

## Europe's Disappearing Internal Borders

People have the right to move within a country without having their passports checked, but do they have the right to also move freely from one country to another in the same way? In Europe, the answer is yes — all citizens of European Union (EU) Member States have the right to move freely across the European Union. But this freedom of movement also applies to third-country nationals (non-EU citizens) in the so-called Schengen Area. This area allows third-country nationals in 15 European Member States to, in almost all cases, travel freely to another Schengen Member State without undergoing a passport check when crossing national borders.<sup>1</sup> For example, a US citizen on vacation in France should be able to fly to Italy and exit the airport without having an immigration officer check his or her passport.<sup>2</sup>

The idea of a borderless European area took root in the mid-1980s as an intergovernmental effort outside the framework of the European Union. In 1997, the Treaty of Amsterdam formally transferred all previous intergovernmental work on Schengen issues into the EU framework. As a result, EU institutions gained a larger role in the decision-making processes relating to the development of the Schengen Area and the Schengen *acquis*, a body of laws that harmonizes the procedures and implementation of the rules governing the Schengen Area.

On December 21, 2007, the European Union will enlarge the Schengen Area to include nine of the 10 countries that entered the European Union in 2004: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. These countries will begin to fully implement the Schengen *acquis* by lifting controls at land and sea borders on individuals traveling within the Schengen Area (see Figure 1).<sup>3</sup> They will abolish controls at their internal air borders by March 30, 2008.

Despite the upcoming expansion, however, various challenges, ranging from the technical to the political, remain. For instance, Estonia has a shrinking border guard personnel, and Latvia needs to address technical issues regarding the Schengen

<sup>1</sup> There are two types of borders when discussing the Schengen Area: external and internal. External borders are national borders that are crossed by any individual arriving from outside the Schengen Area. National immigration authorities conduct passport controls on all individuals attempting to cross their external borders. Internal borders are those crossed by any individual arriving from another Schengen Member State. Passport controls are not conducted at internal borders, thus allowing for free movement within the Schengen Area. These terms hold true for land, sea, and air borders.

<sup>2</sup> In reality, some Schengen Member States conduct checks on individuals at their internal land, sea, and air borders.

<sup>3</sup> Cyprus, the other 2004 EU entrant, will lift its internal borders at a later date.

Information System (SIS), which allows Schengen Member States to exchange data on certain third-country nationals (see Fact 4). Furthermore, various leaders of Eastern European EU Member States are concerned that the imposition of new visa requirements on nationals of neighboring non-Schengen countries could potentially harm relations with these countries. The European Union will continue to evaluate the new Member States on their implementation of the recommendations made by the Schengen Evaluation Working Party.

To mark this expansion, we offer 10 key facts about the expanding Schengen Area.

1. *Territorial Expansion.* The addition of nine countries to the Schengen Area will raise membership to 24 countries and expand the borderless area to 3.6 million square kilometers or 1.4 million square miles. This move marks the largest single expansion (in terms of number of countries joining the area) since controls at its internal borders were first lifted on July 1, 1995 (see Table 1).
2. *A Jigsaw Puzzle of Schengen Members.* Future expansions of the Schengen Area will involve both non-EU as well as future EU countries. Already, not all Schengen Member States are EU Member States (e.g., Iceland and Norway). Furthermore, not all EU Member States have abolished border controls on those traveling within the Schengen Area, notably the United Kingdom and Ireland.
  - Two non-EU Member States — Switzerland, which signed a Schengen agreement with the European Union in 2004, and Liechtenstein, which is currently in negotiations to adopt the Schengen *acquis* — are expected to join the borderless zone in 2008.
  - All new and future EU Member States must lift controls at the internal borders of the Schengen Area to satisfy the requirement for EU accession. Unlike the United Kingdom and Ireland, they do not have the choice of opting into or out of lifting controls at internal borders. Bulgaria and Romania, which joined the European Union in January 2007, will become part of the Schengen Area eventually, as will current candidates for EU accession, such as Croatia.
3. *Ambitious Coordination of National Policies Governing Movement.* Schengen Member States that have abolished controls at internal borders of the Schengen Area follow common rules, and cooperate and coordinate policies in the following areas:
  - Removal of checks on people moving from one Schengen Member State to another (i.e., checks at internal borders)
  - Coordination between administrations on surveillance of borders
  - Enhanced police cooperation, including the rights of cross-border surveillance and hot pursuit
  - Maintenance of SIS (see Fact 4)
  - Separation at air terminals and, where possible, at seaports of people traveling within the Schengen Area from those arriving from countries outside the Schengen area

- Common rules for determining who is responsible for examining asylum applications
  - Strengthening of judicial cooperation through a faster extradition system and transfer of the enforcement of criminal judgments
  - Harmonization of the rules regarding conditions of entry and visas for short stays
4. *Schengen Information System (SIS)*. All members of the Schengen Area must become part of SIS, an information-exchange system that allows competent judicial, border, consular, customs, and police authorities of Member States to obtain and share “alerts” on certain categories of people or objects crossing their external borders. Countries may issue alerts on third-country nationals if they have refused entry or deported them in the past.

Data on people are restricted to a limited number of fields, including full name and possible aliases; specific objective physical characteristics not subject to change (excluding race); date and place of birth; sex; nationality; whether persons concerned are armed or violent; the reason for the alert; and the action to be taken. SIS contains approximately 10 million data items, 10 percent of which are alerts on people. The next version of SIS (SIS II) will contain additional data categories, such as photographs and fingerprints.

5. *Rules on External Border Controls*. EU and third-country nationals arriving from a third country into a Schengen Member State must undergo passport checks at the external borders. The Schengen Borders Code provides that third-country nationals who wish to enter and reside in the Schengen Area for up to three months per six-month period must
- carry a valid travel document;
  - have a valid visa, if required;
  - justify the purpose of their intended stay and have sufficient means of subsistence;
  - not have any “alerts” on previous refused entries issued against them in SIS.
6. *Reintroduction of Controls*. Member States reserve the right to temporarily reintroduce controls at their internal borders for 30 days (though this may be extended when necessary) when there is a serious threat to public policy or internal security. In December 2000, Belgium anticipated a large inflow of asylum applicants and imposed controls at its internal borders. In preparation for the Euro 2004 Football (soccer) Championship, Portugal reintroduced checks at its internal borders to monitor fans, suspicious behavior, and possible attacks. Further, in the wake of the 2005 London transit bombings, France reintroduced checks at its internal borders.

Between 2000 and 2003, Schengen Member States reinstated border controls 33 times, and, in almost half of the cases, they did so in anticipation of political events, such as European Council meetings or similar high-level gatherings. During this period, the duration of the temporary reinstatements of border controls lasted anywhere between one day and three weeks.

7. *Common Visa Policy.* Third-country nationals seeking to enter the Schengen Area for up to 90 days per half-year period may apply for what is commonly known as a “Schengen visa.”<sup>4</sup> In practice, those who have successfully used a Schengen visa to cross the external borders of the Schengen Area can travel freely between Schengen countries without experiencing immigration controls at their national borders.<sup>5</sup> A consulate of the primary country to which the applicant will travel or first enter will issue one of these Schengen visas after scanning SIS for “alerts” on that individual.

Not all third-country nationals, however, are required to obtain a Schengen visa to cross the external borders of the Schengen Area. In fact, as of December 2007, the European Union allows nationals of 36 non-EU states or territories to enter without one.<sup>6</sup> For such nationals, the eastward expansion of the Schengen Area means they will now be able to cross the borders of the nine incoming countries without obtaining a Schengen visa from those countries’ respective consulates.

8. *Visa Information System (VIS).* In June 2007, the European Union passed legislation on the Visa Information System (VIS), which will allow Schengen Member States to store and exchange data, including a facial photograph and 10 fingerprints, on third-country nationals from non-visa-waiver countries who are applying for a Schengen visa or national visas. VIS will be the largest 10-fingerprint database in the world and will be capable of storing data for up to 70 million individuals. Its primary objective is to help consular and immigration officers better administer the common visa policy, combat fraud and visa shopping, and conduct identity checks at external points of entry.
9. *EU Funding.* The External Borders Fund, totaling 1.82 billion euros between 2007 and 2013, helps Schengen Member States to secure Europe’s external borders. Thirty percent of the fund will be used for land borders; 35 percent for sea borders; 20 percent for airports; and 15 percent for consular officers. The amount Member States receive depends on the length and relative risk level of their external borders as well as the workload associated with administering them.
10. *Delays in Lifting Controls at Internal Borders.* The upcoming expansion had originally been scheduled to take place in October 2007 but was delayed until December 2007 due primarily to technical difficulties in upgrading SIS to SIS II. However, postponements in allowing countries to lift controls at internal borders have happened previously. The reasons for postponements include inadequate technological capabilities to implement SIS, unforeseen fears such as terrorism, and reservations about ineffective border controls. For example, in 1995, Germany feared that Austria lacked adequate external

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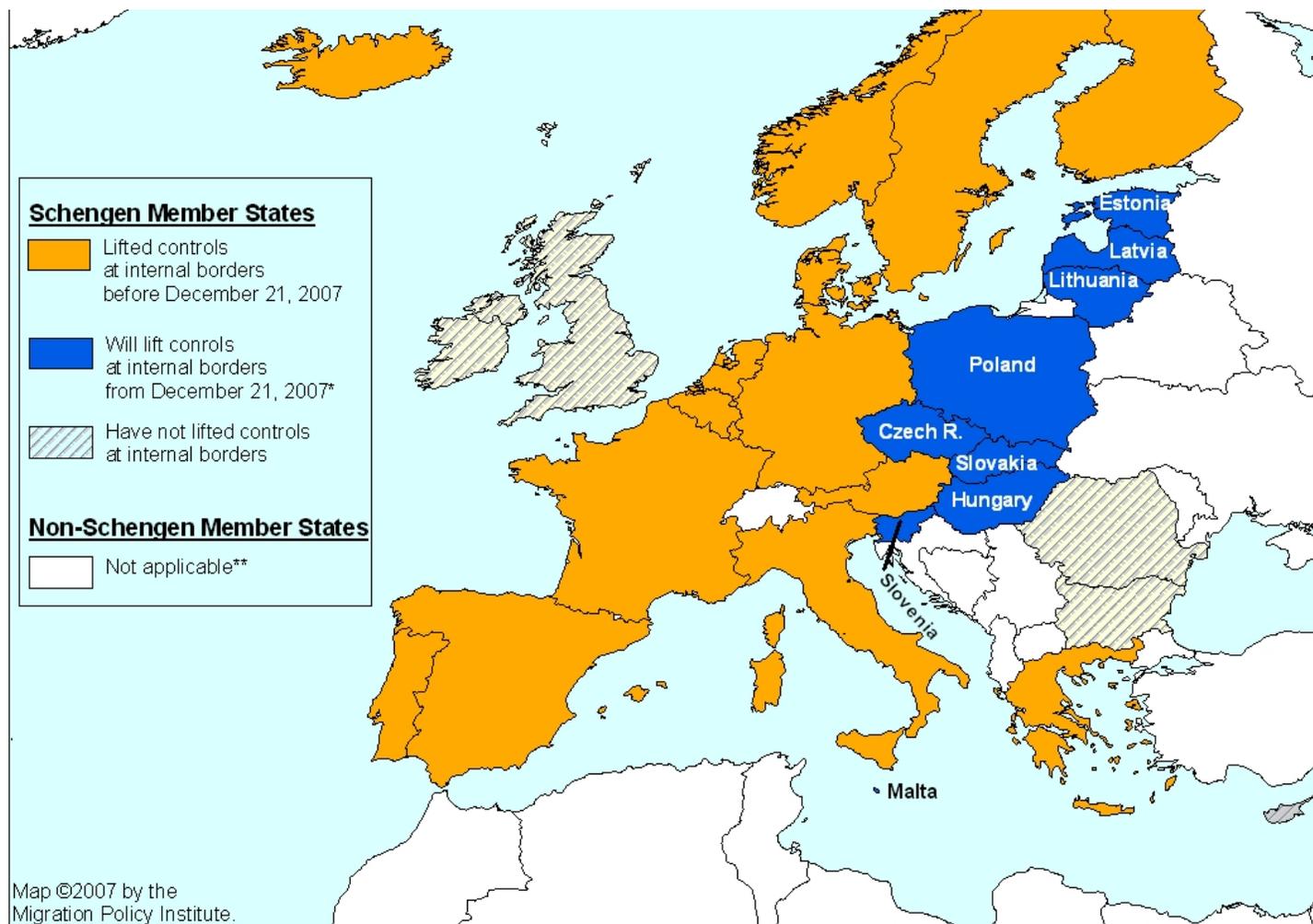
<sup>4</sup> Officially, it is known as a short-term uniform visa.

<sup>5</sup> If a third-country national obtains a residence permit in a valid travel document, such as a passport, that residence permit can be used in lieu of a uniform or long-term visa to move freely within the Schengen Area.

<sup>6</sup> The 36 countries whose nationals are exempt from obtaining a Schengen visa are Argentina, Australia, Brazil, Brunei, Canada, Chile, Costa Rica, Croatia, Guatemala, Holy See, Honduras, Israel, Japan, Malaysia, Mauritius, Mexico, Monaco, New Zealand, Nicaragua, Panama, Paraguay, Saint Kitts and Nevis, El Salvador, San Marino, Seychelles, Singapore, South Korea, the United States, Uruguay, Venezuela, Hong Kong SAR (and BNOs), and Macao SAR.

border controls to control immigration from Eastern Europe, and France shared similar concerns over Italy that same year. As a result, Austria and Italy, which adopted the Schengen Convention in 1995 and 1990 respectively, only abolished controls at their internal borders in 1997 and 1998. Greece, which signed the Schengen Convention in 1992, was only permitted to fully join the Schengen Area in 2000, after it had improved controls over its southern land and sea borders.

Figure 1. Countries That Have Lifted Controls at the Internal Borders of the Schengen Area as of December 21, 2007



\*The nine incoming Schengen Member States will lift controls at internal air borders by March 30, 2008.

\*\*Switzerland and Liechtenstein are slated to join the borderless area in 2008.

| <b>Table 1. List of Schengen Member States and Relevant Dates</b>                   |   |   |  |
|---|---|---|--|
| Country   | Entered into the European Union or its predecessors | Adopted the Schengen Convention or Schengen <i>acquis</i> | Began to lift internal border controls within the Schengen Area* |
| <b>Countries that lifted controls at internal borders before December 21, 2007</b>  |   |   |  |
| France**  | 1951  | June 19, 1990   | July 1, 1995   |
| Germany   | 1951  | June 19, 1990   | July 1, 1995   |
| Belgium   | 1951  | June 19, 1990   | July 1, 1995   |
| Netherlands   | 1951  | June 19, 1990   | July 1, 1995   |
| Luxembourg  | 1951  | June 19, 1990   | July 1, 1995   |
| Spain   | 1986  | June 25, 1991   | July 1, 1995   |
| Portugal  | 1986  | June 25, 1991   | July 1, 1995   |
| Italy   | 1951  | November 27, 1990   | October 26, 1997   |
| Austria   | 1995  | April 28, 1995  | December 1, 1997   |
| Greece  | 1981  | November 6, 1992  | January 1, 2000  |
| Denmark***  | 1973  | December 19, 1996   | March 25, 2001   |
| Finland***  | 1995  | December 19, 1996   | March 25, 2001   |
| Sweden***   | 1995  | December 19, 1996   | March 25, 2001   |
| Norway***   | Never   | May 18, 1999  | March 25, 2001   |
| Iceland***  | Never   | May 18, 1999  | March 25, 2001   |
| <b>Countries that will lift controls at internal borders from December 21, 2007</b> |   |   |  |
| Czech Republic  | 2004  | April 16, 2003  | December 21, 2007  |
| Estonia   | 2004  | April 16, 2003  | December 21, 2007  |
| Latvia  | 2004  | April 16, 2003  | December 21, 2007  |
| Lithuania   | 2004  | April 16, 2003  | December 21, 2007  |
| Hungary   | 2004  | April 16, 2003  | December 21, 2007  |
| Malta   | 2004  | April 16, 2003  | December 21, 2007  |
| Poland  | 2004  | April 16, 2003  | December 21, 2007  |
| Slovakia  | 2004  | April 16, 2003  | December 21, 2007  |
| Slovenia  | 2004  | April 16, 2003  | December 21, 2007  |
| <b>Countries that have not lifted controls at internal borders****</b>              |   |   |  |
| United Kingdom*****   | 1973  | May 29, 2000  | n/a  |
| Ireland*****  | 1973  | February 28, 2002   | n/a  |
| Bulgaria  | 2007  | April 25, 2005  | n/a  |
| Romania   | 2007  | April 25, 2005  | n/a  |
| Cyprus  | 2004  | April 16, 2003  | n/a  |

\*This refers to the date on which countries first lifted controls at any of their internal borders (land, sea, or air). Countries may not have lifted controls at all types of borders on this date.

\*\*In practice, France maintained border controls until a later date, but the exact date is unknown.

\*\*\*Norway and Iceland signed a cooperation agreement with Schengen Member States on May 18, 1999. However, the Council of the European Union's Decision of December 1, 2000 on the Application of the Schengen *acquis* in Denmark, Finland and Sweden, and in Iceland and Norway (2000/777/EC) allowed these countries to lift controls at internal borders.

\*\*\*\*Switzerland and Liechtenstein are slated to join the borderless area in 2008.

\*\*\*\*\*The United Kingdom and Ireland participate only in some aspects of the Schengen *acquis*.

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