PC 4: DISCUSSION PAPER

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Europe Needs a Strong Communitarian Immigration, Asylum and External Border Security Approach
A Step to European Internal Affairs Government

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The ongoing process of transformation in Europe's closest neighborhood is a historic opportunity but also brings important challenges for our continent. Political uncertainty and conflicts in these countries force many to leave their homes for Europe in search for a better life. Increase in the rise of extremism and right-wing populism all over Europe testifies increasing popular unease and fear of the intensification of migratory flows, as well as of threats to public security and social order.

This fear of immigrants with different cultural and religious background is the underlying platform for extreme ideas all over Europe, magnified in times of economic and financial crisis. Opposition to multicultural society model is gaining speed. Sadly, this trend found its most sinister expression in the terrorist attacks in Norway from July 2011.

Are European public’s worries justified? This is to ask whether Europe has the adequate resources to properly face the challenges posed by migration.

This is the key question in the current debate on the future of the common EU immigration and asylum policy as well as on the changes to the Schengen acquis. The Union of European Federalists (UEF) should welcome this debate. We are already witnessing concrete measures taken by the national authorities of some Member States. The reestablishment of internal EU border controls by Denmark, considered also by some other Member States, is unacceptable. These actions are integration reversal! European problems need a European answer. Better policy solutions are needed and EU political, NGOs’ and civil society voices should be able to make themselves heard.

What do we defend?

Migration is not an isolated national issue. It affects all European citizens, albeit to a different degree. Joint management should be ensured within the framework of common institutions and mechanisms. Political approach prone to “national egoism”, hidden under declared national security threats, should be rejected. The European Union - and its principles of solidarity and shared responsibility - provides the right institutional framework, which could properly face the challenge of migration and integration of immigrants in Europe and could provide for effective external border security management.
The tools that the EU currently uses to implement its policy in the field of migration must be enhanced in line with the above-mentioned principles. Member States should be ready to guarantee the functioning of effective burden-sharing mechanisms. This should be used by every EU Member State to the benefit and security of every European citizen. At the same time, the policy reform should not happen at the expense of the planned Schengen enlargement to new countries, provided naturally that all conditions to accession are met.

The Schengen area with Bulgaria and Romania, effectively incorporated within, will provide more security and sustainability to the Schengen framework. However, in September 2011 the accession of Bulgaria and Romania was blocked by two EU Member States. The fact-free policy of the Dutch and Finnish governments, kept in power by far-right populist parties, didn't take into account the assessment of the Council experts recognizing that both Bulgaria and Romania have fulfilled all accession criteria thus proving their capability of securing the external borders of the EU. Something more, the participation of the latter countries in the Schengen Information system (SIS) already proves successful thus strengthening the security within the Schengen area. The two countries have also established best practices for Black Sea maritime border control, which can provide a good example for current Schengen Members, especially in the Mediterranean area.

The steady support of the European Parliament regarding the accession of Bulgaria and Romania to Schengen must be warmly welcomed. Its second resolution of 13 October 2011 supporting the accession of Bulgaria and Romania to Schengen is an important message to the European Council to finalize this process at its meeting in December 2011.

What should be done?

Europe must ensure that it has the right tools to respond to the increased migration pressure based on the world's economic and political situation and inadequate distribution of welfare, not a topic of this discussion paper. Communitarian approach, when applied to the field of EU common immigration and asylum policy and external border control (Schengen acquis), could bring a solution to the

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1 Draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania of 29 September 2010 presuming Bulgaria and Romania's preparedness to join the Schengen area based on the Council experts' evaluation reports on Bulgaria and Romania which are "classified" documents. The approval of the former document, which found also the unanimous support of the European Parliament on 8 June 2011 by the adoption of its legislative resolution, was blocked during the Justice and Home Affairs Council meeting of 22-23 September 2011.

2 Between November 2010 and October 2011 Bulgaria, for instance, has provided information to its Schengen partners regarding:

- 323 persons wanted for arrest in the Schengen area
- 1383 motor vehicles, personal identity documents, weapons, and other personal belongings searched in the Schengen area
- 92 missing persons, as well as
- 1208 participants in criminal proceedings.

Next, both Bulgaria and Romania, recently adopted National strategies on migration and asylum. The newly established strategic objectives and measures are based on the Schengen membership related forecast that they will gradually transform from emigration and transit into countries attracting immigrants. Taking this trend into account, detailed analysis of the strengths and deficiencies of the national authorities to manage this challenge was carried out. Specific measures were adopted in order to ensure the proper implementation of border control, visas, and fight against illegal migration, return, and human trafficking, asylum, migration and integration policies. Both countries put the stress on administrative and staff capacity enhancement as well as on state cooperation with the non-governmental sector.

3 European Parliament 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 Romania.
migration challenge. Similar to the discussed proposal for the establishment of a European Economic
Government, a European Internal Affairs Government could be established.

External border security - a key element of the Schengen acquis - must be strengthened. The current
debate on "the changes to Schengen" should focus on the effectiveness of the enforcement of the
Schengen rules, in line with the principles of solidarity and shared responsibility between the Member
States. Any reform must guarantee that the Schengen acquis will be applied in a uniform and
consistent manner in all participating countries.

Thus the set of proposals\(^4\) of the European Commission from mid-September 2011 aims at
responding to the latest political events in EU's neighborhood with more efficient management of the
Schengen cooperation system and uniform application of the Schengen rules. If agreed by the
European Parliament and the Council of the EU, the proposals of the Commission will win for the
process of European integration two main results, which in our view constitute a right step in the
federal direction:

- firstly, the reintroduction of border controls for foreseeable events will be handled at the European
level by means of an EU-based decision making mechanism, involving the European Commission and
the Member States. In cases of unforeseeable events, the Member States will be able to unilaterally
reestablish border control for a period no longer than 5 days, and
- secondly, the management of the Schengen area will be strengthened. A EU-based Schengen
governance will replace the current inter-governmental peer review approach, thus enhancing the
tools for monitoring and remedying deficiencies in Schengen system management.

Furthermore, Article 77, Par 1, "c" of the Treaty on the Functioning of the EU stipulates that the Union
should "develop a policy with a view to gradually introduce an integrated management system for
external borders". In short and medium term the EU institutions should participate, together with the
Members States, in the effective external border security. In the long term, the EU should gradually
replace the Member States and take the responsibility for this task. Considering the historical
development of national borders and the classical 19th century understanding of sovereignty, the
transfer of external EU border security competency to communitarian institutions would be an
enormous integration step, which would bring the EU to another level of post-national union. This
policy development is the necessary step that would guarantee a higher degree of proper
implementation of the common EU acquis in this area. Such development, however, requires that the
EU have the adequate tools to properly manage its external borders.

In the light of the above, the European Parliament's decision from 13 September 2011 to approve new
rules on the functioning of the Agency of the EU for the Management of Operational Cooperation at the
External Borders of the Member States of the European Union (FRONTEX)\(^3\) should be welcomed.

\(^4\) The set includes the following documents:
1. Communication from the Commission to the European Parliament, the Council, the European Economic and
Social Committee and the Committee of the Regions – Schengen governance – strengthening the area without
internal border control from 16 September 2011
562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal
borders in exceptional circumstances
562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal
borders in exceptional circumstances.

\(^3\) European Parliament legislative resolution on the proposal for a regulation of the regulation of the European
for the Management of Operational Cooperation at the External Borders of the Member States of the European
Union (FRONTEX) adopted on 13 September.
The decision is a step ahead in strengthening the resources and tools at FRONTEX disposal. The reform of the Agency’s legal framework allows it to possess assets thus using its own technical equipment in missions and no longer relying on national contributions only. New European Border Guards Teams (EBGT) will be set up. The EBGT will not replace the national authorities in ensuring the EU external border security but Member States will be legally bound to provide staff for the newly established teams. These changes will enhance the efficiency of FRONTEX operations. These improvements should be seen as a real embodiment of the EU’s shared responsibility principle. However, it remains to be proven whether the redesigned executive body will be up to its main task - to ensure the management of cooperation between Member States when protecting external borders. More specifically, FRONTEX is expected to show its capability of coping with crisis situations faced by countries under serious migration pressure. The operational capabilities of FRONTEX will be crucial to the development of a genuine integrated management system of the EU external borders.

The future of the EU migration policy should not be reduced to the reform of the rules governing the protection of the external borders of the EU. Migration requires a complex vision for reforms of related EU policies, more specifically, an EU immigration and asylum policy.

The Commission’s approach to focus the efforts of the EU on implementing long-term measures on migration laid down in its Communication on migration from 4 May 2011\(^6\) should be welcomed. The Commission proposal is perfectly in line with the nature of irregular third countries’ migration - which is a permanent, rather than an occasional phenomenon. That is why the flows should be managed continuously instead of spending efforts and resources on resolving it once and for all. The debate on the future of the EU immigration and asylum policy should embrace this long-term vision as a plausible basis on which further policy initiatives to be built upon.

The Commission observes that there is a need for authentic solidarity between Member States in situation of migration crisis. However, adequate mechanisms aimed at supporting the countries directly exposed to massive migratory movements are still necessary. They should be firmly addressed in Commission’s future legislative proposals, following the Communication, and supported by the Parliament and the Council. In this regard, the mechanisms impeding the timely use of the General Program on “Solidarity and Management of Migration Flows”, and the four funds under the program, which are currently not easily operational in crisis situations should be improved.

The proposal of the Commission on intensive use of readmission agreements in EU relations with countries considered a source of irregular migration should be welcomed. These agreements, together with the Schengen acquis, count for achieving the objective of limiting irregular migration. They should therefore constitute an element of conditionality within the larger context of the EU neighborhood policy in both dimensions - Southern and Eastern. However, as correctly stated by the Commission in its Communication on migration, the implementation of this instrument is far from being efficient. This is quite evident in the case of Turkey which hasn’t yet taken the necessary measures to ensure the finalization of the readmission agreement with the EU.

That is why the efforts of the responsible institutions should focus on planning measures aimed at increasing the current level of proper implementation of concluded readmission agreements.

Finally, common criteria for immigration are needed as a measure for controlling migration flows. At the same time, the invaluable contribution of the migrants to the EU societies should not be forgotten. Qualified immigrants are needed, if the EU wants to continue as a knowledge-based economy and a competitive world trade partner. One should also keep in mind that the EU faces serious demographic

\(^6\) Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the regions on migration of 4 May 2011.
challenges. The brain drain from developing countries remains a serious problem, undermining the
development of the immigration source countries. This recommendation is in line with the commitment
of the Member States to establish the Common European Asylum System (CEAS) by 2012. A EU
common asylum policy should reflect the founding values of the EU - democracy, freedom and rule of
law. Along with these values, but also with the international acts in the field of asylum, the EU must
guarantee aid and protection to people “persecuted” in their own countries for reasons of race, religion, nationality, membership of a particular social group, political opinion or sexual orientation. At
the same time, any policy development in the field of migration and asylum must guarantee that the
rule of EU values on the territory of the Member States is not threatened.

More than ever, Europe should profit from its know-how. Europe not only knows how to survive in
times of crisis. Europe knows how to transform a crisis into its own asset and dialogue is its key
vehicle.

In this dialogue we defend Europe's solidarity and shared responsibility. Europe's asset will be the
prosperity and security of its citizens and a new level of integration ready for the challenges of the 21st
century!