



Carpathian Euroregion: Prospects and Challenges


Workshop # 4

# **Role of the Carpathian Euroregion in Mitigating Possible Negative Effects of Schengen**

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## Map of the Carpathian Euroregion



# PREFACE

The Research Center of the Slovak Foreign Policy Association, Prešov (Slovakia) and the Strategies Studies Foundation, Uzhgorod (Ukraine) held the workshop on ***Role of the Carpathian Euroregion in Mitigating Potential Negative Effects of Schengen*** on October 12, 2001, in Prešov (Slovakia). This event was the fourth in the series of four workshops within the joint project on ***Carpathian Euroregion: Prospects and Challenges***. The first workshop on the *Role of the Carpathian Euroregion in strengthening security and stability in Central and Eastern Europe* was held on November 23-25, 2000, in Sanatorium Karpaty (Transcarpathian Region of Ukraine). The second workshop on the *Role of the Carpathian Euroregion in confronting its minority agenda* on March 29-31, 2001, as well in Sanatorium "Karpaty". The third workshop on the *Carpathian Euroregion: Prospects for Economic Trans-border Cooperation* was held in Prešov, Slovakia on June 28, 2001. This project is supported by the Freedom House's programs Partnership for Reform in Ukraine and Regional Networking Project and the Carpathian Foundation.

**The project aims to address prospects for future developments of the Carpathian Euroregion and examine its role in the following areas:**

- Strengthening security and stability in Central and Eastern Europe
- Solving minority problems in the area
- Improving cross-border economic co-operation
- Overcoming possible negative effects of the implementation of the Schengen-type border on eastern borders of an enlarged European Union.

**The main goals of the project are as follows:**

- To elaborate policy recommendations for the Carpathian Euroregion and also for central and local state and self-government authorities of the five participating countries
- To create a network of think-tanks and academic community within the Carpathian Euroregion in the field of political and economic studies
- To provide expert background for public discussion on issues of security, welfare, minorities, and Schengen in the area of Carpathian Euroregion and member countries.

This publication presents the policy recommendations on role of the Carpathian Euroregion in mitigating the potential negative effects of the implementation of Schengen that are worked out on the basis of the workshop discussion, the full text of the keynote reports and also selected contributions made during the panel discussions.

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# The Role of the Carpathian Euroregion in Mitigating the Possible Negative Effects of Schengen

## POLICY RECOMMENDATIONS

The proceedings of this workshop represent the last set of contributions in the series of four meetings in the framework of the project *Carpathian Euroregion: Prospects and Challenges*. The issue of border, asylum and visa policies and broader questions of policy cooperation and cross-border security are intimately intertwined with the topics discussed during the previous three workshops, such as broad security and strategic questions, ethnic and minority issues and the problems of economic development.

In different ways all individual contributions in this volume deal with the connections and potential incompatibilities between the new border regime cutting across the Carpathian Euroregion (CE) and the possibilities for more intense cooperation in the areas of culture, trade or fight against organized crime and regional instability. While in the short-term the implementation of the Schengen acquis may add security and bring in a clearer and a more effective set of rules for dealing with border issues and migration, in the medium to long-term the Carpathian Euroregion may face a serious challenge in dealing with its new internal dividing lines and rising social, economic and also legal discrepancies between its various parts. Presentations offered in this volume should serve as an opening to a much broader and a more serious discussion about the effects of Schengen and the ways of confronting some of its possible - negative aspects on the geographic fringes of a future enlarged European Union. Of particular concern are and remain the relations between Ukraine and the rest of the CE and also the relations between Romania and other EU applicant states in the region that may enter the Union before Romania does.

### **Schengen rules and the challenge of new dividing lines in the Carpathian Euroregion**

For the past ten years foreign policy priorities of EU candidate states have principally included the very goal of attaining EU membership with most of its

technical, legal, economic and political implications. Even in a country like Poland, but also in Hungary, Slovakia or Romania there have been a general dearth of clear, comprehensive and forward-looking policy initiatives toward the east. These states have had a general shared aim of distinguishing themselves from the east, of not being part of it any longer and of becoming Central European. Understandably, most intellectual, political, economic and financial resources have been consumed on the path to key western institutions and structures. Whilst the priority of European and transatlantic integration is going to remain central for some time to come, accession inside the EU system of common rules and norms - including the Schengen acquis - arguably places the candidate states for EU membership within the CE in a comparatively good position to shift focus gradually on relations with their eastern neighbors.

The challenge is especially topical in the context of the Schengen acquis and specifically in relations to Ukraine. Geopolitically, Ukraine represents of the most strategically positioned Soviet successor states. Politically, the country is still searching for its place in a European family of nations and it is especially up to its internal developments how this political picture is ultimately going to play itself out and whether Ukraine may one day become a serious contender for EU membership. It is precisely here where countries such as Poland, Hungary, Slovakia and Romania can bring new value to future specific EU policies and eastern initiatives. Their respective comparative advantage stems from common historical ties, geographic and linguistic proximity as well as shared experience of post-communist transition. At the same time, upon accession into the European Union these countries will be most immediately confronted by a double challenge, namely how to combine commitments to EU visa regimes and border controls with some effective eastern strategy and how to avoid permanent dividing lines with the eastern neighborhood.

At the level of central governments of the member states of the Carpathian Euroregion, there has been little coordination of policy approaches in the area of the implementation of Schengen and in the attempts to mitigate some of its adverse affects. The example of the Visegrad group's relations with Ukraine is illustrative in this respect. Although initially these countries agreed to coordinate the course of action in meeting EU requirements in connection with the implementation of the Schengen Treaty, the Visegrad states proved unable to coordinate their action. During February and March 2000 the Czech Republic and Slovakia respectively decided to introduce visas for Ukrainians starting from 28 June 2000. Yet, Poland and Hungary remain committed to implementing their visa regimes in relation to Ukraine at the latest possible date. Similarly, recent Czech demands for changes in the status of the border regime between the Czech Republic and Slovakia indicate the existing limits to larger common regional approaches.

Therefore, there is a chance for a potential niche of the Carpathian Euroregion that could help both to identify some of the thorny issues in connection with the implementation of the Schengen acquis and to define some of the initiatives that could then be pursued at the national and supra-national levels as more effective policy tools. Indeed, initiatives inside the developing structures of Euroregions could create pressure for concrete policies at the national and EU the level.

## **The role of the Carpathian Euroregion**

Euroregions can play the role of politically less visible and more incremental tools of foreign and security policy making. Practical initiatives at a more local level can aid in setting agenda for the national level. While the authorities of the Carpathian Euroregion possess only limited competencies, they can utilize the information, the knowledge and the expertise on the ground in devising their own strategies that can be useful in mitigating the possible negative effects of Schengen. The Carpathian Euroregion cuts across soon-to-be EU insiders and EU outsiders. It covers a vast area that cuts across five countries (Poland, Slovakia, Hungary, Ukraine and Romania) and includes a plethora of ethnic and religious groups on a territory with distinctly varying economic standards. Six million of the Euroregion's population is located in Ukraine, a country that will certainly not be adopting the Schengen acquis any time soon. Local know-how and solutions may thus prove relevant and applicable to the bigger of challenges of internal security issues and to the future preservation and development of good and close ties on all societal levels across the whole Carpathian Euroregion.

This publication aims to suggest some general and some specific topics of concern and ideas for further improvement in the area of the Schengen acquis that can serve as impulses or guidelines for concrete agenda, specific initiatives or even a targeted policy campaign taken up by the authorities of the Carpathian Euroregion. As this workshop and the whole series of workshops in the context of the project *Carpathian Euroregion: Prospects and Challenges* suggest, the Carpathian Euroregion has the potential to become a more visible policymaking actor.

The contributions reflect a variety of views, national and sub-national peculiarities of the countries inside the Carpathian Euroregion. Still, there are some common points that can be drawn out of the individual pieces contained in this volume and be presented in the form of initial policy recommendations on a theme that is likely to increase in importance as the process of EU enlargement proceeds further and that thus deserves only more expert, scientific and public attention and scrutiny during the coming months and years. This debate highlighted the following key points:



○ Although the candidate states for EU membership within the Carpathian Euroregion must and will implement the Schengen acquis in full and without opt-outs and exceptions, there is a need for a clear strategy of how not to divide the Carpathian Euroregion by a permanent Schengen border.

○ Schengen policies fall usually within the competence of the countries' interior ministries that are most immediately concerned with physical protection of borders. Issues of external relations and broader strategic policies represent matters for foreign ministries and normally require different political instruments. The unique position of the Carpathian Euroregion however calls for a more comprehensive approach to its future regional security and stability.

○ At the national level there is a need for better coordination between effective eastern policy and the impact of Schengen rules on the future eastern borders of an enlarged EU.

○ Ukraine accepts the reality of the EU's conditionality. Although the erection of a Schengen border between Ukraine and its western neighbors does not receive much welcome in Kiev, the prevention of a permanent dividing line across the Carpathian Euroregion is to a large extent going to depend on the political, economic and societal reforms in Ukraine itself.

○ At the local level the authorities of the Carpathian Euroregion should be active in calling for adequate regional consular services and more flexible approach to the visa policy including provisions of multiple entry visas at lower cost and the availability of visa applications via the internet. Border facilities on the eastern border of an enlarged EU must be upgraded and better equipped.

○ Police and border services from across the Carpathian Euroregion must cooperate more closely, exchange information and coordinate their respective action. This requires the gradual adoption of common rules and norms across the Euroregion.

○ Diplomatic and visa national services need to be better developed and strengthened in capacities in order to serve the various regional needs in the CE.

○ The authorities of the Carpathian Euroregion should call for an establishment of permanent regional and national working groups that would address and deal with the various ways of mitigating the potential negative effects of the implementation of the Schengen acquis across the territory of the Euroregion.

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## *The Role of the Carpathian Euroregion in Overcoming Possible Negative Effects of the Implementation of the Schengen Acquis: a view from Ukraine*

### Introduction

Current state of **relations between Ukraine and the EU** can be defined as the stage of growing awareness of fundamentally new economic and political realities by both sides. **Ukraine** needs to clearly understand that the **European Union** is an organization, whose **membership is conditioned by rather tough requirements**, which are unlikely to be changed to the benefit of any applicant country. All the consequences of the new and, to a large extent, unprecedented, enlargement of the Union **are very difficult to predict today**, and that's why the **EU policy regarding new members** (countries of the second and third waves) will become more restrained and careful.

Modern economic and geopolitical realities of **Europe** put on the agenda the issues of the **European real economic integration**, such as implementing the **Schengen Agreement**, which is virtually the formation of the European visa-free space. In this context, the next important question arises: is **the Schengen acquis** a way to either the **division** or the **consolidation** of Europe? This question is extremely actual for the post-communist and the **CEE countries**.

The **Schengen Agreement** is the logical realization of the European integration concept, when in **1957** the free crossing regime of goods, services, manpower and capital had been declared by the **Rome Treaty**. This process was completed on **14 June 1985** when the **Schengen Agreement** was signed by **Belgium, France, Germany, Luxemburg and Netherlands**.

The **Schengen acquis** (approximately 80 000 pages of the EU legislative acts), under the terms of the **October 1997 Amsterdam Treaty**, has become a binding part of the **European Union acquis communautaire**. As to our opinion, this should be taken into account while considering all present and future events regarding the **EU "eastern" enlargement**, as well as the issue of implementing the **Schengen Agreement** on the territory of the **EU "first-wave" applicants**.

Today almost **310 million of the "Schengen Europeans"** use the right of the free movement across the European visa-free space. Now the number of the Schengen area countries is **15**).

The **Schengen Agreement**, put in force on **26 March 1995**, defines:

- **gradual cancellation of the border control** at the common frontiers;
- **permit of the free border crossing** by the citizens of both the EU member states and the countries which are not the EU members;
- **conditions and guarantees** of implementing the agreements on the free movement.

## **The impact of the implementation of the Schengen acquis - especially the common EU visa policy - on the existing cross-border regime**

Virtually, the most important issue of the EU "eastern" border enlargement is accepting the Schengen acquis by the "first-wave" applicants (i.e. **Hungary, Poland and Czech Republic**) as the **ability to undertake the obligations of membership, including the devotion to the aims of the political, economical and monetary union.**

While implementing the **Schengen acquis**, the European Union, first of all, pragmatically aims at the **protection of the economic interests and the economic security of the EU member states.** It is defined clearly in the **Article 2** of the **EU Consolidated Treaties.** The issues related to the free movement of the people, visa implementation and immigration are defined precisely in the **Article 61 (ex-article 73i)** of the **Consolidated Treaties of the European Union.**

Forthcoming enlargement of the EU to the east and entering the **Schengen zone** by the CEE states, has put in front of **Ukraine** and its western neighbours a **problem of the toughening of a frontier regime.** Ukraine has real chance to play on contradictions of the present and future members of the EU and thus **to defer "closing" the western borders.**

The importance of this issue was clearly demonstrated at the **Yalta Summit "Ukraine - EU"** in **September 2001**, where the great attention was paid to the problem of enlargement of the **Schengen zone.**

Enlargement of the **Schengen zone** to the east does not promise **anything especially pleasant to Kyiv.** Introduction of a **visa regime** with the neighbouring states - **Poland, Hungary, Slovakia - and Czech Republic,** inevitable changes in a **migration policy,** restrictions in crossing of borders will cause many problems for **small and middle business,** and not only in frontier zones.

However while before the posted date of **EU enlargement** remains two and a half years more, and **Ukraine** can if not defer then **to soften consequences** of introduction of a visa regime before an hour "X", as well as to build relations with the future members of the EU in terms of her own interests. Actually, today **Kyiv** is being engaged in it rather actively.

The **EU candidate states** have an ambiguous reaction to attempts of **Kyiv** to defer toughening of a frontier regime. In spite of the fact that introduction of a visa regime with the neighbouring states has **not obligatory**, but **more recommendatory character** up to the accession into the EU, the future members of the **European Union** consider this problem in a different way.

**Czech Republic** has taken up the **hardest position**. In spite of the fact that it directly does not border with Ukraine, **Prague** as the **first** has implemented a visa regime with **Ukraine, Russia, Moldova and Belarus**. On the one hand, this step showed **loyalty to the EU**, on the other - the Czech authorities hoped that this way they **could resolve the problems of illegal migration and organized crime**. As some experts noted, when taking this decision nobody had considered **neither economic, nor political consequences**.

The adoption in **2000** of the **Law on stay of foreign subjects on the territory of Czech Republic** has toughened substantially entry to the country and stay in it. Both the **CIS countries** (for whom the visa regime had been implemented) and the **Czech businessmen** living on incomes of tourism **objected to this Law**. This year **in March** the **Prime Minister of Czech Republic** has recognized, that the new law was a mistake, but no corrections have been put in it. As a concession to **Kyiv** we can regard the fact, that the **lowest rate** in a scale of consular dues for visa registration has been established for **citizens of Ukraine**. While for citizens of **Russia and Belarus** it constitutes \$ 59, for citizens of **Ukraine** it is **twice less**.

**Slovakia**, compelled by certain circumstances **to coordinate its activity** with **Czech Republic**, also has implemented a visa regime with the **CIS countries** in **June** of the last year. But as the state neighbouring with **Ukraine** and thus having more **common problems**, **Slovakia** has made **certain concessions**. It was not surprising, since the frontier areas of **Slovakia** to the great extent lived on **incomes of tourism**, and Ukrainian tourists constituted up to **80%** from all visitors to the Slovak Tatras. In **February 2001** **Bratislava** has signed the inter-governmental agreement with **Kyiv** providing granting of a **favourable visa regime to some categories of citizens**.

Attempts of some **CEE countries** to **soften negative consequences** of the **European integration processes for Ukraine** are rather simply explained.

According to the observations of the Ukrainian analysts, the **European Union**, despite of the declarations to extend **at the expense of the Central Europe countries**, nevertheless on the sly **closes the market for their goods**. Besides, one should notice that only **preparation for the accession into the EU** requires serious structural changes in economy and **puts the whole sectors of economy on a verge of bankruptcy**. To survive, the **Polish, Czech, Slovak and Hungarian companies** are simply compelled to save and develop for **themselves the Russian and Ukrainian markets**.

These circumstances grant **Ukraine** an unique chance to influence the rules of a game. Entering the **Schengen zone** and toughening border and customs regime with **Ukraine**, the **Central European countries** are not interested in **reciprocal rigidity of Kyiv**. In her turn, Ukraine at any time is ready not only to agree **to soften a visa regime**, but also **to return to a visa-free one**.

With **Hungary** Ukraine managed to agree upon **preservation of a visa-free regime** up to its accession into the EU. In relations with **Poland** Kyiv has promoted even further. **Ukraine** is going to negotiate with the **European Union** about **stage-by-stage implementation** of limitations on the **Ukrainian-Polish border** after the accession of Poland into the EU. The Ukrainian experts consider **“the Polish model”** as the most acceptable and would wish to distribute it to relations with other the **EU candidate states**.

Implementing the **Schengen acquils** directly concerns the countries of the **Carpathian Euroregion**:

- since the **Schengen Agreement** is a component of **acquils communitalre**, its introduction is obligatory for the **EU member states** who have signed the Agreement (hence the **CE countries** will actually be divided by rather rigid border of the EU);
- the question is whether there is **alternative or probably transitory variant** of implementing the Schengen visa regime both for the EU member states and for **“the first wave “ applicants**;
- as a positive it is possible to mention numerous declarations of the **Prime Minister of Hungary** and the **Consul-general of Hungarian Republic in Ukraine**, that **Hungary** will introduce a visa regime only after the accession into EU. But one should take into account, that it is the **temporary phenomenon** and the real way out from a complicated situation consists in **searches of alternatives**

In the context of the operation of the **Schengen acquils** in the **Carpathian Euroregion** it should be necessary to define and take into account at least **four points**:

- implementation of a visa regime is a process; it is necessary to take into consideration the peculiarity of **“the first wave” applicants** of the CEE countries, and those of Carpathian Euroregion in particular;

- due to historical collisions the ethnic borders do not coincide with the political borders, hence each of the CEE states (first of all, it concerns Hungary) has steadfast legitimate interest to representatives of the ethnoses which are ethnic minorities in the other state, and provided introduction of a visa regime the crossing of border would be complicated considerably for average citizens. In this context we should notice, that force of so-called **Laws on the status of the foreign Hungarian, the Slovak, the Ukrainian** etc. virtually is temporary too, since according to the **Consolidated Agreements of the EU**, these laws will either be modified or stop the activity;
- a search of alternatives is extremely necessary, - first of all, that concerns search of compromises at a level of national legislations and the **Consolidated Agreements of the EU**, even temporary ones, which will be legally fixed, and will serve as real “softening” of implementing the Schengen acquis.

## **The impact of the Schengen acquis on the CE's internal and external security**

It is quite evident that the **visa-free European space** strengthens the control and demands the rigid procedures with the purpose of **strengthening the security on the external borders of the EU**. It should be necessary to study and analyse the possible alternatives regarding the implementation of the **Schengen Agreement** by “**the first wave**” **applicant states** of the EU enlargement. However, it is necessary to define a priori, that all measures, which “soften” the realization of the **Schengen acquis**, have **temporary character**, and the question is that **it should be necessary to carry out at the bilateral level the Agreements that regulate a visa border-crossing of the “eastern” border of the EU**.

The question of expansion of visa-free European space on the region of the Central-Eastern Europe (including the territory of the **Carpathian Euroregion** countries) has a **special, particular character** and here and there is perceived as threat and as the inevitable negative compound factor of the **new division of Europe**.

Provided EU enlargement and obligatory implementing the **Schengen acquis** and a visa regime between **Hungary and Ukraine, Poland and Ukraine** as well as **Romania and Ukraine** in **2004-2006**, the regime system will be changed radically on the EU new international border. In the terms of strengthening security on the EU new external eastern borders it is virtually **the formation of the international border between European Union and Ukraine**.

For **Ukraine** this question is extremely actual, as it is not any more so much the economic question. Now it is rather **a set of economic, social and ethno-political**

**factors**, and first of all, it is an issue of security on the common border of the European Union and Ukraine.

The crossing regime of the **goods, services and manpower**, as well as the control in the **immigration sphere** and reaching the high level of security on the EU external border **will complicate substantially the border crossing**, but on the other hand **will strengthen the security** of the EU-Ukraine international border. Strange though it may seem but the strengthening of security on the new international border will lead to the tension in the interstate relations of the **CE** countries which may be avoided by taking into the consideration the next:

- consideration of the specific features of the historical development of the CE peoples as the complex of the political, psychological and social factors;
- using de-jure the existing alternatives which exist between the EU member-states regarding the border crossing alternatives;
- analysis of the EU programme **INTERREG-III** shows the substantial financial support from the **EU 2000-2006 budget** for infrastructure development of the EU new external border, hence the border infrastructure development should be considered as the urgent measure on the Ukrainian side of the border, as well as improving the staff skill according to the European standards;
- creation of the **Consultative or the Permanent Working Groups of the experts on the European integration issues**, first of all on issues of implementing the Schengen acquis with the purpose of both the analysis of the existing situation and carrying out the concrete recommendations for avoiding the crisis situations which would certainly appear after implementing the new visa regime.

## **The impact of the Schengen acquis on trade and cross-border economic development in the CE**

Since today and in the near future the only real way of the European progress of **Ukraine** is trans-frontier and inter-regional European co-operation, the **Schengen acquis** both complicate this cooperation, which still demands improvement, and serve as a real barrier of the **European integration of Ukraine**. This is a negative fact which causes new problems in different dimensions of the socio-economic life of peoples of the **Carpathian Euroregion**. Thus, the way out from a situation that has developed and which is being already formed with obligatory introduction of a visa regime between **Ukraine and Hungary, Ukraine and Poland, Ukraine and Romania**, consists in searches of alternatives. These alternatives exist only for those who search for them - but we should underline, that it in turn requires analytical generalization, constant multilateral dialogue and work of experts on the issues of the **Schengen acquis**.



Today it is already possible to analyze both positives and negatives of introduction of the visa regime in a plane **Slovakia - Ukraine**, two states for which development of the cross-border trade and the cross-border economic infrastructure are economically the important factor of the national socio-economic development of two states. Virtually, on this example Ukraine, and also Hungary and Poland can look as in an original mirror of the Schengen acquis which is rather didactic.

**First**, despite of common declarations, undoubtedly a political factor is dominant in the definition of a priority of technical character of introducing a visa regime in a triangle Czech Republic - Slovakia - Ukraine.

**Second**, what does the statistics show? As **Igor Ostash (the Head of Committee of Foreign Affairs of the Verkhovna Rada of Ukraine)** has noticed, since the introduction of the visa regime, the trade turnover between Ukraine and Slovakia has decreased on **50%**. The amount of persons and transport that crossed the border of Slovakia and Ukraine has decreased on **72%** and **54%** respectively. In the economic dimension, the losses have been amazing. Customs duties in the Ukrainian budget have decreased on **48%**, to say nothing of the losses of the cross-border tourism and unrealized possibilities of the cross-border trade.

## **The impact of the Schengen acquis on the CE's minority agenda**

As it has been stated already, the **minority issue** belongs to both EU and member states policy priorities. The implementation of the **Schengen acquis** undoubtedly will have strong influence upon the CE's minority agenda.

In the **minority aspect** the "losses" tend to develop for a long time, since the procedure of the visa registration by the average citizen, as well as slowed procedure of crossing a border, **create the extremely negative image** and disable the formation of positive image of the European Union in future.

With implementing the Schengen visa all small crossing points will be automatically liquidated, and only those which meet the criteria of international standards will function. It in turn will put significant impact on the **trans-frontier economic co-operation and the cross-border trade**, and in particular, the **shuttle business**, to which minority representatives in the cross-border areas are related. It will complicate crossing of border from **Ukraine to Hungary and Poland** for average citizens, in particular for minority representatives who compactly live lengthways the border and have close ties in the neighbouring countries.

At last we would like to consider the Schengen problem in the terms of the western experts. **It should be noticed that some experts (e.g. James Sherr<sup>1</sup>) share the opinion that Schengen could shut a number of states out of the emerging “greater Europe”.**

Thus, two options of the Schengen process development have been considered.

### **Option 1: opt-outs for new members.**

In an ideal world, the members of **the European Union** would grant **Poland, Hungary and other new members** the right which five members<sup>2</sup> have already exercised - **the right to say “no”** - and allow them to join Schengen when and if they see fit. It would be up to them to decide whether and with whom to maintain visa-free regimes or, where visas are required, establish how they function. There would appear to be advantages and disadvantages in this approach.

Thus it would afford new members the maximum flexibility in managing relations with neighbours whose difficulties are likely to be mid-to-long term and whose prospects of successful reform are still uncertain. It would demonstrate that the EU is not a narrowly focused protectionist bloc, but an entity aware of its relationships with and responsibilities in a wider world, that it is neither inflexible nor incapable of adjusting to circumstances.

At the same time, with good reason, **Poland and Hungary** might fear that their opt-out could diminish their status and produce two categories of membership in the EU. If push comes to shove, full membership of the club is more important to them than the security of their eastern and southern neighbours.

### **Option 2: postponing the implementation of Schengen.**

There is a reasoned alternative to the opt-outs, which the European Union refuses to consider. An interval would be established between accession to the Union and the implementation of the Schengen agreement. The Union would agree with each candidate member a firm and binding timetable. The sequencing might vary from state to state and frontier to frontier. Yet in each case, undertakings would be given to the Union, and the resulting agreements would have the status of EU policy.

Again, there would be **advantages** and **disadvantages** in such an approach.

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<sup>1</sup> Sherr J. The Schengen Agreement, EU Enlargement & European Security. - *National Security & Defence*, 2000, No. 9, p. 38-43.

<sup>2</sup> Denmark, Finland, Ireland, Sweden and the United Kingdom

In practice, **Option 1** is not an option because the EU refuses to consider it. **Option 2** would be consistent with the principles of Amsterdam.

Option 2 would still demonstrate that the EU recognized the “art of possible” in CEE, yet it would keep the pressure on. Thus it would be a transition to a “one speed” Europe rather than a slippery slope to two.

As a **disadvantage** of such an approach one should notice, that given the priorities and biases of Brussels, it will be very difficult to keep security (rather than “deepening integration”) at the forefront of the discussion.

Perhaps, the object of Schengen and the “logic” of it is to have one external frontier for the entire European Union and complete freedom of movement within it. If countries can vary their visa requirements considerably and even issue national visas, then what perils are they imposing upon their neighbours? This is certainly a critical question, given the perception - accurate or exaggerate - that CEE is a theatre of operations, not to say transit, for criminal enterprise. It is worth recalling that the UK opted out of Schengen because, in its view, Schengen controls were not strict enough. Given these Europe-wide concerns, it is not astounding that Poland has had a further surprise. Despite the logic of Schengen and Poland’s status as a “first-wave” applicant to the EU, it appears that the Germans are modernizing the Polish-German frontier rather than dismantling it.

Schengen is designed **to eliminate internal borders in the EU**. The corollary of staying out of Schengen is, naturally and reasonably, the preservation of such borders. Why should new members face “**double standards**”: the burden of imposing Schengen on non-EU neighbours and the insult of confronting internal frontiers between themselves and the older members of the Union? Would this not be a **two-tier Europe** by definition? Strenuously as the **European Commission** rejects the principle of a “multi-speed” Europe, would they not be imposing it by stealth?

In contrast to the ideology of European integration, the reality of it is full of compromises, inconsistencies and paradoxes.

Nevertheless, Ukraine should be prepared to expect:

○ that in the short-to-mid term it will confront a much more hospitable visa regime than it feared: inconvenient to be sure, but very far from the “iron curtain” which many dread;

○ that Ukraine's closest advocates and partners might play a price for such hospitality in the form of internal borders and other forms of *de facto* junior status which they could come to resent;

○ that in the mid-to-long term these partners might feel compelled to impose strict, Western European requirements as the *quid pro quo* to becoming full members of the European club which they have moved heaven and earth to join.

The lesson would seem to be obvious. Any respite which **Poland** or **Hungary** secure for **Ukraine** is likely to be temporary. Unless Ukraine uses this interval to reorientate itself aggressively towards European standards of law, business and trade, it could find itself shut out of the "greater Europe", which it seeks to join as a matter of "strategic choice" and principle.

It is quite evident that considering the Schengen acquis issues in the context of the Carpathian Euroregion we should take into account all above-mentioned options and consequences of the implementation of Schengen.

## ***Implementation of the Schengen Treaty and the Perspectives of Co-operation within the Framework of the Carpathian Euroregion: a Polish view***

### **Introduction**

As is well known, one of the requirements for membership in the European Union is the adoption of the Community law in the area laid down by the Schengen Treaty. Beyond any question, this will affect all the countries which now form the Carpathian Euroregion in social, political, and economic terms. For obvious reasons, the situation of those that will soon become members of the European Union is going to be different from that of the countries that will remain outside the EU in the foreseeable future. This diversification will affect not only their mutual relations but also the functioning of the Euroregion itself, since its territory will certainly be divided by a Schengen-type border.

In Poland, the consequences of adopting the Schengen *acquis* are currently being discussed, also in the context of our relations with our eastern neighbours, in particular with Ukraine, which will remain outside the European structures for a long period of time. As regards the assessment of our relations with Slovakia, the most important is the fact that the country is most likely to join the European Union together with Poland. This means that, over a relatively short period of time, the nature of our relations with the two countries bordering on Poland and forming the Carpathian Euroregion will change and diversify, and the possibilities of expanding cross-border co-operation with them will be different as well.

### **Functioning of the Polish-Ukrainian border and the Polish-Slovakian border**

The regimes currently in force on the Polish-Ukrainian border and the Polish-Slovakian border are very much alike. Poland has signed agreements for visa-free movement with both countries and, from the formal point of view, the requirements to be met by their citizens on entering Poland should be the same. In practice, Ukrainians who cross the Polish border are required to produce a letter of invitation or a certain amount of money each time - depending on the duration of their planned visit to

Poland. The Polish border services seem to be more indulgent with respect to Slovakian citizens, just as the Slovakian border services are more tolerant of Poles. The dissimilarity of treatment of citizens of the two neighbouring countries reflects only slightly the differences that are in fact much more serious. The interface between Poland and Ukraine is where cultures and civilisations clash to an extent that has never been experienced by the European Union before. As a matter of fact, it is a problem of significant disproportions with respect to the standard of living, technology, the entire material culture as well as political and legal practice. Differences of that kind do not exist between Poland and Slovakia. And that is why the regime prevailing on the Polish-Ukrainian border is much more reminiscent of the situation to be found on e.g. the Slovakian-Austrian border or the Polish-German border than that witnessed on the Polish-Slovakian border. One can even say that in the latter case, the practice resembles the arrangements in place on the borders between the European Union member states - of course in the period before the provisions of the Schengen Treaty came into force. Other differences can also be easily pointed out.

We should bear in mind the fact that the number of people crossing the Polish border with Ukraine, with its population of more than 50 million, equals the number of people crossing the Polish border with Slovakia, which has slightly above 5 million inhabitants. What is even more interesting is the fact that while on the Polish-Slovakian border we can observe a relative balance between the number of Polish citizens and foreigners crossing it, in case of the Polish-Ukrainian border there is a considerable disproportion in this respect. In recent years, Polish citizens have represented only a small percentage of the total number of people crossing the Polish-Ukrainian border - according to some sources, - the proportion was 1 : 30. This means that any restrictions on the movement of people, resulting from the implementation of the provisions of the Schengen Treaty by new members of the EU, will affect, first of all, the citizens of Ukraine and other countries the Community of Independent States.

The question arises of how these restrictions, and the visa requirement in particular, will affect the relations between the countries on opposite sides of the Schengen border. And, first of all, what will be its influence on the possibilities of developing various forms of co-operation within the framework of the Carpathian Euroregion?

## **Consequences of the implementation of the Schengen Treaty**

In the first half of 2000, Slovakia and the Czech Republic imposed a visa obligation on the citizens of Ukraine. As is well known, Poland adopted a different position on that issue, declaring its will to retain visa-free movement with Ukraine as well as with some other CIS countries - until our country becomes a member of the

European Union. On the one hand, this confirmed the importance Poland attached to the relations with its eastern partners. Yet on the other hand, it reflected the opinion - which is shared by virtually all political forces in Poland - that the enlarging European Union should aim at creating at its eastern outskirts a kind of a transition area, which would make it possible for it to function in a friendly environment. The Eastern European countries would certainly make a part of the area as well as the Balkan states which are to remain outside the European structures for some time.

Considering actions aimed at creating such a friendly environment in the East, it should be noted that it is out of question that Poland while joining the European Union does not adopt the Schengen *acquis communautaire* or demands a transition period in this respect - as that would mean accepting a status of a second-class member. Laying down a visa requirement with respect to countries from the "EU blacklist" - seems to be inevitable and any doubts with this respect would be not only against the interest of the Republic of Poland, but also at long range to the interests of our eastern neighbours. Strong conviction that the imposition of certain restrictions is inevitable on the external borders of the enlarged Union will help both parties involved arrive at arrangements which will help alleviate the negative consequences of those restrictions.

It should be emphasised at this point that the introduction of the visa requirement and - more rigid border control will not necessarily mean a dramatic reduction in the movement of people or, the more so, result in a collapse of trade or other forms of economic relations. The odds are that streamlining the border movement, injection of additional investment in the infrastructure, more efficient screening out of unwanted visitors in the Schengen area in combination with clear and simple rules of issuing visas to businessmen and persons travelling on business will make business trips even easier. Of course, this refers to, first of all, registered trade exchange - as for petty traders from the East the costs of a visa and the additional obstacles of an administrative nature which they will have to face, once they are imposed, may initially turn out to be an impassable barrier. - However, it should be stressed that unregistered petty trade will play a diminishing role in the relations with the CIS countries and probably it will lose in importance in as time goes by. Besides, the above mentioned additional costs related to the introduction of the visa requirement may well be compensated, e.g. by curbing corruption - at least on the Polish side of the border - or providing better protection against criminals extorting tributes. Furthermore, the experience so far has shown the scale of economic relations between Poland and the East has not been determined by the type of visa regime on the border but by the development of the economic situation in Russia and Ukraine. It is well known that e.g. between 1994 and 2000 the number of citizens of the CIS countries, who came to Poland as small-time traders changed depending on the purchasing power of the rouble, and not due to the difficulties resulting from the imposition of the visa requirement for some of those

countries, including Russia. Therefore, it can be supposed that if the purchasing power of the citizens of Ukraine increases, its trade exchange with Poland will increase as well.

In discussing the effects of the accession of some countries forming the Carpathian Euroregion to the Schengen Treaty one cannot forget the fact that it will affect their ability to face the challenges which will illegal immigration is bound to pose over time. At present, this seems to be a remote issue - neither Poland nor its neighbours are the targets of mass economic migration. How fast this can change is shown by the example of Spain, which was still treated as a potential emigration country in the early eighties. However, it took Spain just a few years of rapid development and intense preparation for the membership in the European Union and to shortly became a country receiving immigrants. Sooner or later, a similar phenomenon can be expected to develop also in the countries of our region. Therefore, it is in the most fundamental interest of all the countries which co-operate within the framework of the Carpathian Euroregion to maintain a high level of economic co-operation, irrespective of the side of the Schengen border they are going to find themselves on after the next - enlargement of the Union. Otherwise, we would face an immigration pressure exceeding the absorption potential of the new members of the - European Union, including large-scale illegal employment of citizens of Ukraine and other CIS countries in particular. The most important will be the course of events in those countries themselves. If they follow the path of development, visas controlled on the Polish or Slovakian border will be rather meaningless. However, if things go the wrong direction, - it will not be possible to maintain an open border anyway.

## **Prerequisites for maintaining co-operation within the framework of the Carpathian Euroregion**

Preparations for physical tightening of Poland's eastern border are already sufficiently advanced for representatives of our country to be able assure their EU counterparts of fully effective control will be in place the moment the provisions of the Schengen Treaty enter into force. However, preparations for maintaining open access to the border in practical terms are far behind. There is a threat that while laying down a visa requirement for some of our partners from the East, we will not be able to fulfil the task of issuing them even to half of the Ukrainian citizens crossing the border today. Undoubtedly, similar problems will be also faced by Poland's partners from the Carpathian Euroregion. Preparing the diplomatic service for the new tasks and its proper organisation will play a key role in preserving the open nature of the external borders of the enlarged Union and make it possible not only to maintain but also develop cross-border contacts.



This also refers to contacts with representatives of national minorities, which will remain on the other side of the Schengen border. In the case of Poland, this concerns mainly the Polish minority groups living in Ukraine and, if Romania is not granted membership in the Union, also the Poles living in that country (in both cases mainly outside the Euroregion).

However, the efficiency of diplomatic service, or rather, in this case, consular service, is not going to be the only factor to decide whether our eastern borders will remain open. The border areas included in the Carpathian Euroregion are sparsely populated (the exception being the area along the border between the Sub-Carpathian Voivodship and the Lwów District), with relatively high unemployment and a high percentage of elderly people, and a low level of urban and economic development. In practice, this means that the possibility of active cross-border interaction both in terms of economy and culture is reduced. What makes the situation even worse is the poor condition of the transport service and, more generally, the entire border access and crossing infrastructure. Its improvement would directly affect the development of cross-border co-operation. However, it would require more intense investment effort and co-ordination of actions taken by all the parties involved.

From the Polish point of view, one of the prerequisites for maintaining the open nature of the Schengen border - and consequently also the perspectives of co-operation within the framework of the Carpathian Euroregion - will be co-ordination of actions taken by the states neighbouring on the area which will remain outside the European Union in near future. The co-ordination should cover both actions taken with respect to the above-mentioned area and relations with our partners in the Union - including the issues concerning the implementation of the provisions of the Schengen Treaty as well.

In the first case, this mainly involves exerting pressure on the countries which will remain outside the European structures in near future so that they introduce EU standards for their own benefit. The application of the standards would make it possible, over time, to treat these countries differently than before with respect to matters related to the functioning of the Schengen *acquis*. One good example may be the postulate for regulating the status of the Ukrainian-Russian border or intensification of actions taken by Kiev with a view to counteracting illegal immigration to the Western states.

In the latter case, the states which are going to soon become members of the European structures will face an even more difficult task of actively influencing the contents and trends of the Eastern policy pursued by the European Union both before and after the enlargement. Possible co-ordination of positions would certainly boost the chances of the CEE countries for their interests to be taken into consideration in this field.

## ***Carpathian Euroregion and Schengen: a view from Romania***

### **The Schengen Agreement**

One of the most important initiatives designed to make it easier for the citizens to travel around the EU has its origins in a non-EU agreement between Germany, France and the Benelux countries, which was signed in the small Luxembourg border town of Schengen in 1985. It removes controls on persons - irrespective of their nationality - at internal borders between Member States, harmonises controls at the EU' s external borders and introduces a common policy on visas. The original five "Schengen States" agreed that they would create an area where people could move freely between their respective territories. They remove all internal border controls, and countries may only reintroduce them in certain well - specified circumstances.

Today, the Schengen Agreement has been fully incorporated into the EU' s founding treaties. The 1999 Amsterdam Treaty ended its status as a non-EU pact. As of 2001, 13 EU countries (Belgium, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Austria, Portugal, Denmark, Finland and Sweden) implement the Schengen provisions. Ireland and the UK will take part in aspects of the Schengen Agreement that deal with co-operation between police forces and judicial co-operation, but have said they will not end border controls with other Schengen States.

Whilst respecting the special position of the UK and Ireland, the Commission, European Parliament and Member States continue to work towards the adoption of a coherent and complete body of law to ensure that people, irrespective of nationality, can move and travel freely inside the European Union within five years of the entry into force of the Amsterdam Treaty, i.e. from 1<sup>st</sup> of May 2004. The "Communitarised" benefits of Schengen - a common policy on visas and effective controls at the EU' s external borders - will contribute to the protection of internal security needed in a border - free area.

### **Enlargement of the EU**

The European Union is currently preparing for its most ambitious enlargement ever. The aim is to reunite the European continent, to consolidate peace and democracy in Europe. Adopting and implementing what has already been agreed

and decided in the EU on justice and home affairs is one of the conditions that candidate countries have to meet. Thirteen countries have applied to join the EU. Ten of these countries are in Central and Eastern Europe (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia and Romania), and three are more Southern countries (Cyprus, Malta and Turkey).

Preparation for enlargement is more than just negotiations. It also includes a whole pre-accession strategy, one part of which is the Accession Partnership. This allows the candidate countries to modernise their societies with substantial financial support from the EU and through the exchange of experience and knowledge with EU countries. This is particularly important for a policy field like justice and home affairs, in which some candidate countries have to make a major effort to bring themselves up to the standards of the EU.

It is no easy task for the candidate countries to meet the exacting requirements of EU policies on the abolition of all internal borders and on effective control and surveillance of the EU's external borders if they face third countries or if, like Cyprus and Malta, they are surrounded by the sea. As they wait to join the European Union, they have to prepare for meeting these requirements laid down in the Schengen Agreement. They will be responsible on behalf of all the Member States for guarding the EU's external border against illegal immigration, drug smuggling, trafficking in human beings and host other criminal activities.

Two hugely important developments have to face the applicant countries: the simultaneous expansion of the EU to the East and construction of its new justice and home affairs policy, including the Schengen border regime in particular. Romania established as its main external policy priorities the accession to the European structures. Several times the practitioners affirmed that the European Union seems to be similar to "a club" where only those players, which respect the same rules as the old players, *i.e.* the EU Member States, of the game, could enter in. Nevertheless, before "new players" join the club, they have to meet some criteria, the so-called Copenhagen criteria. One of the criteria is related to the harmonisation of the *acquis communautaire*. As the Schengen *acquis* is part of the first pillar *acquis*, the implementation of the Schengen *acquis* is mandatory for all the candidate countries and it is very strict controlled by the European Commission's services.

## **Implementation of the Schengen *acquis* by the candidate countries**

The enlargement of the European Union will move the present external Schengen border to the East, in a manner which will be more restrictive for the movement of

persons in Central and Eastern Europe than has been the case for a whole decade since the collapse of the communist regimes, and which saw the arrival of a new era of freedom of movement of persons in the region. Thus the end of the Berlin Wall saw Poles and Ukrainians, for example, move across their frontier without visas for the first time since the war. Schengen re-introduces these visa restrictions.

Schengen policies are effectively determined by interior ministries, which typically look to the physical protection of the frontier as the main instrument of policy, whereas those taking an external relations standpoint will give greater weight to the impact of such policies on the political dynamics of the neighbouring countries. In the actual situation the transition process is in a very delicate condition in such countries as Ukraine and Russia, and perceptions of exclusion from Europe can be a factor prompting regressive policies of precisely the kind that the EU does not want to see.

Moreover, the EU accession candidates are under the pressure of a 'moral hazard' in their negotiations with the EU. The candidate states are well aware that their accession chances are maximised by raising the least possible number of complications or requests for special transitions or derogation. The process is highly competitive between the candidate states, and the regular publication of the number of chapters closed in the negotiations is the explicit basis for assessing progress. The candidate states may be very sensitive to the problems raised by Schengen rules for movement of people across their Eastern frontiers, but they are under strong pressure, since EU accession is their priority, not to raise these issues themselves.

In practice there are sensitive cases arising almost the whole way along the EU's future Eastern frontiers, for example: the border between Moldova and Romania, with many Moldovans now acquiring dual Moldovan and Romanian citizenship because of the prospect of Romanian accession to the EU combined with the Schengen border regime; the Narva-Ivangorod border between Estonia and Russia, where Russian communities are living directly alongside each other; the borders of Russian Kaliningrad with Lithuania and Poland, given that Kaliningrad is due to become an enclave within the territory of the EU, the borders between Ukraine and its EU candidate neighbours (Poland, Hungary, Slovakia and Romania) as well as between Belarus and Poland, with currently very large movements across these borders for purposes of trade and personal connections; the borders of South East Europe, where there is an outer ring of visa-free states (Croatia, Slovenia, Hungary, Romania [soon], Bulgaria and Greece), which surround an inner core subject to visa requirements (Bosnia, Macedonia, FRY and Albania); the Aegean islands of Greece which are very close to the Turkish coast, where tourist movements are now being very unfortunately hampered at a time of improving Greek-Turkish relations.

The Schengen requirement on external border controls will oblige many of the Central and Eastern European applicants to re-examine their border management policies. These countries now need strong controls at their Eastern borders and should gradually eliminate such checks at the West. Indeed, these later controls will disappear altogether once it has been established that all requirements of the Schengen Agreement are met.

## **Legal and practical questions relating to the Schengen acquis implementation**

The current enlargement process is the first since the integration of the Schengen acquis into the Union. Article 8 of the Schengen Protocol makes it clear that candidate countries must accept the Schengen acquis in full. Developing this theme, the first EU Common Position of May 2000 concerning the Luxembourg countries provide, *inter alia*, that:

- (a) A high level of border control will have to be achieved upon accession;
- (b) The candidate countries are required to:
  - 1) Accept in full on accession the JHA provisions and the working practices designed to give them effect;
  - 2) In respect of conventions and other instruments, undertake to accede to them or, if under negotiation, accept the points which have been agreed upon;
  - 3) Accept on accession joint actions and joint positions as well as resolutions, decisions and statements;
  - 4) Introduce administrative and other arrangements, as is necessary to effectively implement the acquis;
  - 5) bring institutions, management systems and administrative arrangements up to Union standards.
- (c) The candidate countries are invited to establish, as soon as possible, a Schengen Action Plan.

In other words, as far as the substance of Schengen is concerned, no opt outs are possible. In addition, the above elements in the Common Positions spell out what is meant by the basic idea of the integration of Schengen: making the Schengen acquis an integral and “normal” part of the EU / EC legislation in the field of justice and home affairs. This means that the starting point is that the application of the Schengen upon accession should be considered the norm, and that any postponement of implementing measures to the time when internal controls are in fact abolished, should be regarded as the exception.

However, the Schengen rules also make clear that a separate and unanimous Council decision will be needed before the Schengen acquis can be implemented in full, including most importantly the key question of the lifting of internal border controls. For such a decision to be taken the existing Schengen partners will have to verify, by means of a special evaluation process, that the new Member State concerned is able to apply the compensatory measures in full. However, the existence of this special implementation mechanism of Schengen does not at all mean that candidate countries should not be ready and able for the partial application of Schengen upon accession. On the contrary.

The reality is that a full implementation of the Schengen provisions immediately upon accession is most unlikely to be a practical possibility for technical and operational reasons. For example, a functioning Schengen Information System (SIS) is one of the most important preconditions for such a decision. Considering that the lifting of internal border controls is dependent on the timetable of the (second generation) SIS II, which is now estimated to be operational in the end of 2005 at the earliest, it is not realistic to imagine that any decision concerning the lifting of internal border controls will take place before that time. In addition, it should be taken into account that the Schengen evaluation process itself will take some time (the traditional Schengen evaluation process should be postponed until the moment when the Schengen States and the new Member States are getting prepared to abolishing the internal border controls; all parts of the Schengen acquis would be evaluated in that point of the time in accordance with the relevant rules of the Schengen acquis).

The implementation mechanism of Schengen does not contain any predetermined timetable for the lifting of internal border controls after accession (the Schengen Convention was signed in 1990 and it entered into force in 1993, but the full acquis was put into effect and the internal border controls were lifted only in 1995 for Benelux, France, Germany, Spain and Portugal. For Austria, Italy, Greece and the Nordic countries there were several years between the signing of the Schengen accession agreement and the lifting of internal border controls - from 3 to 8 years). To ensure the balance between the security and the freedom aspects, ideally the target should be that the full implementation of the Schengen acquis, including the lifting of internal border controls, should be achieved as quickly as possible after accession. It will inevitably, however, be subject to the capacity of the country concerned to fulfil the necessary requirements. In the Common positions concerning the Luxembourg countries, the EU underlined that the candidate countries will need to satisfy as soon as possible all the preconditions to bringing the full Schengen acquis in force. The candidate countries have been encouraged to start preparing early for the full Schengen implementation as the related national measures involve extensive organisational, structural and financial challenges.

## Schengen Action Plan

In the EU Common Positions concerning the Luxembourg countries, the candidate countries have been asked to provide an action plan for implementing the necessary preconditions for participating in Schengen (the Schengen Action Plan). The Commission has sought to clarify the contents of this requirement for the candidate countries during the technical discussions. The candidate countries must display a complete understanding of what is required for full implementation of Schengen, some real and concrete results already achieved and a detailed and verifiable programme for the adoption and implementation of the rest.

The Schengen action plans could serve at least two purposes. For the candidate countries, they will provide an appropriate instrument for them to demonstrate their commitment and planning for the full implementation of Schengen. For the EU and the existing Member States, these action plans should help them to make an estimation of the time that could be needed between the moment at which a candidate country joins the EU and the moment at which its internal border controls with the existing Schengen states can be lifted.

Schengen is not about border control issues only, it covers other policy areas in the field of justice and home affairs designed to minimise the possible reduction of internal security resulting from the abolition of internal border controls (compensatory measures). The Schengen Action Plan should therefore cover all policy areas included in the Schengen Convention:

1. External border controls and surveillance;
2. Visa policy;
3. Police co-operation;
4. Drugs;
5. Judicial co-operation in criminal matters, extradition;
6. Schengen Information System;
7. Protection of personal data.

Taking into account the distinction between parts of the Schengen acquis to be applied as from accession and those to be applied as from the lifting of internal border controls, each of the policy areas in the Schengen Action Plan should be expanded to cover the objective, the national action needed, the timetable for adoption and the state of play. Preparations for the full Schengen implementation is a continuous process. Therefore the action plan should cover the entire period prior to the lifting of internal border controls, so the focus should not be on the date of the EU accession only.

The approach in the Schengen Action Plan should be strategic, and it should not address legislative measures only. The capacity for operational action and implementation in practice is equally important due to the special nature of the Schengen co-operation. In this, the description of the equipment and infrastructure, training as well as budgetary measures, are essential elements.

## **The Romanian situation concerning the implementation of the Schengen acquis**

### **1. The border control management**

The total length of the Romanian borders is about 3,146.8 km in length, from which 1,074.5 km are land borders, 941.6 km are river borders, 883.2 km fluvial borders and 147.4 km maritime borders. All these are controlled by the Romanian Border Police, operating under the Ministry of Interior. Their objectives are to maintain close control of the situation at the border in general and to ensure peace and stability. In achieving these objectives the main duties of the Border Police are:

- guarding the borders;
- controlling of the border check points;
- preventing and combating the criminal phenomenon at the borders;
- enforcing law and order in collaboration with the police in the frontier and coastal areas.

In the framework of EU accession, the Romanian authorities have initiated a series of measures in the field of home affairs that focus primarily on stamping out illegal migration from and through Romania, as well as on combating organised crime and other illegal acts perpetrated by Romanian nationals. New pieces of legislation on the regime of the state border and the organisation and operation of the Romanian Border Police have been passed. Also, following a Governmental Resolution, additional controls have been introduced on Romanian nationals seeking to leave the territory of Romania. These controls are aimed at checking compliance with minimal requirements for entry, by Romania nationals, into the territory of other states. Pursuant to the said Resolution, Romanian nationals travelling for purpose of tourism or business to the territory of EU Member States or to other countries which do not require an entry visa shall, upon exit, produce the following documents:

- medical insurance;
- return flight / train ticket or the green card of the vehicle by which they travel;
- a minimum amount of foreign currency the total of which is determined upon reference sums associated with the country of destination or transit.



The head of the border-crossing point may dispose that a person's travel be interrupted whenever he / she does not comply with the aforementioned requirements.

New legal provisions on the status of foreign nationals in Romania have entered into force, replacing provisions as old as 1969. Simultaneously with measures in the legislative field, steps have been taken to tighten controls on the lawful stay, in the territory of Romania, of aliens who do not come from EU Member States.

As from July 2001, the Romanian Border Police has been operating according to a new organisational chart compatible with that of similar institutions in EU Member States.

Readmission agreements, strictly observed by the Romanian authorities, have been reviewed. Pursuant to these agreements, the Romania authorities are bound to take over unlawfully staying Romanian nationals, including stateless persons of Romanian origin. Also, pursuant to these readmission agreements, approvals are given for the return to the territory of Romania of nationals of third countries who, coming directly from Romania, reside illegally in the EU area.

Strict measures of approval for issuing visas to the nationals of migrant - producing countries have been introduced so as to remove legislative loopholes exploited by the so-called "students" and "business men and women" whose actual purpose of travel is that of transiting the country on their way to the West. As a consequence, the Romanian Border Police have succeeded this year in increasing the number of exit visas and legal expulsions. Moreover, a large number of citizens coming from migrant - producing countries have been denied access to the Romanian territory.

In order to strengthen co-operation with EU Member States and candidate countries, the Government of Romania has laid down legislative and financial provisions that would enable the nomination of home affairs attaches and liaison officers to be seconded primarily to the EU Member States and candidate countries and particularly to those countries targeted by Romanian migrants. Thus far, home affairs attaches have been seconded to Brussels, European institutions and Germany. Liaison officers are to be seconded to Prague and Vienna by 15 September 2001.

Negotiations have recently been completed over the bilateral Agreement between Romania and the Czech Republic on the co-operation in combating organised crime, trafficking in narcotics, psychotropic substances and precursors, terrorism and other serious crimes. Romania is ready to sign this agreement in the near future. Some other agreements in order to improve the border security of the Romanian state frontier were signed or are in the negotiations phases (see the Annex).

Given to the large flow of refugees and asylum seekers with Romania is being confronted, new relevant legislation has been passed. New concepts (such as “manifestly unfounded applications”, “safe third countries”, “countries where generally there is no serious risk of persecution” and “accelerated procedure”) have thus been written in the Romanian legislative body. Also, pursuant to the new relevant provisions, asylum seekers whose applications have been rejected following the exhaustion of all avenues of appeal shall be bound to leave the territory of the country, unless they are granted temporary leave to remain in cases where, for objective reasons, they are unable to comply with this requirement.

In its report of June 2001, the European Commission recognised the progress Romania has thus far made, and the recommendation therein has encouraged the Romanian authorities to speed up relevant actions. According to statistic data, living standards in Romania are on a level comparable to that of other East European countries (the same as Latvia’s and Lithuania’s) where visa requirement have been lifted.

## **2. The visa policy**

At 12 July 2001 the Romanian Government has adopted the draft law on the ratification of the European Convention on the protection of persons against the automatic processing of personal data STE 108/1981, signed by Romania at 17 March 1997. The draft Law concerning the protection of persons against the automatic processing of personal data, which harmonises the provisions of the European Council Directive no. 95/46/EC from 24 October 1995, has been approved on 27 August 2001 by the Chamber of Deputies and will be subject to a mediation procedure in order to finalise the texts. Both draft laws are in the Mediation Committee of the Romanian Parliament and are to be adopted in the plenary meeting of the two Chambers.

On 29 June 2001, the Agreement between the Government of Romania and the Government of the Republic of Moldova on the citizens’ mutual travel regime has been approved. This agreement provides the obligation for the citizens of the Republic of Moldavia to bear valid passports when entering and travelling within the Romanian territory as of the 1<sup>st</sup> of July 2001.

In September this year the Romanian Government has negotiated and signed two agreements, one with the Russian Federation, and the second one with Ukraine, concerning the introduction of the compulsory visa regime for the citizens of the above mentioned states, which will be implemented starting with 2002. The nationals of the Russian Federation and of the Ukraine will need a visa granted by the Romanian consular offices in order to enter Romania.

The Romanian authorities together with a Romanian research institute have elaborated the application software needed for the creation of an on-line system of visa automatic processing of applications which will link the consular offices from abroad with the *National Visa Centre* within the Romanian Ministry of Foreign Affairs, and the *Aliens and Migration Issues Directorate* within the Ministry of Interior and with the *border control check points* from the Romanian state border. Until the end of this year, the communication data link between the *National Visa Centre* and the *Aliens and Migration Issues Directorate* will be created with a financial contribution from the Romanian State Budget, while the remaining investments needed for the computerised visa on-line system will be covered with financial assistance from the European Commission in the framework of the pilot project PHARE 2000 (1 MEURO).

Law no. 123/2001 on the aliens regime in Romania, and the respective Methodological norms necessary to apply this law, which were approved through the Government Decision no. 476/2001 from 17 May 2001, contain new provisions regarding the introduction of the compulsory air transit visa. The Government Decision no. 476/2001 totally harmonises the EU Joint Action from 4 March 1996 (96/197/JHA) which contains provisions concerning the airport transit measures, thus the list of the 13 third countries whose nationals need an air transit visa to travel within EU territory was assumed in full by the Romanian authorities.

As regard the introduction of the compulsory visa regime for those nationals, who originated from former Yugoslav Republics, the Government has established the following timetable:

- For nationals originating from Bosnia - Herzegovina, in the course of 2002;
- For nationals originating from the Former Yugoslav Republic of Macedonia, in the course of 2002;
- For nationals originating from the Federal Republic of Yugoslavia in the course of 2003.

Starting with 1<sup>st</sup> of January 2004 the compulsory visa regime will be introduced also for nationals originating from Turkey. The visa regime for citizens of Republic of Moldova will be unchanged until the date of accession to EU.

As a result of an international tender that took place in August 2001, a German company has been designated as the manufacturer of the new type of passports, which will be used starting with December 2001. In the first phase of the process it was foreseen the manufacturing of one million simple passports and in the second phase, the manufacturing of diplomatic and duty passports.

## **Romania's internal and external security**

SEEI is one of the most important regional co-operation where Romania takes part and it could be seen as a mechanism through its members address issues related to state border security. NATO's South - East Europe Initiative (SEEI) was launched at the Washington Summit in order to promote regional co-operation and long term security and stability in the region. The initiative was based on 4 pillars: a Consultative Forum on Security Issues on south East Europe; an open-ended Ad Hoc Working Group (AHWG) on Regional Co-operation in South East Europe under the auspices of the EAPC in Political Committee Session; Partnership for Peace working tools; and targeted security co-operation programmes for countries in the region.

The Consultative Forum includes NATO countries; six partner countries in South East Europe Neighbourhood (Albania, Bulgaria, Croatia, Romania, the former Yugoslav Republic of Macedonia, Slovenia); and Bosnia and Herzegovina. It met initially at Summit level on the margins of the NATO Summit in Washington in April 1999 and has subsequently met at Ambassadorial level at NATO headquarters in Brussels.

The EAPC - AHWG identified ideas for further development to promote regional co-operation which have been incorporated into a set of activities modelled on activities carried out under NATO's Partnership for Peace programme.

The methodology of the Partnership for Peace initiative has been used to address a number of issues which are important to South East Europe, including transparency in defence planning, crisis management and defence management. Activities such as workshops on these topics have thus been designed to have a region-wide focus. Some of these are led by the participating countries in the region, facilitated by NATO and others by NATO itself. Designed to complement each other, they are helping to promote stability through regional co-operation and integration. A South East Europe Security Co-ordination Group has been established to co-ordinate regional projects.

A complementary programme of targeted security co-operation with Croatia, building on PfP mechanisms, was introduced in spring 2000. Croatia joined the Partnership for Peace in May 2000. NATO also has a special security co-operation programme with Bosnia and Herzegovina outside PfP, which likewise complements other South East Europe Initiative activities.

NATO is also providing advice and expertise on the retraining of military officers made redundant by force structure reforms in Bulgaria and Romania. This is a NATO project being carried out in the framework of the Stability Pact for South Eastern Europe, in co-operation with the World Bank, with funding arranged between the World Bank and the countries involved. It is therefore a project, which reflects the mutually reinforcing character of the international and institutional actions being taken in this field.

## The trade exchanges between Romania and its neighboring countries

January 2001 - August 2001

Country	Import (million dollars)	Export (million dollars)
Republic of Moldova	27,346.69	77,253.18
Ukraine	212,323.48	30,887.55
Bulgaria	102,639.34	150,661.47
Federal Republic of Yugoslavia	23,664.93	97,579.86
Hungary	401,610.02	244,375.36
Turkey *	233,376.39	317,349.09

*\*Turkey, another candidate country to EU, doesn't have a common border with Romania, but it has very good trade relations with Romanian state. A large number of Turkish companies invest their money in Romania. These were the main reasons which were taken into account when were established the new priorities of the Romania visa policy.*

The numbers mentioned in the table underlined the fact that the implementation of the Schengen acquis by the Romania's authorities with all the complementary measures do not affect at a large scale the trade exchanges with the neighboring countries. Bulgaria and Hungary, will became in future, also a part of the enlarged Europe and the border controls between them and Romania will be abolished.

## Additional information on Romania's international and regional cooperation

○ 54 Agreements for abolishing the visas requirement, concluded with countries in Europe, Asia, Africa and America; There were, also unilaterally suspended the requirement for diplomatic and service visas for the citizens of Great Britain, France, Germany, Italy and USA.

- There were signed TRILATERAL AGREEMENTS among:
  - Romania - Hungary - Greece
  - Romania - Hungary - Austria
  - Romania - Bulgaria - Greece
  - Romania - Republic of Moldova - Ukraine
- It was concluded till now an agreement between the ROMANIAN Government with the Governments of HUNGARY and Federal Republic of YUGOSLAVIA;
- It was been initiated a draft agreement between the Government of Romania and the Government of the Republic of Moldova concerning the state border policy and the co-operation in the field;
- Negotiations with Ukraine were started in order to sign a Treaty concerning the state border policy and an Agreement for the delimitation of the maritime space

### **Solutions to the continuation of the good relations between the different states involved in the Carpathian Euroregion Programme**

Many ways exist which could alleviate undesired restrictive effects of the Schengen regime on the movement of honest citizens in and out of the Carpathian Euroregion, without prejudice to the security objectives of the EU. The states of this Euroregion could take into consideration some of the following solutions, mentioned above:

1. Provision of adequate consular services for people living in frontier regions as well as capital cities, including necessary expansion of facilities in border cities and co-operative arrangements between Euroregion states which could provide the facility of issuing a standard 3-month Schengen visa;
2. Upgrading of border facilities to provide for rapid passage of large numbers without the multi-hour queues as often experienced today, which are indicative of existing problems irrespective of Schengen rules;
3. Special bilateral agreements for border regions, such as long-term multi-entry national visas at low or zero charge, very short-term visas for one or two days to facilitate local family contacts, tourism and small scale commerce, and (outside Schengen jurisdiction) long-term or permanent resident permits;
4. Customer-friendly consular and border services, with training of personnel to eliminate the undignified interrogation styles, cut visa queues and delays, and make available application forms by post or from Internet sites;
5. Development of new other Euro-region programmes to boost co-operative regional;
6. Reciprocal efforts by the neighbouring states, with efforts on their part to ease or abolish visa requirements and improve consular and border services.

***The impact of the Schengen acquis on trade and cross-border economic development in the Carpathian Euroregion, and how best to mitigate the possible negative effects***

**Background of the Schengen Agreement, its regional scope, principles and interests behind the agreement, the current Schengen border**

The Schengen Agreement was signed on 14 June 1985 by the Governments of Belgium, the Netherlands, Luxembourg, Germany and France, the ratification process ended up in 1990. **The system of the agreement is based on the political trust in each other and assumes the similarity of their social and legal framework as well as the approximate parallel between their economic development status.** By now the said agreement have been concluded by the vast majority of the Member States of the European Union, and also binds the northern countries since the Amsterdam Treaty dated of 1997 stated to gradually integrate the principles of the agreement in the framework of the union and terminates the situation according to which some Member States formally co-operate in a stricter way, though taking decisions with overall relevance to the citizens and regions of all the Member States of the EU. So they decided to fully integrate the Schengen Agreement in the legal framework of the EU and making it obligatory to be introduced by the accession countries - so by Hungary as well. According to this the following countries apply the Schengen order: Austria, Belgium, Denmark, Finland, France, Iceland, Greece, the Netherlands, Luxembourg, Germany, Norway, Italy, Portugal, Spain and Sweden. It must be mentioned that two Member States of the EU, Great Britain and Ireland have not joined the Schengen states.

In the middle of the '80s the basic idea was to simplify the crossing of the internal borders of the European Economic Communities<sup>3</sup>, according to economic and

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<sup>3</sup> The Schengen acquis - Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (*Official Journal L239, 22/09/2000 P. 0013-0018*) - **the parties are "...AWARE that the ever closer union of the peoples of the Member States of the European Communities should find its expression in the freedom to cross internal borders for all nationals of the Member States and in the free movement of goods and services, ..."; the parties are "... CONSIDERING the progress already achieved within the European Communities with a view to ensuring the free movement of persons, goods and services, ..."**

social concerns. Building on the existing firm economic platform, lead by mutual intention and interests, as a result of common and purposeful development it showed up to be an appropriate vehicle for the intensification of the internal economic relations. Besides these its application surely served security policy interests as well since parallelly with the continuous and gradual abolishment of the internal border (check)s, those at the external borders of the Communities were significantly strengthen in order to promote and enforce economic and security policy interests. The outlined picture without entirety necessitates to clarify the differences in kind and extent, with regard to the above mentioned motivations and the situation in the bordering regions along the internal borders of the European Union, between the territory of the Carpathian Euroregion and that of the enforcement area of the Schengen Agreement at external bordering areas of the EU. Without this the question raised in the title cannot be analysed.

## **Carpathian Euroregion - characteristics and differences from the current territories of the Schengen borders**

The current territory of the Carpathian Euroregion (CE) comprises of the bordering areas of Hungary, Poland, Romania, Slovakia and the Ukraine (regions, counties, oblasts) (Table 1.), the population living in this territory amounts nearly 15.000.000. This interregional association of the territory and population of a country makes up such a region in a broader sense in which the isolating effect of the borders either economically or socially is rather significant. The common characteristics of this area are economic backwardness, marginal role of the regions with respect to their position in the relevant states and the fact that the proportion of the ethnic minorities according to the full population in the given territories is quite high (approximately 20% of the population belongs to some ethnic minorities). Because of the above mentioned the challenges caused by the application of the Schengen order are significant regarding the CE, since the relevant five national territories become internal regions of the EU in different phases (as for Hungary and Poland, the **assumed date of accession is 01 January 2004**).

<b>National Territories / Member Regions</b>	<b>Area (km2)</b>	<b>Population (person)</b>
Hungarian territory	28 639	2 609 114
Polish territory	18 683	2 370 654
Romanian territory	27 104	2 274 013
Slovakian territory	10 459	1 111 177
Ukrainian territory	56 605	6 429 903
<b>Total for the Carpathian Euroregion</b>	<b>141 490</b>	<b>14 794 861</b>

Table 1.



By the differences indicated in the subtitle the approach to the possible impacts of the Schengen order several aspects are available among which two shall be emphasised here. *a. National level:* the aforementioned level of development (significant backwardness compared with the country, especially the EU average) and economic potential of the CE territories as well as its subordination to the main economic and decision-making centers. *b. Regional level:* as an overall impact mechanism, the broad analysis of the impacts of the four “freedoms” in the CE border regions defined by the European Union. The examination of these provide the nature of the possible negative effects, too. After all, on the two sides of the forthcoming EU border a twofold impact mechanism further colour the picture. It should also taken into account that after the accession the implementation of the Schengen order and the abolishment of the present common border sections with EU Member States shall be gradual, most probably will not be implemented once the accession process ends up. Later it will be obvious that for the relevant member territories of the Carpathian Euroregion the implementation of the Schengen order is one of the principle conditions of the accession - it is not the consequence or result of the same common development process referred to before in the case of the Communities. In Western Europe it is the means of promoting and enforcing common interests while in Central and Eastern Europe it is not a “tailored” measure whose negative effects have to be mitigated mostly by the people living in the area as much as possible.

It is a fact that the economic indicators, infrastructural development, differed standpoints of the national governments of the member territories of the CE territories make the implementation of such a border regime stemming from trust, smooth bi- and multilateral relationships, common interests. Contrarily, within the Carpathian Euroregion the ethnic diversity, negative preconceptions, sometimes prejudice cause lack of the appropriate trust although in this field - by the activity of the Carpathian Euroregion - significant development have been done with positive tendency. The different levels of bilateral co-operations vary much in terms of either efficiency or territorial aspects (border sections). Each form of national, regional and local cross-border co-operations is developing fast, due to, however, the differences in administrative system, legal framework, taxation system, etc. and the limited and different financial resources and ability this process cannot be complete. The interests defining the development priorities of the region also cannot and do not meet all the time since the relevant countries and even bordering territories are the actors of the same accession process - during this some diversified opinions and tendencies apply with regard to the differentiated approach to the evaluation of the preparedness. This is even added to the competition in attracting foreign direct investments (FDI) as an important means of intensifying the economic development processes in the area. After all these regions are rivals and co-operating partners at the same time in a determined geopolitical situation. This twofold characteristic is hard to be handled.

## **National level - Schengen and the internal market of the European Union, general features and impacts of the implementation of the Schengen-acquis on trade and economic development**

In terms of trade and economic development the Schengen Agreement defines principle criteria for the accession countries. Regarding the fact that within the above mentioned two fields numerous sub-fields are to be discussed, however, it cannot be the issue of this analysis, it is more appropriate to discuss such main topics which in general terms influence trade and economic tendencies.

From the point of view of *trade*, the new regime defines strict checks and regulations for goods and transportation according to the followings: standards, quality assurance and requirements, certificate of origin, packaging technology, conditions of transportation vehicles (weight, height, technical condition, emission of pollutants, etc.)<sup>4</sup>. Meeting these requirements regulate what goods can enter what way into the internal market of the EU. The existing bi- and multilateral trade agreements concluded between the EU and third countries colour the picture of commercial activities in terms of quotes, customs duties, etc. Meeting the requirements also limit the competitiveness, profitability and market opportunities of the enterprises, with positive or negative result even regarding national economies. With respect to the fact that significant investments are necessary to meet these requirements and regulations, the negative effects (discussed in details in the next part) are inevitable for those enterprises, which operate in the given area. Here it is also important that these regions partly are not in the position to use unlimited resources for funding the enterprise investments, and partly the market and economic conditions do not facilitate the appropriate capital accumulation, providing own resources to the develop operation conditions for the small and medium sized enterprises.

Nevertheless, according to the data of the following tables currently the most significant foreign trade partner of Hungary is the European Union. It means that the majority of the enterprises involved in export currently has the production infrastructure, market opportunities and product structure, which seems to be competitive in the common internal market of the EU. This shall probably not change after the accession of Hungary to the EU and the implementation of the Schengen order.

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<sup>4</sup> See Article 11 of the Schengen Agreement.

Hungarian Foreign Trade Turnover with EU Member States									
	Export			Import			Balance		
	In million EUROS								
	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.
Total:	17 901,9	22 928,4	12 587,9	16 930,0	20 347,5	10 836,7	971,9	2 581,0	1 751,2
Austria	2 248,6	2 646,8	1 341,5	2 344,5	2 565,4	1 379,9	-95,9	81,4	-38,5
Belgium	709,1	953,8	618,8	682,0	780,3	459,6	27,1	173,6	159,2
Denmark	106,7	149,7	86,8	136,2	162,5	91,2	-29,5	-12,8	-4,4
Finland	86,0	107,3	107,1	298,5	405,8	203,0	-212,5	-298,5	-95,9
France	1 054,6	1 601,1	1 031,0	1 230,8	1 520,3	870,8	-176,2	80,8	160,2
Greece	69,3	103,1	68,0	49,5	58,4	33,9	19,8	44,7	34,0
The Netherlands	1 214,4	1 658,4	769,9	660,4	767,2	388,7	553,9	891,2	381,1
Luxemburg	5,9	9,5	8,7	23,8	33,6	13,0	-17,9	-24,1	-4,3
Great Britain	1 053,1	1 252,8	617,9	800,3	1 104,9	541,4	252,8	147,9	76,5
Germany	9 015,6	11 370,5	6 040,4	7 681,1	8 899,1	4 663,9	1 334,5	2 471,4	1 376,4
Italy	1 386,0	1 792,9	1 083,5	2 028,2	2 615,6	1 473,0	-642,2	-822,8	-389,6
Portugal	116,8	166,3	113,9	95,8	135,8	67,0	21,1	30,5	46,9
Spain	382,9	566,6	368,6	440,0	622,5	352,5	-57,0	-56,0	16,1
Sweden	217,6	276,5	134,5	297,3	401,4	187,2	-79,7	-124,9	-52,7
Ireland	235,3	273,1	197,5	161,8	274,7	111,3	73,4	-1,5	86,2
EU share in Hungarian foreign trade turnover (%)	76,2	75,1	76,0	64,4	58,4	58,3			

Table 2. (in grey the two most significant partners are indicated, *Austria* as a bordering Member State, *Germany* as the partner of the biggest volume, and the total share of the EU in the product turnover) **Source:** Ministry of Economic Affairs, Ministry of Foreign Affairs, Hungary

Pattern of Product Turnover						
	Export			Import		
	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.
	%					
<b>Total:</b>	100,0	100,0	100,0	100,0	100,0	100,0
<b>Austria</b>	12,6	11,5	10,7	13,8	12,6	12,7
<b>Belgium</b>	4,0	4,2	4,9	4,0	3,8	4,2
<b>Denmark</b>	0,6	0,7	0,7	0,8	0,8	0,8
<b>Finland</b>	0,5	0,5	0,9	1,8	2,0	1,9
<b>France</b>	5,9	7,0	8,2	7,3	7,5	8,0
<b>Greece</b>	0,4	0,4	0,5	0,3	0,3	0,3
<b>The Netherlands</b>	6,8	7,2	6,1	3,9	3,8	3,6
<b>Luxemburg</b>	0,0	0,0	0,1	0,1	0,2	0,1
<b>Great Britain</b>	5,9	5,5	4,9	4,7	5,4	5,0
<b>Germany</b>	50,4	49,6	48,0	45,4	43,7	43,0
<b>Italy</b>	7,7	7,8	8,6	12,0	12,9	13,6
<b>Portugal</b>	0,7	0,7	0,9	0,6	0,7	0,6
<b>Spain</b>	2,1	2,5	2,9	2,6	3,1	3,3
<b>Sweden</b>	1,2	1,2	1,1	1,8	2,0	1,7
<b>Ireland</b>	1,3	1,2	1,6	1,0	1,4	1,0

Table 3. (in grey the two most significant partners are indicated, *Austria* as a bordering Member State, *Germany* as the partner of the biggest) **Source:** Ministry of Economic Affairs, Ministry of Foreign Affairs, Hungary

The Hungarian export turnover is not only significant in terms of EU market but also the other CE member countries. Regarding the more and more intense trade turnover in this case no primary emphasis was put on the balance of foreign trade, although naturally it is a principle indicator anyway. Difference has to be made between CE member countries by their belonging to the CEFTA (Central European Free Trade Agreement) (Poland, Romania and Slovakia) and the CIS/NIS countries (Commonwealth of / Newly Independent States, former Soviet Union) (the Ukraine) - in both cases the Hungarian foreign trade turnover with CE countries show a varying positive tendency. This shows that while in Hungary the value of turnover with the biggest partner (EU) more or less stagnates, that with the neighbouring countries prove to be increasing.

Foreign Trade Turnover with CEFTA Countries									
	Export			Import			Balance		
	In million USD								
	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.
Total:	1 961,4	2 288,9	1 364,5	2 025,5	2 418,4	1 292,5	-64,1	-129,6	72,0
Bulgaria	58,5	76,1	50,7	33,3	34,9	21,4	25,3	41,2	29,2
Czech Republic	370,0	465,3	285,8	529,6	646,2	351,7	-159,6	-181,0	-65,9
Poland	519,4	605,2	309,3	587,0	650,9	367,2	-67,7	-45,7	-57,9
Romania	467,6	574,2	384,0	233,8	328,6	182,5	233,8	245,6	201,6
Slovak Republic	279,0	288,5	185,0	474,7	574,9	286,1	-195,7	-286,4	-101,1
Slovenia	266,9	279,7	149,7	167,0	182,9	83,7	99,9	96,8	66,0
CEFTA share in Hungarian foreign trade (%)	7,8	8,1	9,1	7,2	7,5	7,7			

Table 4. (in grey the CE countries are indicated in the CEFTA) **Source:** Ministry of Economic Affairs, Ministry of Foreign Affairs, Hungary

According to this, on national level the regional (in a broader sense) co-operation is intensifying in the current period, this tendency probably shall not change after the accession.

Pattern of Product Turnover						
	Export			Import		
	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.
	%					
<b>Total:</b>	100,0	100,0	100,0	100,0	100,0	100,0
<b>Bulgaria</b>	3,0	3,3	3,7	1,6	1,4	1,7
<b>Czech Republic</b>	18,9	20,3	20,9	26,1	26,7	27,2
<b>Poland</b>	26,5	26,4	22,7	29,0	26,9	28,4
<b>Romania</b>	23,8	25,1	28,1	11,5	13,6	14,1
<b>Slovak Republic</b>	14,2	12,6	13,6	23,4	23,8	22,1
<b>Slovenia</b>	13,6	12,2	11,0	8,2	7,6	6,5

Table 5. (in grey the CE countries are indicated in the CEFTA) **Source:** Ministry of Economic Affairs, Ministry of Foreign Affairs, Hungary

Foreign Trade Turnover with CIS/NIS Countries									
	Export			Import			Balance		
	In million USD								
	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.	1999	2000	2001 <sup>a)</sup> 01-06.
Total:	595,7	710,1	332,5	1 914,3	2 933,9	1 411,4	-1 318,7	-2 223,8	-1 078,8
Azerbaijan	4,9	4,8	1,6	0,1	0,6	0,1	4,8	4,2	1,6
Belarus	28,8	28,7	11,4	45,0	81,8	50,9	-16,2	-53,1	-39,5
Georgia	4,2	4,8	3,1	0,0	0,1	0,0	4,2	4,7	3,1
Kazakhstan	32,3	21,7	11,6	7,0	8,2	7,2	25,3	13,4	4,4
Kyrgyz Republic	2,0	1,0	0,6	0,4	0,4	0,5	1,6	0,6	0,1
Moldova	15,3	15,4	11,0	4,6	4,2	1,5	10,8	11,2	9,5
Russia	356,2	455,4	190,1	1 631,1	2 588,6	1 183,6	-1 274,8	-2 133,2	-993,5
Tajikistan	11,0	0,5	0,1	1,9	6,0	12,1	9,1	-5,5	-12,0
Turkmenistan	1,9	2,7	0,6	0,8	2,2	0,3	1,1	0,5	0,4
The Ukraine	127,8	165,6	97,9	214,9	234,6	150,2	-87,0	-68,9	-52,3
Armenia	1,9	1,7	0,7	0,0	0,0	0,1	1,9	1,7	0,6
Uzbekistan	9,2	7,9	3,8	8,5	7,2	4,9	0,7	0,6	-1,1
Share of CIS/NIS in Hungarian foreign trade (%)	2,4	2,5	2,2	6,8	9,1	8,4			

Table 6. (in grey the CE countries are indicated in CIS/NIS) **Source:** Ministry of Economic Affairs, Ministry of Foreign Affairs, Hungary

According to and besides the above mentioned<sup>5</sup> intense trade relations it is really important to mention the conditions of economic development as well. In this on national level the so called Széchenyi-plan plays a principle role within whose frames Hungarian SMEs are funded several ways. By these the infrastructural developments become available, without which the enterprises could hardly keep their competitiveness in the internal market of the European Union. It also must be mentioned *partly* that obtaining these state subsidies generally needs significant own resources (well fitting the rules of market economy), which the vast majority of the Hungarian SMEs do not possess (these enterprises shall be touched upon later because the bulk of these operate in the under-developed regions belonging to the CE); *partly* that after the accession not only the implementation and realisation of the Schengen order will be necessary or obligatory but also several other EU principles and regulations - among others the state subsidy system and role-taking in the funding of the enterprises in a state's market and economy will have to be weakened. These subventions of the states shall be replaced by funding and development programs and institutions of the European Union with respect to the community policies, initiatives and measures in this field, according to the priorities of the union (see Competition Policy of the European Union<sup>6</sup>).

Besides these in the relevant regions an important role will be played by the inflow of foreign capital, which is currently involved first in leasework dominantly, and secondly in providing industry and the attached investments. In this respect the most important aspect for the investor is the overhead costs of labour, which is especially peculiar to the underdeveloped regions. The lack of investments, the target areas have changed according to well-defined and clear tendencies and directions in

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#### **<sup>5</sup> Source of data**

From the year 1991 the statistical surveying of the foreign trade turnover - is based on customs registration. The professional direction of statistically analysing registers controlled by the Hungarian Headquarters of the Customs and Border Guards (VPOP) within the frames of the customs regulation is done jointly by the Ministry of Economic Affairs and the Hungarian Statistical Office.

#### **Scope of data**

The statistical registration of the turnover means the survey of the products and goods crossing the customs borders of the Hungarian Republic ("special trade" method) according to the date of the border crossing. From the year 1996, as part of the foreign trade turnover, the turnover between industrial duty free zones and foreign countries is also encountered but the turnover between the internal market of Hungary and the industrial duty free zones.

#### ***\*Remark:***

Romania joined the CEFTA in July 1997, Bulgaria in the year 1999, regarding the organisational data of the preceding period the turnover of the said countries are taken into account as well.

<sup>6</sup> [http://europa.eu.int/comm/competition/index\\_en.html](http://europa.eu.int/comm/competition/index_en.html)

the past few years. This direction is Hungary (within this North-East Hungary unfortunately to a small extent) - Romania and the Ukraine; in these regions less and less proportion of the EU labour costs can be counted with when employing relatively well-trained and disciplined labour. The “quality” investments, regional technology and research and development centers - within these mainly in the electronics and computer technology - are being more and more popular in and peculiar to Hungary. In this field, however, the developed regions, areas around higher education centers and enterprises with significant capital resources prove to be competitive due to the costs of the highly qualified labour and the technological development. The underdeveloped, mostly agricultural regions - like the territory of the Carpathian Euroregion - cannot play an attractive role in this field. This is the basic force and reason of the economic transition process, which has been mostly covered in the past decades, and these processes still go on. After all, however, the Central and Eastern European area is an attractive adoption zone and environment of foreign investments, drawing up a prosperous vision for the national economies. It also has to be noted that on a global level it only indirectly effects the economic development and activities of the bordering regions because the main capital and decision-making centers are not located in these regions, the existing infrastructure is on a relatively low development level. The dominant economic force lines arch “above” the respected regions.

### **Regional level - the implementation of the Schengen-acquis, challenges stemming from the special peculiarities in terms of cross-border trade and economic development**

By regional level those territorial units are meant which directly cover the bordering areas - among these in Hungary the territory of the Carpathian Euroregion is examined. The positive and negative impacts of the implementation of the Schengen-acquis are examined according to the four freedoms on both sides of the forthcoming EU borders, which are the free movement of persons, goods, services and capital. Among these - although each are in relation with the regime - the goods and services are relevant for trade, while in terms of economic development persons, capital and services play a dominant role. It is also a significant aspect that - although presently Hungary is in the focus of the examination - on both sides of the forthcoming Schengen border twofold effects shall apply according to the flow direction of economic processes. In a less developed region the initiatives of the central government as such are definitely significant with respect to the below mentioned according to the requirements of the European Union and the European integration: decentralisation, subsidiarity, regionalism and the termination/abolishment of regional disparities. In the less competitive economic



areas the diversified broadening of the local competence by the national government is essential in order to act successfully, effectively as a self-developing economic actor. The probable negative impacts shown in the following table can be mitigated only by these following the activity of the actors of the relevant regions based on their own resources. The special local relationships between the freedoms and the Schengen-acquis can be listed up as follows.

## The four freedoms

Free movement of persons (through the border as labour, economic factor): Among the member countries of the Carpathian Euroregion there are two groups in terms of Schengen-type visa demand. Currently there is only one under visa regime by the EU, this is the Ukraine - reasonably speaking, this situation is not probable to change in a medium term. In case of entries in the EU of not longer period than 3 months the citizens of the other CE member countries are not subject to Schengen-type visa possession, these are Hungary, Poland, Slovakia and Romania (in case of the latter this is up to the negotiation processes, see the remark below)<sup>7</sup>. The costs of the visa is well-known high, for a tourist visa a Ukrainian citizen have to pay USD 50. The “business” type visa is obviously even more expensive. Regarding the movement of persons as labour the inflow, entry of illegal labour working in the black economy is a rather significant local aspect. Citizens of third countries not subject to the visa regime in case of entries in the EU of not longer period than 3 months<sup>8</sup> can appear as cheap

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<sup>7</sup> “Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those nationals exempt from that requirement” ... Article 1 of the said Council Regulation “Nationals of third countries on the list in Annex I shall be in possession of visa when crossing the external borders of the Member States.” (Ukraine); Article 2 of the said Council Regulation - “... nationals of third countries on the list in Annex II shall be exempt from the requirement set out in paragraph 1, for stays of no more than three months in all.” (Hungary, Poland Slovakia, Romania - the latter - with respect to the followings: “... the Commission shall request the country concerned to indicate which undertakings it is prepared to enter into on illegal immigration and illegal residence...”

<sup>8</sup> Article 2 Council Regulation (EC) No 539/2001 of 15 March 2001 on visa requirement when crossing the external border of the European Union - “For the purposes of this Regulation, “visa” shall mean an authorisation issued by a Member State or a decision taken by such State which is required with a view to:

- entry for an intended stay in that Member State or in several Member States of not more than three months in total,
- entry for transit through the territory of that Member State or several Member States, except for transit at an airport.”

labour in the labour market - although illegally, which in the given region can lead to tension (see later the remark on minimal salary). Its effects are rather diversified, those regarded the most important shall be noted in the table. Presently Hungary is not imposing visa demand on any of the respected countries. It shall change after the accession when visa shall be imposed on the Ukrainian citizens according to the "black list" of the European Union.

Free movement of goods: Completing the above introduction of the foreign trade tendencies of Hungary here from the point of view of the region in a broader sense the following are to be noted. On the national trade turnover the implementation of the Schengen border probably shall not have a major impact. Regarding the co-operation of the regions in the CE, however, the situation is different. Since the enterprises operating in this region (with few exceptions) are less competitive in the internal market of the EU, and few great local companies operate in the area - in this circle the multinational companies settled in the area are not counted, the bordering market for these SMEs - dominantly dealing with production and/or trade - is much more important. Since, however, this (external) market alone is not big enough to provide for these enterprises, they have to meet the competitive requirements of the forthcoming internal market as well; only then can they stay in competition if they adapt to the market conditions (installation of quality assurance systems, development of production technology, development of logistic and transporting infrastructure, development of management infrastructure at the enterprises, etc.). All these cause significant expenses to be covered, even in the best cases merely by great difficulties. Nowadays numerous SMEs get bankrupt or near to it because they are not able to keep their market share or in the lack of own resources cannot implement the needed developments. This process, however, is valid for the enterprises on the other side of the border as well since they cannot compete with mass prices of the multinational companies using cheap labour, the quality and other requirements similar to the EU ones. The only solution could be joining the efforts, but it is against the rules and interests again of the market economy - and of the European Union. Probably the tendency shall apply - which is currently apply in Hungary: who has managed will do even better; who has not will lose even what he has. Experiences in this issue are not well-known in Hungary from other bordering areas becoming Schengen-like because, for instance, at the current border section common with Austria in Western-Hungary the economic environment, the living standards and the level of development is basically different. The background and reason for this is the long-lasting co-operation of these territories, border regions with their Austrian partners.

Free movement of capital: the amount of foreign capital inflow in these Hungarian CE regions is only a tiny portion of the national average (approximately 2-3% according to the statistics in 2000); the movement of FDI using leasework -

reflecting the differences between overhead costs of labour - follows the direction indicated before. The reason of these is the global sustainable development - the economic and decision-making centers are far from the territory of the CE, so it is not the local interests that are concerned; the main economic force lines “arch” over the area. These directly cannot be influenced, only by allowances proposed which cannot be kept after the accession as a result of the legal harmonisation process - this is well shown by the fact that today in Hungary more than a hundred duty-free areas and special economic zones exist and prosper. Approximately 10% of these can remain after the accession to the EU...

Free movement of services: Since according to the market requirements it is inevitable to implement service background developments for the economic activities in order to keep competitiveness, the establishment of a commonly applied, homogenous service background can promote the mitigation of the negative effects of the regulations (as mentioned before, quality assurance systems, standards, regulations on quality and origin, financial and other services made necessary by transportation requirements). Similarly to the above mentioned, all these need investments, whose coverage is hard to create for most of the SMEs.

*The following table shows some of the respective elements of the impacts.*

<b>The four freedoms related are the</b>		
<b>Free movement of persons</b> - <i>visa policy</i> - regime with third countries (the Ukraine); infrastructural development of the borders, thus rather expensive and difficult crossing of the borders from third countries	<b>Free movement of goods</b> - strict regulations concerning goods to be sold in the internal market of the EU - some goods cannot even cross the border for different (quality, certificate, standards, safeguarding, etc.) reasons	<b>Free movement of capital/services</b> - economic development process will be less intensive because of the costs of the force to install and apply common registration and management systems according to the EU regulations
- legally difficult to work, illegally nearly impossible because of the costs and the regulations of the visa regime (term of staying)	- for the enterprises it will cause significant costs to be taken to meet the above mentioned requirements, install standards, quality assurance systems to provide the needed quality, etc.	- easier to trade with other EU member territories, the common internal market will show advantages for the enterprises
- black labour market shall loose its "opportunities" and "advantages" - lack of labour at the costs of black labour before, new workers' costs will be tremendously high compared with the illegal ones - tension in labour market and demand of labour (Hungary: min. HUF 50.000 gross salary!!! - costs app. HUF 75-80.000 for the employer) - significant increase in the "effective" unemployment rate (not registered) because of the overwhelming number of labour staying at home - tension in employment policies	- decreasing turnover for shipping companies, development of logistics will be more important	- enterprises across the borders will turn to new market opportunities towards the Eastern partners because of less complicated and costly business
- consumption of goods in supermarkets and shops in bordering settlements will dramatically decrease - income shall also fall significantly	- increasing demand of goods in the bordering territories in the third countries, prices higher, etc. - increasing possibilities for CBC trade	- regulations concerning the movement of capital and financial services will hinder the existing and projected economic co-operation between business partners in and outside the EU
- official, institutional, business and private trips to Hungary will decrease in number so co-operation will weaken because of the lack of regular personal relationship and meetings - need for other type of contacts - costs of keeping contacts will be higher, infrastructural development in communication infrastructure will be urgent and shall consume great amount of money	- infrastructural development will be intensified because of the needs, better infra background will be provided; - as a cheaper means of communication, Internet will develop faster - greater need for speaking foreign languages for more citizens	- Because of e.g. environmental regulations many vehicles will not be able to cross the border with raw materials or finished products - new investments in vehicles and other business infrastructure will be necessary

- greater need for speaking foreign languages for more citizens		
- families shall have much less possibility for meeting so people-to-people connections will loosen	- private shopping tourism will significantly decrease	- greater need for producing goods inland
- because of the loosening of people-to-people relationships, cultural links will weaken	- more difficult to arrange and organise business meetings - less intensified establishment of joint ventures	- more difficult to arrange and organise business meetings - less intensified establishment of joint ventures because of the regulations of the common market policy in the EU and other security factors not to mention the equality of certificates and diplomas, etc.
- basically regular cross-border meetings will be rare because of the costs of and the time of applying for the visa	- business visa costs will be very high	
	<ul style="list-style-type: none"><li>- More significant role of programming the CBC economic activities on the base of Western-Hungarian experiences;</li><li>- Broader financial background for CBC activities because the adoption of funding from larger EU programs and funds - this way new “EU-partner system” will be available for existing CBC co-operation between the parties along the borders</li><li>- Greater need for a special aid programme tailored for the Central Eastern European regions because the basic economic and financial status is commonly weak (special peculiarity of he CE territory)</li><li>- Implementation of EU regulations concerning state subsidies will put more emphasis on decentralised regional programming and funding possibilities</li><li>- The significance of the principle of subsidiarity compared with the present situation will increase because of the number of special local challenges and problems on both side of the forthcoming Schengen border in Central Eastern Europe</li></ul>	
<ul style="list-style-type: none"><li>- Special bilateral agreements in the above mentioned fields (for seasonal labour, family ties and regular family meetings with special permits, etc.);</li><li>- Possible derogations concluded by the negotiating parties during the accession process;</li><li>- Great need for special arrangements and agreements in the field of special economic and cross-border trading and production zones, duty-free services for third country enterprises;</li><li>- Joint CBC development concepts and programs will be a principle vehicle of simplifying and providing opportunities for CBC trade and economic development;</li><li>- The role of the CE will increase because of being a possible device of mediating the harmonisation processes between the institutions of the bordering areas and other spheres of social and economic life;</li><li>- The CE should provide secondary opportunities for intensifying economic life by its relations, by the programs organised where contacts can be established between possible partners and by direct and indirect marketing activities for the regions concerned in international forums.</li></ul>		

## **Urgent need for the realisation of the principles of decentralisation and subsidiarity in the territory of the Carpathian Euroregion, in the bordering regions - Conclusions**

The operative bodies of the Carpathian Euroregion - in accordance with the needs and interests of the member territories - have to define the competence and role it can shoulder in reaching the desirable level of decentralisation in the area - presently there is no legal and administrative basis for the following:

1. As an interregional association the circumstances are not provided for it (and for its members) to have enough competence and local force within the legal framework of the Hungarian Republic and to properly be engaged and involved in cross-border co-operations and decision preparation processes for the central government. Shortly speaking in the bordering territories (regions) no decision or special regulation can be made concerning bordering and cross-border trade, economy, customs, etc. issues and how to complete the gaps of the legal framework.

2. The main economic processes are operated through the centers whose bulk are settled in the capital and main economic regions of Hungary - that is why the decisions do not promote the interests of the bordering regions. This can be solved by the national government that it involves the respective regions in the decision preparation process.

3. By the existing trade turnover, main trading partners, import tendency it is obvious that the Schengen system shall not have major impact on the current tendencies on global/national level but the regional/local activities the way that the competitiveness of the SMEs will probably decrease. Although, for the smaller companies it is not the implementation of a new border regime that causes problems. Such economy intensification activities are needed by which the SMEs from this region can in a broader scale get involved in the providing industry for the great multinational and local companies (there are quite a few of them presently). It is also an important fact that among the economic actors the interests of the great companies have been promoted, the "little ones" will gain only marginal positions.

4. Since neither the own resources of these companies, nor the economy intensification initiatives and programs available (Széchenyi-plan) presently under the given circumstances are effective to strengthen the economic basis, external resources are highly needed anyway - these can and shall be funding from the European Union, decentralised regional subsidies, national budgetary initiatives. The significance of program co-ordination shall become even greater - on the

territory of the CE Phare and Tacis funding is available. The co-ordinated usage of these funding, however, is impossible because of their regulation. With also regard to the fact that due to the differences between the development level of the respective countries in the CE the priority system of the programs vary, the only common program, neither the Phare program can always be used for the same purposes on the two sides of the borders in an appropriately harmonised way (maybe, the only exceptions are the large-scale infrastructural development objectives). The role of the CE in this can mainly be to - emphasising the above mentioned problems - co-operates with the relevant EU institutions in order to initiate a commonly usable and simplified aid program for the region in a broader sense, which operates according to the local interests and needs, not to the highly centralised distribution and programming process (seeming decentralised for Brussels). In this matter relationship must be established with relevant organisations, institutions within the EU, enjoying the relevant support of the national government (these EU institutions and organisations are mainly the Committee of the Regions (CoR); its A-Subcommittee dealing with regional development, the AEBR, partner euroregions, national governmental bodies).

Following the above mentioned, getting funding sources is more and more difficult because of either - the conditions (terms of application) or the temporal limitations (after the accession state subsidies shall be terminated in this extent according to the EU principles) for the local, ambitious but under-capitalised SMEs, thus the economy intensification influence of the companies operating directly in the bordering regions shall remain negligible. The indirect intensification influence of the CE (where the role of the CE is most realistic) can mitigate these effects, although for this a much more effective support from the national government would be necessary in terms of financial and administrative-official actions so that the CE can organise cross-border co-operation in economic, cultural, institutional terms. By these economic and trade relations can be more intense (investments, business and other relations can be established or promoted by relatives, in cultural, personal and other ways). With regard to the above topics the euroregion has the competence to propose initiatives that are concerned by the national government and economic groupings to a differing extent. Based on the euroregional competence, however, the organisation anyway has to get involved in the program development processes and activities that are relevant for the given region in a broader sense. This means broad proposing activities, on national and European Union level as well.

## *Mitigating the negative effects of Schengen in the Carpathian Euroregion: a view from Slovakia*

### **Changing notion of security**

Enlargement of the European Union brings up a long-term challenge of how the notion of security can best and most effectively be understood in a larger Union. A recent paper produced by the Villa Faber Group on the Future of the EU argues that: [a] comprehensive notion of security in a future enlarged European Union must go beyond a classic military or political understanding of security by encompassing also economic, societal and sub-national dimensions. The classical instruments to ensure the current and future member states' security no longer seem sufficient and there is a strong need to link the internal and external aspects of EU security.<sup>9</sup> The idea of comprehensive security seems particularly relevant with respect to the examination of possible effects of the implementation of Schengen rules on Slovakia's eastern border and the ways of tackling potential negative impact of such rules.

The end of the Cold War marked a gradual change in the perception of new security threats. The United States of America witnessed the most tragic and the most poignant illustration of these threats on 11 September 2001 when terrorists attacked civilian targets both in New York City and in Washington, D.C. Security has become more indivisible and distinctions between its internal and external aspects have turned more blurred. Over the past 10 years, the context of European integration has also helped to redefine the understanding of security and has introduced new policy tools to deal with the challenges of the post-Cold war threats. Issues of border controls, migration and asylum and also questions of effective neighborhood policies and conflict prevention measures have entered the daily agenda of the European Union following the signing and the adoption of the Treaty of Maastricht and the creation of the second and the third EU pillars. Conversely, issues that used to be dealt with solely within the domain of nation states have become issues of international concern and in a number of ways are today better and more efficiently addressed at the level of existing supranational institutions.

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<sup>9</sup> Bertelsmann Foundation and Center for Applied Policy Research (eds.) *Thinking Enlarged - The Accession Countries and the Future of the European Union. A Strategy for Reform* by the Villa Faber Group on the Future of the EU. (Gütersloh: Bertelsmann Foundation Publishers, 2001).



## **Changing meaning of borders**

With the end of the Cold war the meaning of borders has changed too. For the first time in decades the people on the east side of the former iron curtain discovered the notion of freedom of movement. After years of being kept inside the borders of the Soviet sphere of influence, the borders became open. For the postcommunist Central Europe the 1990s marked a change in the border policy. From the abolishing of visa regimes with western Europe and the dismantling of barb wires on the borders between the ex-Soviet block and the west Central Europe is now adopting a wholly new approach to border controls. The current regime is based on the gradual implementation of the Union's Schengen rules that are a part of the *acquis* to be adopted by the candidate states for EU membership prior to their accession. Integration in the area of border policy inside the EU-15 has been in part prompted by the new security threats in the post-Cold War era. These threats include the potential negative impact of new migratory trends into the European Union that stem from economic or political reasons and that have been fostered by military conflicts, especially in the Balkans but also in other conflictual areas in a wider EU neighborhood.

The implementation of new border regimes in the post-communist Central Europe has quickly changed the initial position of new and free countries - such as Slovakia. From the brief period of newly found sovereignty and converse responsibility of the state institutions for border controls, the Schengen rules are having a visible impact by transferring the responsibility away from the state to a supranational set of rules and their guiding institutions. At the same time, the implementation of Schengen rules is having a certain effect on the nature of Slovak foreign, economic and cultural relations with countries that are being immediately adversely affected by the introduction of the EU's visa policies. The most relevant example is of course the state of affairs on the Slovak-Ukrainian border.

## **Slovakia and EU enlargement**

Following Slovakia's exclusion from the accession talks at the Luxembourg summit in 1997 - principally due to the state of domestic politics, the country began to negotiate its terms of EU accession in February 2000. Since this date Slovakia has made fast progress in its negotiations and by the fall of 2001 managed to catch up with the most advanced Central European states, including its three Visegrad neighbors. By the end of the Swedish Presidency in June 2001 Slovakia preliminarily closed 20 out of the total of 29 substantive negotiating chapters. To compare with the other countries of the Visegrad Four: during the same period the Czech Republic preliminarily closed 19 chapters, Hungary 22 and Poland 17 negotiating chapters.

The domestic preparation and practical implementation of the EU's acquis is much more important than the score of open and closed chapters. While Slovakia has been rather fast at closing negotiating chapters, EU accession process has been largely a technical exercise. There has been little wider political debate on the potential implications of Slovakia's EU membership and on the impact of specific pieces of EU legislation. EU accession process remains a technocratic exercise without a substantial debate at the level of political elite and society at large.<sup>10</sup> Unlike in other V4 countries, EU negotiations have been little politicized in Slovakia. Issues of free movement of capital or labor have generally attracted less political attention than it has been the case in Poland, Hungary or the Czech Republic. Slovakia has been more concerned with its goal of catching up in the accession negotiations and there has been a broad political support and consensus on the integrationist aims including the details of negotiating positions. Comparatively fewer specific Slovak concerns have to some extent been also emblematic of the political discussions in the area of Justice and Home Affairs that represent one of the most difficult chapters of EU legislation.

## Slovak implementation of the Schengen rules

With each accession state - including Slovakia - the European Union defined its conditions for EU membership in the context of the annually revised Accession Partnerships. As the agenda of Justice and Home Affairs became a part of the EU agenda, the European Union introduced aid and twinning programs to help with the implementation of the Schengen acquis in the candidate countries for EU membership. More recently, the candidate states have been faced with the condition for an introduction of visa requirements for some of the EU's future eastern neighbors, including Ukraine. The candidate states are to adopt the Schengen acquis without opt-outs prior to their admission into the European Union. Consequently, there has been an increasing pressure to adopt at times difficult new visa and border policies in relations to those states that are expected to stay outside of the European Union for some time to come.

In its response to the EU's demand to accept the Schengen acquis Slovakia came up with its detailed *Schengen Action Plan*. The Government of the Slovak

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<sup>10</sup> On the course of Slovakia's preparation for EU membership and its EU accession talks see Vladimír Bilčík, "Integrácia SR do Európskej únie" (Integration of the SR into the European Union), In: Kollár, Miroslav & Grigorij Mesežnikov, *Slovensko 2001. Súhrnná správa o stave spoločnosti*. (Slovakia 2001. Global Report on the State of the Society), Bratislava: IVO, 2001, pp. 351 - 365.

Republic adopted it on 5 September 2001.<sup>11</sup> On 15 June 2001 Slovakia created a new inter-ministerial working group charged with the implementation of the Schengen acquis and headed by the President of the Slovak police force. This working group consists of 15 specific sub-groups composed of representatives of different ministries and other official organs that are to work on concrete tasks originating from the Schengen acquis. Slovakia's *Schengen Action Plan* specifies the priorities for the implementation of the EU's rules. These include the focus on the development of capacities for effective police cooperation, efficient border controls and adequate state of home affairs in the sphere of visa policy and a well-developed information system.

Although Slovakia has made a number of legislative changes in the direction of the Schengen rules and has introduced its own plan to implement the Schengen acquis, there are a number of shortcomings that the country needs to confront on its path into the European Union. The European Commission has repeatedly pointed out the various shortcomings in Slovakia's asylum, migration and border policies. Slovakia also faces the problem of insufficient administrative capacities.<sup>12</sup> Slovakia's *Schengen Action Plan* and the inter-ministerial working group are first steps toward a successful implementation of the acquis. More needs to be done in terms of specifics that are outlined in the *Schengen Action Plan*. Namely, the country is to improve the degree of police cooperation with neighboring states. The existing re-admission treaties have to be evaluated and revised accordingly. For effective border controls the existing services have to become more professional. Infrastructure must be upgraded and modernized. Airports in Bratislava and Kosice are to be appropriately equipped in order to comply with the Schengen procedures. Also, visa policies have to be centralized, the issuance of visas better coordinated with Slovak embassies around the world and supported with more adequate administrative capacities. Finally, the tasks of implementation include the creation system of gathering and of controlling of personal and sensitive information.

## **Slovak concerns about the impact of the Schengen rules**

An overall concern relates to the fear of second class membership in an enlarged European Union. As a candidate state for EU membership and a country undergoing the implementation of Schengen rules Slovakia already experienced a

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<sup>11</sup> The *Schengen Action Plan* was prepared by the Slovak Interior Ministry and adopted by the Government of the Slovak Republic on 5 September 2001.

<sup>12</sup> The European Commission, Composite Paper: Reports on progress towards accession by each of the candidate countries, November 8, 2000.

certain degree of exclusion from current member states when in the past some countries within the Schengen area (Denmark, Finland, Belgium) had repeatedly introduced visa requirements for Slovak citizens as a response to the influx of Slovak Roma asylum seekers. Although these requirements have now been lifted - and remain in force only in the UK and Ireland, two countries outside of the Schengen area - concern over exclusion and disproportionate burden-sharing in the post-enlargement state is still very relevant.

Upon EU accession Slovakia will be located on the geographic fringes of the European Union.<sup>13</sup> It will be faced with the challenging task of controlling and policing its eastern border with Ukraine. At the same time, it will not be an integrated part of the existing Schengen system of common rules and responsibilities. The burden of policing the eastern border of an enlarged Union will fall upon Slovakia with its limited resources and developing institutional framework for its effective participation within the Schengen regime. The area of the Carpathian Euroregion in the east of the country will be particularly affected. Already poor, suffering from high unemployment and limited infrastructure, eastern Slovakia is going to face an additional demanding task to cope with. For the future development of the Carpathian Euroregion it is important that the borders within the CE area do not become a constraint for economic exchange, the flow of people and the existing cultural ties. At the same time, it is clear that Slovakia's commitment to the EU's Schengen rules will erect a new EU border between Slovakia and Ukraine.

It would seem that a form of common regional approach might provide a certain strategy and potential solutions to the future of the Carpathian Euroregion. Yet, the experience thus far suggests real limits to such an approach. A common understanding may be hard to reach - as the example of the Visegrad group's relations with Ukraine illustrates. Although during the summit of the Prime Ministers of the Visegrad countries in the High Tatras between 16-17 October 1999 the participants agreed to coordinate the course of action in meeting EU requirements in connection with the implementation of the Schengen Treaty, the Visegrad countries proved unable to coordinate their action. During February and March 2000 the Czech Republic and Slovakia respectively decided to introduce visas for Ukrainians starting from 28 June 2000. Still, Poland and Hungary remain committed to implementing their visa regimes in relation to Ukraine at the latest possible date. This specific event demonstrates both differences in the perception of national interests of the Visegrad states in the

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<sup>13</sup> The argument here assumes the simultaneous accession of the Visegrad four into the EU. The main concern in the context of the Carpathian Euroregion thus remains the state of the Slovak-Ukrainian border.

post-Soviet space and lacking concepts of some regional responsibility among the Visegrad Four.<sup>14</sup> Whilst the post-communist countries have a comparative advantage in knowledge and experience with the current and future eastern neighbors of the EU, the task of following common approaches is and will be more complicated.

## **Slovakia, the Carpathian Euroregion and the future of Schengen**

Slovakia is currently principally preoccupied with the technicalities of its accession process, including the specific implementation of the Schengen rules. At the same time the European Union is concerned with its internal preparations for the upcoming round of enlargement. In general terms, neither the Union nor the candidate states are devoting much time and energies to devising strategies for future EU neighborhood. The Carpathian Euroregion contains within its borders and within its ethnic and economic diversity a whole plethora of challenges that the enlarged European Union is going to have to deal with. It is clear that Slovakia must and is going to implement the Schengen *acquis* as soon as it can do so. Yet, the border between Ukraine and Slovakia should not remain a permanent border but rather should gradually become more flexible and sophisticated in its regime of control. Such a scenario is of course contingent on the progress made on the Slovak side and the Ukrainian side, and more broadly in the region as a whole.

In this context, the Carpathian Euroregion can play the role of an agenda-setter for central and state authorities. Regional and local bodies can come up with their own initiatives and solutions based on the very local experience. Such initiatives could include a variety of goals and conditions that could help foster ultimate changes at the EU level. These may include a special set of conditions and a timetable for improvements of the quality of the border regime on the Ukrainian side, more police cooperation at the regional level and collaboration on common projects of building and improving of local infrastructure and on sharing and exchanging of information. Possible initiatives of the Carpathian Euroregion need to draw on local expertise, on common and shared experience of post-communist transition. Such expertise and experience could serve as the basis for effective work of both permanent and ad hoc working groups based on the shared connection and interest for the improvement of cooperation and good neighborly relations within the whole Carpathian Euroregion.

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<sup>14</sup> Alexander Duleba, "Ukraine, Central Europe and Slovakia's Foreign Policy," *Slovak Foreign Policy Affairs*, Vol. 1, No. 2 (Fall 200), p. 86.

# SELECTED DISCUSSION ADDRESSES

**Alen Panov**

## ***Country Representative of Ukraine in the Carpathian Euroregion***

### **The Carpathian Euroregion - The Way to United Europe**

The Carpathian Euroregion is the full member of the development of the trans-border and cross-border politics in the system of the European euroregional policy.

During the time of its existence (1993-2001) the Carpathian Euroregion has proved its effectivity though in comparison with the other euroregions the Carpathian Euroregion has got some peculiarities.

The first peculiarity is that the Carpathian Euroregion is the first international organisation that was established on the territory of the post-socialist society.

The second peculiarity is that in its classic form the so called “iron curtain” was represented in the USSR and Romania. In Hungary, Poland, and Czechoslovakia it could be characterised as liberal in its relationship to the western frontier countries and as classic in its relationship to the eastern neighbours. The psychology of the suspicion, the “spy-mania” and the conception of the “locked borders” has been dominating even after the process of democratization.

The third peculiarity are the problems connected with the difference in the level of the economical development.

Those peculiarities in some way were restraining the tempo of the development of the Carpathian Euroregion.

Nevertheless some other peculiarities not only activated the development of the frontier co-operation but also have become dominating - in that nowadays the Carpathian Euroregion is one of the most important euroregion among the euroregions of the Western and Eastern Europe.

These are that peculiarities.

The first. The administrative units that were the members of one state during the different periods of the historical development ( Hungary, Poland, the Austrian monarchy, the Austro-Hungarian monarchy, Czechoslovakia) had united in the framework of the Carpathian Euroregion.

The second. The countries of the Carpathian Euroregion have similar and in some way common history and as a result they have similar culture, ethnos, religion, traditions, cuisine. That creates the Carpathian Euroregional commonwealth of people.

The third. There are people of different nationalities, the titled inhabitants of their countries and at the same time considered as national minorities in the bordering countries - living on the territory of each region, county, voivodship. People of each state-member know and respect the traditions of the national minorities and consider them the part of their own culture.

Taking into consideration the above mentioned we may say that the basic challenge of the Carpathian Euroregion on its first turn of development was the effective use of that positive historical peculiarities and the discharge of the peculiarities restraining the constructive work of the organisation on a new level of the cross-border co-operation.

With the new millennium - new problems of the civilisation have appeared. There are new tasks for the Carpathian Euroregion especially taking into consideration the globalisation of the world community development, the reconstruction, and the alteration of the world and especially Europe which is mostly based on the good will of people.

It's necessary to notice that in spite of effective work of the Carpathian Euroregion during the end of the 20th - the beginning of the 21st centuries the new European state that nowadays is being formed singled the Carpathian Euroregion out again among the other euroregions. New peculiarities have been formed.

The first peculiarity. The Carpathian Euroregion is the only example of a euroregion the members of which are the members of the NATO already, will soon be the member of the NATO, are not the member of the NATO and not going to be.

The second peculiarity. Hungary, Poland, and Slovakia are to be the members of the European Union in the first extension (2003-2004), Romania in the second one (after 2004). According to Ukraine the approximate time of the possible membership is not defined. That means an interregional co-operation between the states-members of the EU and states that are not the member of the EU.

The third peculiarity. The entry of several states-members of the Carpathian Euroregion to the EU will force them join to the Schengen agreement. It means that these countries will have to introduce the visa regime with Ukraine. Outstripping the events Slovakia has already introduced the visa regime and the Carpathian Euroregion is working on the minimalisation of its consequences. Lately this experience will get a new meaning.

So, the Association has to change the accents in its work.

In the framework of the present interest and the difficulty of that problem solving there is a question about the perfection of the structure, the system, and the mechanism of work of the leading and working bodies of the Carpathian Euroregion:

- it is time to review and accomplish changes to the Statute of the Carpathian Euroregion;
- there is a need in transformation of the working bodies of the Association;
- the work of the International Secretariat and the National Offices has to acquire an enclosing meaning and has to be entitled with more rights that will give them the opportunity to execute their tasks and functions more effectively;
- it is necessary to delegate the part of the state authority connected with the trans-frontier co-operation to the Council of the Carpathian Euroregion.

The work on the reconstruction of the Carpathian Euroregion is carried out on the scientific conferences and consultations between the National Offices and soon it will become the subject of discussion on the Council of the Carpathian Euroregion.



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