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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**ON THE IMPLEMENTATION OF THE SCHENGEN PART OF THE TEMPORARY
CASH-FLOW AND SCHENGEN FACILITY (2007-2009) FOR BULGARIA AND
ROMANIA**

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1. INTRODUCTION

The Cash-flow and Schengen Facility was created by Article 32(1) of the Act of Accession of Bulgaria and Romania to the European Union¹ (hereinafter referred to as the Accession Act) as a temporary instrument to help Bulgaria and Romania to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control and to help improve cash-flow in national budgets.

Article 32(3) of the Accession Act stipulates that at least 50% of the funding provided by the instrument should have been used to support Bulgaria and Romania in their obligation to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control.

The purpose of this report is

- to provide summary information on the implementation of the Schengen part of the temporary Cash-flow and Schengen Facility (hereinafter referred to as Schengen Facility II); and
- to present the results of the ex-post evaluation of the instrument.

¹ Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the treaties on which the European Union is founded. OJ L 157, 21.6.2005, p. 203.

2. DESCRIPTION OF THE IMPLEMENTATION OF SCHENGEN FACILITY II

In accordance with Article 32 of the Accession Act, the Commission paid to Bulgaria and Romania during the period 2007-2009 the annual lump-sum payments under Cash-flow and Schengen Facility in twelfths (for the total amounts, please see the table below).

Table 1: **Schengen Facility II payments and eligible costs - overview**

	Bulgaria	Romania
Total Cash-flow and Schengen Facility annual payments (million EUR - 2004 prices) ²	239.5	559.8
Total Cash-flow and Schengen Facility annual payments (million EUR – current prices)	257.9	602.5
50% of the total Cash-flow and Schengen Facility annual payments (million EUR – current prices) ³	129.0	301.2
Total programmed amounts (million EUR - current prices)	161.0	404.4
Total declared and certified expenditure (million EUR - current prices)	128.2	353.6
Ineligible expenditure (million EUR- current prices)	2.7	3.1
Total eligible costs chargeable to the Schengen Facility II (million EUR- current prices)	125.5	350.5
Amounts recovered by the Commission (million EUR- current prices)	3.5	0.0

The Commission adopted a decision on the management and control of the Schengen Facility II.⁴ The decision stipulated that the following types of actions were eligible for support:

- Investment in the border crossing infrastructure;
- Investments in the border control equipment;
- Training of border guards;
- Support to the operational costs.

The eligibility period started on 1 January 2007 and ended on 31 December 2010.

The beneficiary Member States were responsible for selecting and implementing individual operations under the instrument.

The Bulgarian and Romanian authorities drafted multi-annual and annual indicative programmes which described needs related to the implementation of Schengen acquis and

² Article 32(2) of the Accession Act defined the annual payments in 2004 prices.

³ In accordance with Article 32(3) of the Accession Act, at least 50% of the allocation under the Cash-flow and Schengen Facility had to be used for actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control.

⁴ Commission Decision C(2007)1417 of 4 April 2007 on the management and control of the Schengen part of the Cash-flow and Schengen Facility.

border controls, a strategy to address the needs, objectives to be achieved with the Schengen Facility II support and specific measures to be supported under the instrument.

Under the Schengen Facility II indicative programmes, Bulgaria defined eight objectives. The breakdown of the programmed Schengen Facility II allocations per objective (and the actual declared expenditure) is presented in table 2:

Table 2: Programmed financial allocations and the declared expenditure per objective – Bulgaria

	Programmed (EUR)	Total declared and certified expenditure (EUR)
Objective 1: Acquisition of new technical equipment for surveillance and control of the external borders	97 324 000.00	80 393 650.78
Objective 2: Special technical equipment for joint police operations in the border area	7 454 000.00	4 509 320.63
Objective 3: Modernisation and development of the national communication systems	21 279 000.00	20 688 213.42
Objective 4: Information systems and computer networks related to the implementation of the Schengen acquis	12 650 000.00	8 458 239.17
Objective 5: Renovation and modernisation of the existing border infrastructure	4 400 000.00	4 077 125.06
Objective 6: Other activities directly related to the border control of the external EU borders	2 808 000.00	654 711.43
Objective 7: Increase of the qualification of the staff, including language training	1 510 000.00	521 649.45
Objective 7: Development of the National Visa System and connection to the EU Visa Information System (VIS) and the consultation network VISION	13 575 000.00	8 891 301.83
Total	161 000 000.00	128 194 211.77

More than 60% of the Schengen Facility II funding for Bulgaria was programmed and spent on objective 1. Most resources under objective 1 were programmed and spent on the purchase of three helicopters, nine vessels and on the setting-up of an integrated system for the control and surveillance of the Black Sea border consisting of fixed and mobile observation posts equipped with radars, cameras and communication equipment.

The Schengen Facility II indicative programmes for Romania defined three objectives. The breakdown of the programmed Schengen Facility II allocations per objective (and the actual declared expenditure) is presented in table 3:

Table 3: Programmed financial allocations and the declared expenditure per objective – Romania

	Programmed (EUR)	Total declared and certified expenditure (EUR)
Objective 1: Strengthening the external border control and the external border area surveillance and protection against cross border crime	199 700 000.00	174 970 037.61
Objective 2: Enhancement of control ability by increasing the capacity for data provision and data access	192 121 240.00	177 792 172.57
Objective 3: Support to costs for logistics and operations	14 565 504.00	478 673.92
Total	404 383 744.00	353 593 864.85

Under objective 1, Romania purchased 33 vessels, 1 278 vehicles and equipment for border surveillance and border checks. Objective 1 also covered a rehabilitation of 31 border police stations and border crossing points.

Under objective 2, Romania supported various information and communication systems, including the national part of the second generation of the Schengen Information System, the national part of the Visa Information System and the digital radio communication system TETRA.

It should be noted that Romania programmed under the Schengen Facility II more than the minimum 50% of the Cash-flow and Schengen Facility allocation (EUR 301 234 674) and even the total declared and certified expenditure (EUR 353 593 864.85) exceeded this threshold.

3. EX-POST EVALUATION OF SCHENGEN FACILITY II

3.1. ORGANISATION OF THE EVALUATION AND THE METHODOLOGY

The ex-post evaluation of Schengen Facility II was carried out in 2014 by an independent external evaluator who was requested to assess the relevance, effectiveness, efficiency, complementarity and coherence, sustainability and impact of Schengen Facility II.

The evaluation methodology consisted of the following data collection tools:

- Desk research;
- Semi-structured interviews;
- Direct observations during on-site visits;
- Surveys of beneficiaries.

The data collected through the above mentioned tools was analysed through 12 case studies (five for Bulgaria and seven for Romania) which covered 79% of the Schengen Facility II expenditure in Bulgaria and 76% of the expenditure in Romania.

The findings of the case studies served as a basis for responses to nine evaluation questions defined by the Commission.

The report of the ex-post evaluation of Schengen Facility II was accepted by the Commission in September 2014. The Commission considers the evaluation's findings and conclusions presented below credible, as the evaluation demonstrated that they were based on evidence derived from reliable data and sound analysis.

3.2. RELEVANCE

Under the evaluation of Schengen Facility II against the criterion of relevance, it was assessed to what extent the objectives of the instrument were pertinent to the needs. In addition, the relevance of the actual Schengen Facility II effects (outputs, results and impacts) to the needs (utility) was assessed.

The evaluation concluded that the **objectives and actual effects of Schengen Facility II were relevant to the needs.**

The investments relating to the surveillance of the maritime border of Bulgaria addressed clear needs, as the Black Sea coast had been insufficiently covered by border patrol vessels which became gradually depreciated and outdated since the 1990s and did not have the capacity to secure the sea borders under severe weather conditions.

In a similar vein, investments relating to air surveillance addressed a situation when the Bulgarian Ministry of the Interior did not have any air surveillance capacity.

The investment in the naval and terrestrial mobility of the Romanian Border Police addressed a situation when the fleet of existing vessels and vehicles was not adequate for the border surveillance purposes.

The construction and renovation of border crossing points' facilities in Romania addressed a clear need as land border crossing points had been neglected and deemed either too old or not-fit-for-purpose to respond to the requirements of the Schengen borders code.

3.3. EFFECTIVENESS

Under the evaluation of Schengen Facility II against the criterion of effectiveness, it was assessed to what extent the objectives of the instrument were achieved.

In particular, it was assessed to what extent Schengen Facility II contributed to the preparedness of Bulgaria and Romania for the accession to the Schengen area by upgrading surveillance of and border checks at the future external border, increasing the capacity for Schengen related data provision and access, as well as upgrading visa management systems.

The evaluation concluded that, overall, the **Schengen Facility II was effective in achieving its objectives.**

The sufficient level of preparedness of Bulgaria and Romania for the accession to the Schengen area was confirmed by Council conclusions of June 2011⁵.

The Schengen Facility II contributed to this preparedness by the upgrading of the border surveillance, border checks, IT and communication systems and visa management.

The setting-up of an integrated system for the control and surveillance at the Black Sea border in Bulgaria was highly effective as it transformed the way in which control over the maritime border is exerted and ensured continuous surveillance of the maritime borders. Thanks to the investment, the border surveillance and cross-border crime fighting capacity of the police has increased.

The purchase of the helicopters increased the border surveillance capacity of the Bulgarian police. The use of helicopters for the border surveillance is particularly effective in remote mountain regions, such as those near the Turkish border where sections of the green border are not accessible by patrol vehicles. Nevertheless, there have been issues with the effectiveness of the air surveillance equipment. The legal limitations on flying at night and lack of anti-icing equipment allowing for flights in all weather conditions, in combination with insufficient staff over the first two years after the purchase severely limited the effectiveness of the investment. The effectiveness of the investments in aerial surveillance was also limited by the lack of fuel and delays in deliveries of spare parts.

The investment in the naval, fluvial and terrestrial mobility of the Romanian Border Police enhanced the capacity of the police to carry out surveillance activities on the maritime and land borders. The equipment purchased expanded the capacity to intervene in regions where previously surveillance coverage was difficult and not frequently carried out. Since 2010, maritime surveillance has been extended beyond the 24 nautical miles of contiguous zone into Romania's exclusive economic zone, thanks to the increased operational autonomy of the new ships.

In the case of Romania, border checks have been enhanced through the investment in the modernisation of the border crossing points. The refurbishment of the existing infrastructure and the improved working conditions at the border crossing points increased the number of officers that can be accommodated which in turn allows for a greater number of border checks during a given period of time.

⁵ Council conclusions on completion of the process of evaluation of the state of preparedness of Bulgaria to implement all provisions of the Schengen acquis (9167/4/11); Council conclusions on completion of the process of evaluation of the state of preparedness of Romania to implement all provisions of the Schengen acquis (9166/4/11).

3.4. EFFICIENCY

Under the evaluation of Schengen Facility II against the criterion of efficiency, it was assessed to what extent the desired effects of the instrument were achieved at reasonable cost.

The evaluation concluded that **the efficiency of the Schengen Facility II can be assessed as adequate, although the procurement processes were not always optimal.**

The evaluation of the efficiency was based on a comparison of costs under the Schengen Facility II to costs under comparable instruments and on the analysis of procurement procedures which were considered an appropriate proxy for the efficiency, assuming that a competitive procurement ensures that market prices are paid for the procured goods or services.

The prices paid for the helicopters under the Schengen Facility II investment in the air surveillance in Bulgaria were similar per unit in value to the prices paid under Schengen Facility I⁶.

In Bulgaria, the procurement process for the maritime border surveillance had limited competition in terms of the number of companies participating in the tender, as five of six bidders were disqualified on technical grounds. The tenders for vessels were dealt with in a similar manner. In one case (200 GT ship and 60 GT ships), the tender was cancelled, as the only two bidders were both disqualified on technical grounds, and a negotiated procedure with one of the bidders was used. In the second case (20 GT and 15 GT vessels), two of the three submitted bids were disqualified on technical grounds.

The same goes for the air surveillance where the tendering procedures were cancelled twice before the third one resulted in a contract being awarded. All three tenders were restricted to EU bidders and all but one bidder (the same for all three tenders) were dismissed on technical grounds before they could make a financial offer. In conclusion, the tendering procedure seems to have restricted competition, which puts the efficiency of the measure in doubt.

In Romania, there were also issues regarding the efficiency of the procurement process, although they appear to have been resolved more swiftly causing fewer delays than in Bulgaria. There was also an issue relating to the indicative values of the contracts often being much higher than the bids received.

Procurement relating to the terrestrial and naval mobility had two components for which competition varied. For the maritime tenders, there were fewer bidders per tender, and many of them were disqualified in the pre-selection stage. For the terrestrial mobility component, only one bidder was disqualified (out of a total of 15 bidders for the five contracts awarded) for exceeding the maximum budget. The electronic bidding procedure increased the efficiency of the procurement. The selection criterion for all tenders was the lowest price and the amounts offered by the winning bids were significantly lower than the allocated budget (by up to 50% for the terrestrial mobility component).

⁶Under Schengen Facility I, support for the implementation of the Schengen acquis and for the upgrade of the border controls at the EU's new external borders was provided to seven out of the ten countries which joined the EU in 2004.

Under the procurement for the modernisations and re-configuration of the border crossing points, only 11 out of 31 tender procedures were considered competitive enough to ensure best value for money.

3.5. COMPLEMENTARITY AND COHERENCE

Under the evaluation of Schengen Facility II against the criteria of complementarity and coherence, it was assessed to what extent other interventions contributed to the Schengen Facility II objectives and to what extent the Schengen Facility II did not contradict other interventions with similar objectives.

The evaluation concluded that the **Schengen Facility II was coherent with and complementary to border control measures financed from other sources** in both Bulgaria and Romania.

In both Bulgaria and Romania, resources from different funds were allocated to achieve objectives similar to those of the Schengen Facility II. There was a good level of complementarity and synergies between national strategies for the accession to the Schengen area and the Schengen Facility II.

In the context of the surveillance of the maritime border in Bulgaria, the Schengen Facility II funding was complementary to other investments in the maritime border surveillance capacity. Three patrol ships were renovated and six ships were purchased with the support of the pre-accession assistance instrument Phare.

Similarly in the field of air surveillance, Phare financed the purchase of one Agusta AW109E helicopter in 2008.

3.6. SUSTAINABILITY

Under the evaluation of Schengen Facility II against the criterion of sustainability, it was assessed to what extent the positive effects of the instrument lasted after the intervention had ended.

The evaluation concluded that **most Schengen Facility II measures would not have had a continued impact after their termination if they had not been supported by further expenditure on maintenance and training**. There have been occasions in which a lack of adequate budgeting resulted in a situation where equipment purchased through the Schengen Facility II was not operational for some time due to high maintenance or repair costs, particularly in Bulgaria.

Regarding the investment in the surveillance of the maritime border in Bulgaria, evidence suggests that the integrated system for control and surveillance of the Black Sea border has experienced a maintenance problem despite being very highly sustainable in general. Since the launch of the system, it became evident that there were already difficulties regarding expenses considered consumables and not always covered by the warranty. The problem which was mentioned most often by interviewees is wear and tear of the radar's magnetrons at the 12 stationary surveillance posts.

As far as the air surveillance is concerned, annual maintenance and operation costs included insurance, hangar rent and fuel. The data on flights show that the use of the different classes of helicopters was limited after the year 2010. Overall only one of the light-class helicopters (the A109-SN11790) was used actively, while the others had limited use, or hardly any use during some years. The use of light-class helicopters is generally prioritised as they are more fuel-efficient, while having equal surveillance capabilities as the heavier AW139 helicopter. The difference in the number of flights is also explained by the down-time because of one significant accident as a result of which one of the A109 helicopters has not been in operation since 2012. The increased use of the heavier AW139 helicopter after July 2012 instead of the smaller class A109 (under reparation) increased the fuel costs per flight hour, and in 2013, despite the significantly lower number of flight hours, the overall cost of the fuel increased.

Other initial problems were related to the lack of adequate storage facilities for the helicopters. The Bezmer Airbase for helicopters did not provide optimal conditions, as the hangar and storage facilities did not have the recommended temperature and humidity controlled environment. The helicopter will be relocated to a new airbase in Sofia, funded by the External Borders Fund (EBF). However, in the long-term, the availability of a proper hangar and operational facilities near the Black Sea and south-east border remains an issue to be addressed.

The EBF programmes also targeted basic training of pilots and flight engineers. Existing staffing difficulties were due to the failure of some staff to pass the exams during previous trainings provided by the manufacturer, and due to the lack of available pilots within the Ministry of Interior's system.

The sustainability of the equipment acquired under the Schengen Facility II has been more pronounced in Romania where national funds have been used to pay for maintenance of vehicles and vessels.

3.7. IMPACT

Under the impact evaluation, intended and unintended long-term effects produced directly or indirectly by the Schengen Facility II were assessed.

The evaluation concluded that, overall, the **Schengen Facility II had the desired impacts, especially with regards to the preparedness of Bulgaria and Romania for the accession to the Schengen area.** However, **although the Schengen Facility II investments impacted positively on irregular migration across the future external borders of Bulgaria and Romania and on the security in these two countries, the full impact of the investments at the future external borders to the security of citizens within the Schengen area will only materialise when Bulgaria and Romania accede to the Schengen area.** The evaluation did not identify any negative impacts, although there were a number of unintended positive impacts linked to the increased capacity supported under the Schengen Facility II.

Schengen Facility II had a positive impact on the preparedness of Bulgaria and Romania for the accession to the Schengen area, as evidenced by the upgraded surveillance of the future external border, border checks, IT and communication systems and visa management and the relevant Council conclusions of June 2011.

As far as the wider impacts of the Schengen Facility II are concerned, the measures funded under the instrument had positive effects on the irregular migration across the future external borders of Bulgaria and Romania and on the security in these two countries, as demonstrated by an increase of the detected irregular border crossings and cross-border crimes, although the increase in the detected irregular border crossings could be also attributed to external factors (increased migratory pressure). The Schengen Facility II investment (in particular the investments in the border surveillance system) had a deterrence effect, both on the irregular migration and the cross-border crime. However, the impact of the Schengen Facility II investments on the security within the Schengen area is limited until Bulgaria and Romania join it, as border controls are still performed at the borders between Bulgaria and Romania on the one hand and the Schengen area on the other hand. In consequence, any variation in the quality of the border controls at the borders between Bulgaria and Romania on the one hand and non-EU members on the other hand can have only marginal impact on the security within the Schengen zone.

As far as the unintended positive impacts are concerned, the evaluation found out that the investments in the surveillance of the maritime border also contributed to the detection of smuggling or environmental crime (waste dumping at the sea).

4. CONCLUSIONS

The Schengen Facility II, an instrument whose objectives were “*to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control*”, was implemented in a successful manner. The Schengen Facility II provided a total of EUR 476 million to Bulgaria and Romania.

Overall, the instrument played a crucial role in ensuring that both Romania and Bulgaria could be considered technically prepared to join the Schengen area in 2011. The investment funded by the Schengen Facility II upgraded the surveillance of the future external border, border checks, IT and communication systems and visa management. The intervention was relevant to the identified needs, coherent with other sources of funding and effective in achieving its objectives. The efficiency with which these were achieved could have been improved, as well as the sustainability of some of the investments which required future funding to continue having an impact.

While the investment in Schengen Facility II contributed to the prevention of irregular migration across the future external borders of Bulgaria and Romania and to the security in these two countries, the impact of the Schengen Facility II investments on the security within the Schengen area remains limited until Bulgaria and Romania join it.

Although the non-accession of Bulgaria and Romania to the Schengen area has so far had limited impacts on the effectiveness of the Schengen Facility II investments, the continued postponement of accession of these countries to the Schengen area will most likely lead to a situation where parts of the investment will require significant upgrades.