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The political complications of including Bulgaria and Romania in the Schengen Area

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On 13 September, the Council of the European Union decided to extend by one more year the term of operation of the Co-operation and Verification Mechanism, the EU procedure evaluating the progress made by Bulgaria and Romania in reforming their respective justice systems and combating corruption and organised crime. The mechanism is not formally linked to membership of the Schengen Area. However, Pierre Lellouche, France's Secretary of State for European Affairs, suggested immediately after the meeting of the Council that Bulgaria and Romania should not join the Schengen Area unless the CVM has been closed. This calls into question the area's enlargement planned for March 2011.

Becoming a Schengen member state is to a great extent a technical process covering such steps as ensuring border impermeability, visa policy solutions and police co-operation. The preparations made by Bulgaria and Romania in those areas have been evaluated positively so far. However, unanimous consent from all Schengen Area member states is required to pass a decision on enlargement. France, before raising its objections against the enlargement of the Schengen Area, criticised Romania and Bulgaria for their failure to take appropriate action to ensure the social inclusion of the Roma people. Therefore it is possible that the decision on the two countries' accession to the Schengen Area may be postponed until the second half of 2011 (when Poland takes over the presidency of the EU).

The Co-operation and Verification Mechanism vs. the Schengen perspective

The EU accession of Bulgaria and Romania (January 2007) due to high corruption levels in those countries was made dependent on the introduction of a special instrument to monitor how corruption is being combated and judiciary reform. Therefore, the Co-operation and Verification Mechanism was launched. As part of this mechanism, the European Commission publishes biannual detailed reports covering such issues as progress in combating corruption and organised crime, transparency and the efficiency of the justice system and the adjustment of the civil and criminal codes to EU standards. The most recent reports as of this July specify the two countries' successes in those areas, however emphasising that they are still insufficient. As a consequence, the Council of the EU decided once more to extend the CVM's period of operation.

During the first three years after the accession (until the end of 2009), the reports could provide a legal basis for the Commission to freeze EU funds should results prove unsatisfactory (this sanction was imposed only once – on Bulgaria in 2008). At present,

neither the reports nor the level of progress in the implementation of CVM goals can provide legal grounds for the imposition of sanctions. The achievement of CVM goals is not a formal criterion for Romania's and Bulgaria's accession to the Schengen area, which has been emphasised by both representatives of the two countries and the European Commission. However, speculations about connection between level of preparation to adopt the Schengen *acquis* and CVM implementation emerge more and more often. Romanian and Bulgarian politicians are also aware of the political complications linking those two issues may bring about. For example, the Romanian president, Traian Basescu, warned this August that the most recent critical report published by the Commission may offer a pretext for impeding Romania's membership of the Schengen area.

Progress in the preparation for the enlargement of the Schengen area

Bulgaria and Romania formally applied for membership of the Schengen area in the middle of 2007. The countries declared in the application forms they submitted to the European Commission that they would be properly prepared to join the Schengen Area in March 2011, an undertaking they still officially stand by. Bulgaria and Romania are applying for membership together both for political reasons and out of a desire to reduce the costs of building the area's external border. The two countries have been praised for their preparations so far. The Schengen Evaluation Working Group (SCH-EVAL), a team of experts evaluating the progress of the preparations, has published six reports, five of which were very positive. The reports evaluate for example the impermeability of land, maritime and air borders, data protection, police co-operation and visa policy. However, the decision on the Schengen Area's enlargement will strongly depend on the last report evaluating the implementation of the Schengen Information System (SIS) to be published this December.

Forecast

The mounting controversies over the enlargement of the Schengen area to include Romania and Bulgaria will be a major challenge for Hungary during its EU presidency (first half of 2011), for which the area's enlargement is a priority issue. The increasing political significance of the migration issue in the EU and the controversial expulsions of Romanian and Bulgarian Roma people from France may reinforce the French resistance to the enlargement of the Schengen Area. It might have an impact also on decisions regarding this issue which other countries affected by the uncontrolled immigration of Romanian and Bulgarian citizens – for example Italy – will take. The concern that the Schengen Area enlargement will make Bulgaria and Romania less motivated to carry out reforms in order to fulfil the requirements under the CVM may also have an impact. On the other hand, Central European countries want the enlargement to be carried out soon. Preparations for the enlargement have been strongly supported by the Salzburg Forum, a co-operation platform for the interior ministries of: the Visegrad Group countries and Austria, Slovenia, Bulgaria and Romania. As a result of the lack of unanimity inside the EU the political decision on the enlargement may be postponed until autumn 2011, when another year of the CVM's functioning in Bulgaria and Romania will have been evaluated.