

“SCHENGEN”, TERRORISM AND SECURITY

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The Paris attacks of January 2015 gave rise to an emotion shared by millions of Europeans, while fuelling some doubts on their ability to combat terrorist threats within the “Schengen Area”. Almost thirty years on from the signature of the eponymous agreement, it is now a good time to put into perspective the way that police and judicial cooperation and the fight against terror are organised in this framework. Yves Bertoncini and António Vitorino take a stand in this Viewpoint.

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1. The Schengen Agreement have resulted in a diversification of police checks, making them more effective, including those to identify terrorist threats

The creation of the Schengen Area, which currently comprises twenty-six member countries, including twenty-two of the twenty-eight EU member states, has led to a redeployment of national and European police checks, based on four complementary principles.

Firstly, the closure of permanent “internal” border posts within the Schengen Area, in order to avoid long and pointless queues to **hundreds of thousands of Europeans who cross over every week** to work, study, meet relatives and enjoy themselves - while this wait remains compulsory for those who wish to travel to or from Bulgaria, Cyprus, Croatia, Ireland, Romania and the United Kingdom.

Secondly, the organisation of mobile patrols across all Schengen Area member countries, which may be conducted jointly: these checks are much more effective, particularly with regard to the fight against cross-border crime and terrorism, as they can be used to flush out wanted persons when they are not expecting it (as is the case at a border). No terrorist has ever declared his intention when crossing a border!

Thirdly, the joint management of external borders, which are *ipso facto* “our” borders, as those crossing them can travel to other member countries, provided that they comply with European regulations on visas and resources. These common borders are land, sea and air borders (all airports welcoming flights from non-Schengen countries). Each country is in charge of a section of these borders, and must act to combat terrorist threats as a priority, particularly when they

escalate due to conflicts occurring around the EU, namely in the Middle East and the Sahel regions.

Lastly, the possibility of applying “safeguard clauses” to re-establish national border checks for a limited period of time, for example during sporting or social events, and also in the case of terrorist threats. These clauses have already been used dozens of times since 1985, under EU supervision, in order to enable governments to deal with emergency situations.

2. Terrorist threats call for the spirit of the Schengen Agreement to be furthered

The emotion aroused in the aftermath of terrorist attacks often revives a need for reassurance that can be centred around the reopening of posts at national borders, given their importance in the collective psyche. In-depth considerations, however, urge us to satisfy this need for security within the very framework of the Schengen Area, in which the spirit of cooperation and mutual trust must be fostered.

The Madrid bombings in March 2004 were perpetrated by Islamic fundamentalists from Morocco and the East, with the complicity of Spanish nationals: it is through increased security at the Schengen Area’s external borders and stronger police and judicial cooperation that this terrorist attack could have been thwarted. While it is not a member of the Schengen Area, the United Kingdom was the target of bloody attacks in July 2005. These attacks were perpetrated by British nationals, one of whom was able to leave the country after crossing a national border: he was arrested in Rome, thanks to European police and judicial cooperation.

The perpetrators of the Paris attacks in January 2015 were born in France and were known to the

country's police and legal departments and/or its intelligence services. One of the men had been checked by Paris police a few days prior to the attacks and a few hours before leaving for Spain with his girlfriend, currently in hiding in Syria. In light of the information in the police's possession, it's equally unlikely that he would have been detained at the border between France and Spain. In hindsight, it can be noted that the surveillance of the three terrorists was insufficiently constant and effective to be able to detect their intention to attack.

It is by granting additional financial, human and legal resources to the police and justice bodies on both national and European levels that we can combat such terrorist attacks more effectively. Not by allocating these resources to controls at Schengen Area internal borders, which would result in pointless and very onerous checks of the [millions of crossings that take place each month](#).

3. The police and judicial cooperation organised by the Schengen Agreement must be reinforced and the EU, including cooperation to combat terrorism

The Convention implementing the Schengen Agreement is made up of 141 articles, gradually integrated into community legislation. The first articles set out the rules that offer residents of member countries the possibility of freedom of movement. Most of the articles concern the organisation of police and judicial cooperation between national authorities - in which even non-member countries such as the United Kingdom may take part occasionally. "Schengen" therefore results in greater freedom and increased security, efforts intended to compensate and balance, but which should be reassessed in light of terrorist threats.

The reinforcement of the financial and human resources allocated to member country policing and

justice must come together with an improvement of the "Schengen Information System", and the stepping up of exchanges between intelligence services, including bilateral arrangements. The creation of a European legal framework for air passenger data exchanges (known as "E-PNR") will improve police forces' effectiveness - while the guarantees governing the use of personal data are reinforced in consequence.

European bodies such as Europol, Eurojust and the Frontex agency could step up their technical assistance for member countries if they were allocated more resources. They will contribute to reinforcing the quality of checks conducted in all respects of the Schengen Area, including on the basis of one-off assessment assignments that target suspected "weak links" and by heightening mutual trust between countries.

In conclusion, European cooperation with third countries in which terrorists are likely to travel must be improved - for example Turkey and North African countries - and also with the USA. A globalised movement of police and judicial cooperation must be promoted to increase Europeans' safety, against a movement of unrealistic and ineffective focus on national borders.

An improved application of the Schengen Area's operating rules is without doubt possible, to enable its member countries and the EU to withstand terrorist threats. [Questioning these rules does not in any way impede freedom of movement](#), a right granted since the Rome Treaty to all EU residents, regardless of whether or not their country is a member of the Schengen Area. Yet this would make the exercise of this right much more complex and costly, while undermining the shared responsibility that Europeans require in order to dismantle terrorist networks.

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