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## **SCHENGEN IN ADDITION TO SMART ICT AND STRONG LEGISLATION NEEDS ALSO MORE RESPONSIBLE GOVERNANCE**

### **Abstract:**

The paper is dealing with one of the currently most controversial issues in the EU regarding the protection of the external borders of the EU in the form of the so-called Schengen external border of the Union. On the one hand it is very difficult for the EU new member states to become a part of the Schengen border protection system as it requires a lot of effort and investments into the latest ICT technology and all various other technical but also organizational and personnel requirements. But on the other hand right now we have been witnessing a real disastrous situation on the southern flank of the Schengen border where illegal immigrants especially from Africa are daily illegally entering the territory of the EU. The paper in more details will be dealing with this evident paradox between the latest ICT technology and humanitarian and other aspects of International humanitarian law.

### **Keywords:**

the Schengen area, the Schengen external border of the EU, Smart ICT, SIS – Schengen Information System

**JEL Classification:** F51, F22, F15

## Introduction

In the long history of the mankind there is almost unlimited list of some of the most famous protective border walls that by some paradox have become by themselves very often an integral part of the cultural heritage of humankind and as such being officially registered by the United Nations agency for education, science and culture i.e. UNESCO. Out of them we would mention at least some of the most famous border walls like e.g. the Great Chinese Wall that was originally protecting fortified China against invaders from the North. By its total length of over 13, 171 miles it is so monumental that it is seen even from the space as it has been reported by many astronauts, cosmonauts, etc. From other similar famous border walls it is worth to mention e.g. Limes Romanus that was protecting the Roman Empire against again by some paradox invaders from the North of Europe.

Of some other famous border walls we could mention e.g. the otherwise infamous Berlin Wall that has symbolized not only division of Germany to the West and East parts of the country but also the whole world during the Cold War. Other example of often discussed walls we could mention the so called Israeli West Bank Barrier separating the State of Israel from the Palestinian Territories and there could be mentioned many other similar border walls like e.g. between the North and South of Korean peninsula, the border wall between the Northern Cyprus and the republic of Cyprus, etc.

In this part on some monumental and/or symbolic border walls we have to mention the Mexico – United States barrier or as it is also sometimes known as the Border Fence and/or the Border Wall that to some symbolic meaning separates the two Worlds and it means separating the representatives of the most developed countries in the world viz. the USA and Canada from their closest neighbors in the Americas that already are belonging to the so-called developing world including some of the least developed and/or the poorest countries in the world. In connection with this Border fence it is necessary to mention also the last Presidential elections in the USA and the promises to extend this border fence to the full length of the USA and Mexico border as it was one of the main trumps of Mr. Trump in his presidential campaign.

To this category of some typical separation border walls we could include also the main object of this our paper and that being the so-called Schengen external border that also could be characterized by several specific features that otherwise are quite unique but otherwise typical for many aspects of the European integration and/or its main and dominant representative i.e. the EU as they are presented in the following parts of this paper..

### **Some basic specifics of the Schengen e-border**

The first fundamental question in this respect we have to respond before going to more detailed dealing with the smart high tech ICT being applied and utilized for the protection of the external border of the EU is the question who in fact belongs to this Fortress of the EU and thus whom really the Schengen e-Border is protecting.

To this relatively easy question it is not so easy to reply by saying only that it is protecting all members of the EU! But as in many other similar questions regarding this modern “Fortress of the EU” also in this case the answer is not so easy. As of today and probably for quite long from now the Schengen border is not protecting all members of the EU (Cannataci, 2015). A kind of an exemption has as usual been granted to the UK and under its influence also to Ireland. There are not yet included and thus also not protected some of the latest entrants to the EU as they have as yet not met the very tough and demanding qualification criteria for becoming the members of the so-called Schengen area and so they are not yet protected by this EU external border system. Although they are already for some years the full scale EU member states with all so-called community duties including their contributions to the budget of the EU as all other member states! It is still the case of Romania, Bulgaria and also regarding the latest entrant to the EU viz. Croatia. However, in order it would be quite typically more interesting, this EU external border is protecting also the whole range of non-EU member states including also those that for various reasons have several times rejected their entry into the EU. But in spite of this they are protected by this Schengen border like it is in the case of Switzerland, Norway, Iceland but also numerous mini but sovereign and independent states within or on the edges and periphery of the EU like Lichtenstein, Monaco, San Marino, Andorra, Vatican ,etc.

### **The Schengen e-border protected by the latest smart ICT**

After a brief geography and peculiarities of the Schengen border system at least very briefly we would like to present some basic features of this external border EU regarding its high tech standards that are based on the application of the latest most modern smart ICT technologies in its stationed as well as mobile forms of application. The core of this system e.g. on the border between the Slovak Republic and Ukraine is covering a strip of land that goes as deep into the territory of the EU as 50 kilometers. This wide strip of land is further divided into four e-border sectors/zones that go from the border line to the territory of the EU and/or its Schengen area. There are existing four subzones that are in the above graphical presentation depicted in different yellow colors that are mutually linked into the integrated system of the Schengen external border protection. In the case of the sector belonging to the responsibility of the Slovak republic the basic characteristics of these four subzones are as follows (Soltes et al,2013):

- The first subzone stretching directly from the border line depicted in the above picture on the right-hand side is if necessary as in this case supported also by the physically built fence that is equipped by the signaling system in case there is any touch of the this fence. This part of the border system is equipped also by the fixed system of the CCTV cameras positioned on every 200-250 meters.
- The second subzone is equipped and protected by various kinds of stationed and mobile hi-tech smart monitoring and surveilling devices being installed on the specific patrolling vehicles manned and/or also automatically being moving within

their particular sector assigned for protection to them. This high-tech is further supported by the patrol units manned by the border police.

- The third subzone is protected by the vehicles equipped by the smart high tech monitoring and surveilling equipment that are permanently moving along its particular sector to be protected.
- The fourth and the last sub-zone is so-called back-up line of protection where the same high tech equipment is used as in the previous third one subzone just their density is not that high as it is in the previous one and its main role is to act in case that in spite of previous three subzones there still could be a case that some intruder could get up to this last subzone undetected and/or managing to escape from being caught and being taken into custody for interrogation, etc. In this subzone there is already expected a close cooperation with the local police units and officers.

Within this wide area of land stretching up to 50 kilometers deep into the territory of the EU and/or Schengen area from the border line there are applied various kinds of the latest high tech smart ICT technologies. . In some case the Schengen area and the territory of the EU as we have already mentioned it above is not necessary the same like e.g. in the case of the territory of Norway that is not a part of the EU but it is an integral part of the Schengen area being protected by its e-border wall as being described in this part of this paper. Hence irrespective if it is the territory of the EU or only of the Schengen area there are stationed and operated various fixed and/or various most modern mobile applications of the latest hi tech smart ICT technologies among others such like (Soltes, 2013):

- Smart thermo camera systems
- High vision technologies based on the infrared lights
- Patrol cars equipped by chips for localization of any moving objects
- CCTV cameras at about every 150-200 m depending on the terrain
- Permanent smart photo cameras surveillance
- Seismic sensors
- Perimetric cables, etc.

All of them and many other supporting high tech smart ICT technologies are linked directly to the so-called local/regional monitoring centers that are further transmitting the collected information into the Central “Eye” Monitoring Center (European Commission). In this way it is almost impossible that it could happen that information about any violations of the Schengen border rules that happened at one national segment of this EU external border would be not available to all other national segments of the entire Schengen border system. Even better protection of the Schengen area is at seas like e.g. in the Mediterranean where the satellite based smart surveillance high tech in combination with the patrolling costal guard speed and gun boats has under control the whole area of open seas up to possibility of

recognizing even such small objects like a one meter long objects floating in the water. But as we can see in spite of all these high tech being available right the Mediterranean has become the almost free passage for over one million of illegal immigrants entering the territory of the EU while by a certain paradox Romania, Bulgaria and Croatia cannot be as yet part of the Schengen system as they are “not yet ready” to protect external borders of the Union as it has been required by the particular Schengen legislation.

### **The main problems of the Schengen border smart ICT e-wall**

In connection with the problems of the protection of the Schengen border by the latest smart ICT we have to mention especially the tragic and the really horror situation on the southern flank of this on the high tech smart technology ICT based modern border e-wall system. As we have mentioned above, while the new member states of the EU like Romania, Bulgaria or Croatia and before that also all new member states of the EU including Slovakia have had to invest a lot of effort and also funding and not only from the EU budget for becoming the part of the Schengen border system and the latest entrants to the EU have not yet “met” the particular qualification criteria to become the part of the Schengen border protection system. However, on the other hand there is e.g. Italy as one of the founding members not only of the Schengen border system but also of the entire EU. Almost every day there are arriving hundreds of illegal immigrants, the so called “boat” people who are brought to the southern shores of Italy and its islands like Sicily but mainly to a small island of Lampedusa. These illegal immigrants to the EU are brought there by well organized gangs of smugglers especially from the totally disintegrated and practically without functioning government being Libya who very often bring people without any documents, money, any whatsoever proof of their identity or their background, etc. It is a proof that even the latest high tech smart technology needs not only some criteria for its procurement, installation and utilization but also the adequate organizational and legislative support and provisions to be efficiently fulfilling its tasks and roles (Soltes, 2016)!

The latest proposals of the EU authorities for distribution of illegal immigrants according to some quotas into the all members of the EU is just not any reasonable and acceptable solution as it would finally only further increase the flow of potential illegal immigrants into the EU if there would be an officially sanctioned such an easy way how to illegally immigrate to the EU and then being legalized through they distribution officially to some of the EU member states under the particular quotas. However, any forcing of people to living in any country other than of their free choice – of course legally – is a clear violations of the one of the fundamental provisions of the human rights as enshrined in the United Nations Fundamental Human Rights regarding the above right of the free choice for staying and living in the country of their preference.

### **Conclusions and recommendations**

In conclusion to this paper we could only state that just implementation and utilization of the even the most up-to-date latest smart ICT cannot bring the expected positive

results if not supported also by the adequate and responsible system of governance and management. In addition to the technical aspects of the protection of the EU from illegal immigrants e.g. at Mediterranean sea it is also required the closer and more efficient diplomatic and economic cooperation of the EU with Turkey where already some progress has been achieved but mainly it is necessary now to achieve with the African partners through the African Union and the ACP member states, etc. Otherwise, there will be not possible to solve this huge humanitarian problem when the smuggling boats have already entered into the territorial waters of the EU. In such a case no whatever sophisticated high tech smart ICT technology has any chance to prevent illegal immigration into the Schengen area of the EU. In general the EU needs to find the fine balance between the different sorts of the international laws regarding the right to asylum, humanitarian international laws on one side but at the same time also with the international laws against human trafficking and smuggling and last but not least also with its own EU Schengen legislation that at the highest level has been an integral part of the EU primary legislation since the time when the Protocol on the protection of the external Schengen border has been an important part of the Amsterdam Treaty.

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