



SOUČASNÝ VÝVOJ SCHENGENU: DŮKAZ JEHO KRIZE NEBO FLEXIBILITY?

CURRENT DEVELOPMENT IN SCHENGEN: A PROOF OF ITS CRISIS OR FLEXIBILITY?

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V současnosti posilují debaty, zda se neblíží konec Schengenu. Schengen je však stále živý. Tento článek vychází z Kosellecka a zkoumá, zda lze v schengenském prostoru identifikovat stav krize. Metodou diskurzní analýzy je zjištěno, že ačkoli výzkumníci považují za zásadní problém obnovy vnitřních hraničních kontrol, které podle nich ztělesňují nedostatek důvěry a solidarity, vedoucí představitelé EU vnímají vnitřní kontroly jako legitimní prostředek na řešení krize, který je v souladu s schengenským *acquis*. Pozornost upírají spíše na nedostatečné kontroly vnějších hranic. Článek tak poukazuje na fakt, že je důležité ptát se nejen, zda je Schengen v krizi, ale také, co se pod tímto pojmem rozumí.

Klíčová slova: Schengen, analýza diskurzu, hraniční kontroly, krize

Recently, the question of whether the Schengen agreement is reaching the end of its lifespan has been broadly discussed. However, Schengen is still alive. Drawing on Koselleck, this paper examines whether a state of crisis can be identified within Schengen. Whereas in research, reimpositions of internal borders are seen as the main reason for the crisis and as an expression of inadequate trust, the discourse analysis indicates that in the EU discourse, reimpositions are perceived as a justified means to deal with an emergency, which is in line with the Schengen *acquis*, and the main problem that must be addressed are inefficient external controls. Hence, it is crucial to ask not only whether Schengen is in crisis but also what the crisis represents.

Key words: Schengen, discourse analysis, border controls, crisis.

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1 INTRODUCTION

Since its very beginning, the Schengen Area has been cherished as one of the most successful achievements of the European integration (Ademmer et al. 2015). However, at the same time, it has been perceived as rather controversial. Either for its lack of transparency and democratic deficit, for being too discretionary and exclusivist or for preferring security to human rights (Guild 2001, Brouwer 2008, Zampagni 2016). With the rising numbers of refugees coming to the European Union (EU) since 2015, the debates on Schengen have gained a new impetus. Even though it is not completely new to talk about Schengen facing problems (Convey and Cupiszewski 1995, Hailbronner and Thiery 1997), the frequency of news articles (Grammaticas 2016, Cendrowicz 2016, Binyon 2015) and research papers (Fijnaut 2015, Nivet 2016) emphasising a possible or explicitly probable end of Schengen has been on a rise particularly since January 2016, when Denmark and Sweden reimposed internal controls on their borders.

The importance of the current problems within Schengen is supported by numerous scholars who argue that this crisis might be even more serious than the euro crisis (Börzel and Risse 2017). On the other hand, there are scholars who claim that Schengen is not in crisis and there is no risk it will collapse (Guild et al. 2015). Although there is no agreement among scholars, their articles have one thing in common – they do not elaborate on how the crisis in Schengen is perceived in much detail. This paper aims to fill in this gap. Since the definitions of crisis can be manifold, we examine how the current situation in the Schengen Area is addressed and whether it can be perceived as a crisis. In the next step, to put this analysis into a broader context, we investigate what it means for the future of Schengen and its resilience.

To narrow down the research area in order to be able to analyse it in more detail, we focus on the discourse of EU institutions (European Commission, European Council, Council of the EU and European Parliament), their respective Presidents and the Commissioner for home affairs. The analysed time frame begins in September 2015, when the problems within Schengen escalated, and ends in May 2017. The main aim of the analysis which combines legal, policy and policy communication discourse is to determine whether and how the current affairs within Schengen are framed as a crisis. The discourse analysis is compared to the scholarly literature on the Schengen crisis which shows the difference in focus. The identification of the discrepancies between the research on Schengen and the political discourse and in light of the current affairs is seen as the main contribution of this article.

The choice of discourse analysis draws on the scholarly literature on the concept of crisis which often stresses the subjectivity of crisis, i.e. it is key how a crisis is perceived by a specific person (Koselleck 1973). Hence, by claiming whether

Schengen is in crisis or not, it must be stated from which or whose perspective. In particular, the methodological framework is based on the Discourse-Historical Approach (DHA) which enables to study discourse across diverse genres and within a broader socio-political context. Also, by applying a rigorous discourse analysis on a potential crisis in Schengen we contribute to the existing research on Schengen which only rarely uses an elaborated discourse methodology (see e.g. Erjavec and Kovačič 2009, Scuzzarello and Kinnvall 2013). In general, Discourse Studies examine the relationship between form and function of verbal communication (Wodak and Krzyżanowski 2008). Specifically, the DHA aims at relating both the macro- and meso-level of contextualization with the micro-level analysis of various texts which the chosen discourse consists of (Krzyżanowski 2015). It is beneficial to this analysis that the DHA focuses on argumentation. As Reisigl (2014) claims, the DHA connects formal, functional and content-based aspects of argumentation. This will allow us to see how the selected actors argue about the Schengen crisis, which aspects are stressed and which neglected.

The DHA consists of two levels of analysis. Firstly, the entry-level analysis which is based on discourse topics. Secondly, the in-depth analysis shows how actors are referred to and what the angle of representation (framing) is. At the same time, argumentation strategies and schemes (called *topoi*) are examined.² What might be problematic in the analysis is the fact that the argumentation is frequently implicitly rather than explicitly articulated (Reisigl 2014, Krzyżanowski 2015) which is also the case of Schengen. As the analysis shows, even though the *topos* of crisis is very often not explicitly stressed, it does not mean it is not present, at all.

Any discourse is always framed in a social context (e.g. political or media context) and is both socially constituted and socially constitutive (Reisigl & Wodak 2009). The context is crucial for the DHA and thus, attention is paid to it below. Regarding specific types of texts³, legal discourse is analysed at first. Secondly, within policy discourse, new legislative proposals on how to reform or amend Schengen are examined (materials were accessed mostly at the official websites of the EU institutions). Thirdly, policy communication (i.e. political statements and speeches) completes the picture by investigating how selected EU politicians present and communicate the difficulties Schengen is facing. In order to avoid potential misinterpretation, direct quotations were included in the analysis. These three aspects

² An argumentation strategy is a linguistic and cognitive procedure of problem-solving which represents a relatively coherent complex of statements. It justifies what is true and right by presenting or manipulating certain arguments.

³ Discourse in the DHA relies on patterns and structures and is quite abstract. It can be seen as a social process of making meanings by using language or other symbols. Text, on the other hand, is a specific realisation of a given discourse.

of discourse on Schengen offer a multi-faceted perspective on how discourse on Schengen is constructed and, consequently, how it is interpreted in a broader socio-political context.

The article opens up with a theoretical section on the concept of crisis. Subsequently, the research on Schengen and its potential crisis is introduced. In light of this theoretical background, the empirical analysis proceeds in three steps. Firstly, legislative framework is presented. Secondly, both implemented, failed and planned measures taken to solve the problems within Schengen are introduced within the context of the Schengen legislation. Thirdly, the discourse analysis of statements by Commissioner Avramopoulos and Presidents Juncker, Tusk, Schulz and Tajani follows. Hence, using Koselleck's (1973) words, both observable facts and subjective perception of the crisis are covered.

2 THE MULTI-FACETED NOTION OS CRISIS

The concept of crisis is very diverse. If the word 'crisis' is looked up in the Google Scholar database, very various articles and books show up. Among the most common topics, the following appear: crisis of democracy, ecological crisis, Cuban missile crisis, crisis management, twenty years' economic crisis between the wars. The Google search engine itself proposes combinations like financial, refugee, debt, Greece, euro, midlife or mortgage crisis. These examples imply that crisis can be approached by various disciplines, such as psychology, economy or political science/international relations (IR). Naturally, there are differences between all these disciplines but it is my strong belief that they can benefit from each other. Hence, even though this article approaches the crisis in Schengen from an IR angle, also the historical, economic and psychological perspective can be useful.

Although IR scholars refer to the notion of (international) crisis frequently, they often assume the meaning does not need to be defined (McClelland 1961). According to Parker (1977), scholars pay most attention to the behaviour of decision-makers during crisis which is often understood as an intense conflict or the beginning of war or, alternatively, as a threshold between verbal and physical behaviour. Morse (1972) perceives crises more generally, as circumstances involving the survival of a political system or an interaction influencing its stability. A confrontation of different or incompatible goals is symptomatic and finding of a policy choice within restricted time necessary. The understanding of international crisis as a sudden and surprising situation when the decision maker is under stress or threat and without adequate mechanism to solve the problems but must decide shortly is most common (Raphael 1982). Occassionally, the subjectivity of what a crisis represents is emphasised (Tanter 1978).

Proceeding from the conceptual history, Koselleck (1973)⁴ offers an exhaustive survey by showing how the meaning of term crisis has changed since Ancient Greece. Already then, it had two basic meanings – objective crisis (based on observable facts) and its subjective critique (i.e. judgement). During the 17th century, the notion of crisis expanded from a predominantly medical environment into politics, history, economics, psychology, etc. The concept has been used both literally and metaphorically and can describe both a specific moment (often in psychology) and recurrent events (often in economics). Frequently, it designates a point in time when an important decision must be taken which can change future developments. A crisis can be long-lasting or brief, it can bring about personal fears or existential problems. According to Koselleck, these diverse and emotional dimensions of crisis, recently augmented by the media, caused the term to lose its theoretical rigor. Moreover, Koselleck perceives this inaccuracy and vagueness of the term crisis as a symptom of a crisis itself. Overall, Koselleck introduces four options how to interpret the concept of crisis: firstly, as a chain of events which culminate in a serious moment when a clear decision is required; secondly, as a turning point which changes the history forever; thirdly, as a situation which can endanger the current state of affairs or certain actors; fourthly, as a transitional period brought about by preceding processes (Richter and Richter 2006).

Graf (2010) develops on Koselleck by clarifying how the term crisis is both flexible and broad. In his analysis of the narrative of crisis in Weimar Germany, Graf demonstrates how the 'label' of the Weimar crisis was (mis)used by both left and right radicals who simplified the complexity of the political situation to two exclusive alternatives, one being desirable and the other one undesirable. The greater the tension between these two alternatives, the deeper got the crisis and the urgency to act. However, neither of these radicals expected the crisis to lead to a doom as the original meaning of crisis would suggest. Instead, they cherished it as a way to overcome the existing situation. Not only did they avoid eliminating the problems, they intentionally tried to intensify the crisis to their own avail. By this example, Graf shows how the notion of crisis is, to a large degree, a narrative that can shape and transform a specific reality and can be used both as an *explanandum* (something that is to be explained) and an *explanans* (something that has explanatory value). Last but not least, Graf (2010) adds that a crisis is not necessarily negative.

The creative power of crises is appreciated particularly in terms of economy. Frequently, financial and economic crises are explored from various theoretical angles when scholars try to identify whether crises can be predicted or not and to decide

⁴ For an English translation see Koselleck & Richter (2006).

whether they represent a destruction of values or rather positive developments (Noys 2011, James 2009).

In psychology, drawing on the original Greek meaning of crisis as a decisive moment, crisis denotes an upset in an otherwise steady situation which can be perceived as a threat, loss or challenge. Crisis can be caused by various factors such as a hazardous or even life-threatening event or an inability to use adequate coping mechanisms. In line with Koselleck, Poal (1990) stresses the importance of the subjective perception of a crisis. Various scholars develop their own classifications of crises which are also relevant for the topic of this article. Just to name a few, Rapoport (1962) differentiates developmental (connected to common life events), role transition (retirement, pregnancy etc.) and accidental (caused by hazardous events) crises. Brammer (as cited in Poal 1990) distinguishes developmental (they always happen but still require attention), situational (most common; sudden, surprising and overwhelming; e.g. sexual assault) and existential (impossible to reach one's goals, connected to life transition points when people balance their lives) crises. Alternatively, crises can be divided into predictable and unpredictable and can end with or without external help (Poal 1990), both dichotomies being of extreme importance in case of Schengen.

3 SCHENGEN IN CRISIS? SCHOLARLY PERCEPTION

Recently, many articles on Schengen have been published. It follows from my own research, that whereas until 2014, the average number of articles published per year was less than six, during 2015 and 2016 the yearly average increased to 30. Nowadays, specifically the Schengen crisis is addressed very often. Scholars ponder whether a state of crisis exists and if so, how serious the situation is. Moreover, researchers ask the question whether the current crisis is unique or whether Schengen has faced similar crises in the past, whether the current crisis might endanger the whole project or, contrarily, has the potential to strengthen it (cf. Börzel & Risse 2017, Nivet 2016; Fijnaut 2015). Despite all the differences among scholars, their contributions have something in common as they focus on the observable facts when judging the situation, not on the subjective aspects of crisis and on the process of how it is socially constructed in discourse.

Regardless all benefits Schengen has brought about, it has faced criticism since its very beginning (Convey and Cupiszewski 1995, Hailbronner and Thiery 1997). Frequently, crises in Schengen are related to its enlargements (Zaiotti 2013, Novotná and Kuchařová 2014) or exceptionally high inflows of migrants, such as after the Arab Spring in 2011. This latter case caused probably the deepest problems within Schengen before 2015. When Italy allowed the incoming Tunisian migrants to pass to France which reacted by reintroducing internal border controls in Ventimiglia, many scholars

described it as a crisis (Zaiotti 2011, Phull & Sutcliffe 2013, Nascimbene & Di Pascale 2011, Cornelisse 2014), albeit not all of them explicitly (Carrera et al. 2011). In fact, this situation bears many similarities with the current one – an unexpected influx of migrants caused reimposition of internal borders which was justified as a means to better manage migration flows. Although the Schengen *acquis* was not breached, there was a broad agreement that both Italy and France acted against the spirit of Schengen (Nascimbene & Di Pascale 2011, Carrera et al. 2011). Moreover, the tension led to the most significant amendment of the Schengen legislation to date, to the Schengen Governance Package (SGP). According to scholars, the affair showed a lack of solidarity and how strong the will of the states to control entries of third country nationals is (Phull & Sutcliffe 2013, Nascimbene & Di Pascale 2011, Carrera et al. 2011).

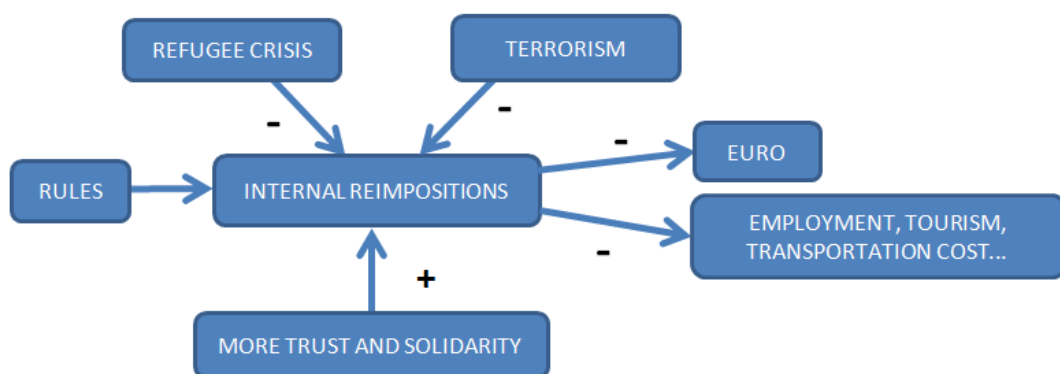
Regarding the current situation, a specific argumentation lies in emphasising the impact of other crises (refugee or security) on Schengen which itself is not in crisis but suffers from these external pressures. According to Börzel and Risse (2017), Börzel (2016) and Nivet (2016), Schengen is facing its most severe crisis which, if not properly addressed, has the potential to endanger the whole EU project. Whereas Gasmi, Prlja and Lutovac (2016) perceive the lack of mutual trust both among member states and between the states and the EU which results in reimpositions as the main problem, Börzel and Risse (2017) and Fijnaut (2015) stress the need of an EU led solution including a reform of Schengen and the necessity to follow the rules. Emphasis should be both on strengthened and more integrated external controls and ensuring borderless movements within Schengen (Dabrowski 2016, Fijnaut 2015). However, this is a problem since there is no agreement among the states which, according to Dabrowski (2016), De Angelis (2016), Topping (2016), Dingott Alkopher and Blanc (2016) and Börzel and Risse (2017), prefer national solutions lying in reimpositions of internal controls. On the other hand, Fijnaut (2015) points out that crises might be necessary to get sufficient political support for a project and do not need to be perceived as solely negative. Zaiotti (2011, 2013) even stresses that crises are recurrent, normal and might reinforce Schengen rather than hurt it.

Not all scholars use the term crisis explicitly while acknowledging that the situation is serious. Ortiz (2016) claims that Schengen is under a considerable strain by the influx of refugees and Menghi and Pascouau (2015) argue that Schengen is under threat and enormous pressure. Other scholars refuse the idea of crisis entirely claiming it is exaggerated and Schengen is here to stay, be it due to its symbolic value (Carrera et al. 2015, Guild et al. 2015) or pragmatism (McCabe 2016, Kaca 2016). However, whether Schengen is considered to be in crisis or not, scholars always refer to the impact of external pressures on reimpositions which are perceived as the main problem (De Angelis 2016, Bendixsen 2016, Dingott Alkopher & Blanc 2016). Gasmi, Prlja

and Lutovac (2016) even claim that Schengen was factually abolished already at the end of 2015 since it could not bear the migratory strain. Also, scholars stress both symbolic and political and economic cost in case Schengen collapses (Börzel & Risse 2017).

To conclude, most scholars emphasise how unique and serious the current situation in Schengen is. Using the categorisation of the concept of crisis, scholars perceive the problems in Schengen as a situational or accidental crisis, i.e. an unexpected event with serious consequences, rather than developmental crisis which is considered to be normal. The focus on inadequate responses to the crisis and tensions among various actors demonstrates that the crisis was not predicted. As Cornelisse (2014) argues, the problem with Schengen is that it is riddled both with national sensitivities and supranational symbolism and states tend to use internal reimpositions to control third country nationals. Similarly, Dingott Alkopher and Blanc (2016) claim, that states are not willing to share security risks on their territory and prefer national solutions. Indeed, exactly the individual actions taken by states are seen as a deep problem which can cause a domino effect leading to even more reimpositions and eventually to the collapse of Schengen (see Figure 1 for visualisation). That is why scholars emphasise that the crisis can only be solved on the EU level. If a decisive step is not taken collectively, the situation will not improve. Overall, scholars present observable facts and, based on them, decide whether they can cause the collapse of Schengen or not, how it should be tackled and what its consequences might be. A subjective critique of the crisis by involved actors is omitted.

Figure 1: Scholars' perception of the Schengen crisis



Source: Author's own

4 HOW TO HANDLE EMERGENCIES WITHIN SCHENGEN: LEGISLATIVE AND POLICY DISCOURSE

Whereas the refugee or migration crises are frequently used terms both in media and political discourse, the Schengen crisis is addressed much more rarely. To

get a general idea, if „refugee crisis“ is googled, 6 550 000 results appear, for „migration crisis“ 460 000 and for „migrant crisis“ 506 000 results. To compare, for „Schengen crisis“ it is only 2 630 matches. Keeping in mind that the results can vary in time, the difference is tangible. As the analysis will illustrate, one of the reasons might be, that very often, the label crisis is not used explicitly in the context of Schengen.

Indeed, in the Schengen *acquis*, the term crisis never appears. The original Schengen agreement (1985) does not even presuppose any situation where emergency measures would be necessary. The subsequent Schengen implementation agreement (1995) mentions a possibility to reintroduce internal controls for a limited period if „public policy or national security so require“ (Article 2(2)). However, more thoroughly are the emergency situations described only in the Schengen borders code in 2006 (SBC). The SBC refers to the management of migration flows at external borders which can be relaxed „as a result of exceptional and unforeseen circumstances“ (Article 8(1)) as well as to internal borders which can be „exceptionally reintroduced“ in case of „a serious threat to public policy or internal security“ (Article 23). These rules were developed in more detail in the Schengen governance package (SGP) in 2013⁵. The SGP enhanced the role of the EU as an observer of the rules, made the conditions of internal reimpositions stricter but, simultaneously, added a new possibility to reimpose internal controls in case the rules were not respected and the overall functioning of the Schengen Area was put at risk (article 26 in Regulation (EU) No 1051/2013). Although no reference to crisis is made explicitly, both regulations refer to exceptional circumstances and emergency. It is worth stressing, that paragraph 5 of the preamble of regulation for common rules on the temporary reintroductions states that "Migration and the crossing of external borders by a large number of third-country nationals should not, per se, be considered to be a threat to public policy or internal security." The same holds true for the newest Regulation (EU) 2016/399 replacing the Schengen borders code and its amendments. Here, also terms such as „serious threat“ and „grounds of urgency“ are linked to internal reimpositions.

Even this short overview shows that the Schengen legislation takes the possibility of an emergency more and more into account and gradually develops more detailed rules managing what to do in such a situation. Even though these situations are not called crises, they comply with its meaning of an exceptional, potentially dangerous and unexpected situation for the management of which special measures must be developed in order to prevent possible problems. There is a clear tendency in the Schengen *acquis* to stress security (cf. the new article 26 in Regulation (EU) No 1051/2013) and, at the same time, to develop more requirements and strengthen the EU monitoring and evaluation in order to avoid misusing internal reimpositions.

⁵ The SGP consists of two regulations: Regulation (EU) No 1051/2013 and Regulation (EU) No 610/2013.

However, the current events in Schengen show how big the room for discretion is. Nowadays, five countries have kept their internal border controls for several months, Germany and Austria already since Autumn 2015. It follows from their letters justifying the reimpositions that the main reason was unexpected migratory pressures and their impact on internal security. As mentioned above, migration should not be the only reason to reimpose internal controls. However, the European Commission allowed the reimpositions since it acknowledged the threat to the internal security to be legitimate. This argumentation is in line with the overall approach to Schengen by the EU institutions. The Commission insists that Schengen cannot be held responsible for the current crisis in the EU caused by migratory and terrorist pressures. Contrarily, it could contribute to its solution if all rules are fully respected (European Commission 2015b).

Here, it is crucial to stress what the Commission understands by respecting the rules. The focus is apparently on strengthened external controls, not on abolishing internal reimpositions. These are perceived as a justified reaction to insufficient management of external migratory flows (European Commission 2015a) that must remain a last-resort and proportionate measure which is limited in time but which can help to return back to normal functioning of Schengen (European Commission 2015b). Regarding external controls, a variety of new measures have been proposed by the Commission. Already in December 2015, the Commission expresses the need to establish a European Border and Coast Guard (EBCG) which would strengthen Frontex and to require mandatory checks of all people crossing external borders (not only third country citizens), it suggests the principle „no registration, no rights“ and stresses the importance of sharing information through databases. Even fences at the external borders are evaluated to be in compliance with the Schengen *acquis* if they are proportionate and respect fundamental rights. Only fences within Schengen are seen as problematic (European Commission 2015b). The focus on a proper management of external borders is crucial.

In February 2016, the Commission states the need to return to the normal functioning of Schengen and hereby acknowledges that the current situation is exceptional (European Commission 2016d). The document on the implementation of the 'Agenda on Migration' is a rare example of connecting the proper functioning of Schengen with reimpositions even though these are "contingent on having secure external borders" and hence not a problem *per se* (European Commission 2016d: 2). Contrarily, they are seen as a „temporary measure helping to bring the situation back to normal“ (European Commission 2015b). Moreover, direct cost of reimposed internal borders for cross-border workers, freight transporters, public administration, trade of goods and logistics are enlisted (Ibid). All these ideas are included also in the comprehensive document „Back to Schengen - A Roadmap“ which the Commission

presented in March 2016 (European Commission 2016b). The focus on external borders is mirrored also in subsequent initiatives proposed by the Commission, such as the entry-exit system which should improve the efficiency of external controls by checking all third country nationals entering Schengen for short stays, Passenger Name Record (PNR) and European Travel Information and Authorisation System (ETIAS) further advancing external controls also of visa-exempt travellers (European Commission 2016c, 2016g).

The emphasis on external controls is even more evident in the conclusions of the European Council (EC) and Council of the EU (CEU), two institutions representing EU member states. From September 2015 to May 2017, 12 EC summits and 15 meetings of the JHA configuration of the CEU (both formal and informal) where Schengen was discussed took place which further supports the importance of solving the problems. Already during Autumn 2015, both Councils stressed the importance of following the rules and efficient external border controls for a proper management of migration and functioning of Schengen „in a spirit of solidarity and responsibility“ (European Council 2015). Since October, the EBCG has been promoted (European Council 2016a) and since December, the urgency of regaining (not simply enhancing) control over the external border and a more efficient use of databases has been stressed (European Council 2016b). However, it was only in February 2016 when the CEU confirmed that the „overall functioning of the Schengen area is at serious risk“ (European Parliament 2016g). Throughout 2016, the idea to fully apply the existing rules and to return to normal functioning of Schengen was stressed (European Council 2016c; European Council 2016d).

Also the European Parliament (EP) points out the need of efficient external border controls and sharing of information through databases as a necessary precondition of abolishing internal controls while the solution must be collective and holistic (European Parliament 2016i). However, the EP is the only institution that systematically emphasises that not only security, but also fundamental rights and transparency must be ensured. Moreover, solely the EP states explicitly that the internal reintroductions are „putting at risk the normal Schengen systém“ (European Parliament 2016c, 2016h). The EP has published two reports which demonstrate the high cost of internal borders with specific reference to transportation. Interestingly enough, in these reports, the need to get back to Schengen embraced by both Commission, EC and CEU, is denounced as irrelevant since „Schengen is alive and well“ and has never departed from its proper functioning (European Parliament 2016a, 2016b). Whereas these are the official standpoints of the LIBE committee responsible for the Schengen Area, certain MEPs, especially from ENF and EFDD factions, do not share it. Contrarily, already in July 2015 a group of MEPs from these two factions demanded Schengen be abolished since it enables „illegal immigrants and potential

terrorists to move around freely“ and leaves „states and their citizens at the mercy of criminal organisations and networks of traffickers in arms, people and illegal substance“ (European Parliament 2015b). The wish to return to national border controls was repeated in February 2016, this time, based „on the drop in crime in Switzerland following the suspension of the Schengen Agreement by France“ (European Parliament 2016d), in March 2016 as a reaction to bombings in Brussels (European Parliament 2016f) and in October 2016 because of the failure of the Commission policy to address the Schengen shortcomings (European Parliament 2016e).

To sum up, the main goal of all EU initiatives remains the need to return to normal functioning of Schengen which has been severely tested by the migration crisis by strengthening external borders. Both rigorous following of existing rules and implementation of new initiatives is required while these initiatives are in line with the aim of Schengen, not opposed to it. The *topos* of rules is very obvious. A collective response to the problems is demanded and the EU is foregrounded as the main actor who should manage them. All member states should contribute to a common goal by sharing responsibility, specifically in Greece. The official argumentation of the EP differs in that it denies Schengen does not work properly but, on the other hand, uses a very strong *topos* of fear when it strongly stresses the negative consequences of its demise. The argument of fear is not used by other institutions which rather observe the necessity to strengthen external borders and return to a normal state of affairs. The crisis in the policy discourse, without using this label explicitly, appears to be unexpected, situational (accidental) and cannot be solved without help from the EU and member states. The problems in Schengen are explained by the external migratory and terrorist pressures and, contrarily, if the problems continue, considerable political and economic cost will arise. Although no institution denies how serious the situation is, they do not seem to expect the end of Schengen which is further documented by the facts that a future accession of Bulgaria, Romania and Croatia to Schengen is supported and in 2017, Georgia and Ukraine managed to negotiate visa-free travelling into Schengen (Schengen Visa Info 2017a, 2017b). Hence, the Schengen cooperation seems to continue despite all problems.

5 POLICY COMMUNICATION: RETURNING TO A FULLY FUNCTIONING SCHENGEN

It follows from the previous section that the reaction to the problems within Schengen has been based on enhancing external controls, stressing the necessity to follow the rules and respecting the internal reimpositions as justified. The policy communication by EU leaders is, more or less, in compliance with this perspective. The most active commentator of Schengen is the Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos. He sees the core of the current

difficulties in Schengen in two parallel crises - migratory and security, both of them directly affecting the external borders. According to Avramopoulos, nobody expected these crises to come which caused Schengen to be under a considerable pressure and even its existence to be questioned. Avramopoulos argues that all problems „meet“ at the external border which has to be controlled efficiently, otherwise, the borderless movement within Schengen will not be possible. Since the unprecedented situation at the external borders „called for urgent action“ (European Commission 2017b), Avramopoulos sees the internal reimpositions as justified if they remain exceptional and „do not become the norm“ (European Commission 2017c). Avramopoulos keeps arguing that despite the progress made in enhancing external controls, they are still gappy which is the reason why the Commission repeatedly enabled the reimpositions to be prolonged. Only once the controls are sufficient, the return to normal functioning of Schengen is possible. Even though Avramopoulos' argumentation has remained essentially the same since 2015, during January 2017, he stopped simply stating that reimpositions are legitimate but should eventually be abolished and began to stress they should be replaced, as soon as possible, by proportionate police checks which are supposedly „easier to adapt to evolving risks“ (European Commission 2017a). This is a new argument which no other of the selected representatives has used.

Avramopoulos presents Schengen as „one of the greatest achievements in the history of the European Union“ which cannot be taken for granted (European Commission 2017d, 2017e). In his eyes, Schengen and the EU are closely connected and "if Schengen collapses, it will be the beginning of the end of the European project" (European Parliament 2016g). He assigns Schengen both symbolic („symbol of being and feeling European“, „symbol of trust“) and utilitarian value. "We have put economic figures on the cost of not having Schengen. But the real, human and social cost of not having Schengen is far greater, if not immeasurable" (European Commission 2016e, 2016f). He stresses that „Schengen is not the problem“. Contrarily, it can help solve the current problems but only if the rules are observed properly, external borders controlled and mutual trust and information exchange ensured. The aim is to improve Schengen, not to break it down (European Commission 2015e). Avramopoulos often intensifies the importance of this message by stressing that he „can speak on behalf of everyone“ (European Commission 2015f). Overall, although he stresses security, he adds that „Europe must never become Fortress Europe“ and security and openness must be balanced (European Commission 2016f).

Contentwise, Jean-Claude Juncker agrees with Avramopoulos on the necessity to return to normal functioning of Schengen by enhancing external border controls (which must be a shared responsibility) and following the rules rigorously (European Commission 2015c). Formally, he is more intense. According to Juncker, there is „no time for business as usual“ and „no time to lose when it comes to preserving the

Schengen area“ and we must strive to even „make it better and to make it stronger“ and „defend everything that Schengen represents“ since „Schengen is here to stay“ (European Commission 2015g). He explicitly says that internal controls can only be reimposed „in case of a crisis situation“ which is a term the others keep avoiding. As Avramopoulos, he sees Schengen as a „unique symbol of European integration“ but seems to put much more emphasis on its utility and the price of its possible end (European Commission 2015d, 2016i, 2016j). Frequently, he links the problems in Schengen with euro (Macdonald 2016). He also uses the argument *ad populum* when he justifies the collective management of external borders by claiming that it „is what our citizens expect“ (European Commission 2015h). Moreover, he is much stricter in criticising Austria and Hungary for closing their borders and building fences (European Commission 2016a) and puts much emphasis on the fact that Schengen has faced problems since its beginning so the current situation is not so unique (European Commission 2016h).

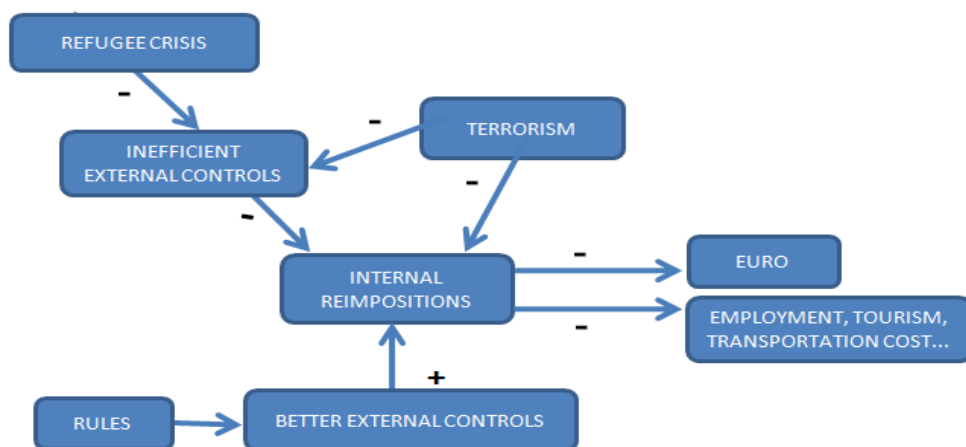
Also Donald Tusk differs from its colleagues rather in emphasis, not in the main argument. He agrees on the need to restore Schengen by enhancing external controls and following the rules and points out the cost (financial rather than symbolic or social) of its demise (European Council and Council of the EU 2016e, 2016f, 2016g) but also stresses that there is a pressing time limit to „get things under kontrol“ and that there is no alternative to Schengen (European Council and Council of the EU 2016c). Moreover, he admits that saving Schengen „will cost money, take time and require a huge political effort“, some countries „may not be able to cope with this challenge“ (European Council and Council of the EU 2016a) and even if Schengen is to work as usual it does not mean it will solve the migration crisis. It is a necessary but not a sufficient condition (European Council and Council of the EU 2016c). Tusk is the most fervent supporter of Greece which should remain a member of Schengen despite all its problems (European Council and Council of the EU 2016b). Also Tusk uses the argument *ad populum*, e.g. when stating he cannot „imagine anyone wanting to keep internal border control, if we have real, effective control of our external borders“ (European Council and Council of the EU 2016d).

By May 2017, the current President of the EP Antonio Tajani did not have much time to express his opinions on Schengen. The arguments of his predecessor Martin Schulz are in line with what has been already mentioned although he puts more emphasis on the external borders being managed not only effectively, but also humanely and jointly and cannot equate to rising fences and walls (European Parliament 2015a). Also, he sees internal reimpositions as justified only temporarily but does not acknowledge they help manage migration flows; contrarily, they do not solve anything (European Parliament 2015c). Additionally, he connects the problems

at external borders with the fact that they were left in the hands of individual member states rather than collectively controlled (European Parliament 2015c).

To conclude, all EU representatives present the goal to return to the normal functioning of Schengen. The problems within Schengen are caused by migratory and security crises which affect particularly the external borders. Hence, their strengthening seems to be the cure for all problems. Reintroductions, despite the frequent critique from scholars and commentators, are perceived as a legitimate reaction to the insufficient management of migration. They should be abolished but only when the external borders are protected efficiently (see Figure 2 for visualisation). All leaders agree that Schengen has not caused any problems. Contrarily, it can help solve the migration and security crisis if all rules are observed properly. It is admitted that Schengen can only be saved by applying Schengen. Indeed, rather than vivid arguments of danger or fear, an argumentation of authority and rules is used. The Schengen *acquis* is not to be abolished but rather amended to prevent further problems. Emphasis is put on a common EU solution, not unilateral actions by states. Schengen is presented as a great achievement that should be cherished. However, perhaps surprisingly, its utility and material benefits are stressed much more than its symbolic value. This *topos* of utility and usefulness is visible particularly in statements by Juncker and Tusk. Frequently, the argument *ad populum* is used to show that saving Schengen is without question and in the interest of everyone. Hence, albeit rarely using the notion of crisis explicitly, all leaders acknowledge that the current situation is exceptional, unpredictable and serious and must be actively solved. Overall, the situation corresponds to an accidental or situational crisis which can be explained by migratory pressures and can lead to substantial costs. Interestingly, no representative identifies potential benefits in the problems such as a possible increase in transnational cooperation or of trust in Schengen as is sometimes implied in scholarly literature.

Figure 2: EU leaders' perception of the Schengen crisis



Source: Author's own

6 CONCLUSIONS

The research dealing with the potential crisis within Schengen, however rich, fails to examine what the crisis actually represents. That is why this article contributes to the current literature by investigating how the crisis is constructed in the legislative, policy and policy-communication discourses within the EU. The analysis indicates that whereas scholars consider the internal reimpositions and the lack of trust to be the core of the crisis (*topos* of trust and solidarity), EU institutions and leaders perceive reintroductions as non-problematic and in line with the Schengen *acquis*. The problem lies in insufficient external controls (*topos* of security). The rights of incoming migrants are mentioned only rarely. Regarding actorness, there is an agreement that the difficulties should be tackled on the EU level, not by individual member states.

Moreover, according to the EU discourse, the Schengen *acquis* is considered efficient and if observed properly, no reform is needed. In compliance with that, all measures adopted since 2016 have supported (and not reshaped) the current Schengen legislation (e.g. the EBCG enhancing external controls). By contrast, proposals to change the course of Schengen have failed (Mini-Schengen). The claim that Schengen can be saved by respecting the existing rules shows how strikingly the Schengen cooperation differs from the EU asylum policies where the focus is on a substantial legislative reform. Although there is an agreement that the crisis within Schengen was surprising, the scholars emphasise the lack of adequate coping mechanisms which led to reimpositions while the EU leaders consider the reimpositions to be an adequate remedy and their use to be justified in such a situation.

Overall, even though the term crisis is only seldom used explicitly in the EU discourse, its meaning is ubiquitous. Employing the Koselleck's classification, it seems

that the current problems in Schengen correspond with the fourth type of crisis, i.e. a transitional period after which Schengen will return to its proper functioning rather than a point in time when an important decision must be taken which will change the future significantly. Although the time pressure is often stressed, EU leaders acknowledge that the return to normal functioning of Schengen can only happen once the situation at the external borders is stable and should not be hastened. Contrary to the Weimar crisis, EU leaders try to calm the situation down, not irritate it.

This article only investigates the EU leaders' understanding of the crisis in Schengen. However, it demonstrates how crucial it is to examine what is actually meant by the 'crisis'. Not only are there differences between the EU and scholarly discourses but also within these two discourses, nuances can be identified. Since the subjective perceptions seem to matter substantially, it would be interesting to further explore how Schengen member states approach the crisis and why some of them are so reluctant to abolish the internal controls again. From the EU discourse, it follows that Schengen is resilient enough to survive.

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