



TEXTS ADOPTED

P8_TA(2018)0497

Full application of the provisions of the Schengen acquis in Bulgaria and Romania

European Parliament resolution of 11 December 2018 on the full application of the provisions of the Schengen acquis in Bulgaria and Romania: abolition of checks at internal land, sea and air borders (2018/2092(INI))

The European Parliament,

- having regard to the Protocol integrating the Schengen *acquis* into the framework of the European Union (11997D/PRO/02),
- having regard to Article 4(2) of the 2005 Act of Accession,
- having regard to the draft Council decisions on the full application of the provisions of the Schengen *acquis* in the Republic of Bulgaria and Romania of 29 September 2010 (14142/2010) and of 8 July 2011 (14142/1/2010),
- having regard to the draft Council decision on the framework for the full application of the provisions of the Schengen *acquis* in the Republic of Bulgaria and Romania of 7 December 2011 (14302/3/11),
- having regard to its legislative resolution of 8 June 2011 on the draft Council decision on the full application of the provisions of the Schengen *acquis* in the Republic of Bulgaria and Romania¹,
- having regard to the conclusions of the Justice and Home Affairs Council of 9 and 10 June 2011, 22 and 23 September 2011, 25 and 26 October 2012, 7 and 9 March 2013, and 5 and 6 December 2013,
- having regard to its resolution of 13 October 2011 on the accession of Bulgaria and Romania to Schengen²,
- having regard to the Commission's eighth biannual report on the functioning of the Schengen area of 15 December 2015 (COM(2015)0675),

¹ OJ C 380 E, 11.12.2012, p. 160.

² OJ C 94 E, 3.4.2013, p. 13.

- having regard to its resolution of 30 May 2018 on the annual report on the functioning of the Schengen area¹,
 - having regard to the Council decision (EU) 2017/1908 of 12 October 2017 on the putting into effect of certain provisions of the Schengen *acquis* relating to the Visa Information System in the Republic of Bulgaria and Romania²,
 - having regard to the draft Council decision on 18 April 2018 on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (15820/1/2017),
 - having regard to its legislative resolution of 13 June 2018 on the draft Council decision on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania³,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0365/2018),
- A. whereas Bulgaria and Romania adopted the Schengen *acquis* upon their accession to the European Union in 2007; whereas in 2008 Bulgaria issued its declaration of readiness to start the evaluations carried out by the Schengen Evaluation Working Group (SCH-EVAL), comprising experts from Schengen Member States; whereas in 2007 and 2008 Romania issued its declaration of readiness to start the evaluations carried out by SCH-EVAL;
- B. whereas the completion of the Schengen evaluation process for Bulgaria and Romania and the state of preparedness of the two countries to implement all the provisions of the Schengen *acquis* were confirmed by SCH-EVAL experts, and by the Council in its conclusions of 9 and 10 June 2011; whereas in its draft decision of 8 July 2011, the Council verified that the necessary conditions for the application of the Schengen *acquis* had been met in all areas, namely data protection, air borders, land borders, police cooperation, the Schengen Information System, sea borders and visas; whereas in addition to the challenge of managing external borders of the European Union, the completion of the Schengen evaluation process has entailed both countries fundamentally restructuring their border surveillance systems and investing in increased law enforcement capacity; whereas according to the 2005 Act of Accession, the successful completion of the Schengen evaluation procedures is the only prerequisite for the full application of the Schengen *acquis*, including the abolition of checks at internal land, sea and air borders; whereas Bulgaria and Romania's state of preparedness to apply the Schengen *acquis* in full has been acknowledged by heads of state and government in the Council on multiple occasions, as well as by the Commission and Parliament, most recently in the Commission communication of 27 September 2017 and Parliament's resolution of 30 May 2018;
- C. whereas in its draft decision of 29 September 2010, the Council proposed the full

¹ Texts adopted, P8_TA(2018)0228.

² OJ L 269, 19.10.2017, p. 39.

³ Texts adopted, P8_TA(2018)0253.

application of the Schengen *acquis* in Bulgaria and Romania and the abolition of checks at internal land, sea and air borders; whereas in its legislative resolution of 8 June 2011, Parliament approved this decision and asked the Council to consult Parliament again if it intended to substantially amend it;

- D. whereas in September 2011 the Council Presidency presented a proposal for partial implementation of the provisions of the Schengen *acquis* in Bulgaria and Romania, namely the abolition of checks at internal sea and air borders only, while envisaging a separate decision, at a subsequent stage, as regards land borders;
- E. whereas in its conclusions, the Justice and Home Affairs Council confirmed on multiple occasions its commitment to base any future decision on the abolition of checks at internal borders for Bulgaria and Romania on a two-step approach; whereas the adoption of that decision by the Justice and Home Affairs Council has been repeatedly deferred;
- F. whereas with the Council decision of 12 October 2017 Bulgaria and Romania were granted passive access to the Visa Information System; whereas in its draft decision of 18 April 2018 the Council proposed the full application of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in both Member States;
- G. whereas neither the 2005 Act of Accession nor the Schengen evaluation mechanism provide for setting different timeframes for the abolition of checks at internal land, sea and air borders; whereas all previous enlargements of the Schengen area were established with a single legal act;
- H. whereas the Schengen area is a unique arrangement and one of the greatest achievements of the European Union, allowing the free movement of people through internal Schengen borders; whereas this has been made possible through a variety of compensatory measures, such as the establishment of the Schengen Information System (to reinforce the exchange of information), as well as the creation of an evaluation mechanism to verify the implementation of the Schengen *acquis* by Member States and foster mutual trust in the functioning of the Schengen area;
- I. whereas the maintenance of internal border controls in the Union and their reintroduction in the Schengen area has a serious impact on the lives of European citizens and all those who benefit from the principle of free movement within the EU, and seriously undermines their trust in the European institutions and integration; whereas this entails direct operational and investment costs for cross-border workers, tourists, road freight transporters and public administrations, with crippling effects on the economies of the Member States and the functioning of the internal market of the EU; whereas the maintenance of internal border controls for Bulgaria and Romania has a negative impact on the exports and imports from and to both Member States, as well as on the transport operations from and to some of Europe's largest southern civilian fleet and freight ports, meaning lost benefits and increased spending; whereas estimates of the costs linked to the reintroduction of border controls for the European Union range between EUR 0,05 billion and EUR 20 billion in one-off costs and EUR 2 billion in

annual operating costs¹;

- J. whereas the maintenance of internal border controls in the Union and their reintroduction in the Schengen area appears linked to a perception of threats to public policy and internal security, rather than sound evidence of the actual existence of a serious threat; whereas the abolition of checks at internal borders as a result of the full application of the Schengen *acquis* in Member States that have already acceded has not led to higher crime rates; whereas the Schengen enlargement of 2007 is associated with lower acquisitive crime rates in both the newly acceding Schengen Member States and existing Schengen Member States, and has not increased the perception of insecurity among EU citizens²;
1. Recalls that all the necessary conditions for the full application of the Schengen *acquis* were met by Bulgaria and Romania in 2011;
 2. Regrets the fact that in the seven years since, the Council has failed to take a decision on the full application of the Schengen *acquis* in Bulgaria and Romania despite the repeated calls to this end by both the Commission and Parliament;
 3. Considers the proposal for splitting the abolition of checks at internal borders into two legal acts in order to set different timeframes for the abolition of checks at land, sea and air borders a significant departure from the text of the draft Council decision of 29 September 2010 approved by Parliament;
 4. Recalls that the Council may only take a decision on the application of the provisions of the Schengen *acquis* in Bulgaria and Romania after consulting Parliament – an obligation stemming from Article 4(2) of the 2005 Act of Accession; reiterates its call on the Council to notify Parliament if it intends to depart from the text approved by Parliament in its legislative resolution of 8 June 2011;
 5. Expresses concern that the introduction of a two-step approach could negatively impact the future enlargement of the Schengen area; emphasises that the failure to reach consensus in the Council calls into question the unitary application of the provisions of the EU Treaties and the credibility of the EU, which continuously erodes public support for common EU policies by demonstrating unequal treatment of Member States and their citizens and introducing artificial lines of division within the Union; voices its concern that such practices contribute to the rise of populism and nationalism across the continent, which poses a fundamental challenge to the functioning of the EU;
 6. Underlines the fact that the free movement of persons across internal borders, stemming from the incorporation of the Schengen *acquis* into the EU legal framework, is one of the main achievements of the EU; stresses that the functioning and enlargement of the Schengen area should not be negatively impacted by shortcomings in other EU policies, such as the Common European Asylum System;
 7. Welcomes the adoption of the Council decision of 12 October 2017 granting Bulgaria and Romania passive access to the Visa Information System and the Council's proposal

¹ van Ballegooij, W., 'The Cost of Non-Schengen: Civil Liberties, Justice and Home Affairs aspects', Cost of Non-Europe Report, European Added Value Unit, 2016, p. 32.

² *Ibid*, p. 28 & 31.

for the full application of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in both Member States; regrets the fact that the adoption of these decisions did not immediately follow verification of the successful completion of the Schengen evaluation process in 2011, but was initiated as an ad-hoc measure to ensure compliance with the preconditions for the implementation of the Entry/Exit System, expected to be operational by 2020; considers that these legal acts constitute a step towards closing information gaps between those Member States applying the Schengen *acquis* in full and those applying it partially; firmly insists that the adoption of these acts should not serve to further delay the abolition of checks at internal land, sea and air borders; notes that with the adoption of these decisions, Bulgaria and Romania will share all the responsibilities and obligations, but not all the benefits, of fully fledged Schengen area membership;

8. Emphasises that the Schengen *acquis* was not designed to accommodate Member States with different legal statuses; draws attention to the fact that the Council's prolonged inaction has created the need for making a clear distinction in EU legislation, relating to information and border management systems, between those Member States applying the Schengen *acquis* in full and those applying it partially; voices its concern that this legally codifies a de facto parallel existence of a Schengen area with free movement and a Schengen area without free movement, at the risk of information exchange gaps, legislative deficiencies and a lack of connectivity between justice and home affairs systems;
9. Stresses that with regard to the full application of the Schengen *acquis*, no additional criteria other than the specified prerequisites laid down in the 2005 Act of Accession should be introduced or links to other Union mechanisms and policies made, including and without prejudice to the Cooperation and Verification Mechanism; calls on the Member States to take a decision on the enlargement of the Schengen area solely on the basis of fulfilment of the relevant conditions for applying the Schengen *acquis* following the completion of the Schengen evaluation process;
10. Urges the Council to present a new draft decision on the full application of the provisions of the Schengen *acquis* in Bulgaria and Romania on the basis of its draft decision of 29 September 2010 (14142/2010) as soon as possible and, by means of a single legal act, take an immediate decision for the abolition of checks at internal land, sea and air borders;
11. Calls on the Council to apply the same approach to Croatia and confirm the country's full accession to the Schengen area as soon as it has successfully completed the Schengen evaluation process and the relevant criteria have been met;
12. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments.