

France and Germany want changes in the Schengen Agreement

Niemcy i Francja chcą zmian w układzie z Schengen, Rafał Sadowski

On 17 April, the interior ministers of France and Germany, Claude Gueant and Hans-Peter Friedrich, addressed a letter to the minister of justice of Denmark, which is currently holding the EU presidency, with a proposal of amending the Schengen Agreement. They want the member states to have the right to bring back checks on their internal borders for periods of up to 30 days. Decisions as to whether such a move is reasonable would be taken by individual member states without the need to consult EU institutions. At present, member states can reinstate passport control on their borders subject to consultations with the European Commission for a period not longer than five days in exceptional situations (such as the G8 or NATO summits and football events). However, the wave of revolutions in the Arabic world and the influx of illegal immigrants have given rise to a debate about the effectiveness of the regulations currently in force. The decision taken by the Italian prime minister, Silvio Berlusconi, in spring 2011 to grant Schengen visas to refugees from African countries to get rid of them from Italy this way provoked strong criticism from the diplomacies in Paris and Berlin. As a consequence of this, France at that time introduced passport control on its borders, and Germany announced it would do the same.

Commentary

- The realisation of the proposals from France and Germany would require amending the *acquis communautaire*, of which the Schengen Agreement is a part. Acceptance of this proposal would impair the powers of EU institutions (the European Commission) and strengthen those of individual member states. The proposals the ministers have made fit in with a wider debate (which has intensified as a consequence of the eurozone crisis) regarding the competences of EU community and intergovernmental institutions and the rights of the member states, which means *de facto* the way of managing the European Union.
- The appeal from the ministers is an exemplification of the dispute between some member states and the European Commission over the competences concerning border control and the movement of people. The European Commission is inclined to agree to the temporary introduction of border control, but it wants to co-decide on this issue. In turn, Paris and Berlin believe that these issues fall under the competences of the governments alone because they are directly linked to state security.

- In the case of Germany, the move from Hans-Peter Friedrich (CSU) is an element of the policy of the ministry he is in charge of, which opposes the liberalisation of migration regulations, and also an expression of support for Nicolas Sarkozy in his election campaign. As regards France, the presidential election has played an essential role. The governing party, UMP, and its leader, Sarkozy, have adopted a sharper rhetoric concerning this issue, partly in an attempt to take over the electorate of the right-leaning Marine Le Pen.
- The letter from the ministers is further proof of the existence of an unfavourable political climate for migration regulations to be liberalised (one expression of which was France and Germany being among the countries opposed to the extension of the Schengen Area to Bulgaria and Romania in December 2010). This atmosphere will continue to have an adverse effect on the prospects for enlarging the Schengen Area, and will also make the process of introducing visa facilitations and lifting the visa regime for Eastern European countries more difficult since this depends on the political decisions of EU member states. Possible moves in an attempt to soothe such fears from the countries which are blocking this process and offering possibilities to re-introduce border control will not change this situation.