



# The 40th Anniversary of the Schengen Agreement: From a Milestone in European Integration to an Uncertain Future

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**Abstract:** *On the occasion of the 40th anniversary of the Schengen Agreement, this essay explores the historical significance and contemporary challenges of a Europe with open internal borders. Although the Schengen area is widely considered a symbol of European integration, the reintroduction of border controls in several member states suggests that this fundamental principle is under threat. The text examines the socio-political and legal aspects of the current rebordering and questions its compatibility with the idea and law of “Schengen”. The authors advocate stronger legal control and greater political resilience within the Schengen area, especially considering cross-border regional interdependencies.*

**Keywords:** *Schengen Agreement, Schengen Borders Code, Europe, EU, border controls, bordering processes*

## Introduction: Our Europe of Open Internal Borders Under Pressure<sup>1</sup>

*It is with great pleasure and deep satisfaction that I welcome you to Schengen today as we sign the agreement to gradually abolish border controls between the Benelux Economic Union, the Federal Republic of Germany, and the French Republic. [...] [T]oday's ceremony fills me with a sense of deep satisfaction: Firstly, because we have taken a step forward together along the path mapped out by the Treaties of Rome and the Benelux Economic Union with regard to the movement of persons, goods, capital, and services. Secondly,*

*because [...] in less than four months we have been able to conduct useful negotiations and reach an agreement [...]. Finally, I am satisfied because we have succeeded in drawing up a package of measures that will directly benefit nationals of EC member states, thus bringing us closer to what is known as a 'Citizens' Europe'.*

Luxembourg State Secretary  
Robert Goebbels, 14 June 1985.<sup>2</sup>

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On 14 June 2025, the time had come. In the small village of Schengen, located on the banks of the Moselle between Luxembourg, Germany, and France, European politicians and guests gathered to celebrate 40 years of the "Schengen Agreement". Luxembourg's Minister of the Interior, Léon Gloden, proclaimed that it would be a "big party" (Gloden 2025, n.p.) and for good reason: the five countries that signed the agreement in 1985 have now increased to 29. Due to "the ever-expanding European Union, the inter-State borders became irrelevant as inhabitants of the EU freely crossed these former lines of separation" (Newman 2006, 172). Open borders without controls have had a particularly positive effect on border regions in Europe. Around one third of the EU population lives in these regions, which generate around one third of the EU's GDP, and cross-border cooperation and institutionalization within the Schengen area have increased significantly in recent decades (European Commission 2019, 25).

However, the Europe of open internal borders has come under pressure. As of July 2025, 12 of the 29 countries in the Schengen area control their national borders again (European Commission 2025). This is in line with the 457 temporary European internal border controls recorded between 2006 and 2024 (Wille 2025, 4). Against this backdrop, not everyone feels like celebrating. Some are concerned about irregular migration, terrorism, and crime threatening Europe (for arguments, see Casella Colombeau 2020; Guild 2021; Karamanidou & Kasparek 2020); others fear for the milestone in European integration, which is currently supposed to enable mobility without internal border controls for 450 million people (Ceccorulli 2025, 621). Nevertheless, some of the criticisms heard today are not new. The opening quote from Luxembourg's former State Secretary, Robert Goebbels, implies that there was a broad consensus in favour of an area of open borders. However, the fact that only state secretaries but no ministers and little press were present on 14 June 1985 suggests that the vision was by no means shared by everyone (Stanley-Becker 2025, 61).

In light of recent developments and coupled with perspectives from border studies, we believe it is advisable to reflect on 40 years of Schengen. As researchers who benefit from open borders in the closely interwoven border region of the so-called Greater Region in the EU, we formulate a petition in favour of Schengen. To this end, we look back at the Schengen vision and associated (political) concerns, followed by a legal analysis of Germany's recently introduced reinforced border controls—a country that was once a pioneer of the Europe of open borders in the 1980s.

## On Visions and Reservations

Have open internal European borders become outdated in recent decades? For many, they have become the

norm, yet they should not be taken for granted. It is quite astonishing how quickly nation-states in Europe came closer together after the divisions of the Second World War, promoted the European integration process, and considered open internal borders (Dittel & Weber 2025; Salomon & Rijpma 2023; Stanley-Becker 2025; Weber et al. 2025). However, reservations about the latter were a constant companion. There was fear of losing control over one's own borders with national security and migration key inhibiting factors (Oltmer 2021, 18). Nevertheless, the Federal Republic of Germany and France forged ahead, winning over the Benelux countries toward the goal of gradually dismantling controls at their shared borders after broader European regulation appeared unfeasible (Pudlat 2011; Staud 2025). Gradually, more and more states joined the Schengen area. In retrospect, the Schengen Agreement became the "symbol of a united Europa" (Stanley-Becker 2025, 1). The European project has received new impetus, contributing to a Europe of a strengthened internal market (Stanley-Becker 2025, 5) and a Europe of citizens (Siebold 2013, 12–13) as Goebbels put it in the opening quote.

The Treaty of Amsterdam (signed in 1997, entered into force in 1999) incorporated the Schengen Agreement and the implementing Convention into the 'acquis communautaire of the European Union', further strengthening the EU dimension. While the 1985 agreement received limited public attention, there was great celebration in 2007 when the Schengen area expanded eastwards, a triumph of freedom for countries that had been trapped behind the Iron Curtain for decades (Opitowska & Bembnista 2025; Siebold 2013, 86).

However, from the outset, internal freedoms went hand in hand with the objective of external security and internal security policy equalization measures (Ceccorulli 2025, 622; Guild 2021, 392; Votoupalová 2019, 107–108). In 2006, previous regulations on internal and external border controls were replaced by the Schengen Borders Code, which placed greater emphasis on tackling 'irregular migration' (Oltmer 2021, 22). Nevertheless, a crisis in the Schengen area could not be averted despite a wide range of regulations and the massive expansion of Frontex. Migration movements (especially around 2015), terrorist attacks, and the COVID-19 pandemic played a decisive role in this (Bakardjieva Engelbrekt et al. 2024; Casella Colombeau 2020; Thym & Bornemann 2020; van der Woude 2020; Weber et al. 2025). We have thus reached a point "in which the member states establish rigid joint external borders and powerful common control capacities, but maintain or rebuild their internal barriers" (Schimmelfennig 2021, 316). Ceccorulli (2025, 621) speaks of an "undeniable reality: the EU is a bordered space" and not only externally, but increasingly internally, too.

On the one hand, the EU population continues to have a generally positive attitude towards open internal

borders. For instance, the 2024 Eurobarometer survey paints a very positive picture (also in comparison to the 2018 survey): “More than eight in ten EU citizens (82 percent) agree that the Schengen Area promotes interactions between people from different cultures, while 13 percent disagree. There is a strong consensus that the Schengen Area is good for business in EU countries (80 percent agree, +5 pp since 2018), while 13 percent disagree (+2 pp). When asked whether they think the Schengen Area has more advantages than disadvantages for their country, three-quarters (+9 pp) of EU citizens agree, while 17 percent disagree (no change)” (European Commission 2024, 8).

On the other hand, there are the political decisions made by different governments in the Schengen area in recent years. The so-called refugee crisis initially had a decisive impact, with between 15 and 22 notifications for the reintroduction of temporary controls at EU internal borders between 2015 and 2019. Populist parties such as the Alternative für Deutschland (AfD) in Germany, the Rassemblement National (RN) in France, the Freiheitliche Partei Österreichs (FPÖ) in Austria, Prawo i Sprawiedliwość (PiS) in Poland, and the Fidesz party in Hungary (in the latter two cases as ruling parties) fuelled narratives about a loss of control and communicated the need to protect their own borders again. From 2020 onwards, the COVID-19 pandemic acted as an accelerant, with 124 (2020) and 73 (2021) notifications (Wille 2025, 5; see also Mertens & Unfried 2025).

Crisis-related developments also acted as a ‘trigger’ for Euroscepticism (Bürkner 2020, 548) and are forcing calls for new or increased border controls—new ‘border anxieties’ are emerging (Beurskens 2023) in an EU that has become defensive (Schimmelfennig 2021, 316). Former pioneers Germany, France, and the Netherlands reintroduced border controls (Wille 2025, 6). From 2024 to 2025, the narrative of a loss of control over so-called irregular migration, fear of terrorism, and a lack of internal security once again took hold. In the Netherlands and Italy, populist and migration-critical governments were in power and pursuing their political agendas. In France, Germany, and Austria, pressure from the right-wing populist fringe and concerns about corresponding electoral successes were manifesting themselves, leading governments to introduce or maintain temporary border controls (Wille 2025, 6–8). Luxembourg has been the counter-example. With over 200,000 cross-border commuters, the Grand Duchy is crucially dependent on open borders, which are part of the country’s DNA. It has never reintroduced border controls, not even during the COVID-19 pandemic (Nienaber et al. 2023). Since September 2024, the country has been very critical of Germany’s stationary border controls (Gloden 2025), for understandable reasons, as we explain below from a legal perspective.

## Legal Protections of a Europe without Borders?

From a legal standpoint, the provisions of the 1985 Schengen Agreement and the 1990 Convention implementing the Schengen Agreement are largely irrelevant today. Instead, the Schengen Borders Code (SBC) of 2016, recently revised in 2024, sets out the legal rules governing internal and external border controls. Article 22 contains the fundamental provision that “[i]nternal borders may be crossed at any point without a border check”, a right granted to everyone regardless of citizenship or residence. Only in exceptional circumstances may other provisions of the SBC allow the temporary reintroduction of internal border controls. These controls primarily involve identity checks, based on which persons may be arrested, or their entry or exit may be refused.

The SBC sets out detailed boundaries on when and to what extent member states may reintroduce internal border controls. Substantively, such rebordering depends on cases involving a serious threat to public policy or internal security (Brodowski 2025). The SBC lists terrorist incidents, large-scale public health emergencies, and high-profile international events as examples of such threats. However, it is unclear whether these threats are specific to borders. For example, reducing travel during a pandemic or ribboning off a crime scene makes sense. Notably, it is not the borders between nation-states that are relevant here—contrary to what the SBC would have us believe—but rather the boundaries around the infection hotspots or crime scenes. Another threat highlighted in the SBC is more closely linked to the borders between member states. Large-scale unauthorized movement of third-country nationals affects the state in which such nationals may initiate administrative and judicial proceedings for their protection and receive social security benefits.

In addition to the requirement of a serious threat to public policy or internal security, the SBC set out clear proportionality requirements. Member states must, for instance, assess the use of alternative measures, and “the likely impact of such a measure on (i) the movement of persons within the area without internal border control; and (ii) the functioning of the cross-border regions, taking into account the strong social and economic ties between them” (Article 26(1)(b) SBC). This refers to the development of intra-European border regions in recent decades (Beck 2022; Medeiros 2018; Ulrich 2021). Internal border controls may be temporarily reintroduced for up to six months and may be extended for up to three years, with each extension subject to stricter assessments of proportionality.

Based on this legal framework, let us now look at the border controls initiated by Germany at its borders. In our view, these controls violate European law for three reasons, each of which is sufficient to invalidate the border controls reintroduced by the past and present German governments. Firstly, Germany, like several other EU member states (Wille 2025), identifies large-scale unauthorized movements of third-country nationals as a serious threat. However, current migration movements have decreased significantly—there are 49 percent fewer asylum seekers when comparing the first quarter of 2023 and 2025<sup>3</sup>—and they are no longer sudden, as required by the SBC. Furthermore, the SBC states that border controls may only be implemented for this reason if the current migration movements put “a substantial strain on the overall resources and capacities of well-prepared, competent authorities” (Article 25 (1)(c) SBC), which contrasts with doubts that German authorities are indeed well prepared.

Secondly, even if this reason is accepted, border controls need to be proportionate. However, as the Berlin administrative court made clear in 2025, the aim of pushbacks cannot be achieved lawfully.<sup>4</sup> Moreover, the selectivity of border controls renders them ineffective. In its notification of the border controls to the European Commission on 12 February 2025,<sup>5</sup> the German government did not properly assess alternatives. It did not even mention border regions in a single word, even though they have a significant impact on the functioning of cross-border regions. This alone clearly indicates that the proportionality assessment is insufficient, and the German border controls are unlawful.

Thirdly, one may draw a big question mark regarding the duration. From a narrow perspective, the current controls were only introduced in September 2024, so the three-year maximum foreseen in the SBC has not yet been reached. However, the underlying situation Germany bases these border controls on has existed since 2015. In our view, it is this situation and its timing that should be decisive, rather than the precise location of the border controls. Based on this argument, the three years have long since passed. Yet even if we accept the extension of the German notification due to the Russian war of aggression against Ukraine, which was first mentioned in the November 2023 notifications, we are already close to overtime.

Although there are three arguments that Germany acts unlawfully by reintroducing internal border controls, the Commission—the guardian of the treaties—has been conspicuously absent in its oversight of the SBC since 2015. One explanation for this reluctance may lie in the origins of Schengen itself. As described above, the SBC is rooted in the Schengen Agreement, an international treaty originally created outside the supranational legal framework of the EU. Member States continue to assert their sovereignty in the field of border controls, such as by invoking Article 72 TFEU (“This Title shall not affect

the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security”), which is contrary to the jurisprudence of the European Court of Justice (ECJ).

The Commission, wary of political backlash in a sensitive area, seems hesitant to interfere. Moreover, some of the ambiguities in the SBC may have been intentionally introduced to facilitate consensus in the negotiations (‘constructive ambiguity’). However, these now complicate interpretation and enforcement by the Commission and the courts. At the same time, the SBC has clearly evolved from its international origins into EU secondary law and therefore falls squarely within the interpretative authority of the ECJ, particularly where ambiguities exist. It is likewise the Commission’s responsibility to uphold the rule of law against member states structurally violating EU law, including in politically sensitive areas. The Commission’s persistent inaction is all the more problematic because domestic legal systems such as Germany’s make it difficult for individuals to have the legality of border controls reviewed by the courts—and ignoring police officers at the border is neither wise nor lawful.

## Outlook

Spring 2020 marked a turning point in the evolution of Schengen following the so-called refugee crisis of 2015. We witnessed an increased relevance of national borders during the COVID-19 pandemic, when rebordering became a politically accepted practice (Brunet-Jailly & Carpenter 2020). From the perspective of national governments residing far away from the border, it became possible to regulate and close borders.

Border controls once again became a stronger reality. This indicates a lack of Schengen resilience (inspired by Andersen & Prokkola 2022). We have already seen the first instances of this in the repeated extensions of border controls since 2015, fuelled by a lack of European solidarity in relation to migration. The reintroduction of border controls became the *modus operandi* for many: “states no longer trust each other in coping with a plethora of different challenges that, to our misfortune, keep piling up” (Ceccorulli 2025, 625). There are increasing doubts that the 2024 reform of the SBC is actually going far enough, or whether it has normalized this political method of rebordering. At least it did not stop Germany from extending and prolonging its border controls.

So, what state is the Schengen area in right now? In 1985, “Schengen” was introduced with the clear goal of making Europe more accessible to its citizens. One tangible achievement of European integration is that its citizens and visitors are no longer subjected to identity checks at its internal borders. As we have touched on,

today's criticism of Schengen is not new. Even 40 years ago, there were questions about national sovereignty, migrants, and asylum seekers, as well as the lack of transparency in the negotiations (Stanley-Becker 2025, 91–92).

Nowadays, Europeans tend to take European achievements for granted. Free roaming is available when using mobile phones. Europeans use the same currency across much of the EU. And integration can also be felt in other areas. However, does that mean that the Schengen Agreement has decreased in importance? In our opinion, it has not. This is especially true in border regions where Europe connects. Having open borders is crucial for border regions to thrive and become living labs of European integration (Chilla et al. 2026; Dittel & Weber 2024; Kajta & Opiłowska 2022; Wille et al. 2016). Open borders foster a sense of belonging and continue to make European integration tangible for citizens (Meyer 2025). In light of the developments in the 2010s and 2020s, the Schengen area is a complex and unstable structure, challenged in recent years by right-wing populist pressure in various EU countries. In which direction does this "seismograph" for European integration point? The EU "can certainly do with an internally bordered space, but it will be a different Union" (Ceccorulli 2025, 626). The Schengen area is heading towards an uncertain future, with the EU at risk of temporarily losing its foundations if insecurity, national security interests, and surveillance dominate. We believe that future research should highlight the distinctive features of the Schengen area in international comparisons, emphasizing its advantages for connecting Europe.

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## Endnotes

- 1 This article draws on ideas from our edited anthology "40 Jahre Schengener Übereinkommen. Europa und seine inneren Grenzen", published 2025 by Nomos.
- 2 Speech by Robert Goebbels on the Schengen Agreement (June 14, 1985), available: [https://www.cvce.eu/obj/discours\\_de\\_robert\\_goebbels\\_sur\\_l\\_accord\\_de\\_schengen\\_14\\_juin\\_1985-fr-1a3cf916-c898-4b1e-9356-f2ac3a19816c.html](https://www.cvce.eu/obj/discours_de_robert_goebbels_sur_l_accord_de_schengen_14_juin_1985-fr-1a3cf916-c898-4b1e-9356-f2ac3a19816c.html).
- 3 Accessible at <https://www.bmi.bund.de/SharedDocs/pressmitteilungen/EN/2025/04/bpk-bilanz-en.html>.
- 4 Administrative Court (Verwaltungsgericht) Berlin, Decision of 2 June 2025 – 6 L 191/25 = ECLI:DE:VGBE:2025:0602. 6L191.25.00.
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