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Implementation of the Schengen acquis and the role of the Republic of Croatia in the protection of EU external borders

Abstract

The role of the Republic of Croatia regarding the complex system of border control mechanisms regarding internal European Union borders, as well as supervision and control of external borders, is analysed in this paper. The position of the Republic of Croatia in the field of external border protection upon entry into the Schengen Area is also examined. Furthermore, the paper explains protection mechanisms and measures introduced by the European institutions under the emergency procedure after the major migrant crisis of 2015 and 2016 and a series of terrorist attacks in the heart of Europe that violated the fundamental values of the European community and brought insecurity into the lives of its citizens. The problems of introducing such urgent measures, especially temporary control measures at the internal borders of the European Union, are also clarified. In addition, this paper investigates the justification of the aforementioned measures in light of the general principles of the European Union legal system. An overview of the observed structural shortcomings in managing the Union's external border is also given.

The paper presents specific EU measures, bodies and mechanisms set up to protect the external borders and needed for the operation of the single market within the EU.

Keywords: *European Union, Schengen Area, Schengen acquis, border controls, Schengen Borders Code.*

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1. INTRODUCTION

Schengen Area functionally exists as a sovereign country area. It consists of 26 European countries without internal border control points but with the control of those who enter and exit the area¹. Each Member State accepts Schengen acquis by acquiring full membership in the European Union². In contrast, once a Member State joins the Schengen Area, it can start applying a suspension of controls on the movement of persons across the internal borders of the European Union³. On 12 March 2015, the Republic of Croatia submitted the declaration of readiness to start the Schengen evaluation procedure. The declaration was a formal beginning of the evaluation process assessing whether all conditions for the full implementation of Schengen acquis have been met. Based on that declaration, various activities were continued in agreement with the European Commission and Croatia was included in the multi-annual evaluation plan.

According to Article 4 of the Council Regulation (EU) No 1053/2013 of 7 October 2013, evaluations may cover all aspects of the Schengen acquis, including the effective and efficient application by the Member States of accompanying measures in the areas of external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation in criminal matters, as well as the absence of border control at internal borders. All the evaluations should take into account the functioning of the authorities that apply the relevant parts of the Schengen acquis. Evaluations may consist of questionnaires and on-site visits, which may be announced or unannounced⁴.

The Republic of Croatia has fulfilled commitments within the framework of Schengen acquis: External Border Management, Return and Readmission, Schengen Information System II, Common Visa Policy, Police Co-operation, Data Protection, Judicial Co-operation, Firearms directives and the work of competent authorities that implement the Schengen acquis.

¹ Schengen acquis is regulated by a Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0399&from=EN>.

² Council Decision of 20 May 1999 concerning the definition of the Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis (1999/435/EC). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31999D0435&from=IT>.

³ The Schengen acquis consists of the Agreement, signed in Schengen on 14 June 1985, 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; The Convention, signed in Schengen on 19 June 1990, between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, implementing the Agreement on the gradual abolition of checks at their common borders, signed in Schengen on 14 June 1985, with related Final Act and common declarations; The Accession Protocols and Agreements to the 1985 Agreement and the 1990 implementing Convention with Italy, Spain and Portugal, Greece, Austria and Denmark, Finland and Sweden with related Final Acts and declarations; Decisions and declarations of the Schengen Executive Committee; and Decisions of the Central Group which the Group has been authorised to take by the Executive Committee.

⁴ Article 4 of the Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998, setting up a Standing Committee on the evaluation and implementation of Schengen. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1053&from=HR>.

Currently, the Republic of Croatia meets all the technical conditions for entry into the Schengen Area. However, only after accession will it be able to use all Schengen mechanisms, control and supervision, data exchange (VIS, SIS systems, more *infra*) and thus contribute to migration management (especially illegal ones) and actively participate in the fight against terrorism⁵.

Although asylum was initially covered by the Schengen Convention, and according to Pejaković-Đipić (2018), it is no longer considered Schengen *acquis*.

2. POSITION OF THE REPUBLIC OF CROATIA IN THE EUROPEAN OPEN BORDERS REGION

National governments tend to use the Schengen Area as compensation for the lack of internal security forces and deficiencies of the common asylum system. Border controls affect the free movement of people, goods and services within the EU, especially cross-border deliveries, cross-border commuters (1,7 million within the EU⁶) and tourism. Up to 3.5 million people of various categories and rights travel within the borders of the European Union every day (Aussilloux and Le Hir, 2016).

Regional conflicts occurring in the vicinity of the European area result in the influx of a large number of migrants and refugees who enter the European Union through illegal routes. Some members of the Schengen Area have reintroduced temporary internal border controls, thus calling into question the proper functioning of the Schengen Area, jeopardising the benefits of the free movement of EU citizens and the functioning of the European economy. Some countries have built different types of physical barriers and walls towards neighbouring countries, spending several hundred million euros (Boot and Wolff, 2015).

All these measures lead to the reintroduction of the border control at internal EU borders. However, that would not solve the challenges of the migration crisis; on the contrary, it would lead to enormous economic costs and political and social consequences for the EU and its Member States. Moreover, it would jeopardise judicial and police cooperation, which is one of the key elements of the added value generated by the implementation of the Schengen system. The citizens of the European Union perceive the reintroduction of border control as a threat to one of the key achievements of both European integration and the building of the European area: a single market.

Schengen external borders *acquis* (which does not coincide with the borders of the Schengen Area since some of the EU members are not yet part of the Schengen Area: Romania, Bulgaria and Croatia; there are also those countries that are not part of the EU but form a part of the Schengen Area: Iceland, Norway, Switzerland and Lichtenstein) builds on the original *acquis* incorporated into the EU legal order by the Treaty of Amsterdam. Its rules can be found across a broad range of measures, which can be divided into five topics: The Schengen Borders Code; Internal Security Fund: Borders and Visa (ISF), The Schengen Information System (SIS), The Entry/Exit System (EES); The European Border and Coast Guard Agency (Frontex).

⁵ <https://mup.gov.hr/o-nama-9/mup-i-eu/schengen/282172>.(31 August 2021)

⁶ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579109/EPRS_BRI\(2016\)579109_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579109/EPRS_BRI(2016)579109_EN.pdf).

As previously mentioned, after joining the Schengen regime, the Republic of Croatia will be able to use all Schengen mechanisms for supervision, control and data exchange. Due to its significant and favourable position and specific form, the Republic of Croatia will have an important role in managing the EU external border. Another important fact is that part of the border of the Republic of Croatia is also the longest external land border of the European Union⁷. As new migration and refugee crises are still expected in the coming period, the Member States, including the Republic of Croatia, face serious difficulties in ensuring protection and control, which must be in line with the Schengen acquis. According to Mikac and Dragović (2017), in 2015, more than a million people entered the Schengen Area illegally, which put tremendous pressure on all protection resources. At that time, structural deficiencies in the management of the European Union's external borders were identified⁸. The Member States have begun to introduce additional measures to preserve their internal borders, which is contrary to the very idea of Schengen. At the same time, efforts were made to preserve the Schengen Area by strengthening measures at the external borders. In order to urgently address the shortcomings in the area of external border management, immediate measures have been taken through preparatory actions for merging resources. Accordingly, the Member States have stepped up support for Frontex joint operations⁹ and border police units for rapid intervention¹⁰. The Ministry of the Interior of the Republic of Croatia continuously and constantly participates in various aspects of the management and control of the external border of the European Union, which aims to establish an integrated system for managing those borders. In order to improve the standards in the supervision and control of the future external border of the European Union, the Republic of Croatia received EUR 120 million from the Schengen Facility¹¹. Some of the measures taken by the EU to preserve and protect Schengen are the Smart Borders initiative, the introduction of the ETIAS program¹², an electronic system for entering and leaving the EU, the implementation of the Schengen Information System (SIS) and the establishment of the European Border and Coast Guard Agency as a continuation of Frontex. The Republic of Croatia also participates in the realisation of these measures. Furthermore, the land border of the Republic of Croatia has 173 border crossings, 126 of which are used for international traffic, which is a relatively large number considering the territorial area and population. It is not negligible that in terms of illegal migration, the Republic of Croatia is at the intersection of two major pan-European transport corridors: Western Balkan and Mediterranean.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0120&from=HR>.

⁸ <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:52016DC0120&from=HR>.

⁹ <https://frontex.europa.eu/> (31 August 2021)

¹⁰ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

¹¹ <https://www.sabor.hr/hr/radna-tijela/odbori-i-povjerenstva/izvjesce-odbora-za-unutarnju-politiku-i-nacionalnu-sigurnost-345>. (1 September 2021)

¹² https://ec.europa.eu/croatia/node/1936_hr. (1 September 2021)

2.1. Reintroduction of temporary border controls at internal borders and structural shortcomings in the management of the European Union's external border

Crises, the conflicts in Syria, as well as in the entire surrounding region, have led to a large number of refugees and migrants arriving in the European Union in 2015. The analysis carried out by the European Council identified structural shortcomings in certain areas of the external borders of the European Union, in respect of which the European Council Conclusion on the identified shortcomings has been adopted. Some of the countries of the Union have opted for the so-called “concessions” approach¹³, contrary to the *acquis* governing the field of control of the European Union's external borders. The consequence of such actions resulted in establishing a migrant route through the countries of the Western Balkans, which helped migrants advance very quickly towards Western Europe. The reaction of some Western countries of the Union was the reintroduction of temporary border controls at internal borders, which ultimately called into question the proper functioning of the Schengen area of free movement and the loss of benefits for European citizens and the European economy that was threatened by serious financial losses. Namely, the Schengen Borders Code (SBC) allows the Member States to temporarily reintroduce border control at internal borders in the event of a serious threat to public policy or internal security, such as various terrorist threats, the COVID-19 pandemic, threats of organised crime and the like. The reintroduction of border control at internal borders must be applied as a last resort in exceptional situations, and the principle of proportionality must be respected. The duration of such temporary reintroduction of border control at internal borders is limited in time, depending on the legal basis invoked by the Member State that introduced such border control. The scope and duration of the reintroduced border control should be limited to the minimum necessary to respond to the threat in question. The Commission may issue an opinion on the necessity of the measure and its proportionality but may not veto a Member State's decision to reintroduce border control.¹⁴

Following this major migrant crisis (A/N in 2015), the European Council reacted quickly and, at its meeting on 18 and 19 February 2016, gave a mandate and support to the countries of the Union which were in a difficult situation to re-establish the normal functioning of the Schengen area. In order to address the structural shortcomings in the management of the Union's external border, measures were proposed in a number of areas: taking urgent action to address the shortcomings identified in the Greek management of the external borders; urgent cessation of the practice of admitting migrants without border control and all accompanying

¹³ Crossing the state border without border control.

¹⁴Temporary reintroduction of border controls due to COVID-19: Norway (11 May - 7 September 2021, all internal borders); Denmark (12 May - 11 November 2021; to be determined but applicable to all internal borders); France (1 May - 31 October 2021; all internal borders); Denmark expects the lifting of COVID-19-related restrictions at all internal borders as soon as the situation allows. Temporary border controls have been reintroduced in a context different from COVID-19: Norway (10 May - 9 November 2021; terrorist threats, secondary movements); ports with ferry connections to Denmark, Germany and Sweden Austria (12 May - 11 November 2021; secondary movements, risk associated with terrorists and organized crime, situation at the external borders); Germany (12 May - 11 November 2021 secondary movements, situation at external borders; land border with Austria); Sweden (12 May - 11 November 2021; terrorist threats, deficiencies at external borders; determine which, but may apply to all internal borders); Denmark (12 May - 11 November 2021; threats of terrorism, threats of organized crime; establish, but may apply to all internal borders); France (1 May - 31 October 2021, continuous terrorist threat, secondary movements; all internal borders).

procedures with regard to granting asylum to asylum seekers as well as in relation to the ban on entry into the Union for persons who do not meet the conditions of entry. In addition, some of the measures were the cessation of the practice of making numerous unilateral decisions on the reintroduction of border control and the adoption of a harmonised approach to temporary border controls at the internal borders of the Schengen Area¹⁵. It was also decided to re-establish the full application of the Dublin Regulation, with the effective participation of Greece, given that Greece has not conducted proceedings against asylum seekers. Other measures include the emergency relocation of migrants, established in September 2015, with concrete results in reducing a significant number of people to be relocated from Greece with the effective return of persons not allowed to reside in the European Union.

The aim of eliminating the identified shortcomings was to abolish all controls at the internal borders as soon as possible by the clearly foreseen deadline of December 2016. However, at the end of that period, many members of the Schengen Area continued to carry out border controls despite the fact that the flow of migrants into the Schengen Area had decreased. During the analysis conducted after December 2016 and identifying shortcomings, it was concluded that there had been shortcomings such as a lack of a common asylum policy, immigration policy and external border control, lack of solidarity between the Member States and fair access for third-country nationals. It was also determined that it is necessary to reach an agreement on a package of measures for the establishment of the European Border and Coast Guard as soon as possible¹⁶.

3. BODIES AND MECHANISMS FOR STRENGTHENING THE EXTERNAL BORDERS OF THE EUROPEAN UNION

The migration crisis and terrorist attacks in several EU countries have highlighted the need to strengthen the EU's external borders. Strengthening the external borders of the European Union would reduce the aspirations of the Member States to introduce temporary border controls within the Schengen Area, which is not only contrary to the SBC but also the very idea of the Schengen Area as an area without border controls where people and goods can flow quickly. In addition to the primary and secondary legislation of the European Union, the EU is taking concrete measures to preserve European security by establishing various bodies and mechanisms.

3.1. European Border and Coast Guard Agency

The European Border and Coast Guard Agency is a European agency established in 2004 for the needs of the countries of the Union and the Schengen countries (Croatia, Romania, Bulgaria, Switzerland, Norway and Iceland) for the protection of free movement within the

¹⁵ Temporary reintroduction of border control at internal borders (Articles 25, 26, and 29 of the SBC).

¹⁶ <https://eur-lex.europa.eu/legal-content/HR/ALL/?uri=CELEX:52016DC0120>.

borders of the Union. The Agency is also known as Frontex¹⁷. The Member States with an external border are also responsible for controlling those borders. Frontex provides technical support to countries facing various security threats.

In order to strengthen the capacity to protect the Union's external borders, the Agency underwent reconstruction and enlargement in 2016, which was, in fact, a reaction to the major migrant crisis in 2015 and 2016. The reorganisation concerned mainly the area of migration controls, border management and the area of cross-border crime. The Agency is one of the Union's most important bodies in the protection of freedoms, security and justice. It also performs search and rescue operations in the areas of maritime border control. With the 2019 regulation, the Agency became competent for integrated border management (integration of modern technologies, new legal solutions and narrow specialisation of officials), thus gaining a more significant role in resolving the issue of returning illegal migrants and increasing permanent forces to 10,000 members by 2027. Frontex continuously conducts and coordinates maritime operations and protection of external land borders and is also responsible for control at airports. Frontex bases its activities on risk analysis and risk assessments in the areas of illegal migration, cross-border crime and human trafficking. About 700 million people legally cross the union's external borders each year¹⁸. It is an enormous challenge for border services to detect illegal activities without slowing down the flow of legal passengers, vehicles and goods. The work of the Agency itself has been occasionally criticised¹⁹, especially in the context of the use of force against illegal migrants, who often do not have any identity documents, do not want to cooperate or refuse to provide information and often provide inaccurate personal data. Due to the need for a "quick return policy"²⁰ for illegal migrants (to protect personal freedoms, reduce costs, improve the efficiency of the Agency, and protect the freedoms of Union citizens), certain rights and freedoms of such persons are often restricted (those based on respect for all rights and freedoms arising from the status of detainees). The most commonly applied measures are the removal from the place where the person is found, the return of persons outside the EU borders and the prohibition of entry into the territory of the Union. Despite the implementation of such unpopular measures by the Agency's employees, border guards or state border control police, which are often criticised in public, the measures are still necessary to protect the EU's external borders.²¹

¹⁷ Frontex, the European Border and Coast Guard Agency, was established by Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard.

¹⁸ https://europa.eu/european-union/about-eu/agencies/frontex_en. (1 September 2021)

¹⁹ <https://www.mimycr.de/mimycr-blog/2021/4/28/what-is-the-problem-with-frontex-and-what-can-we-do-to-change-it>. (1 September 2021)

²⁰ https://www.europarl.europa.eu/doceo/document/A-9-2020-0238_HR.html. (3 September 2021)

²¹ http://publications.europa.eu/resource/cellar/55c64fd9-2446-11e7-b611-01aa75ed71a1.0012.03/DOC_2. (3 September 2021)

3.2. Upgrading the Schengen Information System

The events that have shaken the foundations of freedom and democracy in recent years, the highest values and achievements of the European Union, terrorist attacks and the vast migrant crisis²² have pointed out the fragility of the protection system, structural shortcomings in protection and the role of member states at external borders. Therefore, it has affected the role of the Republic of Croatia in protecting state borders. Primarily due to the opening of the Balkan route through the territory of the Republic of Croatia, which has endangered the security of Croatian citizens and the European Union. The Republic of Croatia has started implementing continuous measures with the aim of preserving European security. One of these measures is the use of an upgraded Schengen Information System. Schengen Information System II²³ (SIS II) is a large system that collects, stores, processes and delivers the necessary information in a way that is available to all members of an organisation who want to use it and have the appropriate authorisation. The system was established as a compensatory measure for the abolition of internal border controls aimed at ensuring a high level of security within the Schengen Area. It has been implemented in all EU Member States, regardless of whether or not they are state-owned in the Schengen Area. Thus, this system is also used by Bulgaria, Romania and Croatia. Bulgaria and Romania have been using the system fully since August 2018. In the case of Croatia, there are still some restrictions on its use. They primarily concern the refusal of entry or stay in the Schengen Area. These restrictions will be lifted as soon as Croatia becomes part of the area without internal border checks, which according to current forecasts, should be in the second half of 2022. Ireland operates the SIS, but since it has decided not to join the Schengen Area, it cannot issue nor access warnings regarding the refusal of entry or stay throughout the Schengen Area. Cyprus is not yet connected to the SIS because it has a temporary derogation from joining the Schengen Area.

SIS II is Europe's most widespread and largest information exchange system for security and border management. The role of SIS is to make Europe safer in terms of illegal migration, criminal activities, threats to terrorism and other forms of threats to the security of the Union. The system helps European authorities to maintain internal security in the absence of internal border checks through various areas of cooperation, such as border control cooperation, where it allows border guards, visa issuers and migration authorities to enter and review alerts for third-country nationals for refusal, their entry or stay in the Schengen area. Furthermore, there is a cooperation between the police and judicial authorities by which the competent authorities are allowed to create or review alerts on missing persons or cases related to committing criminal offences. Equally important for the security of the Union is cooperation regarding vehicle registration control, where the competent services, through SIS, carry out checks on the legal status of vehicles submitted to them for registration, registration certificates and registration plates. New SIS functionalities are gradually being introduced through various phases²⁴. New categories have been introduced in the area of information sharing and shared

²² <https://www.europarl.europa.eu/news/hr/headlines/society/20170629STO78631/europska-migracijska-kriza> .(4 September 2021)

²³ https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-information-system_en (4 September 2021)

²⁴ https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-information-system_en .(5 September 2021)

alerts, ensuring that complete and reliable information is available to the authorities of the Member States of the Union. Biometrics²⁵ is used in a way that SIS contains a database with palm prints, fingerprints, facial images and DNA of missing persons that are used to establish their identity. In the fight against terrorism, the SIS system contains information on persons and objects involved in terrorism-related activities, thus enabling the authorities of the Member States to work better in preventing serious crimes and terrorism.

Competent authorities have the option of entering preventive alerts into the system to protect specific categories of vulnerable persons, such as missing persons, children at risk of abduction, and potential victims of trafficking or gender-based violence. Decisions to return or prohibit the entry of persons involved in illegal migration are kept in the system for more effective monitoring by the Union's police and judicial authorities. Supporting agencies, i.e. Europol and the operational teams of the European Border and Coast Guard Agency (Frontex), have access to data in all SIS categories in order to work more efficiently in carrying out tasks at the Union's external borders.

3.3. Implementation of a control system of persons crossing external borders in relevant databases

Systematic checks of all persons crossing the external border of the Union in databases is the responsibility of the Member States that carry out the control in order to ensure that these persons do not pose a threat to public order, internal security or public health by entering the territory of the Union. The obligation applies to all types of external borders, air, sea or land. Systematic strengthening of external border control is an important step in combating various types of threats, from terrorism²⁶ to illegal migrations, and it improves the security of the citizens of the EU. Systematic checks at the Union's external borders are an important lever in addressing potential risks and threats to the Union's internal security. It is the responsibility of the Member States to carry out systematic checks on relevant databases on all persons, including those enjoying the right of free movement under EU law (i.e. EU citizens and their non-EU family members) when crossing external borders. The databases used to carry out the aforementioned controls include the Schengen Information System (SIS) and Interpol's Stolen and Lost Travel Documents Database (SLTD). Controls also allow the Member States to examine if those persons pose a threat to public policy, internal security or public health. However, where a systematic search of databases could lead to a disproportionate impact on traffic flows at sea or land borders, the Member States are only allowed to carry out targeted database checks, provided that this does not lead to risks related to internal security, public policy or international relations of the Member States or pose a threat to public health.

²⁵ <https://www.cis.hr/www.edicija/Biometrija.html> .(16 September 2021)

²⁶ <https://www.europarl.europa.eu/news/hr/headlines/priorities/terorizam/20180316STO99922/kako-zaustaviti-terorizam-mjere-eu-a> (16 September 2021)

3.4. The new Entry / Exit System (EES) for non-EU citizens

The Entry / Exit System (EES)²⁷ is an information system that speeds up and strengthens border control for third-country nationals travelling to the EU. Electronic registration in a database has replaced manual passport verification at the border. The main goals of the EES are to reduce delays in border controls, improve the quality of border controls by automatically calculating the permitted stay for each passenger, as well as to guarantee the systematic and reliable identification of persons staying longer than allowed. In addition, the goal is to strengthen internal security and support the fight against terrorism, which allows law enforcement agencies to control a person's previous travels. Access to the EES is granted to national law enforcement authorities and Europol but not to asylum authorities. The possibility of transferring data for the purpose of prosecution or return to third countries and EU Member States that do not participate in the EES is allowed under certain conditions. The EES records data on passengers (name, type of travel document, fingerprints, face display and date and place of entry and exit) when crossing the Schengen external borders. It applies to all third-country nationals, regardless of visa requirements. Both consular and border authorities use them.

3.5. The new European Travel Information and Authorisation System (ETIAS)

ETIAS²⁸ is an important resource for strengthening the control of external EU borders and protecting EU citizens. Due to ETIAS, it is possible to carry out controls in advance and, if necessary, to refuse travel authorisation to third-country nationals travelling to the Schengen area. This contributes to greater internal security, the prevention of illegal immigration, the protection of public health and the reduction of border delays, as persons who may pose a risk in relation to some of these issues are identified before arriving at the external borders. The system applies to third-country nationals who are exempt from the visa. Before they can travel, they must use an online application to obtain travel approval. The information provided in the applications is automatically compared against EU databases and the corresponding Interpol databases to determine whether there are grounds for refusing a travel authorisation. If no matches or elements are found that would require further analysis, the travel authorisation is issued automatically and quickly. However, it is essential to emphasise that the travel permit does not automatically give the right to enter or stay. The border control officer still makes the final decision.

3.6. New rules to make EU databases more interoperable

The European Union has introduced new rules for the interoperability of EU information systems in the area of justice and home affairs. Due to the facilitated exchange of information, security has been improved, more effective checks at external borders have been made possible, and illegal migration has been prevented. Information systems' interoperability allows systems

²⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017R2226&from=HR> .

²⁸ <https://data.consilium.europa.eu/doc/document/PE-21-2018-INIT/hr/pdf> .

to complement each other, facilitates the correct identification of persons and contributes to the fight against identity fraud. The interoperability tools and components²⁹ include the European Search Portal, which is used by competent authorities. It enables the simultaneous search of several Union information systems using biographical and biometric data. Furthermore, there is a tool and a shared biometric comparison service which allows you to search and compare biometric data, fingerprints and facial photos through multiple information systems. Another tool is the Common Identity Data Repository, which contains biographical and biometric data of third-country nationals and is available in several information systems of the EU. The interoperability constituent is also a Multiple Identity Detector, which checks whether the biographical identity data being searched is contained in other covered systems in order to detect multiple identities associated with the same set of biometric data.

3.7. Temporary controls at the internal borders of the European Union

As supra mentioned, the SBC allows the Member States to reintroduce the control of certain internal borders in exceptional circumstances that jeopardise the functioning of the Schengen Area. On the one hand, the abolition of internal border controls has made the European Union safer in terms of internal security by strengthening judicial and police cooperation. On the other hand, the common external border of the Union has become a priority by introducing uniform border control standards. Developments in the current situation (events in Afghanistan, climate disasters in Asia and Africa) favour those forces in Europe that advocate stronger control of nation-state borders (and Eurosceptics) as opposed to the unionist aspirations of forces that advocate a Europe of open borders. Since the migrant crisis and terrorist attacks in recent years, significant progress has been made in the area of the Union's security. Apart from the initiative to constantly protect the external border of the Union through agency work and the introduction of modern mechanisms, there is still room and opportunities for Schengen Member States to use the temporary control mechanism at the internal (national) borders of the EU under certain conditions and for a limited period of time. External factors, i.e. the European environment as well as the Union's policy, will profile further development of the situation and provide answers to the question of which strategies for the protection of freedom, democracy, and economic interests will prevail.

4. Conclusion

Considering the role of the Republic of Croatia in the Schengen Area in the context of the protection of the EU external borders, the complexity of the current situation in Europe and the readiness of European institutions to use various measures and mechanisms to protect the acquired freedoms and rights of the Union citizens is evident. The migrant crisis and terrorist attacks across Europe have disrupted and threatened the security of European citizens and

²⁹ <https://www.consilium.europa.eu/hr/press/press-releases/2019/02/05/interoperability-between-eu-information-systems-council-presidency-and-european-parliament-reach-provisional-agreement/> .(16 September 2021)

raised the question of the quality of the security system within the Schengen Area and the protection of the Union's external borders. Strengthening the capacity of protection bodies (police, judicial bodies, border protection services) as well as regulating the legal framework, which, while respecting human rights and freedoms, determines additional mechanisms for the protection of EU borders, are the right solution for currently identified structural deficiencies in the protection of acquired freedoms and the rights of the citizens of the Union. The problems of illegal migration, terrorism and organised crime must constantly be the focus of national policies of the states and the policies of the EU institutions. It is indisputable that some members of the Union, especially those with more influence and higher economic standards and power, use all the benefits of membership in the Union while indirectly trying to "localise" migration problems to those countries that are structurally and in capacity unable to deal with such issues, like Greece and Spain. The position of the Republic of Croatia, both geographically and politically (the Balkans, the EU's longest external border of 1377 kilometres), requires a unique approach to protecting the Union's external border, illegal migration and terrorism, where full coordination of European institutions is needed. By protecting its border and its interests as a European state, the Republic of Croatia has a significant role in protecting the interests of the entire European Union. The full implementation of all mechanisms and measures proposed by the Union's institutions and bodies, especially regarding the elimination of structural deficiencies in border protection, is in the interest of the Republic of Croatia as part of the Union with all the advantages and disadvantages of membership in such a supranational community as is the European Union.

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Sažetak

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Uloga Republike Hrvatske u zaštiti vanjskih granica Europske unije te tijela i mehanizmi za provedbu schengenske pravne stečevine

U radu se analizira uloga Republike Hrvatske u kompleksnom sustavu mehanizama kontrole prelaska osoba preko unutarnjih granica Europske unije kao i u nadzoru i kontroli na vanjskim granicama. Razmatra se pozicija Republike Hrvatske u području zaštite vanjske granice po ulasku u Schengenski prostor. Objašnjavaju se mehanizmi zaštite kao i mjere koje su uvedene od strane europskih institucija po hitnom postupku nakon velike migrantske krize 2015. i 2016. godine te niza terorističkih napada u samom srcu Europe a koji su narušili temeljne vrijednosti europskog zajedništva i unijeli nesigurnost u živote europskih građana. Pojašnjavaju se i problemi uvođenja takvih hitnih mjera, prvenstveno mjera privremene kontrole na unutarnjim granicama Europske unije. Preispituje se njihova utemeljenost s obzirom na opća načela pravnog sustava Europske unije. Daje se osvrt i na uočene strukturne nedostatke u upravljanju vanjskom granicom Unije.

U radu se prikazuju i konkretne mjere, tijela i mehanizmi Europske unije koji služe zaštiti vanjskih granica Europske unije ali i funkcioniranju jedinstvenog tržišta EU-a.

Ključne riječi: Europska unija, Schengenski prostor, *Schengen acquis*, granična kontrola, Zakonik o schengenskim granicama.