

more common practice elsewhere is for such benefits to be accessible only after a person becomes a citizen or has fulfilled an extended residency requirement. Apart from an interest in deterring possible 'freeloaders', there is a more elevated moral justification for such rules. Recent arrivals have not contributed to the wealth of the receiving society which makes possible the benefits in question. Interestingly, there are already precedents for such action in Australia. Migrant parents sponsored by their children in Australia are currently denied access to certain social welfare benefits in the first two years of residence here. Also, all migrants except those in the Humanitarian category are denied unemployment benefits during the first six months in Australia.

This principle should be applied to access to Austudy and the right to defer HECS payments. A residency period of perhaps three years should be required before a permanent resident can share these benefits. It is questionable whether this residency requirement should be accompanied by the necessity to take out Citizenship. The Citizenship

decision should not be linked with material inducements. Rather, it ought to be motivated by a genuine desire to become an Australian.

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- <sup>6</sup> B. Birrell, 'Unauthorised enrolment in universities', *People and Place*, vol. 2, no. 1, pp. 57-58
- <sup>7</sup> K. Betts, 'The new citizenship report', *People and Place*, vol. 2, no. 4, pp. 52-56
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## EUROPEAN INTEGRATION AND IMMIGRATION CONTROL: THE SCHENGEN AGREEMENT

### *Le Monde*

*The implementation of the Schengen agreement among seven of the 15 member nations of the European Union marks a new stage in European integration. But freer movement between the seven is marked by tighter controls at their common external border. The following articles indicate the French newspaper Le Monde's view of how these controls will work*

### **BORDER CONTROLS DISAPPEAR IN THE SCHENGEN AREA<sup>1</sup>**

**Henri de Bresson** *Le Monde* 25/3/95

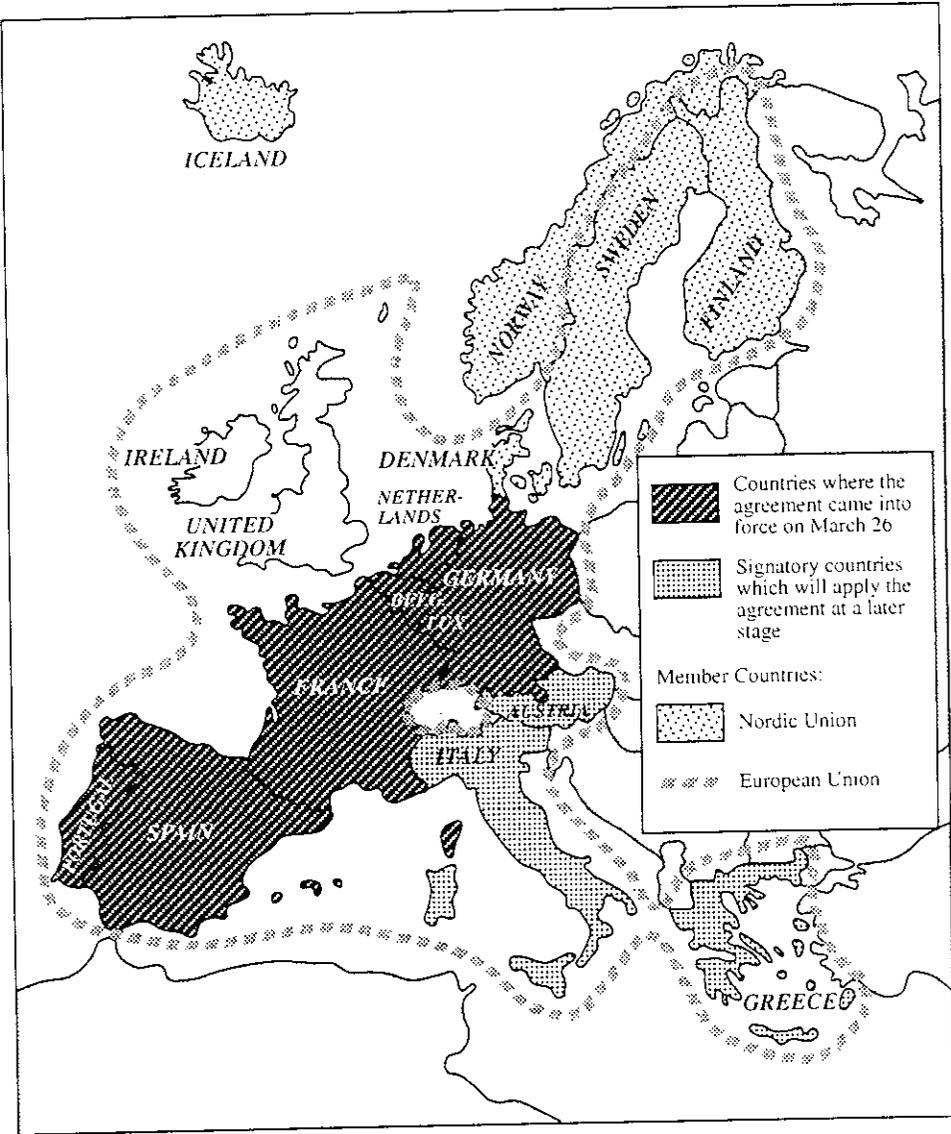
The application of the Schengen agreement on 26 March 1995 has marked the beginning of the free movement of individuals inside Europe. Only seven countries are involved, France, Germany, the Benelux Union (Holland, Belgium and Luxembourg), Spain and Portugal. The most spectacular step is the elimination of identity checks at airports of the member countries for all flights from the Schengen area. Airports have been especially modified to receive these flights. The elimination of controls at land borders will be implemented more gradually. The agreement sets up a single external border. For

nationals of other countries checks will be made at the point of entry into the Schengen area: the same procedures will be applied everywhere.

The occasion had been set long ago. After ten years of vacillating the principle of free movement in Europe began to be applied on Sunday, 26 March, in seven of the fifteen countries of the European Union (see Figure 1). Starting with that week, border checks are to be progressively eliminated between the seven countries, of which France is one, that have signed and ratified the Schengen treaty.

The idea of an agreement on the abolition of borders checks was launched on the initiative of France and Germany, which were

Figure 1: Europe after Schengen



immediately joined by the three Benelux countries (Belgium, Holland, Luxembourg). It took shape in the little town of Schengen in Luxembourg. Five years were necessary for the agreement of the same name to be born on 19 January 1990. Spain and Portugal, which jumped on to the bandwagon afterwards, complete the Schengen area. Although signatories, Italy and Greece have not yet taken steps to apply the agreement. They

were not involved in the twenty-sixth of March agreement.

It could have been an historic moment, but everything was done to avoid this. An obsession with security and the suspicions of the administrations of the countries concerned eroded any spontaneous enthusiasm to get started and so spoilt the fun.

For the French public the main change will involve those who use airports.

Passengers on flights from the Schengen area will no longer have to establish their identity – any more than a traveller coming from Toulouse has to when arriving at a Paris airport. At land borders the situation will be more complicated. This summer during the holiday rush, if all goes well between now and then, sun-worshippers will no longer be obliged to mark time at the Spanish border – the situation will be unlike that at the borders with Switzerland and Italy which, at the moment, are not members of the club; and unlike that facing users of the Channel tunnel. Great Britain is still an island and intends to emphasize the fact.

#### **A complex plan**

Checks have not disappeared at a single stroke after 26 March. On the initiative of its Minister for the Interior, Charles Pasqua, the French Government has imposed on its partners a probationary period of three months during which the police will be able to make continued use of French border posts. Subsequently a decision will be made...

Security within the Schengen area will now be maintained by a complex plan set up to co-ordinate the actions of the administrations of the countries concerned and to ensure that the same rules are applied everywhere.

First principle: as with the internal European market, which involves the movement of goods within the fifteen countries of the European Union, everything depends very much on the reliability of the border at the perimeter of the seven member countries which now constitutes the common external border. It is here that entry checks will be made for everyone who, for various reasons, wishes to go into the Schengen area; tourists, businessmen, dealers of every description, or illegal immigrants. If a particular section of the border is considered too open to mafia traffic, to streams of illegal immigration or to drugs, this will be sufficient for all the countries which have signed the Schengen agreement to feel that their security is threatened. The credibility of the whole, and, beyond that, the ability of Europeans to form a union will be called into question.

At the present time, in all countries of Western Europe, which are uneasy with the instability at the borders of the Union, public opinion and political circles are particularly sensitive to matters of security and no country can be allowed to make a mistake. The refusal of the Italians, but especially of the

Greeks, to join the others in forming the Schengen area on 26 March, has brought relief to all those who feared to begin the experiment with links which are regarded as weak. It is essential that there should be confidence among the players, even if no-one can be certain of avoiding accidents – neither the French nor the Germans, who have the formidable task of guarding a long border with the countries of Eastern Europe, with the threat of the new Russian mafia in the background, nor the rest.

#### **Right of pursuit**

The Schengen area depends on co-operation between the public services, particularly the police of the member states, who have been obliged to co-ordinate their methods of working. In the matter of immigration it has been necessary to come to an agreement on the criteria for giving visas, and on the countries whose nationals will come under a particular set of entry rules. A special computer system, the *système d'information Schengen* (SIS), whose debugging caused enormous difficulties, is to link up all police stations, as well as all consular agents of the Seven throughout the world, to ask for information that is required.

The elimination of border checks does not mean that checks will completely disappear. Each Schengen citizen is required to be able to produce an identity card anywhere in the Schengen area. Further, the police and national customs services have kept a twenty kilometre zone inside their borders which will be an observation area backed up by mobile patrols. This system has been tested by the customs, who were already obliged to leave the borders after the establishment of the large internal European market on 1 January 1993. According to an official of the French customs service it has proved effective.

Another novelty of Schengen is that the police force of each of the member states will now have right of pursuit in the territory of the others. This agreement, which Paris has sometimes concluded through bilateral treaties in the past, allows the police of the various countries to follow up an investigation without worrying about borders. They cannot, however, effect an arrest without the participation of the police services of the country where they happen to be.

We are far from a reduction of controls. A residency permit is still required for a

national of one Schengen country who establishes himself in another of the member countries. Foreigners who are not citizens of the European Union and who move about within the Schengen area will be obliged to fill out an internal entry declaration when entering France.

There was always a considerable risk that, in the course of their negotiations, the bureaucrats would look for compromises on the premise of maximum, rather than minimum, security. This was one of the points which troubled civil rights advocates. Their fears were justified when in 1993 the Balladur government used the Schengen treaty to adopt a reform of the constitution which tightened the rules of obtaining the right of asylum.

#### **Acknowledgment**

<sup>1</sup> This and the two following articles were translated by Gavin Bents. They are published with the permission of *Le Monde*.

### **THE NIGHTMARE OF ILLEGAL IMMIGRATION**

**Phillippe Bernard** *Le Monde* 27/3/95

The initial object of Schengen – the free movement of people within the borders of the nine signatory countries – has switched around to its corollary: the closure of external borders and increased control of immigration.

There are various types of foreigners. While the signatories of the treaty have been generous in allowing the citizens of all the fifteen countries of the European Union to take advantage of free crossing of their internal borders, this is not the case for those who are not members of the European Union. Non-European Union immigrants who have the right of permanent residence in one of the seven Schengen countries enjoy preferential treatment: they can move freely provided they have a residence permit for more than one year and do not stay outside their country of residence for more than three months. A Turk from Germany or an Algerian from France will not be obliged to apply for a visa or to complete a declaration in order to visit his family in other Schengen countries (only Belgium requires an entry declaration).

Among non-European Union residents a further distinction must be made between citizens of countries from which a visa is not required and those (including people coming from countries of emigration) who may not

enter the Schengen area without the new uniform visa which is valid for the seven countries. The first group, like all non-community members, will be checked on their first entry but will have no other formalities to attend to elsewhere. Those in the second group must complete a *déclaration d'entrée sur le territoire* (DET [internal entry declaration]) when crossing an internal border, similar to the present disembarkation cards issued on aeroplanes. . . .

#### **Weak links**

A circular of 17 March from the [French] Ministry for the Interior to prefects gives an indication of the changes and restriction introduced by Schengen.

- *Identity Checks*: While there are no longer fixed check-points at internal borders police and customs officials may, without restriction, make identity checks inside a twenty kilometre zone on either side of a land border and in ports, airports, and railways stations open to international traffic.

- *Expulsions*: From now on any foreigner coming from another country of the Schengen area who is in an irregular situation can be expelled to his country [of origin]. The same holds for a person who has not been admitted by one of the Schengen partners and who has been registered on the computer system. In this case an expulsion determined by Germany can be carried out, without any formalities, by France, and vice-versa. An appeal lodged at the time of expulsion cannot be deferred.

- *Right of Asylum*: Only the country of first entry is responsible for handling a request for asylum. Consequently a foreigner cannot apply to several Schengen countries in succession. If it transpires that his request should be handled by another member country, France will ban him from applying to OFPRA [*Office français pour réfugiés et apatrides* – the French bureau which handles requests for political asylum] and will send him to the country responsible. These regulations have been criticized by Amnesty International in particular as they assume that [refugee] law has been harmonized within the Schengen group, something which is still to be done.

- *Register of undesirables*: Each country supplies the data bank of the Schengen computer system (SIS) with details of undesirable aliens. This register is of individuals who have been expelled after a *threat to public order or national security*, or who have been

*condemned for an offence punishable by a jail sentence of at least a year. . . .*

• *Responsibility of carriers:* Airlines will be subject to heavy fines if they carry non-European Union passengers whose papers are not in order.

French authorities are of the opinion that if these measures are uniformly applied they will divert particular streams of illegal immigration. But, if co-ordination remains confused, everyone is afraid of an increase of entries at the weak links of 'Schengenland' – the long border of Germany with the countries of Eastern Europe and Austria and, in the south, the border between France and Italy.

#### **FREE MOVEMENT – THE EXCLUDED**

*Le Monde 25/3/95*

Only seven countries of the fifteen which make up the European Union are involved in the abolition of border controls within the Schengen area on 26 March. Membership of the European Union is a necessary condition to be a member of the Schengen club but more is required. . . .

Italy and Greece have signed the Schengen treaty but up until now have not been able to fulfil the necessary requirements to be able to apply it. Italy in particular must overhaul its laws relating to the protection of private information before it can be connected to the Schengen system of data exchange. Its government has many other problems to solve for the moment. Italy's membership will have to be ratified at a future date by the countries which are already members. And it has not always enjoyed a high reputation for border control. The rim of the peninsula, which would become part of the common external border, is a sensitive area. In recent years Italy has shown itself vulnerable to networks of illegal immigrants coming from ex-Yugoslavia.

This question of vulnerable borders is even more important in the case of Greece. First, there are reasons of geography. The large number of islands within Greek territory obviously make entry controls very difficult. And the Mediterranean is also a particularly exposed area. Further, the Greek administration does not have a high reputation for efficiency and no-one is in a hurry to be obliged to work with it in the delicate experimental phase of the Schengen treaty.

The admission of Austria does not, in principle, pose a problem. . . .

Since the admission of Sweden and Finland to the European Union on 1 January (at the same time as Austria) both countries, as well as Denmark, have shown an interest in joining the Schengen area. But Denmark, which also has the status of an observer, Sweden and Finland also belong to the Nordic Union, together with Norway and Iceland. These countries, which enjoy total freedom of movement among themselves, have for a long period not required official identity documents from their nationals. It is inconceivable that Denmark, Sweden and Finland should re-establish border controls with Norway. A solution to overcome this problem must be found.

At the moment the British are the greatest obstacle as they refuse to contemplate the abolition of controls at the borders of their island. . . . They are taking with them the Irish of Eire. The latter are not, in principle, hostile to joining the Schengen zone but they have an agreement with Great Britain on free movement and 70 per cent of them make use of it. To reconsider this would be too complicated.

#### **AUSTRALIANS TRAVELLING TO SCHENGEN COUNTRIES**

All non-European Union (non-EU) nationals will require visas if they intend to stay in the Schengen area for more than 90 days, but the situation for people making shorter visits varies. Bernard's article reports that the world of non-EU nationals is divided into two parts: people who come from countries from which the Schengen does not require the new uniform Schengen visa, and the rest (mainly countries which have a tradition of supplying migrants to Europe – legally and illegally.)

Enquiries to local embassies reveal that the situation is a little more complicated than Bernard implies. Some Schengen countries do not require visas from some non-EU nationals. Others do. France and Spain require visas from Australians; other Schengen countries do not. The advantage of the new system is that one visa will do for both France and Spain. The disadvantage is that travellers to the parts of Schengenland which do not require a visa will find that, instead of being able to take 90 visa-free days in Belgium followed by another 90 in Germany followed by another 90 in Luxembourg and so on, the 90-day limit applies for the Schengen group as a whole.

Nationals of non-EU countries other than Australia may need a visa for more countries, or for fewer (or for none) but, provided their journey is to Schengen countries, one visa should be all they need.

The situation is complex and requirements may change. Check carefully before departure. (editors)