

The latest agreement on the governance of the Schengen border control regime simply revamps old rules and changes little on the ground.

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Concerned by growing migratory pressures on Europe's external borders, some EU member states have called for a revision of the rules regarding the imposition of national border controls within the EU.

Ruben Zaiotti examines the recent agreement on the governance of the Schengen border control regime, which aims to clarify how these controls might operate. He argues that the agreement is a political one that gives relatively vague solutions to what are complex problems, and that the next crisis over Schengen is only a matter of time.



After a tortuous two year gestation, the European Union's troika (European Parliament/Council/Commission) has agreed upon a [package of proposals](#) aimed at rendering Europe's Schengen border control regime more effective and predictable. The push for reform came in the aftermath of the [row between France and Italy](#) over the handling of migrants crossing the Mediterranean in the wake of the 2011 Arab Spring. The main issue arising from this affair was the need to clarify (and possibly expand) the nebulous rules about the re-imposition of national border controls in cases of "serious threat to public policy or internal security". While this seems to be just a technical matter, questions such as 'For how many days can a member state re-impose border controls?', 'Under what conditions?', 'How and when should EU institutions be informed?' are actually more intriguing than they might seem at first sight.



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Forget for a moment the technocratic language in which the current debate about the Schengen governance package has been couched (an art the EU is very good at). If we scratch the surface we can see that at the core this matter is eminently political. The issue here is the ongoing power struggle among the EU triumvirate over the distribution of competences within the Schengen regime. In other words: who is in charge? How else should we read then the posturing, maneuvering, arm twisting that has characterized the Schengen reform saga in the last two years? (Emblematic here is the EP's 'nuclear option' of [boycotting the negotiations over the justice and home affairs agenda](#) if the Council did not withdraw the 'outrageous' decision to purge the parliament from the Schengen evaluation process).

This is Schengen politics at its best (or worst, depending on the perspective). Pragmatism, especially the reliance on ad hoc and flexible institutional arrangements and procedures, is in Schengen's DNA, a trait which Europe's border control regime acquired in its early intergovernmental days outside the EU and that it has not completely got rid of after its communitarization in the late 1990s. Indeed, I would go a step further and argue that its incorporation in the EU has not really de-Schengenized Schengen; looking at the EU today I see the ongoing *Schengenization* of the EU, not the other way round. This pragmatism is only superficially a-political. What is political is the move to depoliticize highly contentious issues by repackaging them as merely technical matters and by sheltering the policy-making process from the public eye. It is in this pragmatist light that we should read the latest announcement about the Schengen 'package'.

The fact that a compromise was reached (the establishment of an evaluation and monitoring mechanism jointly managed by the European Commission and member states; changes to the Schengen border code to include new circumstances in which border controls can be re-instated) despite the tensions and reciprocal threats and vetoes from the major actors involved in this saga, is not such a miracle after all. That's how Schengen 'normally' works. In the past, bouts of what seem existential 'crises' that periodically hit the regime, have been solved (at least temporarily, until a new crisis erupts) with the proverbial political pat on the back. What this solution – a political [one](#), since political crises cannot be solved if not through political solutions – comes down to is a revamping of old tacit rules, vague enough so that everybody can see what one likes.

This sleight of hand, however, might not overcome the very problems it sought to address, possibly creating new ones. Are we sure member states are going to allow EU institutions (the Commission, Frontex) to assess their ability to manage their borders and accept their suggestions? Will member states really wait for the Commission's evaluation (which could take up months) before re-imposing internal border controls in the case of another member neglecting to fulfill its duties at the common external border? If the past experience is of any indication, I would not be so optimistic.

Indeed, even if the rules of the game have now been more clearly spelt out, it is obvious that they can be interpreted with substantial latitude. With Schengen, the main culprits are typically member states, but EU institutions are quite apt in the art of liberal (i.e. expansive) reading of agreed upon rules. What do we make of all that? Well, the same old story. Schengen has a capacity to withstand phases of internal turmoil, such as the one that followed the Italo-French spat. The way it manages these recurrent crises is as we humans do when under stress. What do we do? Typically, we switch to an 'emergency mode'. We're ready for the worst, and act as if the worst can happen. We question our routines, and, if needed, we try to tweak them. We make new resolutions to avoid problems in the future. But this is just a temporary coping strategy. Once we are persuaded that everything is OK, we switch off the emergency mode. And then we return to our previous routine. The Schengen triumvirate seems to be following this path, shaking hands and congratulating themselves for the new deal. Until, of course, a new crisis disrupts the newly achieved consensus and we start hearing again calls for 'clearer rules'. The latest Schengen governance package? Much ado about nothing new...

A version of this article first appeared on the [Schengenalia blog](#).

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