



Council of the
European Union

Brussels, 7 July 2023
(OR. en, ro)

10689/23
ADD 3

SCHENGEN 31
COMIX 304
SCH-EVAL 139
ENV 743

NOTE

From: General Secretariat of the Council

To: Delegations

Subject: Request received from Asociația pentru Energie Curată și Combaterea Schimbărilor Climatice for an internal review according to Article 10 of regulation 1367/2006 on the application of the provisions of the Aarhus Convention, on the review of the decision taken at the JHA Council meeting of 8 and 9 December 2022 not to adopt the draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania.

Delegations will find attached additional annexes to the note on the above-mentioned subject, as received from Asociația pentru Energie Curată și Combaterea Schimbărilor Climatice [Association for Clean Energy and Combating Climate Change].

Anexa 5



Consiliul Uniunii Europene
Secretariatul General
Direcția generală Comunicare și informare – COMM
Direcția Informare și activități publice
Unitatea Servicii de informare/Transparență
Șeful de unitate

Bruxelles, 22 februarie 2022

Dna Andrada Nicolescu
Email: andrada.m.nicolescu@gmail.com

Ref. 23/0111-rh/ns

Cerere formulată la: 10.01.2023
Cerere înregistrată la: 11.01.2023
Prelungirea termenului : 01.02.2023

Stimată doamnă Nicolescu,

Vă mulțumim pentru cererea dumneavoastră de acces la documentele Consiliului Uniunii Europene.¹

Documentul solicitat **15218/22** se află în anexă.

Proiectul de decizie a Consiliului privind aplicarea integrală a dispozițiilor acquis-ului Schengen în Republica Bulgaria și în România s-a aflat într-adevăr pe ordinea de zi a reuniunii Consiliului din 8-9 decembrie 2022. Acest proiect de decizie a Consiliului nu a fost adoptat. În conformitate cu articolele 8 și 9 din Regulamentul de procedură al Consiliului, rezultatele votului nu sunt publice întrucât se referă la o deliberare în privința unui act fără caracter legislativ care nu este deschisă publicului.

Informații despre deliberările în cazul actelor fără caracter legislativ sunt incluse în procesul-verbal al Consiliului, care este redactat la câteva săptămâni de la reuniunea respectivă de către Secretariatul General al Consiliului și apoi este transmis Consiliului sau Coreperului spre aprobare. Totuși, pentru actele fără caracter legislativ, procesul-verbal nu este public.

¹ Secretariatul General al Consiliului a examinat cererea dumneavoastră pe baza normelor aplicabile: Regulamentul (CE) nr. 1049/2001 al Parlamentului European și al Consiliului privind accesul public la documentele Parlamentului European, ale Consiliului și ale Comisiei (JO L 145, 31.5.2001, p. 43) și dispozițiile speciale privind accesul publicului la documentele Consiliului care figurează în anexa II la Regulamentul de procedură al Consiliului (Decizia nr. 2009/937/UE a Consiliului, JO L 325, 11.12.2009, p. 35).

Procesul-verbal al reuniunii Consiliului JAI din 8-9 decembrie 2022 a fost întocmit de Secretariatul General și va fi transmis Coreperului sau Consiliului spre aprobare, după care vom putea examina cererea dumneavoastră privind accesul public la acesta.

Vă garantăm că veți fi informat cu privire la rezultat cât mai curând posibil.

Cu stimă,

Fernando FLORINDO

Anexă: 1

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Consiliul Uniunii Europene
Secretariatul General

Direcția generală Comunicare și informare – COMM
Direcția Informare și activități publice
Unitatea Servicii de informare/Transparență
Șeful de unitate

Anexa 6
Anexa 6.1

Bruxelles, 22 martie 2023

Dna Andrada Nicolescu
Email: andrada.m.nicolescu@gmail.com

Ref. 23/0111-ADD1-rh/el

Cerere formulată la: 10.01.2023
Cerere înregistrată la: 11.01.2023
Prelungirea termenului : 01.02.2023

Stimată doamnă Nicolescu,

Vă mulțumim pentru cererea dumneavoastră de acces la documentele Consiliului Uniunii Europene.¹

În continuarea scrisorii noastre din 22 februarie 2023, vă rugăm să găsiți atașat documentul **15877/22 ADD 1 REV 1**.

Cu stimă,

Fernando FLORINDO

Anexă

¹ Secretariatul General al Consiliului a examinat cererea dumneavoastră pe baza normelor aplicabile: Regulamentul (CE) nr. 1049/2001 al Parlamentului European și al Consiliului privind accesul public la documentele Parlamentului European, ale Consiliului și ale Comisiei (JO L 145, 31.5.2001, p. 43) și dispozițiile speciale privind accesul publicului la documentele Consiliului care figurează în anexa II la Regulamentul de procedură al Consiliului (Decizia nr. 2009/937/UE a Consiliului, JO L 325, 11.12.2009, p. 35).

Brussels, 8 February 2023
(OR. en)

15877/22
ADD 1 REV 1
LIMITE
PV CONS 78
JAI 1657
COMIX 612

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Justice and Home Affairs)
8 and 9 December 2022

83

15877/22 ADD 1 REV 1

GIP

LIMITE

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EN

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15877/22 ADD 1 REV 1

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THURSDAY 8 DECEMBER 2022

HOME AFFAIRS

POLITICAL GOVERNANCE OF THE SCHENGEN AREA ('SCHENGEN COUNCIL')

Non-legislative activities

3. **Full application of the Schengen acquis in Bulgaria, Croatia and Romania**
- a) **Council Decision on the full application of the provisions of the Schengen acquis in Bulgaria and Romania** (*) 15218/22
(Legal basis: Article 4 (2) of the 2005 Act of Accession of Bulgaria and Romania)
(poss.) Adoption
- b) **Council Decision on the full application of the provisions of the Schengen acquis in Croatia** (*) 14239/22
(Legal basis: Article 4 (2) of the 2011 Act of Accession of Croatia)
(poss.) Adoption

The Council took note of the discussion that took place at the meeting of the Mixed Committee at Ministerial level (document 16183/22).

- a) The draft Council Decision on the full application of the Schengen acquis in Bulgaria and Romania, to be adopted by unanimity of the Member States as set out in Article 4 (2) of the 2005 Act of Accession, was put to a vote.

The required unanimity has not been attained, therefore the Decision was not adopted.

Romania presented a statement as set out in the Annex.

- b) The Council adopted the Decision on the full application of the Schengen acquis in Croatia. Croatia and Slovenia presented statements as set out in the Annex.

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15877/22 ADD I REV 1

GIP

LIMITE

EN

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4. **Overall state of the Schengen area**
- a) **Schengen barometer** 15674/22
- b) **Schengen Council cycle** 15271/1/22 REV 1
- c) **Internal security: counteracting migrant smuggling** 15086/22
- d) **Interoperability**
- State of play*

The Council took note of the information provided at the meeting of the Mixed Committee at Ministerial level (document 16183/22).

The Council endorsed the priority actions aimed to strengthen the responses to migrant smuggling (document 15086/22).

The Council took note of the state of play of the Schengen Area and endorsed the priority actions aimed to strengthen the responses to migrant smuggling and the revised timeline of 7 March 2023 for the entry into operation of the Schengen Information System (SIS Recast) provided at the meeting of the Mixed Committee at Ministerial level.

OTHER HOME AFFAIRS ISSUES

Non-legislative activities

8. **Russia's aggression against Ukraine**^{1 2} 14684/1/22 REV 1
- a) **The situation of Ukrainian refugees in the EU**
- b) **Internal security dialogue**
- Exchange of views*

Following a presentation by the Commission, the Council held an exchange of views on the consequences of Russia's aggression against Ukraine regarding the situation of refugees and the internal security.


¹ Exceptionally in the presence of the Schengen Associated States.
² The EU agencies Europol, Frontex and EUSA are invited to this point.

9. **External dimension of migration and the situation along the main migratory routes** ^{1 2} 15270/22 + COR 1
 + COR 1 REV 1 (en)
Exchange of views 15749/22
Follow-up to extraordinary JHA Council meeting on 25 November 2022

The Council held an exchange of views on the external aspects of migration and reviewed the situation along the main migratory routes.

10. **Asylum and migration** ¹ 15265/22 + ADD 1
State of play

The Council took note of the state of play of the discussions on the reform of the EU asylum system based on balanced solidarity and responsibility presented by the Presidency. Work will continue on the legislative texts of the respective legal instruments under the Swedish Presidency.

11. **Cooperation between competent authorities dealing with counter-terrorism** ^{1 3} 
State of play presented by the Presidency of the Counter Terrorism Group (CTG)

The Ministers received a six-monthly update on cooperation between competent authorities dealing with counter-terrorism in the presence of the Presidency of the Counter Terrorism Group (CTG).

12. **Council Recommendation on the resilience of critical infrastructure** (*) 15454/22
Adoption

The Council adopted the Council Recommendation on the Union-wide coordinated approach to strengthen the resilience of critical infrastructure.

¹ Exceptionally, in the presence of the Schengen Associated States.
³ The EU Agency Europol is invited to this point.

13. Any other business

- a) **Prague Process Ministerial Conference (Prague 24 and 25 October 2022)** 12629/22 + ADD 1
Information from the Presidency

The Council took note of the information provided by the Presidency on the outcome of the Fourth Prague Process Ministerial Conference, which took place on 24 and 25 October in Prague.

- b) **EU-Western Balkans Ministerial Forum on Justice and Home Affairs (Tirana, 3-4 November 2022)** 14331/22
Debrief by the Presidency

The Presidency debriefed the Council on the outcome of the EU-Western Balkans Ministerial Forum on Justice and Home Affairs that was held in Tirana on 3-4 November 2022.

- c) **EU-US Justice and Home Affairs Ministerial Meeting, Washington (14-15 December 2022)** 14779/22
Information from the Presidency

The Presidency informed the Council on the agenda and the preparation of the forthcoming EU-US Justice and Home Affairs Ministerial Meeting, which would be held in Washington on 15 December 2022.

- d) **Wildfire preparedness in the context of the Union Civil Protection Mechanism**
Information from the Commission

The Council took note of the information provided by the Commission on the work done on prevention and preparedness for wildfires in the context of the Union Civil Protection Mechanism.

- e) **Union Civil Protection Mechanism response to the challenges arising from the war in Ukraine**
Information from the Commission

The Council took note of the information provided by the Commission on the response provided under the Union Civil Protection Mechanism to the challenges arising from the war in Ukraine.

- f) **Designation of the Director General of the International Organisation for Migration (IOM)** 15637/22
Information from Portugal

Portugal informed the Council of the application by the current Director-General in the selection procedure for the post of Director-General of International Organisation for Migration to take place in 2023.

- g) **Work programme of the incoming Presidency**
Presentation by the Swedish delegation

The Council took note of the oral presentation by the incoming Presidency of its work programme in the Home Affairs area.

FRIDAY 9 DECEMBER 2022

JUSTICE

Non-legislative activities

- 19. Fight against antisemitism ⁴** 15165/22
Exchange of views
- The Council held an exchange of views on the fight against antisemitism on the basis of a Presidency discussion paper (document 15165/22).
- 20. Conclusions on the fight against impunity regarding crimes committed in connection with Russia's war of aggression against Ukraine** 15237/22
Approval
- The Council approved the conclusions on the fight against impunity regarding crimes committed in connection with Russia's war of aggression against Ukraine.
- 21. Conclusions on enhancing the capacities of the European Judicial Cybercrime Network (EJCN)** 15003/22
Approval
- The Council approved the conclusions on enhancing the capacities of the European Judicial Cybercrime Network (EJCN).
- 22. EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)** 14858/22
Policy debate 13873/22
- The Council held a debate on the key outstanding issue in the relevant negotiations regarding the question of jurisdiction of the CJEU in CFSP matters. Work will continue with a view to concluding the accession agreement.

⁴ The Fundamental Rights Agency is invited to this point.




23. Any other business

- a) **EU-Western Balkans Ministerial Forum on Justice and Home Affairs, Tirana, 3-4 November 2022** 14331/22
Debrief by the Presidency
- b) **EU-US Justice and Home Affairs Ministerial Meeting, Washington, 14-15 December 2022** 14779/22
Information from the Presidency
- c) **Conference on whistleblowing (Prague, 26-27 October 2022)**
Information from the Presidency
- d) **Workshop on digitalisation of justice (Brussels, 24 October 2022)**
Information from the Presidency
- e) **Recommendation on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions** 15292/22
Information from the Commission
- f) **EU 2022 Annual Report on the application of the EU Charter of Fundamental Rights** 15737/22
Information from the Commission

The Council took note of the information provided by the Commission and by the Presidency on the above-mentioned information points.

- g) **Work programme of the incoming Presidency**
Presentation by the Swedish delegation

The Council took note of the oral presentation by the incoming Presidency of its work programme in the justice sector.

-
-  First reading
-  Restricted item
-  Item based on a Commission proposal
- (*) Item on which a vote may be requested

Statements to the non-legislative "B" items set out in doc. 15556/22**Full application of the Schengen acquis in Bulgaria, Croatia and Romania****Ad "B" item 3:****a) Council Decision on the full application of the provisions of the Schengen acquis in Bulgaria and Romania**

(Legal basis: Article 4 (2) of the 2005 Act of Accession of Bulgaria and Romania)

*(poss.) Adoption***STATEMENT BY ROMANIA**

"Romania expresses its strong disappointment with the lack of unanimity on the adoption of the Council Decision on the full application of the Schengen acquis and the lifting of control at internal borders in Romania, given the veto of the Austrian delegation.

The negative position expressed by only one delegation has no justification, not only from the legal point of view but also because of the unfounded arguments invoked. All other Member States agree that Romania fully complies with all the applicable Schengen acquis, as it was also certified by the European Commission in accordance with the relevant procedures agreed at the EU level. Romania expresses full appreciation for their support. This regretful development disregards the progress achieved by Romania and its contribution to the wide internal security of the Schengen area. Moreover, such conduct goes against the EU unity and the principle of solidarity and is all the more regrettable in the current geopolitical context.

Romania has a perfectly justified legitimate expectation that the Council and, in particular, the Member State concerned will act in a European spirit and continue the efforts for reaching unanimity as soon as possible.

Romania remains strongly committed to continue to act in a serious and responsible manner to ensure the protection of the external border of the EU, thus contributing to the wider security of the Schengen area."

Full application of the Schengen acquis in Bulgaria, Croatia and Romania
b) Council Decision on the full application of the provisions of the Schengen acquis in Croatia
(Legal basis: Article 4 (2) of the 2011 Act of Accession of Croatia)
(*poss.*) *Adoption*

STATEMENT BY CROATIA

“In reference to the statement of the Republic of Slovenia concerning the Council Decision on the full application of the provisions of the Schengen *acquis* in the Republic of Croatia, Croatia recalls that pursuant to the unanimous conclusion of the Croatian Parliament of 29 July 2015 it withdrew from the arbitration proceedings due to material breaches of the Arbitration Agreement. Croatia thus reiterates its position that it is not bound in any way by the arbitral award rendered in 2017 and it would not implement it.

Therefore, the common land and sea border between the Republic of Croatia and the Republic of Slovenia is yet to be definitely determined by peaceful means of settlement, in accordance with international law. In this regard, Croatia remains open to the continuation of bilateral dialogue with Slovenia in order to find a common solution. This statement is without prejudice to continued sincere cooperation with Slovenia on the full application of the Schengen *acquis*.”

STATEMENT BY SLOVENIA

“The accession of the Republic of Croatia to Schengen is supported by the Republic of Slovenia and is in our common European interest. The Republic of Slovenia underlines that both the land and maritime boundaries between the two states were fully and definitively settled in the arbitration award of 29 June 2017, which, pursuant to Article 7 of the Arbitration Agreement of 4 November 2009, is final and binding. The Republic of Slovenia has implemented the arbitration award in its national legislation, including by means of the Act recording the national border with the Republic of Croatia (Official Gazette of the Republic of Slovenia, No 69/17).”

Statements to the non-legislative "A" items set out in doc. 15558/22

Ad "A" item 5: **Conclusions on human rights-based approach in drug policies**
Approval

STATEMENT BY ITALY

“Italy stresses the crucial importance of ensuring the provision of preventive action, early detection and intervention, as well as early access to treatment and therapy, and social and work rehabilitation programmes, free of charge and without any kind of discrimination or limitation. Thus, we reaffirm the importance of recovery (total recovery of the addicted person) and of scientific research, as well as of risk reduction interventions aimed at preventing pathologies related to drug addiction, in accordance with national legislation and based on scientific evidence.

Finally, we also reiterate our firm opposition to the legalisation of any kind of drugs.”

Ad "A" item 6: **Public access to documents**
Confirmatory application No 19/c/01/22
Adoption

STATEMENT BY FINLAND

“Finland cannot concur with the draft reply to confirmatory application No 19/c/01/22. Finland is not fully convinced that full disclosure of the document would undermine the protection of privacy and the integrity of the individual, nor how this risk is reasonably foreseeable and not purely hypothetical. Moreover at least partial access to the documents should be granted.”

STATEMENT BY SWEDEN

“Sweden cannot concur with the draft reply to confirmatory application No 19/c/01/22. Sweden is not fully convinced that full disclosure of the document would undermine the protection of privacy and the integrity of the individual, nor how this risk is reasonably foreseeable and not purely hypothetical. Moreover at least partial access to the documents should be granted.”

Ad "A" item 11: **Conclusions on ECA SR No 19/2022 on EU COVID-19 vaccine procurement**
Approval

STATEMENT BY BULGARIA, CROATIA, HUNGARY, LITHUANIA, POLAND AND SLOVENIA

“Bulgaria, Croatia, Hungary, Lithuania, Poland and Slovenia express the following interpretation of the wording “agreed” as stated in the point 7 of Council conclusions on “Special Report No 19/2022 by the European Court of Auditors on COVID-19 vaccine procurement” which corresponds to the point 48 of above mentioned ECA report: i.e.: „On 9 April 2021, the Commission presented to the steering board the conditions negotiated between the President of the Commission and Pfizer/BioNTech , and the steering board agreed to launch a call for tender”.

Bearing in mind that the Steering Board does not have competence to agree or disagree with the participation in the contracts nor with the tendering procedures launching by the Commission, we believe that a reference to the wording “agreed” should be interpreted as “took note” on launching a call for tender as such approach would reflect the factual scope of the mandate of the Steering Board.”

STATEMENT BY BULGARIA, CROATIA, ESTONIA, HUNGARY, LATVIA, LITHUANIA, POLAND, ROMANIA, SLOVAKIA AND SLOVENIA

“Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia appreciate the Special Report No 19/2022 by the European Court of Auditors on COVID-19 vaccine procurement, which contains important findings, as outlined in the Council Conclusions. In order to complete the context, we believe that the perspective of the Member States is essential. The attached two letters⁵, signed by the Ministers of Health of the above listed ten Member States of the European Union and submitted to the Commission on 3 June 2022 and 24 October 2022, are part of the numerous letters sent to the Commission, and provide important contribution on the way to future improvements.”

⁵ See 15471/22 ADD 1 p. 3-8.



 TEXTE ADOPTATE

P9_TA(2022)0364

Aderarea României și a Bulgariei la spațiul Schengen**Rezoluția Parlamentului European din 18 octombrie 2022 referitoare la aderarea României și Bulgariei la spațiul Schengen (2022/2852(RSP))**

Parlamentul European,

- având în vedere Protocolul de integrare a *acquis*-ului Schengen în cadrul Uniunii Europene (11997D/PRO/02),
- având în vedere articolul 67 alineatul (2) din Tratatul privind funcționarea Uniunii Europene (TFUE), care prevede că Uniunea trebuie să constituie un spațiu de libertate, securitate și justiție, care „asigură absența controalelor asupra persoanelor la frontierele interne”,
- având în vedere articolul 21 alineatul (1) din TFUE, potrivit căruia orice cetățean al Uniunii are dreptul de liberă circulație și ședere pe teritoriul statelor membre,
- având în vedere articolul 4 alineatul (2) din Actul de aderare din 2005,
- având în vedere Carta drepturilor fundamentale a Uniunii Europene, inclusiv articolul 45, care prevede că orice cetățean al Uniunii are dreptul de circulație și de ședere liberă pe teritoriul statelor membre,
- având în vedere proiectele de decizii ale Consiliului din 29 septembrie 2010 (14142/10) și 8 iulie 2011 (14142/1/10) privind aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Bulgaria și în România,
- având în vedere proiectul de decizie a Consiliului din 7 decembrie 2011 (14302/3/11) privind cadrul pentru aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Bulgaria și în România,
- având în vedere poziția sa din 8 iunie 2011 referitoare la proiectul de decizie a Consiliului privind aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Bulgaria și în România¹,
- având în vedere concluziile Consiliului Justiție și Afaceri Interne din 9 și 10 iunie 2011, 22 și 23 septembrie 2011, 25 și 26 octombrie 2012, 7 și 8 martie 2013 și 5 și

¹ JO C 380 E, 11.12.2012, p. 160.

6 decembrie 2013,

- având în vedere rezoluția sa din 13 octombrie 2011 referitoare la aderarea Bulgariei și a României la spațiul Schengen¹,
- având în vedere concluziile Consiliului European din 9 decembrie 2011 și din 1 și 2 martie 2012,
- având în vedere Decizia (UE) 2017/1908 a Consiliului din 12 octombrie 2017 privind punerea în aplicare a anumitor dispoziții ale *acquis*-ului Schengen referitoare la Sistemul de informații privind vizele în Republica Bulgaria și în România²,
- având în vedere Decizia (UE) 2018/934 a Consiliului din 25 iunie 2018 privind punerea în aplicare a dispozițiilor rămase ale *acquis*-ului Schengen referitoare la Sistemul de informații Schengen în Republica Bulgaria și în România³,
- având în vedere comunicarea Comisiei din 2 iunie 2021 intitulată „Strategie pentru realizarea unui spațiu Schengen pe deplin funcțional și rezilient” (COM(2021)0277),
- având în vedere propunerea Comisiei de regulament al Parlamentului European și al Consiliului de modificare a Regulamentului (UE) 2016/399 cu privire la Codul Uniunii privind regimul de trecere a frontierelor de către persoane (COM(2021)0891),
- având în vedere comunicarea Comisiei din 24 mai 2022 intitulată „Raportul privind starea spațiului Schengen pentru 2022” (COM(2022)0301),
- având în vedere Regulamentul (UE) 2022/922 al Consiliului din 9 iunie 2022 privind instituirea și funcționarea unui mecanism de evaluare și monitorizare în vederea verificării aplicării *acquis*-ului Schengen și de abrogare a Regulamentului (UE) nr. 1053/2013⁴,
- având în vedere proiectul de decizie a Consiliului din 23 iunie 2022 privind aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Croația (10624/22),
- având în vedere rezoluția sa din 11 decembrie 2018 referitoare la aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Bulgaria și în România: eliminarea controalelor la frontierele interne terestre, maritime și aeriene⁵,
- având în vedere rezoluția sa din 19 iunie 2020 referitoare la situația din spațiul Schengen în urma epidemiei de COVID-19⁶,
- având în vedere rezoluția sa din 8 iulie 2021 referitoare la Raportul anual privind funcționarea spațiului Schengen⁷,

¹ JO C 94 E, 3.4.2013, p. 13.

² JO L 269, 19.10.2017, p. 39.

³ JO L 165, 2.7.2018, p. 37.

⁴ JO L 160, 15.6.2022, p. 1.

⁵ JO C 388, 13.11.2020, p. 18.

⁶ JO C 362, 8.9.2021, p. 77.

⁷ JO C 99, 1.3.2022, p. 158.

- având în vedere articolul 132 alineatul (2) din Regulamentul său de procedură,
- A. întrucât Bulgaria și România au adoptat *acquis*-ul Schengen în momentul aderării lor la Uniunea Europeană în 2007; întrucât, în 2008, Bulgaria a declarat că este pregătită pentru începerea evaluărilor efectuate de Grupul de lucru pentru evaluarea Schengen (SCH-EVAL), alcătuit din experți din statele membre ale spațiului Schengen; întrucât, în 2007 și în 2008, România a declarat că este pregătită pentru începerea evaluărilor efectuate de SCH-EVAL;
- B. întrucât finalizarea procesului de evaluare Schengen pentru Bulgaria și România și gradul de pregătire a celor două țări pentru a pune în aplicare toate dispozițiile *acquis*-ului Schengen au fost confirmate de experții SCH-EVAL și de Consiliu în concluziile sale din 9 și 10 iunie 2011; întrucât, în proiectul său de decizie din 8 iulie 2011, Consiliul a verificat dacă condițiile necesare pentru aplicarea *acquis*-ului Schengen au fost îndeplinite în toate domeniile, și anume protecția datelor, frontierele aeriene, frontierele terestre, cooperarea polițienească, Sistemul de Informații Schengen, frontierele maritime și vizele; întrucât, pe lângă provocarea pe care o reprezintă gestionarea frontierelor externe ale Uniunii Europene, pentru finalizarea procesului de evaluare Schengen ambele țări au fost nevoite să își restructureze în mod fundamental sistemele de supraveghere a frontierelor și să investească în întărirea capacităților de asigurare a respectării legii; întrucât, potrivit Actului de aderare din 2005, finalizarea cu succes a procedurilor de evaluare Schengen este singura condiție prealabilă pentru aplicarea integrală a *acquis*-ului Schengen, inclusiv eliminarea controalelor la frontierele interne terestre, maritime și aeriene; întrucât nivelul de pregătire al Bulgariei și al României în vederea aplicării integrale a *acquis*-ului Schengen a fost recunoscut în mai multe rânduri de către șefii de stat și de guvern reuniți în cadrul Consiliului, precum și de Comisie și Parlament, cel mai recent în Raportul Comisiei privind starea spațiului Schengen pentru 2022 și în Rezoluția Parlamentului din 8 iulie 2021 referitoare la Raportul anual privind funcționarea spațiului Schengen;
- C. întrucât, în proiectul său de decizie din 29 septembrie 2010, Consiliul a propus aplicarea integrală a *acquis*-ului Schengen în Bulgaria și România și eliminarea controalelor la frontierele interne terestre, maritime și aeriene; întrucât, în poziția sa din 8 iunie 2011, Parlamentul a aprobat această decizie și a solicitat Consiliului să îl consulte din nou în cazul în care intenționează să o modifice în mod substanțial;
- D. întrucât adoptarea deciziei Consiliului de către Consiliul Justiție și Afaceri Interne a fost amânată în mod repetat;
- E. întrucât, în conformitate cu decizia Consiliului din 12 octombrie 2017, Bulgaria și România au beneficiat de acces pasiv la Sistemul de informații privind vizele; întrucât, în proiectul său de decizie din 18 aprilie 2018, Consiliul a propus aplicarea integrală a dispozițiilor rămase ale *acquis*-ului Schengen referitoare la Sistemul de informații Schengen în ambele state membre;
- F. întrucât nici Actul de aderare din 2005 și nici mecanismul de evaluare Schengen nu prevăd stabilirea unor calendare diferite pentru eliminarea controalelor la frontierele interne terestre, maritime și aeriene; întrucât toate extinderile anterioare ale spațiului Schengen au fost statuate printr-un act juridic unic;
- G. întrucât Consiliul a consultat Parlamentul în legătură cu proiectul său de decizie a

Consiliului privind aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Croația (10624/22); întrucât Parlamentul examinează în prezent acest proiect de decizie a Consiliului;

- H. întrucât spațiul Schengen reprezintă un mecanism unic și una dintre cele mai mari realizări ale Uniunii Europene, facilitând libera circulație a persoanelor în spațiul Schengen fără controale la frontierele interne; întrucât acest lucru a fost posibil printr-o serie de măsuri de compensare, cum ar fi crearea Sistemului de Informații Schengen (pentru consolidarea schimbului de informații), precum și prin crearea unui mecanism de evaluare în scopul de a verifica aplicarea *acquis*-ului Schengen de către statele membre și de a întări încrederea reciprocă în funcționarea zonei Schengen;
- I. întrucât toate statele membre care fac parte din spațiul Schengen sunt obligate să respecte *acquis*-ul Schengen, inclusiv în ceea ce privește drepturile fundamentale, în conformitate cu articolul 4 din Codul frontierei Schengen¹;
- J. întrucât menținerea controalelor la frontierele interne ale Uniunii și reintroducerea acestor controale în spațiul Schengen au un impact considerabil asupra vieții cetățenilor europeni, în special asupra lucrătorilor mobili și a tuturor celor care beneficiază de principiul liberei circulații în interiorul UE, și subminează grav încrederea acestora în instituțiile europene și în integrarea europeană; întrucât menținerea controalelor implică costuri operaționale și de investiții directe pentru lucrătorii transfrontalieri și pentru lucrătorii mobili, pentru turiști, transportatori rutieri de mărfuri și administrații publice, având un efect negativ asupra economiilor statelor membre și asupra funcționării pieței interne a UE, **la aceasta adăugându-se impactul negativ asupra mediului cauzat de numărul mare de camioane care înaintază încet, așteptând să traverseze la punctele de trecere a frontierei**; întrucât menținerea controalelor la frontierele interne pentru Bulgaria și România are, în special, un impact negativ asupra principiului egalității și nediscriminării în cadrul UE, precum și asupra exporturilor și importurilor din și către ambele state membre și asupra operațiunilor de transport din și către unele dintre cele mai mari porturi de marfă și de pasageri din sudul Europei, generând pierderi ale profiturilor și creșteri ale cheltuielilor;
- K. întrucât aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Bulgaria și în România ar consolida spațiul Schengen și ar contribui la asigurarea unor drepturi egale pentru toți cetățenii din cadrul acestuia,
 - 1. reamintește că toate condițiile necesare pentru aplicarea integrală a *acquis*-ului Schengen în România și Bulgaria au fost deja îndeplinite de ambele state membre în 2011;
 - 2. este descurajat de faptul că, în cei 11 ani care au trecut de atunci, Consiliul nu a reușit să adopte o decizie privind aplicarea integrală a *acquis*-ului Schengen în Bulgaria și România, în pofida apelurilor repetate în acest sens, atât din partea Comisiei, cât și a Parlamentului;
 - 3. își reafirmă poziția de lungă durată, astfel cum a fost exprimată în rezoluția sa din

¹ Regulamentul (UE) 2016/399 al Parlamentului European și al Consiliului din 9 martie 2016 cu privire la Codul Uniunii privind regimul de trecere a frontierelor de către persoane (Codul frontierei Schengen) (JO L 77, 23.3.2016, p. 1).

11 decembrie 2018, în sprijinul aplicării integrale a *acquis*-ului Schengen în Bulgaria și România;

4. salută disponibilitatea României și Bulgariei de a găzdui în mod voluntar o misiune de informare, ceea ce constituie o expresie a principiului cooperării loiale și încrederii reciproce din partea acestor state, deși au îndeplinit deja toate cerințele legale și nu există motive pentru evaluări suplimentare;
5. îndeamnă Consiliul să ia toate măsurile necesare pentru a adopta decizia sa privind aplicarea integrală a dispozițiilor *acquis*-ului Schengen în Republica Bulgaria și în România până la sfârșitul anului 2022, asigurând astfel eliminarea controalelor asupra persoanelor la toate frontierele interne pentru ambele state membre la începutul anului 2023;
6. încredințează Președintei sarcina de a transmite prezenta rezoluție Consiliului, Comisiei, precum și guvernelor și parlamentelor statelor membre.



The Unnecessary Burden

Estimation of CO₂ emissions associated with the postponement of Romania's and Bulgaria's accession to the Schengen area and generated by road vehicles while waiting for border control

KPMG in Romania

March 2023



Glossary

| | |
|------------------|--|
| CO ₂ | Carbon dioxide |
| EU | European Union |
| HDV | Heavy Duty Vehicle |
| IGPF | General Inspectorate of the Romanian Border Police |
| LDV | Light Duty Vehicle |
| LPG | Liquefied Petroleum Gas |
| mn | million |
| UNTRR | Uniunea Nationala a Transportatorilor Rutieri din Romania (National Union of Road Haulers of Romania) |
| SUV | Sport Utility Vehicle |
| tCO ₂ | Tonnes of CO ₂ |
| TRL | Transport Research Lab |

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In the development of the Publication we have relied on data and information from publicly available sources, as well as on data and information received in response to requests for information submitted by KPMG to relevant public institutions in Romania, Bulgaria and Greece and private organizations (e.g. the General Inspectorate of the Romanian Border Police, the Border Police of Bulgaria, the Border Police of Greece, National Union of Road Hauliers of Romania, the National Association of Travel Agencies in Romania etc.) as well as on discussions with representatives of some of the companies operating in the international transport sector. It has been assumed that all information obtained from public sources or provided by third parties is complete and accurate and it has not been independently audited or reviewed nor has its reliability, accuracy or completeness been verified by reference to sources, information or evidence by KPMG.

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General Context

The Schengen area

Started in 1985 as an intergovernmental initiative between five EU countries, the Schengen area represents one of the most important European projects. It has gradually expanded to become the largest free trade & travel area in the world, with no physical border controls¹.

Currently, all EU member states except Bulgaria, Cyprus, Ireland and Romania are part of the Schengen area, which also encompasses the following non-EU states: Iceland, Norway, Switzerland and Liechtenstein².

Being part of an area without border controls means that countries do not carry out checks at their borders (except in cases of specific threats) within the set of rules governing the Schengen area, called the Schengen Border Code. This has had a positive impact on the economies of all the member states. The increased speed at which trade can take place, by cutting down the time spent at internal borders, made the Schengen area goods and services more competitive compared with those arriving from non-Schengen regions.

Romania's and Bulgaria's accession to the Schengen area

Romania's accession to Schengen was a commitment undertaken through the EU Accession Treaty concluded before Romania joined the EU in 2007. The Treaty stipulates the provisions of the Schengen acquis which were compulsory for Romania, starting from the date of Romania's accession to the EU.

In 2007 when Romania became a member with full rights of the European Union, the country entered a new stage, which involved the preparation and implementation of the necessary measures to lift internal border controls with other EU member states.

Romania manages 448 km of land border with Hungary and 130.1 km of land border with Bulgaria. It also manages 2,070 km of EU external border – the second longest external border in the European Union – out of which 1,877 km is land. The land border between Bulgaria and Greece has a length of 494 km.

The European Parliament gave the green light for Romania and Bulgaria to join the Schengen area in June 2011, based on the fact that the two countries had fulfilled the technical conditions for becoming Schengen member states³.

Although discussed and negotiated multiple times, eleven years later, on 8 December 2022, the accession of Romania and Bulgaria to the Schengen area was rejected once again, following the vote of the Justice and Home Affairs Council. The decision to reject Bulgaria and Romania's accession to the Schengen area causes negative impacts in various sectors of the national economies of both countries, and it has a impact from the environmental perspective as well.

Context of the Publication

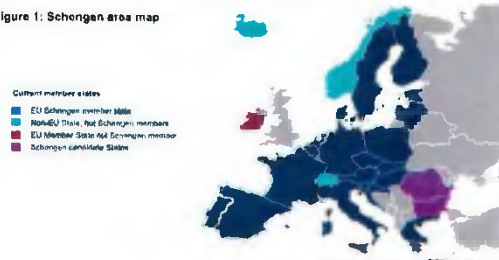
The accession of Romania and Bulgaria to the Schengen area would lead to the elimination of physical checks at the borders between the two countries, as well as at the borders of the two countries with other member states (i.e. at the borders between Romania and Hungary and between Bulgaria and Greece). This would translate into shorter travel times for both freight and passenger road transport along these countries' travel corridors.

Shorter travel times would have an immediate impact in reducing fuel consumption and therefore contribute to a reduction in emissions of CO₂ and other greenhouse gases associated with road transportation between these countries and the other EU member states.

As the European Union's targets on climate change are very ambitious, and all member states have to take measures to reduce their greenhouse gas emissions, all decisions and policies adopted within the European Union should be assessed from a climate change perspective as well, to quantify the associated impact.

The Publication aims to quantify the carbon emissions generated by the functioning of motor vehicles during periods of waiting for control checks at the borders with member states, following the rejection once again of Romania's and Bulgaria's accession to Schengen area in 2022.

Figure 1: Schengen area map



Methodology Overview

Scope of the Publication

The purpose of the analysis is to estimate the quantity of carbon emissions associated with the postponement of Romania's and Bulgaria's accession to the Schengen area, caused by the operation of engines while waiting at border crossing points. We further use the term "Border Carbon Emissions" in order to define the total carbon emissions of the road vehicles having their engines running during the time of waiting for the border control and during the border control, at the physical border check points with other EU member states.

Methodological aspects

In the analysis, we considered a one year period with respect to the estimation of CO₂ emissions. The estimation of the impact is the result of a comparison between the Border Carbon Emissions in the scenario in which Romania's and Bulgaria's accession to the Schengen area is not accepted (Actual Scenario) and the Border Carbon Emissions in the scenario in which Romania's and Bulgaria's accession to the Schengen area were to be accepted (Counterfactual Scenario).

Counterfactual Scenario

In the Counterfactual Scenario, the assumption used is that if Romania and Bulgaria were part of the Schengen area, then the waiting time related to border control at the border of the two countries with member states would be eliminated, and therefore we estimated the value of Border Carbon Emissions at nil. As such, the quantity of carbon emissions reduced by the admission of Romania and Bulgaria to Schengen would be equal to the Border Carbon Emissions estimated in the Actual Scenario.

The purpose of the Publication was not to reflect in the analysis the full impact on mobility habits and road transport volumes resulting from Romania and Bulgaria becoming Schengen members. However, we have assumed that this impact would be marginal and would not lead to significant increases in CO₂ emissions caused by additional road transport volumes in the Counterfactual Scenario, as compared to the Actual Scenario.

Actual Scenario

In order to use the most recent data to estimate the Border Carbon Emissions in the Actual Scenario, we sent requests for information to relevant institutions and organizations in relation to the transit of vehicles at the border for the full year 2022.

We have taken into account in the analysis the passing of road vehicles at the borders between Romania, Bulgaria and other member states, i.e.:

1. At the border between Romania and Hungary;
2. At the border between Romania and Bulgaria;
3. At the border between Bulgaria and Greece.

Estimation of Border Carbon Emissions in the Actual Scenario

We estimated the Border Carbon Emissions in the Actual Scenario as a function of the following three factors:

- The total number of motorized road vehicles crossing the border between Romania and the other member states during 2022 and between Bulgaria and Greece, in both directions of travel;
- The estimated time of waiting for the border control and during the border control, at the physical border check points between Romania and member states and between Bulgaria and Greece;
- The carbon emissions from idling engines while waiting for the border control and during the border control, at the physical border check points between Romania, Bulgaria and the other member states.

Data and Information

To collect the primary data for the analysis, we sent requests for information with respect to the inputs needed, to relevant public institutions in Romania, Bulgaria and Greece as well as private organizations (e.g. the General Inspectorate of the Romanian Border Police, the Border Police of Bulgaria, the Border Police of Greece, the National Union of Road Hauliers from Romania, the National Association of Travel Agencies in Romania, the Romanian Automotive Register, the National Road Infrastructure Administration Company of Romania etc.).

The Publication is based on the data and information obtained following these enquiries and received by 17 March 2023, as well as on the information retrieved from reputable publicly available sources to which we have applied the methodologies and assumptions further described in this Publication.

Generally, the carbon emissions calculation process involves working with a large and very diverse set of parameters and variables. But the extent of the variations is difficult to estimate in the absence of reliable data. As in some cases, the quality of the granularity of the data sets were not the highest possible, the analysis and projections were made conservatively.



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Estimation of Border Carbon Emissions (1/4)

This section provides further details about the approach taken for the estimation of the Border Carbon Emissions in the Actual Scenario, and the assumptions used.

Number of motorized road vehicles

The total number of motorized road vehicles crossing the border considered in the estimation of the Border Carbon Emissions comprises both travel streams (entry and exit) at the Romanian and Bulgarian borders. Following a request for information submitted to the General Inspectorate of the Romanian Border Police, we received the monthly number of motorized road vehicles crossing the borders between Romania and the member states during 2022, split by the following categories: Passenger Cars, Minibuses, Large Passenger Buses and Trucks.

Figure 2: Number of motorized road vehicles crossing the border between Romania and Hungary in 2022

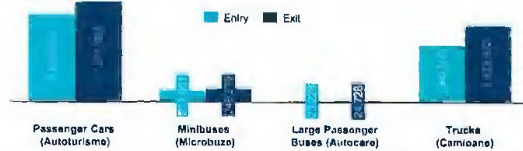
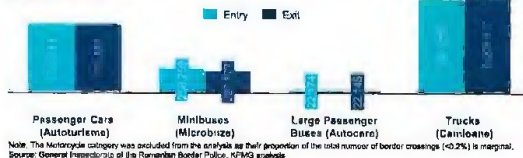


Figure 3: Number of motorized road vehicles crossing the border between Romania and Bulgaria in 2022



Note: The Motorcycle category was excluded from the analysis as their proportion of the total number of border crossings (0.2%) is marginal. Source: General Inspectorate of the Romanian Border Police, KPMG analysis



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Given the lack of data at the time of writing this Publication, for the number of vehicles crossing the border between Bulgaria and Greece, we considered in the analysis the number of vehicles crossing the Romanian – Bulgarian border during 2022, as a conservative proxy.

In order to capture into the analysis the fact that fuel consumption and carbon emissions are significantly influenced by the vehicle type (Heavy Duty Vehicles, Light Duty Vehicles, Passenger Cars – SUVs/ Family Cars/ Small Cars etc.), we extended the analysis by breaking it down into the following categories of vehicles:

- Heavy-duty vehicles (HDVs);
- Light-duty vehicles (LDVs);
- Large Passenger Buses (Autocare);
- Minibuses;
- Passenger cars (including small cars, family cars/estate cars and SUVs).

Figure 4: Type of motorized road vehicles



Estimation of Border Carbon Emissions (2/4)

Vehicle waiting time

We assumed that the waiting time at the physical border with member states is impacted by:

- the time of waiting in line for the border control; and
- the time spent during the actual control routine.

In addition to the variation of the waiting time due to different border control measures (i.e. control of documents or other verifications), the time spent at the border varies based on seasonality, with periods of holiday (i.e. winter and summer holidays, school holidays etc.) creating long queues at the borders and increasing the time per passage for a vehicle.

To embed this seasonality into the analysis, our aim was to gather information on waiting time at least on a month by month basis, or to refer to yearly averages, as a proxy.

Based on enquiry with the General Inspectorate of the Romanian Border Police, the estimates of waiting time at the borders are performed in real time and published on the webpage of the institution. Historical databases with average waiting times per category of vehicles, per month, are not available.

As such, for the estimates regarding the average waiting times were made based primarily on:

- Information provided by UNTRR;
- enquires and interviews with international transport operators and logistics companies, and
- KPMG analysis.

Generally, at the border, vehicle waiting time varies between categories of vehicles (e.g. passenger cars vs. passenger buses vs. commercial trucks).

Therefore, for the categories of vehicles identified in the previous step, we estimated, in a conservative way, different idling time as follows:

Trucks

For Trucks (both LDVs and HDVs) we have taken into account the information made public by UNTRR. According to UNTRR, the average waiting time at the border of Romania with Hungary and Bulgaria varies between 30 minutes and 72 hours, with an average of 6 hours per passing.

No reliable information is available on what proportion of the waiting time is spent with engine running. For this reason, we have taken a conservative interval of reference between 30 minutes (the minimum waiting time indicated by UNTRR) and 6 hours (the average waiting time indicated by UNTRR). Further on, we have taken into account the middle of this waiting time interval, i.e. approximately 195 minutes with engine running, in average, per crossing.

Passenger Buses

For Passenger Buses, we have considered the responses received from relevant operators of international transport of passengers. The average waiting time interval, based on seasonality, varies between 30 and 90 minutes.

For the estimation performed we have taken into account the middle of this waiting time interval, i.e. approximately 60 minutes with engine running, on average, per crossing.

Passenger Cars

We have considered Passenger Cars as having the lowest waiting time as compared to the other types of vehicle. Therefore, we have estimated the higher end of the interval of reference for this type of vehicle, to be equal to the lower end of the interval for large passenger buses and trucks (i.e. 30 minutes) but no less than an average of 10 minutes.

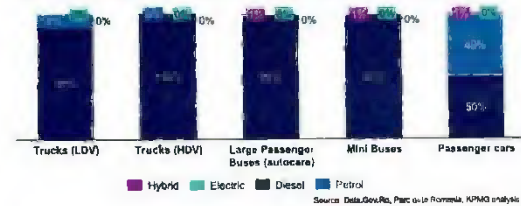
For the estimation we have taken into account the middle of this waiting time interval, i.e. approximately 20 minutes with engine running, on average, per crossing.

Estimation of Border Carbon Emissions (4/4)

Fuel considerations

In order to calculate the number of vehicles crossing the border based on fuel type, we have referred to the information available on the data.gov.ro website concerning the structure of national vehicle fleet in Romania as at 31 December 2021 (the latest year available). We have used this statistics as a proxy for the analysis, by equating the structure to estimate the breakdown of fuel type for the vehicles which cross the border. While heavy duty vehicles and large passenger buses are powered primarily by diesel fueled engines, the category of passenger cars is not polarized in a similar manner, with almost half of the fleet being powered by petrol ("benzina") engines.

Figure 6: Share of engine type in the national fleet in Romania as at 31 December 2021



Diesel based engines dominate the heavy duty vehicles and large passenger buses category mainly because of their greater fuel efficiency and torque as compared with petrol engines. Given the fact that diesel and petrol engines dominate the transport fleet, we did not include in the calculation the carbon emissions of vehicles with engines fueled by other sources (GPL, hybrid etc.), their impact being marginal in the analysis.

CO₂ emission estimation

The Border Carbon Emissions in the Actual Scenario was calculated by incorporating into the following equation the variables previously detailed in the Publication:

$$\text{Border Carbon Emissions in the Actual Scenario} = \sum \left\{ \begin{array}{l} \text{no. of vehicles per category } i \\ \times \\ \text{vehicle waiting time}_i \\ \times \\ \text{CO}_2 \text{ emissions per unit of waiting time}_i \end{array} \right.$$

Where,

- i refers to the vehicle category (HDVs, LDVs, Passenger Cars etc.)
- j refers to the fuel category (diesel, petrol);

The value of Border Carbon Emissions based on the assumptions used in the Actual Scenario is estimated to be higher than 48 thousands of tCO₂ per year.

As previously mentioned in the Publication, we consider the value of the Border Carbon Emissions estimated in the Actual Scenario as being reflective and directly associated with the postponement of Romania's and Bulgaria's accession to the Schengen area, due to the fact that the Counterfactual Scenario in our analysis assumes nil impact on Border Carbon Emissions, due to waiting time being considered nil.

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