



By: **Ferry Biedermann**

# Schengen is crumbling under the anti-migration onslaught



One of the European Union's signal, and for its citizens most noticeable, achievements, the 26 country Schengen free-travel zone, is increasingly being challenged and undermined.

The far-right's weaponisation of the migration issue has been steadily chipping away at the extent of the borderless area, which also includes some non-EU countries.

Additionally, Hungary has now **launched** a subversive visa scheme that allows Russians to circumvent sharpened EU entry rules, which could drive another nail into the zone's coffin.

With almost a third of the countries in the zone currently having re-introduced some form of intra-Schengen border checks, usually due to migration issues, the validity of the concept is being put into question.

The zone is being targeted not only by the likes of Victor Orbán and Giorgia Meloni, albeit each in different ways, but also by figures such as Germany's Olaf Scholz who has vowed for some controls on his country's Schengen borders to remain in place indefinitely.

Scholz will be facing a tough, some say impossible, re-election effort in September next year against a combination of the far-right, anti-migration AfD and the more mainstream CDU/CSU, which has veered sharply to the right on migration since the 'wir schaffen das' days of their former leader, Angela Merkel.

## Emergency border controls

Rather than meeting the challenge head-on, the European Commission has caved and earlier this year drastically extended the period for which countries are allowed to impose 'emergency' temporary controls, from previously six months to a current total of three years.

This is partly couched as a way of responding to extended public-health crises, such as the coronavirus pandemic, but it's hardly a secret

that in practice the target is migration.

Apart from vastly expanding the period of emergency border controls, the revised regulations also incorporate elements of the new and tougher EU Pact on Migration and Asylum, also **passed** earlier this year, that has been characterised by human rights and migration organisations as "expanding the criminalisation and digital surveillance of migrants."

## The new Schengen rules include provisions to tackle what is called the secondary movement of asylum seekers

The new Schengen rules include provisions to tackle what is called the secondary movement of asylum seekers, making it easier to send them back to their first country of entry in the zone.

The EU pointed out, in its announcements of the revised Schengen rules, that external actors are bent on abusing the Schengen area rules by 'instrumentalising' the migration issue.

This mostly alludes to the partly manufactured flow of refugees across the Belarus border into Poland, Latvia and Lithuania.

## Revised Schengen regulations

In practice, most EU travellers will not physically experience the toughened-up regulations. These are only regularly in place on some borders.

The re-introduced controls mostly exist at places such as ports and selected crossings or take the form of intermittent checks and increased monitoring of traffic in the border areas, for now.

## The revision of the regulations overturns previous legal challenges to the semi-permanent re-introduction of border checks

But it is hard not to see the revised Schengen regulations and the widespread use of so-called emergency provisions by many West-European countries as a thin end of the wedge in the ongoing effort by the far-right to dismantle the EU bit by bit.

The revision of the regulations overturns previous legal challenges to the semi-permanent re-introduction of border checks. In 2022 the Court of Justice of the European Union ruled, for example, against Austrian controls on its border with Slovenia that had been continuously renewed, for 'six months', since 2015. But despite the ruling, many countries continued such roll-overs anyway.

Often, several countries will agree to the re-introduction of some sort of controls, like Italy, Slovenia and Croatia have done recently, with the 'six-months' measures introduced last year, now extended until December this year.

## The migration pressures

Incidentally, while the UK was never a part of the Schengen zone, the fact that even its members have always been flexible in carrying out border checks further puts the lie to the Leave campaign's argument in 2016, of the country 'ceding control' of its borders to the EU.

The migration pressures on the Schengen area can also be seen at work in Italy's agreement with Albania for that country to host two Italian camps for the processing of asylum seekers picked up at sea, which is due to start this month.

This externalising of the asylum procedure is bound to stop a percentage of the arrivals from moving on to other Schengen countries.

## Hungary could become the first country to be suspended from the free travel scheme

NGOs have warned of the human rights consequences for refugees and that there are no provisions for such extraterritorial procedures in either the EU's Charter of Fundamental Rights or the new Pact on Migration and Asylum.

Yet, the migration issue is not the only threat to the Schengen zone. Hungary could become the first country to be suspended from the free travel scheme following its decision to ease the visa procedure for Russians and Belarussians,

EU leaders and parliamentarians have called on the European Commission to take action against Hungary for what they characterise as a security risk. The German Interior ministry, for example, warned that the danger of Russian operatives coming into the EU is high.

Hungary will allow Russians and Belarussians to enter on two-year work-visas that can then in time be parlayed into permanent residency permits. Apart from the security aspect, the scheme appears to run counter to the EU's sanctions on Russia and the stricter visa conditions imposed on its citizens after the invasion of Ukraine.

## The Hungarian work-visa scheme

The Hungarian unilateral work-visa scheme throws into relief a central feature of various EU initiatives: they are often left incomplete because of political sensibilities in a number of member countries.

The logic of leaving loopholes for national work-visa schemes pokes holes in the Schengen fabric, yet closing them would be unpalatable to many countries that employ them, such as France in the case of Canada.



*Hungary now exploiting a Schengen loophole in the service of its friends in the Kremlin should lead to a re-examination of the rule as a whole - Viktor Orban*

This kind of wilful blindness to an obvious lacune can be compared to the pre-financial crisis approach toward the introduction of the Euro without proper financial burden-sharing, which was anathema to Germany until circumstances forced a change.

Hungary now exploiting a Schengen loophole in the service of its friends in the Kremlin should lead to a re-examination of the rule as a whole, rather than specific actions against Budapest.

In the unlikely case that this would indeed be addressed systematically, it would be bad news for the UK.

Whether under the Conservatives or Labour, the British seem to have set their sights on bilateral agreements with EU-countries, rather than a wholesale deal that would smack too much of freedom of movement.

But the government in London need not fret: if Schengen continues along the path that it's on now, very little will be left of that freedom anyway.