

**RESOLUTION: TOWARDS A TRULY COMMON AND SECURED SPACE OF FREE MOVEMENT AND A SUSTAINABLE EU MIGRATION POLICY AND ASYLUM POLICY**

**URGENT NEED TO COMPLETE THE GOVERNANCE OF THE SCHENGEN AREA**

*Adopted by the UEF XXVII European Congress, Valencia, 4 July 2021*

On 2 June 2021, the Commission presented a new Strategy for the functioning of the Schengen area, a much awaited document by all governments, parliaments and citizens in Europe. In fact, the COVID-19 pandemic has presented an unprecedented challenge and has placed a major strain on the Schengen area, leading almost all Schengen states to reintroduce internal border controls for a long period of time, without coordination and previous information from the partners States. This quasi systematic re-introduction of internal borders controls for many months (more than one year in some regions) has had serious economic implications on the proper functioning of the Single Market, as it has significantly disrupted supply chains within the EU and constitutes a daily obstacle for 3.5 million Europeans living in border regions and crossing borders on a daily basis.

To face this sad “temporary” dismantling of one of the most successful achievements of the European integration and one of the greatest and most popular symbols around the world of the European way of life, the Commission, in the absence of a precise legal framework, issued a series of Recommendations and Guidelines during 2020-2021 that covered various topics from emergency assistance in cross-border healthcare to border management measures ensuring the availability of goods and essential services, as well as the free movement of workers. This also included the creation of a ‘Green Lanes’ system to ensure border crossings remained open to all freight vehicles, thereby keeping people and businesses supplied with goods and services.

Despite these efforts, the vast majority of Member States have consistently taken unilateral decisions, based on interpretations, which reflect national situation and interests. From an institutional point of view, the entire management of this emergency constitutes a step backwards towards the well-known inter-governmental approach of the beginning of the Schengen Area in 1985 and confirms the deeper divergences of views and the lack of a holistic and modern policy approach for the governance of the Schengen Area as a whole.

The systematic re-introduction of internal border controls also underlines the lack of trust among Schengen countries regarding the management of migration flows and, in particular, the unsuccessful management of the secondary movements of migrants and refugees within the Schengen states. In fact, the limited amount of progress made since September 2020 regarding the adoption of the New Pact on Migration and Asylum proposed by the Commission, as well as the fragmented policy approach followed for asylum (notably with the absence of legal ways of entry for people seeking protection new opportunities and the lack of introduction of the mutual recognition principle for asylum decisions) have had a significantly negative impact on the well-functioning of the Schengen area.

It is important to underline that these deficiencies in the EU policy on Migration and Asylum have been repeatedly exposed and the disregard towards international obligations, EU law and fundamental rights is becoming entrenched, amounting to systemic pushbacks in many of the external borders of the

Union. Moreover, third countries have instrumentalised migration to exert political pressure on Member States. In some cases, people, and in particular vulnerable categories and children, were put at serious risk.

Regarding in particular the external dimension of the EU migration policy, the European Parliament (in its Resolution adopted in May 2021) underlines the importance of a comprehensive EU migrant-centred approach, in which human rights are said to occupy a central place, with the aim of strengthening ‘respect for fundamental rights and the human rights of migrants in source, transit and destination countries’.

Europe has traditionally distinguished itself for being a safe-haven for those persecuted or at risk. It is important that these values are safeguarded and prioritised in the new Pact for Migration and Asylum. In face of the demographic crisis that Europe will face in the near future, it is important that migrants arrive to Europe through safe routes. They should also be able to return voluntarily to their home countries. To this end, the Union should seek greater external cooperation with countries of origin and work to ensure voluntary return and reintegration. All policy related actions should explicitly commit to ensure the respect of human rights, including the principle of non-refoulement and the rights enshrined in the UN Refugee Convention, and provide effective accountability if violations occur. Any kind of informal arrangements on return and readmission which are concluded, without due democratic scrutiny and parliamentary oversight and which are not subject to judicial scrutiny, should be banned as they are not in line with the EU Charter of Fundamental rights.

In this context it is urgent that the EU intensifies its efforts to develop a holistic and comprehensive policy for the functioning of the Schengen area. It must additionally revise, where necessary, and complete the European migration and asylum policy in order to reflect new global realities as well as European interests and values.

The UEF, in accordance and as a follow up to the previous Resolutions adopted in the area of Migration and Asylum

#### Notes

- the importance that the EU Citizens attached to the area of freedom, security and justice and the need to restore and foster mutual trust in the implementation of the Schengen rules;
- the importance of a comprehensive and sustainable EU external migration policy, ensuring the full implementation of the 23 objectives of the Global Compact for Safe, Orderly and Regular Migration;

#### Welcomes

- the New Strategy towards a fully functioning and resilient Schengen area presented by the Commission in June 2021 as a positive step towards a comprehensive Schengen governance and notes the transparent and enlarged consultation process followed for its elaboration;
- the improvements of the newly proposed Schengen evaluation and monitoring mechanism – in particular regarding the effective implementation of fundamental rights obligations and the extension of unannounced visits which could, among others, be deployed on sensitive external borders and cover systematic human rights violations such as pushbacks;

- Is deeply worried by the lack of compliance of many Member States with international obligations, EU law and fundamental rights in the field of asylum and migration, leading to a situation of systemic pushbacks in the external border of the Union and within the Schengen area through chained pushbacks;
- Is concerned by the lack of effectiveness of European Border and Coast Guard Agency in implementing its mandate, as shown by the European Court of Auditors report of 7 June 2021, and its inability to ensure that EU law and fundamental rights are respected, particularly as regards to the right of asylum and non-refoulement;
- Deplores the fact that the Commission claims not to have powers to investigate breaches of EU law in Member States accused of systematic pushbacks;

#### Urges

- the Commission to intensify efforts in order to complete the new structure and present (during 2021) the missing measures identified in its June 2021 Communication which aimed at improving EU internal security and compensate for the absence of controls at internal borders by preventing and tackling security threats (such as an EU Police Cooperation Code, a revision of the Schengen Borders Code and expanding the use of advance passenger information in relation to intra-Schengen flights) To this, the Commission should also include additional necessary measures related to the Covid 19 pandemic (such as bilateral arrangements for the mutual recognition of the EU Covid certificate);
- the Commission to present a detailed evaluation report on the implementation of the 18 official EU Readmission agreements in place;

#### Calls :

- on the European Parliament to request the re-evaluation of the expansion of the Schengen Area to those EU Member States that are not yet fully integrated in order to ensure that all fundamental rights and security obligations are met; with particular attention to the respect of the right of asylum and non-refoulement.
- on the European External Action Service to take initiatives supporting policy and normative developments in relation to the rights of migrants in multilateral fora and developing a positive agenda on well-managed migration and mobility which can contribute positively to inclusive growth and sustainable development in line with the 2030 Agenda;

#### Invites

- EU Member States to reconsider their positions regarding the accession to the UN Convention on the Rights of Migrant Workers, one of the core UN human rights conventions.