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# The Netherlands' Objections to Romania's Schengen Accession, 2003-2019

*Jan van der Harst and Anjo Harryvan*

## *Introduction*

For a long time, the Netherlands, one of the founding fathers of the present European Union (EU), displayed a welcoming attitude towards accession of new member countries. However, Dutch enthusiasm started to dwindle in the early 2000s. In the aftermath of the Cold War, with the collapse of the communist regimes, the Netherlands fervently embraced the new developments in Central and Eastern Europe (CEE), but the impending collective entry of many new countries to the EU filled the government and parliament with great concern. In the parliamentary debates preceding the 'Big Bang' of 2004, various political parties voiced their apprehension of the upcoming enlargement, due to the expected increase of expenditure on agricultural and regional subsidies and the worrying state of the rule of law in the candidate countries. With hindsight, Dutch reservations were an early manifestation of 'chronic anxiety' towards EU expansion by established member-states, the fear that enlargement would transform the European paradise into a nightmare.<sup>1</sup>

The crucial parliamentary vote in October 2003 showed that out of the three parties forming the government coalition, VVD (conservative liberals), LPF (national-populists) and CDA (Christian-democrats), only the latter came out in favour of widening the Union with ten new member states. As a consequence, the government, under Prime Minister Jan Peter Balkenende (CDA), needed the help of the opposition parties to collect sufficient votes for the enlargement decision.<sup>2</sup> It was an unprecedented moment in the long parliamentary involvement of the Netherlands in European affairs, since traditionally Parliament was known for its outspoken pro-Europe conviction.

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<sup>1</sup> Ruben Zaiotti, 'Chronic Anxiety: Schengen and the Fear of Enlargement', in: Finn Laursen (ed.), *The EU and the Eurozone Crisis: Policy Challenges and Strategic Choices* (New York 2013), 161-175.

<sup>2</sup> Anjo G. Harryvan and Jan van der Harst (eds.), *Verloren consensus. Europa in het Nederlandse parlementaire politieke debat, 1945-2013* (Amsterdam 2013), 215-221.

## *Romania's EU accession*

It was against a similar background that the membership of two other CEE countries, Romania and Bulgaria, was discussed in the Dutch parliament. The two countries initially had been considered unfit to join the Big Bang of 2004, but with the help of a conditional reform programme monitored by the EU they were scheduled to enter the Union a few years later, by 2007. This paper will focus on Romania, rather than Bulgaria, because in the Netherlands Romanian entry was seen as comparatively the more serious problem.

In February 2006, the Dutch Lower House discussed the opportuneness of another enlargement decision. Again, like before, strong-worded reservations were voiced, but in the course of time positions of the political parties had changed remarkably. Whereas in October 2003 the opposition was led by VVD and LPF, in the case of Romania it was the governing CDA (centre-right, at that moment the largest group in the national parliament) and the oppositional left-wing Socialist Party (SP) which criticized the new candidate country most openly and eventually voted against the enlargement decision. This time, VVD and LPF opted in favour, the former arguing that the 'Romanians should be rewarded for the courage shown during the years of communist suppression'. This view was not shared by CDA and SP, nor by MP Geert Wilders, who shortly before had decided to leave the VVD to form a parliamentary one-member faction before starting his own Freedom Party (Partij voor de Vrijheid, PVV).

Particularly the CDA's change of position was remarkable. Since the start of European integration in the 1950s, this party had presented itself as one of the most convinced pro-Europe voices in the national parliament, consistently supporting new enlargement rounds, but this started to change after 2004. Like many others, the Christian-democrats were influenced by the 'Fortuyn revolution'<sup>3</sup> with its critical views on the excesses of globalization, but other factors played a role as well. In 2004 the Netherlands was shocked when it found out how easily Eurozone countries managed to circumvent the strict budget criteria set by the Stability and Growth Pact. The Dutch wondered about the implications this would have for the stability of the European currency. Had it after all been a wise decision to give up the trusted Dutch guilder and jump into the unknown euro adventure? Moreover, to the surprise of many, a majority of the Dutch voters rejected the European Constitutional Treaty in a referendum in

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<sup>3</sup> In 2002 the national-populist politician Pim Fortuyn had entered the domestic political arena and his sudden rise in popularity among wide segments of the population - immediately followed by his tragic assassination - had a major impact on Dutch politics and society.

June 2005. The rejection of the Treaty was seen as another important signal of a substantially altering public perception of European integration.<sup>4</sup>

All this could not fail to have an impact on the discussions on Romania's accession. The Christian-democrats emphasised that in its monitoring reports the European Commission tended to be too optimistic about the progress made by the candidate members. Corruption in Romania was seen as a perennial problem and also the lack of religious freedom was a point of concern. In Romania, clergymen and priests were paid by the state and there still existed a(n undivided) Ministry of Education and Religion, to the dismay of CDA politicians. MEP Camiel Eurlings argued that the Commission should apply its standards more strictly and not be afraid of threatening Romania with a delay of EU entry: 'This is not against the Romanians, this is about being consequent. If we do not manage to tackle issues like corruption now, it will become more difficult in the future'.<sup>5</sup> SP senator Tiny Kox referred to a recent opinion poll showing that a majority of the Dutch population was opposed to Romania's accession. Kox thought it 'cynical' that a year after the Dutch 'no' to the European Constitution, government and parliament were prepared to say 'yes' to something the majority of the population was negative about.<sup>6</sup> However, the SP was unable to turn the tide, a wide parliamentary majority endorsed Romania's EU accession. The latter party's disappointment was softened somewhat by the provision that the free movement of Romanian workers to the EU would be restricted for the period until 1 January 2014.

### *The Netherlands, Romania and Schengen*

Romania entered the Union, as scheduled, on the 1<sup>st</sup> of January 2007, but this did not take away Dutch concerns, especially those concerning the state of the rule of law in the country. The internationally recognized index of Transparency International – which ranked countries according to their public sector corruption - had placed Romania on the 69<sup>th</sup> position (Bulgaria on 64, the Netherlands on 7) in 2007. The Hague questioned whether Romania was making

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<sup>4</sup> Hans Vollaard, Jan van der Harst and Gerrit Voerman (eds.), *Van aanvallen naar verdedigen. De opstelling van Nederland ten aanzien van Europese integratie, 1945-2015* (Den Haag 2015), 63-64.

<sup>5</sup> 'EU positief over lidmaatschap Roemenië', *Rechtenuws*, 25 October 2005, <https://www.rechtenuws.nl/4972/eu-positief-over-lidmaatschap-roemenie/>, accessed 29-11-2018.

<sup>6</sup> 'Vroeg of laat: Toetreding Roemenië en Bulgarije tot de EU', <https://www.sp.nl/nieuws/2012/07/vroeg-of-laat-toetreding-roemenie-en-bulgarije-tot-de-eu>, accessed 31-10-2018.

sufficient efforts to improve its performance and ensure that all adopted judicial reform measures were effected and made irreversible. Hence the government attached great value to the regular monitoring of progress - or the lack thereof - by the European Commission's Mechanism for Cooperation and Verification (CVM). Dutch worries culminated under the Cabinet that was installed in October 2010, under Prime Minister Mark Rutte (VVD), consisting of VVD and CDA, but for a parliamentary majority dependent on the support of the PVV of Geert Wilders.

From the beginning Wilders had made clear that he wanted to put a break on European integration, stop immigration and block enlargement beyond the EU-27. With his 24 seats in parliament (out of 150) his party had grown in importance and although formally not part of the government, the PVV was in the position to put substantial pressure on the Rutte team.

Early in 2011, enlargement of the Schengen area - guaranteeing a borderless zone through intra-EU free movement of persons - was on the European agenda. Schengen at the time consisted of 25 members, including non-EU countries like Iceland, Norway and Switzerland and excluding the EU countries Cyprus, Ireland and the UK. The initial intention of Brussels was to let Romania and Bulgaria, as most recent EU members, enter the Schengen zone by March 2011. However, the Dutch government was not prepared to let this happen. Admitting Romania into Schengen would mean that the country would become part of the external border of the EU. Coupled with the existing concerns about corruption, the Rutte cabinet thought it unwise to give the green light at this stage, without further monitoring by the European Commission. Immigration Minister Gerd Leers (CDA) said that the 'Schengen system is based on trust since we are asking new countries to effectively guard our collective borders'.<sup>7</sup> He wondered whether this trust was sufficiently present given the political and legal problems Romania was experiencing. Leers added that by accepting Romania into the Schengen area 'we would be giving them the keys to our ports of entry in matters that affect our own sovereignty over border surveillance'.<sup>8</sup> He wondered and wanted to verify whether the rule of law was sufficiently in force and urged to wait until the summer of 2012 when the Commission was scheduled to publish its next CVM monitoring report on judicial reform and corruption.

The Dutch government was rather isolated in its position on Schengen enlargement. The year before, also Germany and France had voiced serious concerns about the opportuneness of

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<sup>7</sup> 'Dutch to decide on Bulgaria, Romania Schengen bids by 2012', *EUbusiness*, June 2011, <https://www.eubusiness.com/news-eu/netherlands-romania.ait>, accessed 21-11-2018.

<sup>8</sup> 'Romania-Netherlands: Bucharest triggers War of Tulips', *VoxEurop*, 19 September 2011, <https://voxeurop.eu/en/content/article/964011-bucharest-triggers-war-tulips>, accessed 21-11-2018.

Romania's Schengen entry. In 2010 France suggested a delay, after Romania had expelled hundreds of Roma in a controversial crackdown on illegal immigrants.<sup>9</sup> However, in the course of 2011, Paris and Berlin had toned down their criticism - satisfied with the reform progress Bucharest had been making - and went along with the European Commission's proposal to broaden the Schengen zone. As a consequence, The Hague lacked support for its oppositional stance and - since unanimity was needed to enforce a decision - felt obliged to use the veto instrument against Romanian accession.

Romania was furious about the unilateral blockage imposed by the Dutch government in September 2011. Bucharest pointed to a recent action by the National Anticorruption Directorate (DNA), which early in February had arrested 140 customs officers, suspected of corruption and brought over to the capital by helicopter. Apparently, this had failed to impress the Dutch government. By way of retaliation, the Romanian government decided to a temporary stop on the import of flowers from the Netherlands. Citing health concerns - suspecting contamination with 'dangerous bacteria' - customs authorities blocked six truckloads of Dutch flowers, seeds and bulbs at the Romanian-Hungarian border.<sup>10</sup>

Bucharest's anger versus The Hague was enhanced by the supposedly haughty manner in which the Dutch had dismissed a compromise plan launched by the EU presiding Polish government, which aimed at a partial removal of border controls in Romania. Poland suggested to first open air- and seaports and then land borders at a later stage, a plan which was welcomed by Eurocommissioner for Home Affairs, Cecilia Malmström, who hoped a solution could still be found. In Malmström's view, Romania was 'technically ready' to join Schengen.<sup>11</sup>

Dutch Minister Leers begged to disagree with the Commissioner's position. In a press conference he stated:

'Let me give you an example. If you have a door (...) with the best locks of the world, you can say that the door is technically safe. So nobody can come in. But if a man is standing behind the door and he opens it for anyone he likes, then it is not safe. So, what we need is not only a technical approval of the situation of (...) Romania but also the underlying rule of law'.<sup>12</sup>

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<sup>9</sup> 'No Dutch vegetables please, we're Romanian', *The Economist*, 14 December 2011.

<sup>10</sup> Valentina Pop, 'Dutch tulips blocked at Romanian border in Schengen dispute', *EUobserver*, 19 September 2011.

<sup>11</sup> 'Dutch to oppose Romania, Bulgaria, Schengen bids', *Expatica*, 16 September 2011,

<https://www.expatica.com/nl/news/country-news/Dutch-to-oppose-Romania-Bulgaria>, accessed 21-11-2018.

<sup>12</sup> 'The Netherlands: We don't want to decide now and regret later', *EUinside*, 24 September 2011,

<http://www.euinside.eu/en/news/the-netherlands-position-against-bulgaria-and-romania>, accessed 21-11-2018.

The Romanians suspected that the Dutch opposition was instigated by domestic considerations. Foreign Minister Teodor Baconschi said that ‘the position of the Dutch government is disappointing for us, although it is no surprise, given that its political survival is dependent on the populist and anti-migration PVV party’.<sup>13</sup>

Leers dismissed this argument, saying that blaming Wilders’ PVV for the result was ‘too far-fetched’. Leers claimed that he had the backing of the whole Dutch parliament for his policy line. To minister Baconschi he said: ‘Be honest and show how you are going to repair the shortcomings that exist at the moment’.<sup>14</sup> Just at that time, Romanian top judges had cleared of corruption a former prime minister, Adrian Năstase – a controversial judgment which had not gone unnoticed in The Hague.

Leers was right about the broad support for his policy in the Netherlands, although he did not have the backing of the entire national parliament. One party dissented, the left-liberal D66. Spokesman Gerard Schouw worded his party’s position as follows: ‘The Netherlands has changed half way the rules of the game. This is unacceptable, we need to be a reliable partner’.<sup>15</sup> Schouw was of the opinion that under the existing European arrangements, adequate anti-corruption policies and the state of the judicial system were no *formal* criteria for admission to the Schengen treaty. In this line of reasoning, what was needed for accession was the securing of all technical elements, like control gates and scanners for biometric passports. And these were instruments Romania was capable to deliver. What the Dutch government called for was thus, in the view of D66, beyond the formal criteria and therefore excessive. Also large parts of the Dutch business community were unhappy with the rigid position of the government, fearing negative consequences for their commercial activities. In the period after Romania’s EU accession, the Netherlands had developed into the largest foreign investor in the country, accounting for 25% of total FDI.<sup>16</sup> The Netherlands also had a substantial trade surplus with Romania (823 million of exports versus 443 million euro imports, in 2005 figures).<sup>17</sup>

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<sup>13</sup> Rikard Jozwiak, ‘Bulgaria, Romania must wait to join Europe’s border-free zone’, *RadioFreeEurope/RadioLiberty*, 22 September 2011, [https://www.rferl.org/a/decision\\_on\\_bulgaria\\_and\\_Romanias\\_schengen\\_entry\\_delayed](https://www.rferl.org/a/decision_on_bulgaria_and_Romanias_schengen_entry_delayed), accessed 21-11-2018.

<sup>14</sup> *Idem*.

<sup>15</sup> ‘Nederland blijft toetreding van Bulgarije en Roemenië tot Schengen dwarsbomen’, *Trouw*, 16 December 2011.

<sup>16</sup> ‘How the Dutch are doing business in Romania’, Romanian Netherlands Chamber of Commerce, 30 April 2018, <https://www.dutchromaniannetwork.nl/how-the-dutch-are-doing-business-romania>, accessed 29-11-2018.

<sup>17</sup> Marco van der Hoeven, ‘Toetreding tot EU van Roemenië en Bulgarije biedt veel kansen. Poort naar het oosten’, in: *Supply Chain Magazine* (2007) 4, 36-38; ‘Netherlands and Romania’s love-match continues’, *Emerging Europe*,

The sharpest critic of the Dutch position was the Romanian president Traian Băsescu, who called the Dutch blockage of his country's Schengen entry an 'abuse'.<sup>18</sup> In an attempt to punish his opponents, he called for a boycott of Dutch vegetables, saying that he preferred Turkish and Spanish produce. In reaction, the British *Economist* pointedly asked the question: 'What did the poor, unsuspecting Dutch cucumbers and lettuce do to draw the president's ire?' The answer was simple: the unilateral resistance against Romania's Schengen membership, instigated by The Hague's desire 'to see reform of Romania's corrupt judiciary'.<sup>19</sup> Immigration Minister Leers strongly refuted Băsescu's action: 'This is not about vegetables, it is about corruption. I hope the president respects the internal market, otherwise we may find one more reason why Romania does not belong in Schengen.'<sup>20</sup>

In an opinion poll held in that period it turned out that 60% of the Romanians thought their country deserved to join Schengen; 22% feared further delay would worsen Romania's image; almost 20% believed corruption was the main reason for delay; only 12% blamed it on politics; 11% believed Romania's Roma (Gypsy) population was the main problem.<sup>21</sup>

In practice, it appeared that politics was one of the main issues at stake, more important than the opinion poll suggested. In July 2012 the European Commission published its long-awaited progress report on Romania and its verdict was extremely harsh. The Commission noted that democracy was not firmly rooted in Romania and doubted whether Romanian authorities fully understood the meaning of the rule of law for a healthy democratic state. Just in that period Prime Minister Victor Ponta (PSD) had sidelined his political archrival president Băsescu (PD/Independent) using undemocratic means. Pressured by the Commission, Ponta had promised to rectify his decision, but the Commission was not convinced of the sincerity of the prime minister's promise. It was not the first, and certainly not the last time, that politicians of different backgrounds tried to exclude each other from participation in the political arena.

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23 June 2017, <https://emerging-europe.com/intelligence/netherlands-and-romanias-love-match-continues>, accessed 29-11-2018.

<sup>18</sup> 'Romania accuses Netherlands of "abuse" over Schengen veto', *Euobserver*, 9 December 2011.

<sup>19</sup> 'No vegetables please, we're Romanian', *The Economist*, 14 December 2011.

<sup>20</sup> *Idem*.

<sup>21</sup> *Idem*.



Polarisation had reached sky-high levels.<sup>22</sup> In the Commission's view, 'one needed a democratic political culture to let law and courts function in a proper way', but such a culture was lacking in Romania. The Commission added that Romania had laid down the 'bricks' for a proper democracy, but the 'cement' was still lacking. It provided the Romanian government with dozens of recommendations, which needed to be adopted as a condition for further progress in the negotiations.<sup>23</sup>

For the Dutch government this was good news. For a long time, The Hague had been relatively isolated in its oppositional stance, but now sudden support had arrived from the institution most closely involved in the negotiations with Romania. It was calculated that the Dutch 'no' could be maintained for at least another 18 months, until the next rapportage by the European Commission.<sup>24</sup>

In November 2012, Prime Minister Rutte's minority cabinet of VVD and CDA, supported by the PVV, was succeeded by a majority cabinet, consisting of VVD and PvdA (Labour party, centre-left), again under the leadership of Mark Rutte. Minister of Immigration and Integration Gerd Leers (CDA) made place for Fred Teeven (VVD) in the position of State Secretary. The fact that under the new government the portfolio of Immigration and Integration no longer resided under a full minister but under a junior minister was a signal that the sharp edges of the delicate policy area had been polished somewhat.

This is not to say that the new government changed the policy on Romania's Schengen ambitions. Although the new Minister of Foreign Affairs Frans Timmermans (PvdA) intimated that he was prepared to loosen the link between verification mechanism reports and Romania's Schengen admission and to respect the agreement on opening the labour market for Romanian workers in January 2014, in practice the Dutch government remained as adamant as it had been before.<sup>25</sup>

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<sup>22</sup> Wim Blockmans, 'Nieuwe lidstaten verspreiden gif binnen de EU', *NRC Handelsblad*, 31 March 2007; Rob Boudewijn, 'Wie vandaag een ei steelt, steelt morgen een os', *Internationale Spectator* (2007) 6, 294-297.

<sup>23</sup> Marc Peepkorn, 'Roemenië en Bulgarije hadden nooit lid van de EU mogen worden', *De Volkskrant*, 19 July 2012.

<sup>24</sup> Idem.

<sup>25</sup> 'The Netherlands un-links verification mechanism reports to Romania's Schengen admission', *Black Sea News*, 13 February 2013, <https://www.blackseanews.net/en/read/56554>, accessed 21-11-2018.

Support for the Dutch position came from the German government, a centre-right CDU/CSU-FDP coalition under Angela Merkel. Berlin not only doubted the strength of the rule of law in Romania, but also worried - more than the Netherlands - about the impending opening of borders for Romanian workers per 1 January 2014. Interior Minister Hans-Peter Friedrich (CSU) warned that 'a wave of impoverished people could migrate to Germany in search of better social services'. To prevent this, Germany ensured that a vote on Romanian Schengen membership was postponed until at least the end of 2013. EP president Martin Schulz blamed the Merkel government for politicizing the Romanian accession process, saying that the European Union 'is a community of rights' and that he 'reject[ed] political criteria'.<sup>26</sup>

The German government started to take a more restrictive view on migration after seeing the national-populist *Alternative für Deutschland* (AfD) grow in popularity. In this respect, Germany was considerably later than the Netherlands, which already since the 1990s - the days of VVD leader Frits Bolkestein - had become acquainted with politicization of the delicate migration issue. At the same time, The Hague was fully aware that the national population was aging and that the country needed to import labour to maintain a stable workforce and pension system. The government was faced with a complex problem: to find a proper balance between attracting immigrant labourers and calming voters who felt that a lax immigration policy was eroding social security and national identity.<sup>27</sup>

The discussion on Romania's Schengen entry was not completely antagonistic. Some Romanian publicists proved to be highly critical of their own government and political system. Liliana Gheorghe wrote that 'corruption is still one of the major diseases that prevent the development of the country and, unfortunately, one of the legacies of the communist regime that promoted family relationships and abuse of power rather than meritocracy'. In Gheorghe's view it would 'take time to change that'. Another author, Topan Bogdan, added that he fully understood Western concerns about Romania and Bulgaria becoming a direct border to regions that were not part of the territory of European security. Bogdan warned for smugglers from Turkey and Afghanistan, as well as arms trafficking with the Republic of Moldova. He

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<sup>26</sup> 'Germany blocks Schengen membership for Bulgaria, Romania, *DW*, 7 March 2013, <https://www.dw.com/en/germany-blocks-schengen-membership-for-bulgaria-romania>, accessed 21-11-2018.

<sup>27</sup> 'Romania's and Bulgaria's stalled Schengen accession', *Worldview*, 8 March 2013, <http://www.worldview.stratfor.com/article/romanias-and-bulgarias-stalled-schengen-accession>, accessed 21-11-2018.

concluded: 'Potential new sources of criminality are the main arguments of the other European countries. And they are right'. Bogdan thought it important to 'defeat corruption before accession'. In that sense, recent conflicts between president Băsescu and Foreign Minister Titus Corlăţean about the right policies towards fighting corruption did not bode well.<sup>28</sup> Florinel Iftode argued that 'the politicians from Bucharest' were the first to be blamed for blocking Romania's access to Schengen: 'Romania has no political maturity to prepare thoroughly for such [a] difficult exam as joining the Schengen Area.'<sup>29</sup>

The Dutch position on Romania's Schengen entry continued to be consistent throughout the years. The rise of national-populist parties – apart from the PVV also Thierry Baudet's Forum for Democracy - had consequences for the (hardening) tone of the Dutch input, but not for the substance which remained the same. In March 2015, the Dutch Ambassador in Bucharest Matthijs van Bonzel repeated the Dutch standpoint in a conversation with his Romanian counterparts: 'I'm talking about legislation, the judicial system and its functioning, about efficiency and fairness in the application of laws, and institutional corruption'. More in particular he pointed to the fact that Romania had yet to meet the criteria set for illegal wealth confiscations.<sup>30</sup>

One of the reasons why corruption was such an important issue for the Netherlands had to do with the Dutch position as net donor to the EU budget. In 2015 the Netherlands contributed 3.7 billion euro more to the European budget than it received, which made it the highest financier per capita. Romania, on the other hand, received 5.2 billion more than it paid, making it the highest net receiver after Poland and the Czech Republic. The Dutch government wanted to have more certainty about a proper spending of European funds flowing to the Eastern part of Europe.<sup>31</sup>

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<sup>28</sup> 'Romanian entry to the Schengen area, *Duel Amical*, 31 July 2013, <http://duelamical.eu/articles/46/romanian-entry-to-the-schengen-area>, accessed 21-11-2018.

<sup>29</sup> Florin Iftode, 'Accession to the Schengen Area- a Further Delay for Romania', *EIRP Proceedings* 7 (2012) 774, <http://proceedings.univ-danubius.ro/index.php/eirp/article/view/1367/1271>, accessed 3-7-2019.

<sup>30</sup> 'Ambassador: The Netherlands opposes Romania's Schengen accession', *Romania Insider*, 16 March 2015, <https://www.romania-insider.com/ambassador-netherlands-doesnt-support-romaniyas-schengen-accession>, accessed 21-11-2018.

<sup>31</sup> Emile Kossen, 'Nederland betaalde in 2015 relatief het meest aan EU', *Elsevier Weekblad*, 10 August 2016.

This position was shared by two other net contributors, Austria and Germany. When Commission President Jean-Claude Juncker in his State of the Union of September 2017 hinted at the possibility of speeding up the process of offering Schengen membership to Romania and Bulgaria he encountered a sharp reply from the German Interior Minister Thomas de Maizière (CDU), the Austrian Chancellor Christian Kern (SPÖ) and Dutch Prime Minister Rutte. Rutte about Romanian entry: 'Not at this time. We are against that. There is still too much concern about border control and corruption'. And about Juncker: 'Juncker is a romanticist. We all have our own style, and I am not such a romantic in politics' .<sup>32</sup>

Juncker was corrected by his own apparatus. The Commission's Report for Cooperation and Verification of November 2017 was still very pessimistic about Romania's progress in meeting the criteria. In fact, on all four issues measured by the Commission the verdict turned out negative.<sup>33</sup>

The most outspoken critic of Dutch policies on the Romanian side remained Traian Băsescu, now in the position of ex-president. Băsescu made a comparison between France and the Netherlands, reminding that France was prepared to accept the two-step approach - first the opening of Romanian airfields and later of land borders - but that the Netherlands kept refusing. He blamed this on the country's political system: 'Romania, like France, and all the other states represented by presidents in the European Council, have the advantage that they don't need a mandate from Parliament for foreign policy', repeating his argument that 'the Dutch parliament includes a party [Wilders' PVV] that is very critical of the EU and blocks any initiatives that would help Romania join Schengen'.<sup>34</sup>

It was also Băsescu, who in late October 2018, blamed the Dutch government for applying double standards: on the one hand accusing Bucharest of neglecting the rule of law, while on the other hand allowing the Dutch shipbuilding company Damen - which was being investigated for corruption - to sign a 1.6 billion euro contract with the Romanian state. Băsescu added ironically that 'Romania should eliminate Damen from the competition if it wanted to get into

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<sup>32</sup> 'Dutch PM ambivalent about Juncker's EU plans', *NL Times*, 14 September 2017, <https://nltimes.nl/2017/09/14/dutch-pm-ambivalent-junckers-eu-plans>, accessed 21-11-2018; 'German, Austrian, Dutch officials oppose Romania entering Schengen', *Romania Insider*, 15 September 2017, <https://romania-insider.com/opposition-romania-entering-schengen>, accessed 21-11-2018.

<sup>33</sup> Council of the European Union, COM (2017) 751 final, 15 November 2017.

<sup>34</sup> 'Ex-president Basescu: The French and Germans would accept Romania in Schengen, but not the Dutch', *Business Review*, 14 September 2016, <http://business-review.eu/news/ex-president-basescu-the-french-and-germans-would-accept>, accessed 1-11-2018.

Schengen'. The ex-president's irritation was furthered by the fact that in previous years Dutch shipbuilding companies had acquired a major share in the privatization of the Romanian ports of Constanța and Galați, pillars of the country's national economy.<sup>35</sup>

Romania's president Klaus Iohannis (since 2014), however, warned against the dangers of self-victimization:

"The only country that really opposes the accession is Romania itself. By the unfortunate way in which we legislate, by the unfortunate way in which we issue emergency ordinances, generally by the unfortunate way we show that we do not know very well what we want. I am referring now to the ordinance 13<sup>36</sup>, to the Control and Verification Mechanism, where the priority target – the judiciary system – has done its job. We're fine. On the other side – Parliament and politicians – we still have issues to solve, and approaches like ordinance 13, even if they disappear, show to many European politicians that things are still unstable in Romania as regards the approach to what is called the rule of law. And the approaches of some very visible politicians, with very high positions in our state, who cast doubt on Brussels or the European Union does not help us at all. On the contrary, they confirm that we still have a lot of politicians in Romania who did not quite understand how it is with the rule of law, which are the fundamental values of the European Union and that we still have politicians who have a nationalist grasp in a negative way."<sup>37</sup>

In the most recent period, the governmental standpoints have not come closer. Even a visit by Rutte to Bucharest, in September 2018, the first visit of a Dutch prime minister in 15 years, could not alter this state of affairs. 'I fully understand Romania's desire to join the Schengen area (...). We will see what the next steps be, after the assessment to be made by the European Commission.'<sup>38</sup> The Commission's annual report was published in November; it demonstrated that progress in terms of judicial reform and tackling corruption had been rolled back rather than reinforced. Livia Dragnea of the Social Democratic Party, Romania's *de facto* leader, convicted for vote-rigging in 2016 and for corruption in 2018, now attempted to decriminalise

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<sup>35</sup> 'Former Romanian president launches accusations against Dutch politicians', *Romania Insider*, 29 October 2018, <https://www.romania-insider.com/trian-basescu-accusations-dutch-politicians>, accessed 1-11-2018.

<sup>36</sup> See *infra*: an attempt by the Romanian government to decriminalise corruption-related crimes committed by state officials by means of amending criminal law by emergency decrees.

<sup>37</sup> Robert Lupitu, 'Exclusive interview. President of Romania, Klaus Iohannis: Romania has no enemies within the European Union, just a lot of friends', *Caleaeuropeana.ro*, 8 May 2017, <https://www.caleaeuropeana.ro/exclusive-interview-president-of-romania-klaus-iohannis-romania-has-no-enemies-within-the-european-union-just-a-lot-of-friends/>, accessed 3-7-2019.

<sup>38</sup> 'Your Dutch PM says No to Romania's Schengen accession', *Xinhua*, 13 September 2018, [http://www.xinhuanet.com/english/2018-09/13/c\\_137463918.htm](http://www.xinhuanet.com/english/2018-09/13/c_137463918.htm), accessed 3-7-2019.

corruption-related crimes by state officials. He did so by means of amending criminal law, using emergency decrees. At the summits during the Romanian presidency of the EU, during the first half of 2019, the political conflicts between Dragnea and president Iohannis came to the fore. The latter did not mince his words: 'We have politicians who unfortunately have shown Europe that we don't only have a nice face. Politicians who attack justice, attack European institutions. And because of this, instead of [Romania] being fully accepted, discussions over the rule of law have appeared.' Again, president Iohannis blamed the internal political mess for the country's failure to meet the standards required to join Europe's visa-free Schengen area.

Under these conditions the Netherlands' previously isolated position gained even more support, with French president Macron now siding with Rutte in considering Romania's Schengen entry premature. And even Commission president Jean-Claude Juncker, who earlier in the year had campaigned for a speedy admission, now said Romania needed to make further steps to fully reach European rule of law standards: 'They have to make efforts to reach the virtuous European crossroads'.

In spite of all, President Iohannis showed himself optimistic: 'The Romanians want to be Europeans and I promise you will stay Europeans and I can also promise that soon, probably not today, but soon, we will be in the Schengen area too, and we will also get rid of the CVM'.<sup>39</sup>

### *Conclusion*

Dutch objections to Romania's Schengen accession were instigated by a combination of deeply felt concern about the absence of the rule of law in Romania and the changed political atmosphere in the Netherlands. In the early 2000s not only the national-populist politicians Fortuyn and Wilders developed a reticent view on enlargement issues (also referred to as 'chronic anxiety'), this was also the case for the established political parties in the centre. In The Hague, there was broad agreement on blocking Romania's membership of Schengen (only one party, D66, dissented), even if this meant that the Dutch government was placed in an isolated position in the European negotiations. Apart from worries about enduring corruption in Romania, and the latter's presumed inability to protect the EU's external borders, there was

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<sup>39</sup> Elena Becatoros and Vadim Ghirda, 'Romanian political spat comes to the fore at EU Summit', *AP News*, 9 May 2019, <https://www.apnews.com/0ca79feb94df4981a4475bd9e2f7c224>, accessed 3-7-2019; 'Juncker tegen Rutte: help Roemenië Schengen in', *Algemeen Dagblad*, 11 January 2019.

also the net contributor position of the Netherlands, which made it look skeptical to a country that lacked a stable legal, democratic and financial basis.

What did not help in the discussion was the predominantly negative image the Romanian people had in Dutch public opinion. In a publication in 2013, it was written that Romanians abroad were associated with all sorts of criminal behaviour: gangs of robbers, problems with groups of Roma, housing overcrowding, nuisance in the big cities, and the allegedly poor conditions in which Romanian seasonal workers lived on Dutch farms.<sup>40</sup>

This picture was substantially corrected in a 2015 report published by the Social and Cultural Planning bureau (SCP) in The Hague. The SCP had done research into the consequences of the situation of the free movement of workers since 1 January 2014, and the conclusions after almost two years of experience were distinctly positive. They showed that Romanian immigrants in the Netherlands (about 10.000 in total) were generally high-educated, had good jobs and lived in comfortable circumstances. The SCP noted that comparatively Romanians were doing much better than Bulgarians and somewhat better than Poles living in the Netherlands.<sup>41</sup> Indeed, it was remarkable and indicative that for the Dutch government - despite all its reservations in the Schengen context and unlike, for example, a country like Germany - the free movement of workers never appeared on the agenda as a problematic issue.

The position of Dutch government and parliament on Romania's Schengen entry was highly consistent throughout the years we studied for this paper. Whereas other countries - like France and Germany, and also the European Commission - repeatedly adapted their policies, this was not the case for the Netherlands. This was helped by the fact that Dutch politics and society were united on the preferred route to be taken. The Dutch government continued to uphold its position and felt confirmed in this stance, before, during and after Romania's first time presidency of the EU's Council of Ministers.

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<sup>40</sup> J. Dagevos and M. Gijsberts, 'Beeldvorming over arbeidsmigranten uit Oost-Europa', in: P. Dekker, J. den Ridder and P. van Houwelingen (eds.), *COB. Burgerperspectieven 2013/4* (Den Haag 2013) 34-48.

<sup>41</sup> Sociaal en Cultureel Planbureau, *Roemeense migranten. De leefsituatie in Nederland kort na migratie* (Den Haag, November 2015).

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