Analyses OSW

CENTRE FOR EASTERN STUDIES 11.05.2011 www.osw.waw.pl

Romania and Bulgaria and the Schengen Area: deadlock despite progress

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The Schengen Evaluation Working Group (SCH-EVAL) on 3 May expressed a positive opinion on the last of the reports concerning Bulgaria's fulfilment of the criteria necessary to enter the Schengen Area. Thus Bulgaria has gained the same status as Romania, which already in January this year was given confirmation that it had met the technical membership criteria by SCH-EVAL. However, the end of the process of preparation for accession coincides with a debate on the EU's migration policy and an opposition to plans for the enlargement of the Schengen Area among some of its member states. The still high levels of corruption and crime in Bulgaria and Romania, and the debate on the modification of Schengen Area's *acquis* will probably be used as arguments for temporarily stalling the enlargement of the Schengen Area. Bulgaria and Romania are intensifying their efforts to build a coalition of countries supporting the enlargement, since membership of the Schengen Area is a priority issue in foreign policy and an essential element of internal debate in these two countries. However, the chances of the political resistance within the EU being overcome are low, as is the likelihood of the Schengen Area being enlarged in 2011.

The final stage of technical preparations for accession in Bulgaria and Romania

SCH-EVAL's approval of the reports for Bulgaria and Romania marks an end of the nearly decade-long period of preparation for accession. The key phase of implementing the Schengen Area's *acquis* took place over the past two years. Given this perspective, the approval of the reports means a success for both countries, as it confirms the proper implementation of the standards pertaining to the impermeability of their borders, personal data protection, proper police co-operation with the other EU member states and visa policy. However, the last of the reports on Bulgaria was approved only following a delay of several months due to flaws revealed in the policing of the land border with Turkey. This provided formal grounds for the withholding of the decision to enlarge the Schengen Area in March 2011 as had been planned (Sofia and Bucharest are jointly applying for membership). However, some EU member states do not believe that the meeting of the technical requirements is a sufficient argument for fulfilling the promise of accepting these countries in the Schengen Area.

The unfavourable climate for the Schengen Area's enlargement inside the EU

Since Bulgaria has met the technical requirements, the way to political agreement on the calendar of the Schengen Area's enlargement has opened up to it. The European Parliament is to issue a non-binding opinion on this subject in June this year. The decision of the interior ministers of the Schengen Area member states will be binding and can be expected July this year. It is increasingly difficult to obtain consent to the enlargement from all the Schengen Area member states. Many countries see the high crime and corruption levels in Bulgaria and Romania as a serious argument for delaying their accession. France and Germany already in December 2010 addressed a letter to the European Commission suggesting that their consent to the Schengen Area's enlargement would only be possible if Bulgaria and Romania made significant and durable progress in reforming their justice systems and combating corruption and organised crime. France has also insisted that consent to the enlargement should be made dependent on the implementation of the goals of the Co-operation and Verification Mechanism as part of which the European Commission is monitoring Bulgaria and Romania's progress in judicial reform and curbing corruption. Additionally, Bulgaria's progress in combating organised crime is also being watched.
This means *de facto* that consent to their accession to the Schengen Area is dependent on their fulfilling additional political conditions and is treated as another tool for making Bulgaria and Romania handle corruption and crime successfully. Europol's report published at the beginning of May indirectly fits in with this argument. It states that organised criminal groups from South-Eastern Europe could use the accession of Bulgaria and Romania to the Schengen Area for expanding their activity to other EU member states.
The stance of some EU member states has also been influenced by increasing anxiety related to the functioning of the Schengen Area facing a migration wave from North Africa. Addressing these fears, the European Commission presented on 4 May proposals for amending some regulations of the Schengen Treaty. The Commission has suggested for example considering the possibility of a temporary reinstatement of state border control inside the Schengen Area. Furthermore, in its communication on migration policy, the European Commission on 6 May promised mechanism would be developed to improve the governance of the Schengen Area. Although these proposals do not mean a thorough reform of the Schengen *acquis,* the need to consult and implement them may become yet another argument for a further postponement of the enlargement process.

The political efforts of Bulgaria and Romania

Accession to the Schengen Area is currently the most important challenge for the governments of Bulgaria and Romania. The achievement of this goal would be treated as a confirmation of full EU membership and would significantly improve the approval ratings of the governing parties. In order to stand a better chance of accession, Romania has made intensive efforts for developing bilateral relations with those member states which are sceptical about the enlargement (Germany, France and Holland). Bulgaria is trying to improve its credibility by actively participating in the EU debate on the recent developments in North Africa and migration policy reforms. Bulgaria and Romania have intensified efforts to join the Schengen Area also because this is a highly political issue in these countries. This especially concerns Bulgaria, where presidential and local elections are to be held in October this year.

Romania and Bulgaria will not only support the plans to modify the Schengen Treaty as proposed by the European Commission but are also likely to support the extension of collaboration inside the EU in the area of migration policy. Although these two countries are on the EU's frontier, they may support granting more powers to the EU's border protection agency, Frontex, and even declare the will to accept more asylum seekers from other EU member states. However, their openness to greater solidarity in migration policy will not be enough to change the unfavourable political climate. Their accession to the Schengen Area this year is unlikely, contrary to their claims. A new chance for presenting a more concrete enlargement calendar will come with the announcement of the annual reports on the implementation of the goals as part of the Co-operation and Verification Mechanism – on the understanding that they will include positive evaluations – which the Commission usually publishes in late August.