

## **The impact of the Schengen Agreement on the border region between the Republic of Serbia and Hungary**

Pulics János Gyula

Institution: Ludovika University of Public Service  
e-mail: [Pulics.Janos@uni-nke.hu](mailto:Pulics.Janos@uni-nke.hu)  
ORCID: <https://orcid.org/0009-0004-0653-9944>

### **Abstract**

Many studies and articles have been published on the European Union and the Schengen Agreement. I have also examined the impact and message of the Schengen Agreement today in a short treatise, which is currently in the process of being published. The two topics – the European Union and the Schengen Agreement – are so multifaceted and constantly evolving that it is necessary to continue to examine their impact and future in greater depth. In this study, in addition to a brief description of the accession status of the Republic of Serbia, I present the possible impact of the Schengen ideas on the Serbian-Hungarian border region. With a background in border guarding and border policing, it is natural to also touch upon the rules of border crossing and activities related to border control. In my opinion, the enlargement of the European Union and the completion of the Schengen ideas will be a significant step forward for Serbia and the Western Balkans, and the current population of approximately 450 million will be able to enjoy the benefits on an economic, cultural, and social level.

Concepts such as "overtourism" have emerged, against which certain European Union countries – Greece, Italy – are taking action with extra taxes and restrictions in order to protect their famous islands, cultural heritage, and local populations. However, in this corner of Europe, alongside economic recovery – the establishment of factories and the importation of labour – a significant boom in tourism is also expected as a result of the Republic of Serbia's accession to the European Union and the subsequent abolition of border controls under the Schengen rules.

In the study, I also present the establishment of the European Communities, the objectives of the European Union and its relationship with third countries outside the Union, focusing on the process of the Republic of Serbia's accession to the European Union. I describe in detail the purpose of the Schengen Agreement, its effects on the control of external and internal borders, and the fulfilment of civil freedoms in a borderless Europe.

I have been a professional border guard since 1993, then, following the integration of the Hungarian Border Guard into the national police force, I serving in the field of border policing, and I am currently a master lecturer at the Ludovika University of Public Service. For nearly 15 years, I have been working as a Schengen evaluator dealing with the Schengen Agreement and the Schengen Borders Code, as well

as the related legislation, and have carried out such evaluations on numerous occasions along almost the entire external border of the Schengen member states.

**Keywords:** Schengen border, Border control, Border crossing points at the Serbian – Hungarian border, Enlargement of the EU, Rights of free movement, Four freedoms of the EU, Republic of Serbia, Serbia and Schengen.



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## **Introduction**

When we talk about the Republic of Serbia, we are referring to a neighbouring state whose name and final, current form is barely 19 years old. On May 21, 2006,<sup>1</sup> the people of Montenegro voted to break away from the union known until then as Serbia and Montenegro, and on June 3 of that year, they declared themselves an independent state.<sup>2</sup> Looking back at history, the predecessor states of the Republic of Serbia were part of a continuous struggle, with empires and great powers repeatedly exercising power over the territory. Yugoslavia, which was formed in 1929 from the merger of the South Slavic states, functioned as a relatively developed people's democratic socialist country, both economically and politically, until the outbreak of the South Slavic War, with the exception of the occupation during World War II.<sup>3</sup> After the South Slavic War, in 1992, socialist Yugoslavia broke up and, together with several member states, formed the South Slavic states.<sup>4</sup> Yugoslavia then existed as the Federal Republic of Yugoslavia, later as Serbia and Montenegro, and even gained the official name and final territory of the aforementioned Republic of Serbia. Amidst these changes, two South Slavic states, which were once part of an alliance or state formation where Serbia or Yugoslavia held supreme power, are now members of the European Union and have abolished border controls at their internal borders, thus fully applying the provisions of the Schengen Agreement. Slovenia joined the European Union on May 1, 2004,<sup>5</sup> and has been a member of the Schengen area since December 21, 2007. While Croatia joined the European Union on July 1, 2013,<sup>6</sup> and has been a member of the Schengen area since January 1, 2023. In the meantime, both countries have also become members of the eurozone (Slovenia in 2007 and Croatia in 2023).<sup>7</sup>

I do not wish to go into detail about the autonomous territories in relation to this topic, but for the sake of historical accuracy, it should be mentioned that Yugoslavia had two autonomous territories, Vojvodina and Kosovo. Vojvodina, whose full name is the Autonomous Province of Vojvodina, is a region in the northern part of the Republic of Serbia that is partly inhabited by Hungarians and borders Hungary. Kosovo has declared its independence and operates as the Republic of Kosovo, but its legal status is disputed and it is still considered Serbian territory and under Serbian jurisdiction by the Republic of Serbia. To date, slightly more than 100 countries have recognized Kosovo as an independent state, but even the European Union is not unanimous in its recognition of Kosovo, as there are member states that do not recognize it.

Thus, due to the Republic of Kosovo, Serbia, which borders Albania, is considered part of the Republic of Serbia. In addition, Montenegro, Bosnia and Herzegovina, and Croatia are located north of Serbia. Hungary, Romania, Bulgaria, and North Macedonia border Serbia. It should be noted that Croatia and Bulgaria are bordered by European Union member states, all of which are also Schengen member states. The fact that Serbia borders four EU member states further increases the importance of its EU membership in the future.

## **The creation of the European Union**

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<sup>1</sup> Bíró. Montegró függetlenné válása. *Világtörténet* 2018, no. 4: 604.

<sup>2</sup> Bender, Kristof. "Montenegro." Program on the Study of Eastern European Development, Princeton University. <https://pesd.princeton.edu/node/726>

<sup>3</sup> "Yugoslavia, Former Federated Nation (1929–2003)." *Encyclopaedia Britannica*. <https://www.britannica.com/place/Yugoslavia-former-federated-nation-1929-2003>

<sup>4</sup> "Timeline: Break-up of Yugoslavia." BBC News. <http://news.bbc.co.uk/2/hi/europe/4997380.stm>

<sup>5</sup> "Slovenia's Integration into the European Union." Government of Slovenia. <https://www.gov.si/en/topics/slovenias-integration-into-the-european-union/>.

<sup>6</sup> "Croatia." *European Commission – Enlargement*. [https://enlargement.ec.europa.eu/croatia\\_en](https://enlargement.ec.europa.eu/croatia_en).

<sup>7</sup> "Countries Using the Euro." European Union. [https://european-union.europa.eu/institutions-law-budget/euro/countries-using-euro\\_en](https://european-union.europa.eu/institutions-law-budget/euro/countries-using-euro_en).

The First World War, the Great Depression that followed, and then the Second World War highlighted the need for Europe to avoid wars and hostility between countries in the future, even if this meant making significant economic and social compromises. Leading politicians, economic experts, and great thinkers (considered by many to be dreamers) in European countries came to the conclusion that Europe must unite so that something like World War II would never happen again. In the history of the European Union, it was in the 1950s that plans for a new, unified political cooperation began to take shape. The first major step towards the creation of this community was taken by Robert Schuman, the French Foreign Minister. When he presented his plan on May 9, 1950,<sup>8</sup> for cooperation involving the integration of the coal and steel industries of Western Europe, no one imagined that this day would come to be regarded as the birthday of the European Union.

The "Schuman Plan" sets world peace as its goal, which it sees as justified by the fact that "In taking upon herself for more than 20 years the role of champion of a united Europe, France has always had as her essential aim the service of peace. A united Europe was not achieved and we had war."<sup>9</sup> Thus, if the coal and steel industries of France and Germany were to be united under an independent High Authority, it would be inconceivable for another war to break out in Europe. Following the announcement of the plan, on April 18, 1951, six states sign the Treaty establishing the European Coal and Steel Community, thus launching European integration, the formation of communities, and the birth of the European Union. The six states that signed the treaty were Belgium, France, the Netherlands, Luxembourg, Germany, and Italy. The Treaty establishing the European Coal and Steel Community entered into force in 1952.

Cooperation in the aforementioned area proved successful, so the six member states expanded it to other sectors of the economy, adopting two treaties in Rome in 1957. These were the treaties establishing the European Economic Community (EEC) and the European Atomic Energy Community (Euratom), which came into force on January 1, 1958, following their signing.<sup>10</sup> The aim of the EEC Treaty was to achieve further integration and to create a common market for the purpose of ensuring economic growth and trade, which included the four fundamental freedoms. The right to free movement of goods, persons, capital and services.<sup>11</sup> Although the treaty was a significant step forward in terms of the stated common market objective in common economic policy, by agreeing to coordinate it, the signatories created free competition between businesses, prohibited state aid and restrictions that could have a restrictive or negative effect on trade between the six countries, and established common customs tariffs for the customs union in order to ensure uniform foreign trade. In addition, common policies were established in these areas to regulate them jointly and to ensure the uniform application of the measures introduced in agriculture, transport and trade, which later extended to environmental protection, regional, social and industrial policy.

In the 1960s, the economic situation appears to stabilize, with continuous economic development in the EEC member states. Meanwhile, a new alliance is formed between European countries that are not members of the EEC. The aim of the European Free Trade Association (EFTA) was to achieve free trade and economic integration among its member states. At that time, a significant number of countries (seven founding members and three later acceding members) were members of EFTA, but with their accession to the European Union, the number of EFTA member states has now fallen to four.<sup>12</sup> The first

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<sup>8</sup> Fondation Robert Schuman. "Declaration of 9 May 1950." <https://www.robert-schuman.eu/en/declaration-of-9-may-1950>

<sup>9</sup> "Schuman Declaration, May 1950." *European Union – History of the EU, 1945–1959*. [https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950\\_en](https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en).

<sup>10</sup> Vanthoor, Wim F. V. *A Chronological History of the European Union 1946–2001*. 16th ed. ISBN 1 84376 101 7.

<sup>11</sup> Horváth, Zoltán. *Handbook on the European Union*. Budapest: HVG-Orac, 2011, 30–31.

<sup>12</sup> "History." *European Free Trade Association (EFTA)*. <https://www.efta.int/about-efta/european-free-trade-association/history>.

common agricultural policy appeared during this period, and in 1965 the Merger Treaty was signed, uniting the executive institutions of the three large communities. This led to the creation of the European Communities, whose main tasks were carried out by the Commission and the Council. Robert Schuman had already pointed out that economic recovery and European integration would be a long process, which would also have to include economic cooperation with African countries. This came to pass in 1963, when the EEC signed a treaty with 18 former African colonies to promote cooperation and trade.

It was not until January 1, 1973, that the first significant expansion took place, even though the European Communities, and even the first community to be established, the ECSC, provided an opportunity for member states to join and even sought opportunities for expansion, as they saw the continuous growth and expansion of the economy in the accession of a larger number of member states. Thus, by 1973, there were already nine member states. Europe then faced economic and political changes. The oil crisis left its mark on the economy, but changes took place in the political systems of some countries and new democracies were born. Thus, expansion became a continuous process, with Greece joining in 1981, Spain and Portugal in 1986, and three more member states, Austria, Finland, and Sweden, joining the European Union, which had been established by the Maastricht Treaty in 1992. Barely nine years later, in 2004, ten more member states joined, followed by Romania and Bulgaria in 2007 and finally Croatia in 2013. The United Kingdom, which joined in 1973, held a referendum on leaving the European Union and left on January 30, 2020, leaving the European Union with 27 member states.<sup>13</sup>

The functioning of the European Union is ensured by various treaties, as primary sources of law, and by regulations, decisions, directives, and recommendations resulting from the Union's legislative process. Since its inception, this development has undergone continuous changes, expansions and challenges. It could be said that the European Union has now reached adulthood, as it faces challenges that require a high degree of maturity to resolve. These challenges have a significant impact on accession enlargements, as, in addition to economic performance and social problems, the management of migration and cooperation on criminal matters, as well as the position taken on war and negotiations, also have a significant impact.

### **The purpose and development of the Schengen Agreement, the fulfilment of civil freedoms in the Schengen area**

Of the Treaties of Rome mentioned in the previous chapter, the Treaty establishing the European Economic Community already contained Community rights relating to free movement, but their effective implementation and fulfilment could not be achieved as long as there were regular border controls between Member States. The aim of the EEC, established by the Treaty of Rome, was economic and trade integration, not the abolition of border controls between Member States.

The aim of the drafters of the Schengen Agreement was precisely to ensure these economic, commercial and, later, environmental, industrial and social freedoms by completely abolishing border controls and introducing only random or ad hoc checks. In the European Union, the right of free movement within the Schengen area for all persons is established by the Treaty on European Union. Thus, Article 18 of the Treaty on European Communities,<sup>14</sup> which was incorporated into the single structure, now reads as follows, in view of the establishment of European Union citizenship: "1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect."

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<sup>13</sup> "EU Enlargement." *European Union – History of the EU*. [https://european-union.europa.eu/principles-countries-history/eu-enlargement\\_en](https://european-union.europa.eu/principles-countries-history/eu-enlargement_en).

<sup>14</sup> The Merger or Unification Treaty was signed on 8 April 1965 and entered into force on 1 July 1967, from then on, we speak of the European Communities, and then on 7 February 1992 the Treaty on European Union was signed, which entered into force on 1 November 1993.

The Schengen Agreement was in fact of such significance that on June 14, 1985, the representatives of the five countries who signed it could not even imagine it. The agreement was signed at the ministerial and state secretary level by the Benelux Economic Union, Germany, and France, rather than by the heads of state or government of the member states. I presented the signatories to the agreement in detail in a previous short study, which was published in a collection of studies prepared for the 30th, 35th and 40th anniversaries of the Schengen Agreement. The businessman who ran the brewery, the law professor, and other politicians who signed the agreement are all proud that they were there and that they were able to do so. One of them recalled that the Schengen Agreement was the "greatest work of his life."

Today, we can say that the Schengen ideals have been fully realized within the European Union through the effective exercise of the right to free movement. This realization took place in three phases. In response to the economic situation and the challenges facing the European Union, the Schengen Agreement<sup>15</sup> was first signed in 1985. Based on the short 33-article agreement, it set out short- and long-term measures to eliminate internal border controls in the five member states. According to this, from June 25, 1985—just 11 days after the signing—police and customs authorities would, as a general rule, check tourist vehicles crossing the common border at reduced speed by simple visual inspection, without stopping them. Random checks are permitted, but these must be carried out in such a way as not to disrupt the flow of other traffic.

To facilitate visual inspection, those entitled to do so – citizens of European Community member states crossing the common border by car – affix a green disc with a diameter of at least 8 cm to the windshield of their vehicle. Those displaying this disc are presumed to comply with border control regulations and the rules on customs exemption and currency exchange.

During the drafting of the agreement, a significant number of compromises had to be made, with the participating Member States effectively delegating certain control tasks to each other and agreeing that what had already been checked in one Member State would be accepted by the other Member States, with checks on the same subject only being carried out in special cases. This creates external and internal borders, with the obvious aim of subjecting persons, vehicles and consignments crossing external borders to stricter, systematic checks from both a law enforcement (border control) and customs control perspective.

Longer-term and detailed measures were introduced and implemented gradually. The Schengen Implementation Agreement was signed in 1990 and entered into force in 1995, regulating in detail the implementation of external border controls, criminal cooperation, visas, the Schengen Information System, and other common areas of law enforcement.

The detailed rules of the Schengen Implementation Agreement were subsequently amended and supplemented as the Schengen area developed and expanded, with individual chapters now appearing in the form of separate EU legislation, regulations, directives and decisions. The rules on border control are laid down in the Schengen Borders Code, the Visa Code and other legislation related to these two regulations, thus completing the third phase of the Schengen control system as we know it today, which is designed not only to control the rules for external and internal border control, but also to monitor and supervise the fulfilment of the obligations of the participating Member States. This is none other than the Schengen control and monitoring mechanism. The entirety of these legal acts constitutes the Schengen *acquis*, i.e. all the legal acts that serve to implement the Schengen concept.

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<sup>15</sup> Council of the European Union: General Secretariat of the Council. *The Schengen Acquis Integrated into the European Union*. Publications Office, 2001, 19. <https://op.europa.eu/en/publication->

Countries wishing to join the European Union are required to adopt all of the aforementioned legislation, thus becoming Schengen member states upon joining the EU. However, in practice, they may only apply this legislation after the implementation of the control and monitoring mechanism and following approval of their accession in a separate procedure based on the report of that mechanism.

Member States face a number of advantages and difficulties arising from the Schengen area. This applies to both Member States that do not have direct land or sea external borders and those that do. External border controls by air are carried out in all Member States in accordance with the Schengen Borders Code.

When listing the advantages, the most important one is, of course, the freedom to travel without passports and controls. This freedom of movement no longer applies only to services, goods, and labour, but to every EU citizen. This means that the free movement of approximately 450 million EU citizens<sup>16</sup> has a significant impact on trade, the economy and, of course, tourism. In terms of disadvantages, this is precisely what needs to be highlighted in a borderless Europe, because it is not only well-intentioned investors and entrepreneurs who exercise their freedom of movement without controls, but also those who circumvent the law, reside illegally or commit crimes. This means that action at internal borders must be even more coordinated and controls at external borders must be even more consistent and accurate.

### **Checks carried out at the external and internal borders of the Schengen area**

Border control was moved to the external borders as part of the European Union's Schengen initiative, although some believed that the abolition of border control at internal borders did not necessarily require stricter controls at external borders. A filter, strengthening the external border at any level, is not sufficient and will not be sufficient in the future to guarantee the security of a Europe without internal borders. The four-step border control model and integrated border management already guarantee greater security. We are talking here about taking various measures in countries that are sources of migration and perpetrators of terrorist acts, in neighbouring third countries, at external borders, and within the territories of Member States. We employ experts, liaison officers, analysts and evaluators, and carry out joint operations. We are giving the European Union's Border and Coast Guard Agency (Frontex)<sup>17</sup> more and more powers. Through maritime patrols, rescue and search operations, border control activities at land borders, and border traffic control at airports, they are now participating with their own staff in accordance with the new legislation. In Serbia, officials delegated by Frontex are already participating in joint operations both on the Serbian-Hungarian border and at other border sections and crossing points.

Current efforts to collect, store and pre-check extensive data through the European Entry/Exit System (EES)<sup>18</sup> and the European Travel Information and Authorization System (ETIAS)<sup>19</sup> will significantly assist and support checks at both external and internal borders. The legislation and control principles that have been developed, including access control using biometric data and the assessment of prior authorization and registration applications, will mean greater security in relation to the control of persons

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<sup>16</sup> "Facts and Figures on the European Union." *European Union – History of the EU*. [https://european-union.europa.eu/principles-countries-history/facts-and-figures-european-union\\_en](https://european-union.europa.eu/principles-countries-history/facts-and-figures-european-union_en).

<sup>17</sup> European Union. *Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, repealing Regulations (EU) No. 1052/2013 and (EU) 2016/1624*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1896>.

<sup>18</sup> European Union. *Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2226>.

<sup>19</sup> European Union. *Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1240>.

entering the area of free movement. The problem may lie in the technical implementation and operation of the system. The activities of border guards carrying out border checks in the traditional sense, as set out in the Schengen Borders Code, are no longer sufficient for the recording, storage and control of data at external borders. It is necessary to develop and introduce a form of automation, including the preparation and application of artificial intelligence for the processing and control of these large amounts of data at both external and internal borders.

### **The Republic of Serbia and the European Union**

The path to joining the European Union can be very long in some cases and requires significant changes and compromises on the part of the countries wishing to join. This applies not only to economic and legislative changes, corrections and adaptations in some countries, but also requires a complete social and political commitment. Federica Mogherini, High Representative of the European Union and Vice-President of the Commission, said in 2018, when the Commission adopted its strategy for the accession of the Western Balkan countries: "This strategy shows the way forward: our six partners must once and for all put the past behind them, and we must all work to make the Western Balkans' path to the European Union irreversible and continue the process of uniting the continent."<sup>20</sup> This statement is closely linked to the statement by Jean-Claude Juncker, then President of the European Commission, that "With strong political will, genuine and lasting reforms, and the final settlement of disputes with neighbours, the Western Balkans can move forward on the path to EU accession."<sup>21</sup>

Both statements therefore refer to lasting reforms and political and social changes on the part of the countries of the Western Balkans wishing to join the EU. Serbia and Montenegro are the two countries that are best prepared and, in terms of the negotiation process, closest to joining the European Union, but Albania, North Macedonia, and Bosnia and Herzegovina have also taken significant steps in this direction. The issue of Kosovo depends on Kosovo itself and, of course, on Serbia, as the settlement of borders and the question of relations between the countries are fundamental conditions for accession to the Union. If we look at these six Western Balkan states—the Republic of Serbia, Bosnia and Herzegovina, Montenegro, "Kosovo," Albania, and North Macedonia—we can see from the map that they are surrounded by EU member states. The Western Balkan states are bordered by Hungary to the north, Croatia and Italy across the Adriatic Sea to the west, Greece to the south, and Bulgaria and Romania to the east. In addition, all of the EU member states listed above are also members of the Schengen area, which ensures free movement across borders without constant, systematic checks. If we reverse this, we must say that the Western Balkan states are effectively surrounded by the external borders of the Schengen area with their strict, systematic controls, and even between the six member states there are borders where the states concerned carry out border controls in accordance with their national law.

Returning to the Republic of Serbia, this 2018 Western Balkans strategy was a significant step towards the European Commission expressing its intention for Serbia to join the European Union.

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<sup>20</sup> Európai Bizottság Sajtóközlemény. "Nyugat-Balkán stratégia: Az Unió új kiemelt kezdeményezéseket határoz meg és támogatást nyújt a reformok által vezérelt térség részére", paragraph 4. [https://ec.europa.eu/commission/presscorner/detail/hu/ip\\_18\\_561](https://ec.europa.eu/commission/presscorner/detail/hu/ip_18_561)

<sup>21</sup> Európai Bizottság Sajtóközlemény. "Nyugat-Balkán stratégia: Az Unió új kiemelt kezdeményezéseket határoz meg és támogatást nyújt a reformok által vezérelt térség részére", paragraph 3. [https://ec.europa.eu/commission/presscorner/detail/hu/ip\\_18\\_561](https://ec.europa.eu/commission/presscorner/detail/hu/ip_18_561)

Prior to this, Serbia submitted its application for membership of the European Union on 22 December 2009. The European Council made its decision in March 2012 and granted candidate status, with accession negotiations beginning in 2014.<sup>22</sup>

Serbia has achieved significant results in the 35 negotiation chapters in the recent period. Country reports and the European Union's annual enlargement policy communications suggest that negotiations are progressing well, but in several areas the European Union believes that progress could be faster, provided that Serbia demonstrates stronger political commitment and introduces more effective measures. In addition to progress in specific areas, the Commission notes that "Further work and sustained political commitment are needed to adopt and implement the necessary reforms in the area of the rule of law." The 2023 communication states that "The Commission considers that, in line with the negotiating framework, much more progress could have been achieved in the accession negotiations. Continuous attention must be paid to maintaining the overall balance between, on the one hand, the progress made in the chapters on the rule of law and the normalization of relations with Kosovo and, on the other hand, the progress made in the accession negotiations on individual chapters. The normalization of relations is a fundamental condition for both Serbia and Kosovo's European path, and without progress, both sides risk losing significant opportunities."<sup>23</sup>

Although no specific date was mentioned in the aforementioned 2018 enlargement strategy regarding accession, forecasts indicated that Serbia and Montenegro would be ready to join the European Union in 2025. However, this now seems unlikely to happen. The reasons for this include the significant illegal migration crisis of recent years and the aforementioned disagreements with Kosovo, but of course the Russian-Ukrainian war that broke out in 2022 could also have a significant impact on the date of accession. The latter is so significant and important that in 2022, both Ukraine and Moldova submitted their intention to join the European Union, and the European Union has a firm intention to start accession negotiations and accelerate the process as much as possible.

### **Conditions and possibilities for crossing the state border along the Serbian-Hungarian border**

Hungary shares a 164 km long border with Serbia, which is considered an external border in terms of both the European Union and the Schengen area. It is worth distinguishing between the two because, if Serbia joins the European Union, it will not necessarily, and probably will not, join the Schengen Member States without border controls at the same time. This process will be divided into two parts, as we saw recently with Romania and Bulgaria, and even in the case of Croatia, it took 10 years between joining the EU and joining Schengen.

Border control includes both border checks and border surveillance activities, Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) defines border control as follows: "activities carried out at the border, in accordance with and for the purposes of this Regulation, consisting of border traffic control and border surveillance, solely for the purpose of crossing the border or, in the event of crossing, regardless of any other reason." The first major area is therefore border traffic control, which the regulation further specifies as "checks carried out at border crossing points to determine whether persons, including the means of transport and objects in their possession, may enter or leave the territory of the Member States." The second area is border surveillance, which the regulation defines as "the surveillance of borders between border crossing points and the surveillance of border crossing points

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<sup>22</sup> Council of the European Union. *General EU Position: Ministerial Meeting Opening the Intergovernmental Conference on the Access of Serbia to the European Union, Brussels, 9 January 2014*. LIMITE CONF-RS 1 (Brussels, 21 January 2014).

<sup>23</sup> European Commission. *Communication on EU Enlargement Policy COM/2023/690 final*. EUR-Lex – 52023DC0690 – EN. 2023.

outside their official opening hours, including preventive measures – with a view to preventing or detecting illegal border crossings and circumvention of border controls, contributing to situational awareness, combating cross-border crime and taking action against persons crossing the border illegally."

Both border traffic control and border surveillance activities must be carried out in full detail and in accordance with the relevant requirements at the Serbian-Hungarian border for as long as Serbia remains a third country. Any country that is not a member of the European Union is considered a third country. This is how we distinguish between third-country nationals and citizens who enjoy the right of free movement under EU law. The Schengen Borders Code helps to clarify these concepts, defining a third-country national as "any person who is not a citizen of the EU within the meaning of Article 20(1) TFEU and to whom point 5 of that Article does not apply."<sup>24</sup> This means any country whose citizens are considered third-country nationals. According to Article 20(1) of the Treaty on the Functioning of the European Union (TFEU), "Citizenship of the Union shall be conferred on all nationals of Member States. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship."<sup>25</sup> The Schengen Borders Code sets out exceptions in Article 2(5), which defines persons enjoying the right of free movement under EU law, but this has no effect on the legal status of the country in question. Thus, even a Serbian citizen may enjoy the right to free movement under EU law, but this does not make Serbia a member of the EU. It is clear that the EU right to free movement is not necessarily linked to a specific country.

The legal status of the Republic of Serbia as a country is therefore currently that of a third country, and full border controls are in place with all EU Member States, including Hungary, meaning that it is considered an external border. The Schengen Borders Code also defines what constitutes an external border as "the land borders of the Member States, including borders on standing or flowing waters, sea borders and airports, river, sea and lake ports, insofar as these are not internal borders."<sup>26</sup> It should be noted that the cited regulation is a European Union law, and indeed the regulation itself distinguishes between external and internal borders as the borders of EU countries in its first article, but in fact we must also distinguish between Schengen member states. I mentioned earlier that it is unlikely that border controls will be abolished at the same time as Serbia's accession to the EU, so Schengen membership will only come about at a later date. Until then, the Serbian-Hungarian border will have dual legal status, meaning that it will be an internal border within the European Union, as stated in the Schengen Borders Code "This Regulation ensures the exemption from border checks for persons crossing the internal borders between Member States of the Union." In reality, however, external border controls will remain in place until a separate agreement or decision is reached on accession to the Schengen Member States and the abolition of border controls. This will be implemented through the Schengen control and monitoring mechanism and may take several years.

The state border between the Republic of Serbia and Hungary can therefore be crossed at designated border crossing points in accordance with strict rules. To cross the border, the conditions set out in the Schengen Borders Code, which I detailed in the previous chapter, must be met.

The Serbian-Hungarian border can currently be crossed at nine road border crossing points, four of which are open to international traffic: Hercegszántó – Backi Breg, Röszke – Horgos motorway, Röszke

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<sup>24</sup> European Union. *Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the Rules Governing the Movement of Persons Across Borders (Schengen Borders Code), Article 2; points 5–6, 10–12.*

<sup>25</sup> European Union. *Official Journal of the European Union, C 326/47, 26 October 2012, Article 20.* <https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:12012E/TXT>.

<sup>26</sup> European Union. *Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the Rules Governing the Movement of Persons Across Borders (Schengen Borders Code), Article 2; point 1.* <https://net.jogtar.hu/jogszabaly?docid=a1200004.tv#>.

– Horgos public road, and Tompa – Kelebia. There are also restrictions on traffic at these four border crossings, for example, Rösztke – Horgos public road is only open between 04:00 and 23:00 in summer, and buses and trucks are not allowed to travel on it. In Hercegszántó, the weight limit for trucks has been set at 3.5 tons. The other five road border crossings are open during normal opening hours, generally from 7:00 a.m. to 7:00 p.m., and restrictions are also being introduced on passenger traffic, which means that only bilateral passenger traffic can be carried out at these crossings and citizenship is restricted as follows: the border crossing point may only be used by Serbian citizens, EU, EEA and Swiss citizens, as well as third-country family members who enjoy the right of free movement under EU law; vehicles transporting dangerous goods are not allowed to cross the border. In addition to these restrictions, bus traffic is also not permitted. The five border crossing points are: Ásotthalom – Backi Vinogradi, Bácsalmás – Bajmok, Bácsszentgyörgy – Rastina, Kübekháza – Rábé, and Tiszasziget – Dala.

In addition to the road border crossing points, there are two railway border crossing points on the Serbian-Hungarian border. One is the Kelebia–Subotica (Szabadka) railway border crossing point, which is open for international passenger and freight traffic from midnight to midnight. There is a plant and animal health border inspection post at the border crossing point, and railway vehicles transporting dangerous goods are allowed to pass through the border crossing point. This border crossing point is currently closed and all traffic has been diverted to the other railway border crossing point. According to information available at the time of writing this study, the renovated railway border crossing point will be opened in October this year. The other railway border crossing point is the Rösztke–Horgoš (Horgos) railway border crossing point. This border crossing point is used for international passenger and freight traffic and is open from midnight to midnight. However, under the agreement, railway vehicles transporting dangerous goods are not allowed to pass through the border crossing.

The state border between the two countries can be crossed at water border crossing points, where checks are also carried out. Water border crossing points have been established on the Danube and Tisza rivers. Based on the agreement between Serbia and Hungary:

"Article 18

Water border crossing points on the Danube River

- (1) Water border crossing points operate on the Danube River at Mohács and Bezdan.
- (2) The use of border crossing points extends to international passenger and freight traffic.
- (3) Border crossing points are open from 00:00 to 24:00.
- (4) There is a plant health border inspection post at the border crossing points and an animal health border inspection post on the territory of the Republic of Serbia.
- (5) Vehicles transporting dangerous goods may use the border crossing point.

Article 19

Water border crossing points on the Tisza River

- (1) There are water border crossing points on the Tisza River in Szeged and Kanjiža.
- (2) The border crossing points are used for international passenger and freight traffic.
- (3) The border crossing points are open from 7:00 a.m. to 7:00 p.m.
- (4) Vehicles transporting dangerous goods are not allowed to cross the border at these border crossing points."<sup>27</sup>

Border traffic control, including customs control, at these border crossing points is carried out in accordance with the applicable EU legislation by Hungary, which is already a member of the EU and the Schengen area, and by Serbia in accordance with its national legislation. In view of Serbia's efforts

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<sup>27</sup> "1995. évi I. törvény a polgári perrendtartásról, Magyarország".  
<https://net.jogtar.hu/jogszabaly?docid=a1200004.tv#>

to join the EU, it is continuously adapting its border control regulations to EU requirements, as it must adopt and implement all border control legislation by the date of accession, including the Schengen Borders Code.

Border control is a priority task at the Serbian-Hungarian border. We could say that we are at the "gateway to Europe," and anyone who passes through here can travel freely to any member state. From Rösztke, Vienna can be reached in just a few hours, almost without stopping, on the motorway. Thus, systematic and continuous checks often generate significant waiting times, especially during the busy summer season. These delays have a significant impact on trade, the economy, and tourism, but they also negatively affect people who are simply passing through and wish to travel home from Western Europe once or twice a year. Therefore, continuous efforts are being made to reduce waiting times and to ensure that border crossings at any Serbian-Hungarian border crossing point can be made as quickly as possible.

With regard to our border region, I would like to highlight two areas that are affected by the current systematic border traffic controls.

On the one hand, tourism: this region of Hungary is a major attraction for Serbian citizens and those traveling through Serbia. Visits to spas, shopping centres, markets, and events are a daily occurrence. However, if they have to wait for hours at the border or adjust their participation in events or their stay at spas to the border crossing because the crossing is closing or the queue is so long that they will not get home on time, this has a negative impact on both tourism and the Hungarian economy. That is why local government leaders are proposing initiatives to extend the opening hours of small border crossings or to deviate from the passenger traffic restrictions set out in the agreements.

The other area is the economy, which requires labour to function. Many people from Vojvodina and nearby Serbian settlements commute to Hungary for work because they can find jobs there and the earning potential is likely higher. However, in order for commuting workers to get to work on time, properly coordinated border crossings are necessary. Crossing the border should not be an obstacle for workers, as this disrupts the regular operation of the plant, factory, or any other workplace.

However, Schengen border controls require and are increasingly tightening the implementation of controls at external borders, so there is a need for close cooperation between the authorities responsible for border control in the two countries, for the most effective use of the possibilities provided by the legislation and, of course, for compromises to be made, but only within the framework permitted by the legislation.

Referring back to what has been written about the Schengen Agreement, when the agreement was drafted, many compromises had to be made, but these are now in place and, following the Republic of Serbia's accession to the EU and subsequently to Schengen, they will help to completely remove barriers by abolishing border controls.

### **Border control, joint action to prevent and combat illegal migration**

Along the 164 km Serbian-Hungarian border, in addition to border traffic control, strict border surveillance tasks must also be carried out. The management of illegal migration is not only a problem for the two countries, but also an issue and challenge for the entire European Union. Without going into full detail about the illegal migration situation in this border region, it is necessary to outline the development and changes in this factor over the past period.

When Serbia submitted its application to join the European Union in 2012, North African and other Arab states had already gone through the so-called "Arab Spring" or "Spring of Nations" period, i.e. demonstrations and changes had swept through several large Arab countries, removing the leaders and governments that had been in power until then. Tunisia, Algeria, Jordan, Yemen, Egypt, Libya, and

Syria were also forced to change as a result of the protests and, in some countries, the revolution. The causes were famine, corruption, oppression, and poor living conditions. A significant number of refugees left these countries in search of a better life, arriving in the Western Balkans during these years and triggering the migration crisis. For a short time, refugees from Kosovo<sup>28</sup> also put significant pressure on the Serbian-Hungarian border, until Germany accepted them and even accelerated the processing of asylum applications. However, it was quickly clarified that those who were not fleeing persecution had no right to apply for asylum. Thus, the wave of illegal migration from Kosovo came to an end in the spring of 2015.<sup>29</sup> At the same time, the wave of refugees who had previously left Arab countries began to grow stronger, having already passed through one EU country and generated a so-called secondary or second wave of migration. They left Arab countries and travelled through Turkey and Greece to the Western Balkan countries, primarily Serbia, before arriving at the Hungarian border. The number of people illegally crossing the Serbian-Hungarian border increased to such an extent that Hungary introduced a multi-element border fence. In the strictest sense of the word, even border crossings were temporarily closed in order to prevent and stop the wave of migration. The physical border fence consisted of a temporary fence, which was continuously improved over the years, while the legal border fence involved the tightening of penalties for offenses related to illegal border crossing and the introduction of new criminal offenses, as well as an increase in the number of personnel. The measures introduced proved to be effective: in 2014, 43,711 illegal border crossings were registered on the Serbian border section, and in 2015, 205,786 people, representing a 371% increase. Compared to all other border sections in the country, 50% of illegal border crossers were concentrated in this border section. The large number of illegal migrants also brought with it an increase in the number of crimes related to the state border in almost all areas, but it was human trafficking that posed the greatest challenge to both the population and the border guard and law enforcement agencies. In 2014, 593 human traffickers were prosecuted nationwide, and in 2015, this number rose to 1,177.<sup>30</sup> As a result of the measures introduced, there was a temporary decrease in 2016, with a total of 14,476 illegal border crossings and attempts to cross the border registered at the Serbian-Hungarian border, resulting in a 93% decrease. In addition, the Hungarian police introduced a new statistical indicator called "prevention," which means that persons attempting to cross the border are prevented from doing so by the physical border fence or border guards stationed there. However, in 2016, this number was also very low, based on available statistics, with a total of 32,732 people between April 8, 2016, and December 31, 2016.<sup>31</sup>

This trend seemed to stabilize, with minor fluctuations, but by 2022-2023, the number of people attempting to cross the Serbian border illegally had risen again, and in the 2020s, even more violent acts were committed to facilitate crossing, The border fence and the people guarding it were attacked several times, causing significant damage.

Serbia's EU accession obligations included effective action against migration and terrorism, for which they sought to take steps. Frontex support appeared on the Serbian side of the Serbian-Hungarian border, and joint border patrols appeared on both the Serbian and Hungarian sides with the Hungarian border police.<sup>32</sup> The European Commission's strategy for 2018, referred to earlier, also sets out these measures as follows: "At the same time, it is essential to further strengthen strategic and operational cooperation

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<sup>28</sup> Urbán, Ferenc. "A Koszovóból kiinduló migráció jellemzése." *Belügyi Szemle* 2016, no. 1. <https://doi.org/10.38146/BSZ.2016.1.6>.

<sup>29</sup>"Koszovói menekültek: Ausztria és Németország az úticél." *Ausztriai Munkák*. <https://ausztriamunkak.hu/hirek/koszovoi-menekultek-ausztria-es-nemetorszag-az-uticel/>.

<sup>30</sup>Police of Hungary. *General Situation Report on Border Management 2015*. [https://www.police.hu/sites/default/files/hatarrendeszet\\_hk\\_2015.12\\_angol\\_1.pdf](https://www.police.hu/sites/default/files/hatarrendeszet_hk_2015.12_angol_1.pdf).

<sup>31</sup>Police of Hungary. *General Situation Report on Border Management 2016*. [https://www.police.hu/sites/default/files/hatarrendeszet\\_hk\\_2016\\_12.pdf](https://www.police.hu/sites/default/files/hatarrendeszet_hk_2016_12.pdf).

<sup>32</sup> Hungarian Ministry of Interior. "Magyarország és Szerbia bővítette az illegális migrációval szembeni együttműködését, a közös járőrözést a szerb-észak-macedón, illetve a magyar-szerb határon." 15 October 2021. <https://kormany.hu/hirek/kozos-szerb-magyar-hatarmenti-jarorszolgalat-indul>.

with the Western Balkans on migration and border management. This includes ensuring access to international protection, sharing relevant information (e.g. risk assessments), stepping up border control, ensuring the effective implementation of readmission and return policies, and combating irregular migration and migrant smuggling. Furthermore, international and regional cooperation (including with EU agencies and liaison officers in the region) must be strengthened and border management and migration management capacities further consolidated."<sup>33</sup>

Thus, in 2024, a total of 16,645 illegal migration-related incidents were recorded, and the number of crimes related to human trafficking and illegal residence fell below 50 on the Serbian-Hungarian border.<sup>34</sup>

All this shows that Serbia is also capable of taking action to prevent illegal migration and is striving to keep it at a manageable level. However, this requires close and continuous cooperation with both the Hungarian border control authorities and the European Union agencies, primarily Frontex.

Following Serbia's accession to the European Union and its subsequent accession to Schengen, the entire border control system will need to be rethought, as ensuring free movement across borders will pose special and unique challenges for the border control authorities in this border region.

## **Conclusion**

The history and development of the European Union and Schengen clearly show that the enlargement process cannot stop until countries that are geographically, economically, and culturally similar become members. The accession of the Republic of Serbia and, together with it or after it, the countries of the Western Balkans will be a significant step. I have shown how Europe has reached this point and what the fulfilment of the Schengen idea means. Whether we will be able to enjoy its benefits or have to live with its disadvantages in the future depends on how committed and consistent we are in participating in the enlargement process.

The Treaty on European Union sets out the values that must be observed and followed in order to become a member and to function as a member of the community. According to this: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."<sup>35</sup> If the Member States wishing to join accept and guarantee these values, then we must stand up and support the enlargement process so that a united Europe can be formed. Even if we do not realize Churchill's vision<sup>36</sup> of creating a United States of Europe, EU and Schengen legislation and processes can create a unified, predictable, free Europe in which all citizens have the same rights and obligations in any Member State. This could have significant economic and social benefits in the future.

Countries wishing to join must take the necessary measures agreed upon by the parties during negotiations. Thus, the Republic of Serbia must further strengthen its political commitment. Although it has taken significant steps in the fight against corruption, the administration of justice and the fight against organized crime must be further intensified. The Commission sets out further expectations

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<sup>33</sup>European Commission. *COM(2018) 65 final: Hiteles bővítési perspektíva a Nyugat-Balkánra vonatkozóan és fokozott uniós szerepvállalás a Nyugat-Balkánnal*. Strasbourg, 6 February 2018. <https://eur-lex.europa.eu/legal-content/HU/ALL/?uri=CELEX:52018DC0065>.

<sup>34</sup>Police of Hungary. *Határrendészet SK 2024*. [https://www.police.hu/sites/default/files/HatarrendeszetSK%202024\\_12.pdf](https://www.police.hu/sites/default/files/HatarrendeszetSK%202024_12.pdf).

<sup>35</sup>European Union. *Consolidated Version of the Treaty on European Union*. Official Journal of the European Union, 26 October 2012, C 326/13, Article 2.

<sup>36</sup>Churchill, Winston. Speech delivered at the University of Zurich, 19 September 1946. Paragraph 3. <https://rm.coe.int/16806981f3>

regarding media freedom and minorities. The Schengen concept is based on free movement, but border permeability requires consistent action against illegal migration, which Serbia must also guarantee, although this is not directly related to the settlement of its relations with Kosovo.<sup>37</sup>

The Serbian-Hungarian border region poses significant challenges, but there are also opportunities for joint, successful activities in the future. However, until Serbia joins the EU, border traffic control and border surveillance will continue to affect people living and working in this region, businesses operating on both sides of the border, and people staying here for other purposes (tourists, shoppers, spa visitors, etc.).

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<sup>37</sup> Council of the European Union. *Council Conclusions on Enlargement*. Brussels, 17 December 2024 (OR. en), 16983/24, ELARG 189, COWEB 218, COEST 750.

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