

The process of integrating Romania in the Schengen Area from the perspective of the Romanian Border Police

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Abstract

Securing the national border, enhancing border surveillance and control with the participation of all institutions with frontier area competences, based on real institutional collaboration, is a major objective of Romania's integration process into the Schengen area. Candidate countries in the accession process, including Romania, have assumed a number of responsibilities just like member countries, rules and requirements designed to ensure the safety of the population by combating cross-border crimes at the state border. Thus, the conditions for joining the EU have become part of the Schengen accession process, member countries have shown to the candidates that the issue of free movement is a security issue, and obligations to this end have to be assumed by all those who want a safe Europe. For Romania and the state institutions, such as the Romanian Border Police (PFR), the previous years represented a difficult period of adaptation in order to meet all the requirements and recommendations of the European Commission with a view to joining the Schengen area. In fulfilling these objectives, the PFR has benefited from the support of EU experts and has taken important steps to adopt specific work on the crossing, surveillance and control of the state border to international standards. Managerial research consists in streamlining the border control process by implementing a number of integrated border management strategies, national strategies and Schengen action plans. During my research, I wanted to highlight the role and the peculiarities of border control (internal and external) that is not only in the interest of the Schengen States whose external borders are being carried out, but also in the interests of all Member States that have eliminated or will eliminate control at their internal borders. In this respect, there will be presented specific elements regarding the managerial methods adopted by the PFR on the role of border control, the application of all the essential elements and the requirements of the Integrated Management of the Romanian State Border and the continuation of the actions for the implementation of the Schengen Acquis, on the development of integrated border management.

Keywords: border control, Schengen area, Romania, international law, accession process.

1. Introduction

1.1. The Schengen area. Definition of concept.

The Schengen space is the biggest free circulation zone in Europe and the entire world, wherein millions of the EU citizens and visitors are moving free, and the goods and the services are circulating without obstacles.

Nowadays, the Schengen area consists of 26 European countries, full members of the Schengen Agreement (of which 22 are EU Member States): Austria, Belgium, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, France, Hungary, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Sweden, Slovenia and Slovakia as well as Switzerland, Iceland, Liechtenstein and Norway (Schengen Signatory States. The European Union). Two states of the European Union, Ireland and the UK, do not fully apply the Schengen acquis, but they work with the Schengen Member States in some areas.

The construction of the Schengen area²⁷ started in 1985 when five countries have signed the Schengen Agreement, which provides the gradual elimination of the verification of the common borders. The Agreement was signed at the Convention from 1990 of application of the Schengen Agreement²⁸, which established the definitive elimination of the controls at internal borders, as well as a series of necessary measures. The Convention has consolidated the verifications at the external borders, defined the uniform visa-issue procedures, instituted the

²⁷ <http://www.sly.chengen.mai.gov.ro/index01.htm>

²⁸ <https://www.politiadefrontiera.ro/files/docu/146096188094-conventiaschengen.pdf>

Informational Schengen system (SIS), has intensified the police cooperation at the internal borders and improved the measures to combat the drug trafficking.²⁹

The member states of this space have gradually eliminated the countries' border control between people, according to the Schengen Agreement, so that the crossing of the border, between any of two similar states, to happen without documents and no stops for control.

The countries that are members of the Schengen space do not carry out checks at their internal borders (borders of two states that are members of the Schengen space), and at their external borders they carry out controls based on principles and criteria well-defined by legislative norms (borders between a Schengen state and a non-Schengen state).

2.Content

2.1. Romania's accession to the Schengen area

In order to join the Schengen space, Romania had to go through all the stages of the adhering process, accepted and fully complied with the provisions of the Schengen acquis.³⁰:

- The transmission of the Declaration for Preparation regarding the adherence to the Schengen space;
- The completion and the transmission of the Schengen questionnaire towards the EU Council;
- Schengen evaluation visits (during this missions, EU has evaluated the stage of the police readiness, personal data protection, visas, maritime, aerial and terrestrial frontiers as well as SIS/SIRENE³¹);
- The redaction of the reports regarding the results of the evaluation visits and their approval within the work group Schengen Evaluation from Brussels (the conclusion of the reports was that Romania has completed the Schengen acquis and is ready to adhere to the Schengen space);
- The adoption of the decision regarding the elimination of the controls at the internal frontiers by the EU Council.

So far, Romania has successfully completed all the necessary steps applying most of the provisions of the Schengen acquis. Although all conditions for joining the Schengen area have been met, and although Romania remained as committed as the other EU countries to ensure internal security in the European Union, we have not been able to enter the Schengen area.

Although Romania has made great efforts to meet all the technical conditions in order to join the Schengen area, including enormous financial investments, it is still not a member of the Free Movement Area during the economic crisis.

Several Member States have repeatedly introduced additional conditions and strict technical criteria of adherence and have opposed to the admission at the Schengen area, motivating that there are some gaps in different areas of our country policy such as anti-corruption, combating organized crime, the danger of illegal immigration, etc. As a result, the admission was postponed because the national governments of the EU did not unanimously decide to allow Romania to enter the borderless area.

The vote on accepting Romania's accession to the Schengen area was also linked to the reports of the Cooperation and Verification Mechanism (MCV), which reviews the progress made by Romania in the reform of the judiciary, corruption and organized crime.

²⁹ Convention from June 19, 1990 of Schengen Agreement from June 14 1985 regarding the gradual elimination of the common borders' control available document on the address: https://www.cvce.eu/en/obj/the_convention_implementing_the_schengen_agreement_19_june_1990-en34df2451-3af1-48d1-bd1-bd61-132209a4e8e1.html

³⁰ Knowing the Schengen acquis; implementation modalities of the Schengen acquis in the national legislature (direct application acts), document available on the address: www.schengen.mai.gov.ro

³¹ Supplementary Information Requested at National Entries - SIRENE

Romania's preparations for joining the Schengen area started and took place under the coordination of the Ministry of Internal Affairs (MAI), in parallel with the launch of the Chapter 24 "Justice and Home Affairs" (JHA) negotiation process, drafting strategic documents, institutional development, implementation, and monitoring of all the undertaken commitments.

Taking into consideration the above-mentioned aspect, I consider that Romania does not have to endanger the up to date registered progresses, to continue and to prove, until the next adherence that is able to:

- Assume the responsibility over the external frontiers control in the name of the other Schengen states;
- Respect the rules regarding the form conditions of the uniform short-stays visa-issuance grant and (Schengen visas), to third parties citizens;
- Cooperate efficiently with other Schengen states, in order to maintain a high level of security from the very moment the control at the frontiers are eliminated;
- Apply correctly the set of Schengen rules in different areas, such as terrestrial, maritime and aerial, frontiers control, police cooperation and the personal data protection;
- Connect to the Schengen Information System (SIS), and the Information System regarding visas (VIS) and to apply them.

2.2. Romanian Border Police

The adherence of Romania to the Schengen space will have as effect the elimination of the controls of the internal frontiers between the Schengen member states and this will be made only based on some decisions adopted by the European Council.

At the same time, following the admission of Romania, a single external border will be established, where controls will be carried out according to a set of clear rules on visas, migration, asylum, and measures regarding police, judicial or customs cooperation. The new configuration of the Schengen area will give Romania the responsibility of the whole space without borders, as our country will be at its extremity, having a common border with states like Moldova, Ukraine and Serbia, which are not Schengen or the European community

The PFR is a specialized institution of the Ministry of Internal Affairs that possesses attributions in the supervision and control of the border crossing. It prevents and fights against the illegal migration, analyses specific facts related to the cross-border crimes, observes the legal regime of the state border, checks the passports and the aliens and assumes a very important role in the accession process of Romania to the Schengen area.

The PFR carries on lots of activities together with other authorities and institutions with responsibilities in the field of state border management of Romania in order to facilitate the free movement of persons, goods and services that are legally crossing the border in full respect of fundamental rights and freedom.

Among the most important activities of the PFR we can mention the ones that are related to the supervision and control of the state border crossing. They include the prevention and the fight against the illegal migration and of the cross-border crimes committed in the area of competence, the respect of the state border legal regime, the passports and foreigners, ensuring the interests of the Romanian state on the inner Danube, including the Măcin arm and the canal Sulina located outside the border, in the contiguous area and an exclusive economic zone, observance of order and public peace in the area of competence, according to the law.³²

Currently, until the admission of Romania to the Schengen area, when the character of the borders will change, the following border areas are considered to be subject to the PFR control regime:

³² Article 1 from Emergency Ordinance no. 104 as of June 27, 2001 regarding the organization and the functionality of the Romanian Border Police, available on the address: <https://www.politiadefrontiera.ro/ro/main/i-ordonanta-de-urgenta-nr-104-din-27-iunie-2001-6732.html>

- The territory situated at 30 km depth as opposed to the state border and the shore of the Black Sea, towards the interior;
- The surface of the airport or of the platforms of the port, real-estate and afferent installations – in the counties from the interior of the state, where airports function and opened ports are opened to the international traffic;
- Land strips situated at a 109 km depth from both sides of the interior Dunare shores, opened to the international navigation, including brațul Măcin in its entirety.

PFR manages 2070 km of external EU border, being the second extern border as per length of the EU, out of which 1877 km are terrestrial border.

After the evaluation visits of the teams formed out of experts from the Schengen states, which were positively approved by the Work Group “Schengen Evaluation” of the Council of Europe, and an evaluated important and vast field was connected to PFR (borders). The Schengen evaluation reports, afferent to the developed missions, and which subsequently were approved in the frame of the work group Schengen Evaluation from Brussels, have contained recommendations of legislative, procedural and infrastructure nature, which Romania had to fulfill until the Schengen adherence moment.

Thus, following the approval of the evaluation reports, PFR, under the supervision of the Schengen Directorate of the MIA, successfully implemented all the recommendations and fulfilled all the criteria regarding the implementation of the Schengen acquis, which was allowed to consult and provide SIS data.

PRF evaluation reports have been the subject of rigorous and specialized analyzes highlighting the progress made in the recommendations, as well as the findings in each area of evaluation: police cooperation, personal data protection, visas, by air, land and sea borders.

Schengen experts have reviewed those three types of borders (maritime, aerial and terrestrial), the necessary modifications that needed to be brought to the border key points and the availability of the surveillance equipment for the surveillance and control of the border, which needed a big amount of major modernization investments in order to be up to date with Schengen standards. PFR, in the Schengen evaluation process, has made sustained efforts in order to accomplish all the conditions of the Schengen acquis implementation – and it had a good result, the management of the surveillance and control of the borders of Romania was appreciated as being similar to the one from the Schengen space.

The integrated management of the borders (MIF) is a concept that unifies the following³³:

- border control (checks and surveillance), as defined in the Schengen Borders Code, including pertinent risk analyzes and information on crime;
- detection and investigation of cross-border crime in coordination with all competent law enforcement authorities;
- model of the four filters (measures in third countries, cooperation with neighboring countries, border control, control measures in the area of free movement, including return);
- cooperation between border management agencies (border police, customs, police, national security and other competent authorities) and international cooperation;
- coordination and coherence of the activities of the Member States, the institutions and other bodies of the Community and of the Union

As a matter of fact, in managing the transformation of the national borders into the borders of the Schengen area, the PFR has managed the whole process of adapting to the standards imposed by the *acquis communautaire*. At the normative level, the policy makers worked intensively to develop appropriate legislation, strategies and procedures to ensure a good

³³ Integrated management of the borders, document available on the address: <http://www.schengen.mai.gov.ro/Documente/Vizite%20de%20evaluare/Managementul%20integrat%20al%20frontierelor.pdf>

implementation of the MIF concept. By transposing the regulations, directives and decisions issued by the EU institutions into national legislation, working methodologies have been adopted and updated aiming at raising their realization of standardization equal to those in the EU.

At procedural level, the control and the verification of the people and the goods in the border key points were realized according to simplified procedures, and the problems regarding the border criminality, migration and immigration were tackled on the basis of the risk analysis.

In order to achieve the objectives, the integrated border management process focuses on the internal coordination, exchange of information between competent authorities at the border, international cooperation, and the improvement of the efficiency and quality of the services offered by the modernized infrastructure, the equipment used for supervision and control, by providing the staff with a high level of readiness. In order to join the Schengen area, the PFR fulfills the specific measures and actions set out in the National Strategy for the Integrated State Border Management of Romania for the period 2017-2020 (the "National Strategy"), a document whose main objective is the development of the integrated management concept of the state border (MIF).

The national strategy is in full concordance with Schengen Catalog, updated in 2009 and contains a succession of recommendations and good practices formulated in only two chapters:

- control at the extern borders;
- return and readmission.

3. Conclusions

Until Romania becomes a member of the Schengen area, PFR will continue to implement all the measures and actions foreseen in the National Strategy. It will apply the whole concept of the MIF, in order to ensure the internal security of the European Union, by combating illegal migration or any other forms of cross-border crime, protecting the safety of the European citizens and all their rights.

Management methods adopted by PFR in order to adhere to the community space have proven their efficiency and recommend Romania to participate actively and responsibly in all the forms of threats and risks that imply the posture of borderless space posture. The responsibility of the control possession of a vast perimeter as the one of the Schengen space, gives Romania the statute of main pillar in the European security build

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