The ‘euro toolkit’: How to save Schengen in four key steps

The European Commission presented proposals on 15 December related to the Schengen area and the Frontex border agency, with the European Council due to meet on 17-18 December to discuss the proposals and how to resolve the ongoing refugee crisis. In light of the proposed reforms, **Valentin Kreilinger** *writes that Europe’s handling of the Eurozone crisis offers four key insights for attempts to manage the current crisis which, if implemented correctly, could help remedy the design flaws contained within the Schengen system.*

Both the Economic and Monetary Union and the Schengen area suffer from serious design flaws. This is because, as German Chancellor Angela Merkel put it in parliament on 25 November 2015, Europe “didn’t go quite to the end of what would have had to be solved politically”. In both cases, a core pillar of European integration has been threatened. Even though the Economic and Monetary Union has been stabilised, many think that in the long term it does not remain viable in its current form.

Nevertheless, the way in which Europe dealt with the euro crisis (e.g. reducing the immediate risk of contagion, creating emergency bailout funds and making the governance of the euro area stronger), offers a whole range of measures and lessons for the current Schengen and refugee crisis. These lessons are not capable of bringing about miracles, but they provide guidance for a coherent approach to save Schengen. This ‘euro toolkit’ consists of four sets of instruments that have not yet been exploited fully during the crisis.

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Meetings at the highest level

Heads of State and Government have held countless European Council meetings and newly created “euro summits” since 2010, in order to find responses to the euro crisis. They often agreed to too little too late, but these meetings have been a dominant feature of the euro area’s reaction to the financial and economic crisis.

In the current situation, EU leaders have started to use this instrument as well: European Council meetings in September, October and November 2015 all dealt with the refugee crisis and – indirectly – with Schengen, but the involvement of the four Schengen area members outside the EU (only 22 out of 26 members of the Schengen area are EU member states) at the highest political level is an open question.

Independent bodies take decisions

Most prominently, the European Central Bank made purchases of sovereign debt on the secondary market under its Securities Markets programme and promised to do “whatever it takes” to save the euro with its Outright Monetary Transactions programme. Other examples for relying on independent bodies as a reaction to the euro crisis are the Single Resolution Mechanism and Fiscal Councils at the national level.

With its proposal on 15 December to give more powers to Frontex and transform it into a “European Border and Coas

Guard Agency", the European Commission is resorting to exactly the same mechanism in order to better protect the external borders of the Schengen area. Direct intervention rights for Frontex and independent assessments of the situation at the borders are first steps towards creating a European border control system.

Change primary and secondary law

The legal framework for the Economic and Monetary Union was strengthened as a direct response to the euro crisis: Two legislative packages (the 'Six-Pack' and 'Two-Pack') enhanced fiscal and economic policy surveillance in 2011 and 2013 by, for instance, addressing statistics and reporting requirements. In addition, 25 member states signed and ratified the Treaty on Stability, Coordination and Governance with even tougher fiscal rules in 2012. The European Stability Mechanism and the Single Resolution Fund were also created on the basis of separate international treaties in 2012 and 2015.

Until now, the EU response to the refugee crisis and Schengen has not moved to the stage where concrete proposals to change primary or secondary law are on the table, but the Dublin regulation and the Schengen Border Code need to be revised soon. The registration of asylum seekers and – just like for excessive public debt and deficits – reliable statistics are another problem in the refugee crisis.

More efficient decision-making

For the reinforced excessive deficit procedure, voting by "reversed" qualified majority was invented, the European Banking Agency and later the Banking Union received "double" majority mechanisms in order to bridge the gap between the euro area and the rest of the EU. In addition to that, the European Central Bank did not determine its interventions unanimously – German members of its board or the Bundesbank opposed them, but were outvoted. Numerical rules govern, for instance, the Macroeconomic Imbalances Procedure and more internal differentiation in the euro area will happen with "enhanced cooperation" on the Financial Transaction Tax.

In the refugee crisis, the decision of 22 September 2015 to agree the relocation of 160,000 refugees by qualified majority is an example of more efficient decision-making. Referring to the tensions that have arisen from this decision, Donald Tusk has admitted that in the medium and long run qualified majority voting cannot be used in refugee and asylum policies as an instrument of coercion.

Numerical rules (quotas) to relocate refugees were agreed, but relocation is only moving forward at a snail's pace. The European Commission may propose to give itself the power to adopt a decision that would allow the new European Border and Coast Guard Agency to intervene immediately in crisis situations at the external border. Only a reversed qualified majority in the Council could block this. Finally, the option to resort to "enhanced cooperation" in the refugee crisis on the basis of Article 20 TEU has not been used yet.

The 'euro toolkit'

Ultimately, using this 'euro toolkit' means embarking on an incremental process. Such processes have been criticised as 'muddling-through' or exploratory governance, but this is simply how the EU works. The main difference between the two crises is that, in the euro crisis, as a powerful Leviathan, the European Central Bank stood ready to do "whatever it takes" to save the euro. An equivalent federal institution is missing in the Schengen area.

There is also no "excessive deficit procedure", no measuring of "imbalances", no "Protocol n°14" for a Schengen group (like the Eurogroup) and differentiated integration is more complicated because Iceland, Liechtenstein, Norway and Switzerland are inside Schengen, but are not EU member states. There are, however, tools from the response to the euro crisis that can be used now to help resolve the issues being faced.

One irony is that while the UK is outside of both the euro and Schengen areas, the crises might nevertheless have a profound impact on the upcoming EU referendum campaign and tip the balance towards a vote to leave. Meanwhile Germany, the country that was most reluctant to introduce increased solidarity in reaction to the euro crisis, is now demanding more solidarity from its European partners to share the burden during the refugee crisis.

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Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.

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