is the alpha and omega of the European Union”.	During its Presidency, the Luxembourg government pushed forward initiatives such as an information exchange protocol between Europol and Frontex and a more systematic use of the Schengen Information System.	As Luxembourg was holding the Presidency of the Council of the UE when the Commission officially presented its proposal on the creation of a European border guard and coast guard, no clear declaration on the subject has been found. However, Prime Minister Jean Asselborn’s statement about the	Luxembourg Prime Minister Jean Asselborn admitted the Dublin system “has reached its limits” and when his country held the Presidency, he encouraged Member States to “reconsider the logic of the system”.	Luxembourg shows little activity in relation to transit countries or war-torn regions.	<b>3</b>
	(+)	(+)		(+)	(-)	

			possibility to deploy Frontex missions also in non-EU Member States suggests his government is in favour of strengthening border control mechanisms.  (+)			
<b>Malta</b>	Malta is committed to “safeguard the Schengen area in the interest of citizens”.  (+)	Malta supports efforts to increase interoperability between national and EU intelligence databases.  (+)	Malta considers “border management should remain primarily in the hands of individual Member States to handle”.  (-)	Maltese Minister for Home Affairs and National Security Carmelo Abela stated that “a revision of the Dublin system is needed as soon as possible” in a way to “ensure a fair distribution of responsibility”.  (+)	Malta has shown limited engagement in conflict-resolution efforts and rescue operations in the Mediterranean.  (-)	<b>2</b>
<b>Netherlands</b>	The Netherlands is committed to save Schengen.  (+)	The current Dutch Presidency of the Council of the EU is pushing for more intelligence sharing and connections between national and EU databases.  (+)	The Netherlands is said to be favourable to the Commission’s proposal to set up a European Border and Coast Guard.  (+)	Dutch Prime Minister Mark Rutter recognized the necessity to “reform the Dublin system” to save Schengen.  (+)	The Netherlands has been one of the key negotiators of the EU-Turkey agreement and participates in military operations against Daesh in Iraq.  (+)	<b>4</b>
<b>Poland</b>	Poland belongs to the “Friends of Schengen” group and together with its Visegrad partners, is “determined to preserve Schengen so that European citizens and businesses continue to fully enjoy its benefits”.	Poland does in principle recognize “the need to improve information and intelligence sharing within Europe”.  (+)	Poland is opposed to the Commission’s proposal to set up a European Border and Coast Guard.  (-)	Polish Minister of Internal Affairs Mariusz Błaszczak expressed his opposition to a revision of the Dublin system and he is against any type of permanent relocation mechanism for asylum applicants.	In comparison with its size, Poland has contributed very little to conflict-resolution efforts and rescue operations in the Mediterranean.  (-)	<b>1</b>

	(+)			(-)		
<b>Portugal</b>	<p>Portuguese Prime Minister António Costa is strongly committed to “guarantee that Europe will continue to be the Europe of Schengen”.</p> <p>(+)</p>	<p>Portugal does not consider necessary at the moment to create a single database on organized crime and terrorism, but underlines the importance to ensure interoperability between information systems in order to facilitate intelligence sharing.</p> <p>(+)</p>	<p>Portugal is favourable to the Commission’s proposal to set up a European Border and Coast Guard, especially for its naval component.</p> <p>(+)</p>	<p>No public information has been found on the position of Portugal regarding the reform of the Dublin system.</p> <p>(=)</p>	<p>Portugal has shown little diplomatic activity regarding transit countries or war-torn regions but has lent assets to EU naval operations such as Triton and Sophia.</p> <p>(+)</p>	<b>3</b>
<b>Romania</b>	<p>Romania has not joined yet the Schengen area but still wants it.</p> <p>(+)</p>	<p>Romania has limited influence on the evolution of the Schengen Information System because it is not yet a full-fledged member of the Schengen area but on a bilateral basis with Bulgaria, it has agreed to intensify intelligence exchange.</p> <p>(+)</p>	<p>Romania is in general favourable to the Commission’s proposal to set up a European Border and Coast Guard.</p> <p>(+)</p>	<p>Romania has voted against the Commission’s proposal of a relocation scheme for asylum applicants in September, but it is implementing it.</p> <p>(-)</p>	<p>Romania has done little regarding transit countries or war-torn regions.</p> <p>(-)</p>	<b>2</b>
<b>Slovakia</b>	<p>Slovakia belongs to the “Friends of Schengen” group</p>	<p>Slovakia does in principle recognize “the need to</p>	<p>Slovakia supports the Commission’s proposal to</p>	<p>Slovakia does not openly refuse to reform the Dublin</p>	<p>Slovakia has done little regarding transit countries or</p>	<b>2</b>

	and together with its Visegrad partners, is "determined to preserve Schengen so that European citizens and businesses continue to fully enjoy its benefits".  (+)	improve information and intelligence sharing within Europe".  (+)	set up a European Border and Coast Guard.  (+)	mechanism but is against any kind of mandatory relocation scheme and alike Hungary, it has even taken the Commission's plan to court.  (-)	war-torn regions.  (-)	
<b>Slovenia</b>	Slovenia is committed to keep open the internal borders of the Schengen area.  (+)	Slovenian Interior Minister Vesna Györkös Žnidar supports proposals aiming at "stepping up information exchange and [using] more active[ly] existing tools".  (+)	Slovenia supports the Commission's proposal to set up a European Border and Coast Guard and would like to see it deployed as soon as possible.  (+)	No public information has been found on Slovenia's position regarding deep reforms of the Dublin system, yet Ljubljana has reluctantly accepted the Commission's proposal in September to relocate asylum applicants.  (-)	Slovenia has lent a ship to the EU naval operation Sophia and has been engaging non-EU countries along the Western Balkan route to retake control over migration flows.  (+)	<b>3</b>
<b>Spain</b>	Spanish Interior Minister Jorge Fernández Díaz has expressed his readiness to restore controls along the internal borders of the Schengen area.  (-)	Spain supports enhanced intelligence sharing and interoperability between databases in order to better fight against terrorism.  (+)	Spain is said to be skeptical about the Commission's proposal to set up a European Border and Coast Guard.  (-)	Spain is implementing the current relocation scheme but does not want an overhaul of the Dublin system as it considers changing the rule of the first country of entry would create incentives for free-riding among EU Member States.  (-)	Spain has lent assets to the EU naval operation Sophia, is a member of the International Syria Support Group and is actively engaged in efforts to restore security in Libya.  (+)	<b>2</b>

<b>Sweden</b>	<p>Swedish Prime Minister Stefan Löfven declared in March this year that “the Schengen Agreement and the free movement it creates is a mainstay of the EU, and crucial for our economies.”</p> <p>(+)</p>	<p>Sweden has taken part in the summit organized in January 2015 on the fight against terrorism and supports proposals to enhance cooperation and intelligence sharing between Member States.</p> <p>(+)</p>	<p>Sweden is rather opposed to the creation of a European Border and Coast Guard.</p> <p>(-)</p>	<p>Swedish Prime Minister Stefan Löfven urged his colleagues to “admit that the Dublin Regulation is not working” and must be replaced by a system which ensures “equal distribution”.</p> <p>(+)</p>	<p>Sweden provides a lot of development aid in conflict-torn regions but shows limited commitment in diplomatic or military initiatives aiming at cutting the roots of instability.</p> <p>(-)</p>	<b>2</b>
<b>United Kingdom</b>	<p>British Prime Minister David Cameron declared his country will “never be part of Schengen”.</p> <p>(-)</p>	<p>Despite its partial opt-out from the EU’s Justice and Home Affairs matters, the United Kingdom is rather favourable to deeper information sharing.</p> <p>(+)</p>	<p>Not bound by the whole Schengen acquis, the UK has already declared it will not take part in the EU Border Guard, though it may on a <i>ad hoc</i> basis provide support to strengthen control on the EU’s external borders.</p> <p>(-)</p>	<p>The British government “does not support relocation”, which “undermines the important principle that asylum should be claimed in the first safe country”.</p> <p>(-)</p>	<p>The United Kingdom is one of the leading countries in the global coalition to counter Daesh and participates in air strikes. It is involved in diplomatic initiatives regarding Libya.</p> <p>(+)</p>	<b>2</b>
<b>Total (+)</b>	<b>23</b>	<b>26</b>	<b>14</b>	<b>11</b>	<b>12</b>	
	<b>Freedom of movement</b>	<b>Enhanced cooperation in the realm of homeland security</b>	<b>More integrated border management</b>	<b>Fairer migration and asylum policy</b>	<b>Deeper regional engagement</b>	

**Table 3: Summary of positions of EU Member States and policy coherence index**

## 5. Observations and typology

Based on this review of EU Member States' positions regarding key policy proposals that we consider necessary to save border-free travel, the first observation we can draw is that as supposed, a majority of countries supports, at least in public declarations, the *acquis* of the Schengen area and does not want to abandon it.

However, at the same time, the only policy proposal that gathers a broad consensus among Member States is enhanced cooperation in the realm of homeland security, that should materialize by a higher level of exchanges between national police, justice and intelligence services through instruments such as the Schengen Information System or Europol.

It is true that in this matter, the main cleavage line for years has not been running between countries, but between the Council of Ministers and the European Parliament, the latter having the reputation of being more concerned by citizens' privacy rights. This tension has been particularly visible in debates on the PNR directive, eventually accepted by MEPs in April under the pressure of events like the recent attack in Brussels.

Other proposals can count on the support of no more than the half of the EU-28, the least popular being the reform of the Dublin system and the introduction of a permanent relocation mechanism for asylum seekers. This should not come as a surprise, having in mind that this question is also probably the one which has benefitted from the largest attention among national public opinions, in particular in Central and Eastern Europe where rejection has been very explicit.

We can further elaborate on the results of this review by building a typology of Member States according to their positions, their justifications and their general score under the policy coherence index.

### 1) The “good pupils”: Belgium, Germany, Italy, Netherlands

The group of “good pupils” has got the full score under the policy coherence index and has in common that they are all founding countries of the European Communities and the Schengen agreement. Depending on their size, they either take political initiatives (Germany, Italy) or enthusiastically contribute to them (Belgium, Netherlands). Though in the course of action, it happens that they behave in a non-cooperative manner, like Germany

did last summer when Chancellor Angela Merkel decided to accept all asylum applications filed by Syrian nationals, they show a very high level of coherence in their policy positions.

**2) The “conditional supporters” (France, Latvia, Luxembourg, Portugal, Slovenia)**

This category contains Member States that are very much attached to the Schengen area and are ready, in certain policy areas, to go very far in terms of integration. However, certain obstacles linked to historical experiences (e.g. weak engagement of Latvia or Luxembourg in foreign policy towards the Southern neighbourhood or the position of France in relation to the Dublin system) prevent them from adopting a set of positions that would be fully coherent with the expressed goal of saving border-free travel.

**3) The “utilitarians” (Bulgaria, Croatia, Czech Republic, Estonia, Greece, Ireland, Malta, Romania, Slovakia, Sweden)**

The “utilitarians” have heterogeneous profiles but have in common to seek achievement of their policy objectives at the lowest possible cost. Countries like Bulgaria, Croatia or Romania, which are not yet part of the Schengen club but want to join, are aware that they have to show goodwill to be co-opted by other Member States. The Czech Republic and Slovakia, despite their membership in the Visegrad group, as well as Estonia, Greece, Malta and Sweden, are for their part pursuing a “muddle through” policy, giving what it takes but nothing more. The same goes for Ireland, which does not belong to the Schengen zone but considers it important enough to participate in selected sections of the agreement and contribute on a voluntary basis to certain EU actions.

**4) The “free riders” (Finland, Hungary, Lithuania, Poland)**

The “free riders” refer to countries which are publicly in favour of preserving border-free travel but are not ready in practice to take any concrete step to make it possible. Contrary to the “utilitarians”, they are not open to compromises, a behaviour connected with their key political leaders' personalities (Finnish Foreign Minister Timo Soini of the sovereignist Finns Party; Lithuanian President Dalia Grybauskaitė, dubbed the “Iron Lady”; and Polish Foreign Minister Witold Waszczykowski who has become famous mainly for his blunt

quotes).

### **5) The “cold realists” (Austria, Cyprus, Denmark, Spain, United Kingdom)**

The “cold realists” are Member States which are not part of the Schengen agreement and do not wish to join (Cyprus, Denmark, United Kingdom) or countries which do not express a strong attachment to it (Austria, Spain). In their cases, coherence is not measured against freedom of movement, but rather their national, higher political priorities which might be or not in line with the main objectives of the EU and the Schengen area. That is why the “cold realists” participate on a very selective basis to common European initiatives.

## **6. Conclusion**

Having arrived at the end of this paper, we must admit that we can be but moderately optimistic about the future of the Schengen area, at least in its current shape. Countries which are willing to take the necessary measures to ensure its viability are in the end only a handful, whereas the largest group is composed of Member States whose positions and actions do not match their positive declarations about Schengen.

True enough, our methodology misses a part of the picture, as it focuses on the positions of national governments and relies on public declarations. It might turn out that parliaments, or even citizens would have a different view than their ministers while on the other hand, governments having a hostile rhetoric would in the end decide not to break the ranks, like in the case of Poland eventually accepting the Commission's temporary relocation scheme in September 2015 after having campaigned against – one month later, general elections called to power a sovereigntist party much less prone to compromises.

Yet the growing popularity of Eurosceptic parties and groups, including in countries that already have a loose connection with the EU like the United Kingdom, rather inclines to think that negative signals sent by governments are in line with their public opinions. On the opposite, more cooperative executives may have a harder time defending their approach in front of their party fellows, political allies or voters. From this point of view, the next federal elections in Germany due to take place next year will be a decisive test to measure the potential dissonance between political leadership and citizens.

That is not to say that the Schengen *acquis* is dead. It remains a great achievement



*per se* and its main feature, i.e. border-free travel, is probably still one of the advantages most appreciated and most often mentioned by EU citizens who benefit from it, and non-EU nationals who would like to. It is enough to look at companies “selling” Maltese passports, talk to young Ukrainians or take the train between Berlin and Warsaw to understand that Schengen has not ceased to be attractive for a very large chunk of the population.

Again, one can but draw a parallel with the common currency which, despite numerous sources of criticism more or less justified (rise of prices, deterioration of competitiveness for export-oriented industries, buy-out of ill-managed countries...), seems to continue enjoying the trust of a majority of users<sup>17</sup>. Though the euro area has not yet recovered its full strength, structural reforms, at least at the EU level, have been taken to fix loopholes that had been identified at the very birth of the Economic and Monetary Union, in particular regarding budgetary policy, but not properly handled until the crisis of sovereign debts burst in 2009. At that time, many experts called for the EU to finally walk on two legs and take the necessary measures that would integrate budgetary and fiscal policies to a level compatible with the federal character of the monetary policy.

The European Union needs today a similar debate on its area of freedom, security and justice, which shows in a clear way what the interconnections are between policy fields and what comprehensive set of norms or actions should be adopted to save what has been achieved in the Schengen zone in terms of border-free travel. To push forward the metaphor, Schengen should be able to walk on four legs, and the Commission has opened the discussion with its newest proposals “towards a sustainable and fair Common European Asylum System”, intended to reform the Dublin system.

The suggestion to create a “financial solidarity contribution” in case a Member State refuses to take part in the allocation mechanism of asylum applications, though highly controversial, is a good starting point to force governments to face their responsibilities, in particular towards other EU countries as solidarity is a principle that plays before all at the benefit of Member States, and not European institutions.

We hope this paper will contribute to provide arguments to the European Parliament,

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<sup>17</sup> . European Union, “Flash Eurobarometer survey 429 among the general public in the 19 euro-area countries”, 2015.

the Commission and national governments that have already understood that *status quo* in the realm of justice and home affairs is not an option, to convince other countries, and if necessary force them, to make a clear choice and do what it takes to save the Schengen area, or to leave it.

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