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**REPORT ON THE IMPLEMENTATION OF THE SCHENGEN PART OF THE  
TEMPORARY CASH-FLOW AND SCHENGEN FACILITY (2007-2009) FOR  
BULGARIA AND ROMANIA**

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## 1. INTRODUCTION

The Cash-flow and Schengen Facility was created by Article 32(1) of the Act of Accession of Bulgaria and Romania to the European Union<sup>1</sup> (hereinafter referred to as the Accession Act) as a temporary instrument to help Bulgaria and Romania to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control and to help improve cash-flow in national budgets.

Article 32(3) of the Accession Act stipulates that at least 50% of the funding provided by the instrument should have been used to support Bulgaria and Romania in their obligation to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control.

The total eligible expenditure under the Schengen part of the Cash-flow and Schengen Facility (hereinafter referred to as Schengen Facility II) amounted to EUR 476 million (EUR 351 million in Romania and EUR 125 million in Bulgaria). The instrument was implemented in the period 2007-2010.

The purpose of this report is

- to provide a summary information on the implementation of the Schengen Facility II; and
- to present the results of the ex-post evaluation of the instrument which was carried out, under the responsibility of the Commission, by an external evaluator (Matrix Insight Ltd.), in accordance with the provisions of Article 18(3) of Commission Delegated Regulation (EU) No 1268/2012<sup>2</sup>. The evaluation report is published in the Commission's evaluation database<sup>3</sup> and in the online EU bookshop,<sup>4</sup> both accessible via the Europa website.

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<sup>1</sup> Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the treaties on which the European Union is founded. OJ L 157, 21.6.2005, p. 203.

<sup>2</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union. OJ L 362, 31.12.2012, p. 1.

<sup>3</sup> <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=12413265> .

<sup>4</sup> [http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en\\_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215024](http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215024) .

## 1. CONTEXT OF THE SCHENGEN FACILITY II IMPLEMENTATION

Schengen Facility II was a second generation of a financial instrument designed to assist newly acceding EU Member States in their preparation for the full application of the Schengen acquis at the external borders.

Under the first generation of the instrument, Schengen Facility I, support for the implementation of the Schengen acquis and for the upgrade of the border controls at the EU's new external borders was provided to seven out of the ten countries which joined the EU in 2004<sup>5</sup>. Schengen Facility I was implemented in the period 1 May 2004 – 31 December 2007. The total eligible expenditure under Schengen Facility I amounted to EUR 910 million.<sup>6</sup>

The creation of the Schengen Facility II was closely related to the fact that, in accordance with Article 4 of the Accession Act, only certain provisions of the Schengen acquis listed in Annex II to the Accession Act were applicable to Bulgaria and Romania from the date of their accession to the EU (1 January 2007), while other provisions, not listed in Annex II, should only apply in these two countries pursuant to a Council decision to that effect after verification, in accordance with the applicable Schengen evaluation procedures, that the necessary conditions for the application of all parts of the Schengen acquis have been met. The Council shall take this decision by unanimity.

In order to prepare for the full application of the Schengen acquis, Bulgaria and Romania drafted their Schengen Action Plans which identified and prioritized actions to be taken for the accomplishment of the pre-conditions for the accession to the Schengen area. The Schengen Action Plans envisaged actions in the field of border controls, visas, migration, asylum, police co-operation, judicial co-operation, fight against drugs trafficking, firearms and ammunition, Schengen Information System (SIS) and personal data protection.

Some of the actions identified as priorities under the Schengen Action Plans were supported under the Schengen Facility II.

Following declarations of readiness of Bulgaria and Romania to start the Schengen evaluations (in 2007 and 2008), the Working Party for Schengen Matters (Schengen Evaluation) verified the preparations for the application of all parts of the Schengen acquis through a questionnaire and a series of supplementary questions and answers, followed by visits of teams of experts to evaluate the situation in the field of data protection, police cooperation, visa-issuance, land, sea and air borders and the SIS. On 9 June 2011, the Council adopted conclusions on the completion of the process of evaluation of the state of preparedness of Bulgaria and Romania to implement all provisions of the Schengen acquis.<sup>7</sup> For both countries, the Council concluded that they were on the whole sufficiently prepared to apply both the non-SIS related provisions of the Schengen acquis as well as its SIS related provisions in a satisfactory manner. Even though some remaining issues still required

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<sup>5</sup> Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

<sup>6</sup> Report from the Commission to the Council and the European Parliament on implementation of the Schengen Facility (2004-2006), COM(2013) 115 final.

<sup>7</sup> Council conclusions on completion of the process of evaluation of the state of preparedness of Bulgaria to implement all provisions of the Schengen acquis (9167/4/11); Council conclusions on completion of the process of evaluation of the state of preparedness of Romania to implement all provisions of the Schengen acquis (9166/4/11).

additional follow-up efforts, these did not constitute an obstacle to full application of all parts of the Schengen acquis in Bulgaria and Romania.

Despite these conclusions, the necessary unanimity in Council for a decision on the full application of the Schengen acquis in Bulgaria and Romania has not yet been reached.

## 2. IMPLEMENTATION OF SCHENGEN FACILITY II

In accordance with Article 32 of the Accession Act, the Commission paid to Bulgaria and Romania during the period 2007-2009 the annual lump-sum payments under Cash-flow and Schengen Facility in twelfths (for the total amounts, please see the table below).

Table 1: **Schengen Facility II payments and eligible costs - overview**

	Bulgaria	Romania
Total Cash-flow and Schengen Facility annual payments (million EUR - 2004 prices) <sup>8</sup>	239.5	559.8
Total Cash-flow and Schengen Facility annual payments (million EUR – current prices)	257.9	602.5
50% of the total Cash-flow and Schengen Facility annual payments (million EUR – current prices) <sup>9</sup>	129.0	301.2
Total programmed amounts (million EUR - current prices)	161.0	404.4
Total declared and certified expenditure (million EUR - current prices)	128.2	353.6
Ineligible expenditure (million EUR- current prices)	2.7	3.1
Total eligible costs chargeable to the Schengen Facility II (million EUR- current prices)	125.5	350.5
Amounts recovered by the Commission (million EUR- current prices)	3.5	0.0

In accordance with Article 32(5) of the Accession Act, the Commission adopted a decision on the management and control of the Schengen Facility II.<sup>10</sup> The decision stipulated that the following types of actions were eligible for support under Schengen Facility II:

<sup>8</sup> Article 32(2) of the Accession Act defined the annual payments in 2004 prices.

<sup>9</sup> In accordance with Article 32(3) of the Accession Act, at least 50% of the allocation under the Cash-flow and Schengen Facility had to be used for actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control.

<sup>10</sup> Commission Decision C(2007)1417 of 4 April 2007 on the management and control of the Schengen part of the Cash-flow and Schengen Facility.

- Investment in construction, renovation or upgrading of border crossing infrastructure and related buildings;
- Investments in any kind of operating equipment (e.g. laboratory equipment, detection tools, Schengen Information System (SIS II), hardware and software, the creation of the IT systems needed to implement Schengen, means of transport);
- Training of border guards;
- Support to costs for logistics and operations, including payment of the salaries of the personnel required to fulfil the obligations of the beneficiary Member State in respect of the Schengen acquis.

As far as the eligibility period is concerned, the decision stipulated that the eligibility period started on 1 January 2007. The final date for payments was set as 31 December 2010, but all actions must have been carried out by 30 September 2010. This provision was subsequently amended by Commission Decision C(2009)6737<sup>11</sup> which stipulated that all actions must have been carried out by 31 December 2010.

According to Article 1 of Commission Decision C(2007)1417 on the management and control of Schengen Facility II, the beneficiary Member States were responsible for selecting and implementing individual operations under the instrument.

In Bulgaria, the instrument was managed by the Committee for Management, Monitoring and Control of the Schengen Facility chaired by the Minister of the Interior. Tasks related to public procurement, contracts and payments were entrusted to the Central Finance and Contracts Unit of the Ministry of Finance. The Ministry of Finance also performed the tasks related to the certification of the declared expenditure (National Fund Directorate) and audits (Audit of European Union Funds Directorate).

In Romania, Schengen Facility II was managed by the Ministry of Interior and Administrative Reform (Schengen Directorate). Tasks related to public procurement, contracts and payments were entrusted to the Central Finance and Contracts Unit of the Ministry of Public Finance. The certification of the expenditure was the responsibility of the General Directorate of Finance within the Ministry of Interior and Administrative Reform and the Audit Authority beside the Court of Accounts was responsible for audits.

The Bulgarian and Romanian authorities drafted multi-annual and annual indicative programmes which described needs related to the implementation of Schengen acquis and border controls, a strategy to address the needs, objectives to be achieved with the Schengen Facility II support and specific measures to be supported under the instrument.

Under the Schengen Facility II indicative programmes, Bulgaria defined eight objectives. The breakdown of the programmed Schengen Facility II allocations per objective (and the actual declared expenditure) is presented in table 2:

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<sup>11</sup> Commission Decision C(2009)6737 of 8.9.2009 amending Commission Decision C(2007)1417 of 4 April 2007 on the management and monitoring of the Schengen part of the Schengen Facility.

**Table 2: Programmed financial allocations and the declared expenditure per objective – Bulgaria**

	Programmed (EUR)	Total declared and certified expenditure (EUR)
Objective 1: Acquisition of new technical equipment for surveillance and control of the external borders	97 324 000.00	80 393 650.78
Objective 2: Special technical equipment for joint police operations in the border area	7 454 000.00	4 509 320.63
Objective 3: Modernisation and development of the national communication systems	21 279 000.00	20 688 213.42
Objective 4: Information systems and computer networks related to the implementation of the Schengen acquis	12 650 000.00	8 458 239.17
Objective 5: Renovation and modernisation of the existing border infrastructure	4 400 000.00	4 077 125.06
Objective 6: Other activities directly related to the border control of the external EU borders	2 808 000.00	654 711.43
Objective 7: Increase of the qualification of the staff, including language training	1 510 000.00	521 649.45
Objective 7: Development of the National Visa System and connection to the EU Visa Information System (VIS) and the consultation network VISION	13 575 000.00	8 891 301.83
<b>Total</b>	<b>161 000 000.00</b>	<b>128 194 211.77</b>

More than 60% of the Schengen Facility II funding for Bulgaria was programmed and spent on objective 1. Most resources under objective 1 were programmed and spent on the purchase of three helicopters (one medium and two light helicopters), nine vessels (one large, two medium and six small patrol ships) and on the setting-up of an integrated system for the control and surveillance of the Black Sea border consisting of fixed and mobile observation posts equipped with radars, cameras and communication equipment.

The investments under objective 3 with the second largest allocation concerned the expansion of the digital radio communication system TETRA to cover the border area along Bulgaria's border with Serbia and the Former Yugoslav Republic of Macedonia, as well as its further extension along the borders with Turkey and along the Black Sea coast.

It should be noted that Bulgaria programmed under the Schengen Facility II more than the minimum 50% of the Cash-flow and Schengen Facility allocation (EUR 128 963 004), but the total declared and certified expenditure (EUR 128 194 211.77) did not reach this threshold.

Moreover, following an ex-post audit carried out by the Commission, ineligible expenditure amounting to EUR 2 708 124.07 was identified and, in consequence, the total amount recognized as chargeable to Schengen Facility II amounted only to EUR 125 486 087.70. The

difference between this amount and the 50% of the Cash-flow and Schengen Facility allocation was recovered by the Commission.

The Schengen Facility II indicative programmes for Romania defined three objectives. The breakdown of the programmed Schengen Facility II allocations per objective (and the actual declared expenditure) is presented in table 3:

**Table 3: Programmed financial allocations and the declared expenditure per objective – Romania**

	Programmed (EUR)	Total declared and certified expenditure (EUR)
Objective 1: Strengthening the external border control and the external border area surveillance and protection against cross border crime	199 700 000.00	174 970 037.61
Objective 2: Enhancement of control ability by increasing the capacity for data provision and data access	192 121 240.00	177 792 172.57
Objective 3: Support to costs for logistics and operations	14 565 504.00	478 673.92
<b>Total</b>	<b>404 383 744.00</b>	<b>353 593 864.85</b>

Under objective 1, Romania purchased 33 vessels and boats (surveillance vessel, patrolling and intervention vessels/boats), 1 278 vehicles (all-terrain vehicles, cars, minivans, dog transportation vehicles), as well as special surveillance vehicles and border surveillance and border checks equipment. Objective 1 also covered a rehabilitation of 31 border police stations / border crossing points. Eleven Romanian consular offices were upgraded. Buildings for another five consular offices and a building for a consular training centre were purchased. Equipment for 73 consular offices was also purchased.

Under objective 2, Romania supported various information and communication systems, including the national part of the second generation of SIS (N.SIS II), SIRENE office, the national part of the Visa Information System (N-VIS), National information system for alerts (NISA) and the digital radio communication system TETRA.

It should be noted that Romania programmed under the Schengen Facility II more than the minimum 50% of the Cash-flow and Schengen Facility allocation (EUR 301 234 674) and even the total declared and certified expenditure (EUR 353 593 864.85) exceeded this threshold.

Although an ex-post audit carried out by the Commission ascertained that EUR 3 085 704.82 of the declared expenditure were not eligible under the Schengen Facility II, no amounts were recovered by the Commission, as any amount exceeding 50% of Cash-flow and Schengen Facility payments could have been used by Romania for any purposes, including for actions considered ineligible under the Schengen Facility II.

### 3. EX-POST EVALUATION OF SCHENGEN FACILITY II

#### 3.1. ORGANISATION OF THE EVALUATION AND THE METHODOLOGY

The ex-post evaluation of Schengen Facility II was carried out in 2014, in accordance with the provisions of Article 18(3) of Commission Delegated Regulation (EU) No 1268/2012 which stipulates that *"all programmes or activities, including pilot projects, where the resources mobilised exceed EUR 5 000 000 shall be subject of an interim and/or ex-post evaluation"*.

In order to ensure the highest credibility for the evaluation findings and in order to mobilise professional evaluation expertise, the ex-post evaluation of Schengen Facility II was carried out by an independent external evaluator (company Matrix Insight Ltd.), under the responsibility of the Commission and under the close supervision of a steering group set up for this evaluation.

The independent external evaluator was requested to assess the relevance, effectiveness, efficiency, complementarity and coherence, sustainability and impact of Schengen Facility II.

The evaluation methodology consisted of the following data collection tools:

- Desk research (review of the relevant legislation, statistical data, programming documents, monitoring and final reports, national strategic documents etc.);
- Semi-structured interviews with policy makers, Commission officials and national civil servants involved in the Schengen Facility II implementation as well as beneficiaries;
- Direct observations during on-site visits of selected projects;
- Surveys of beneficiaries.

The data collected through the above mentioned tools was analysed through 12 case studies (five for Bulgaria and seven for Romania) which covered 79% of the Schengen Facility II expenditure in Bulgaria and 76% of the expenditure in Romania.

The findings of the case studies served as a basis for responses to nine evaluation questions defined by the Commission.

The report of the ex-post evaluation of Schengen Facility II was accepted by the Commission in September 2014. The Commission considers the evaluation's findings and conclusions presented below credible, as the evaluation demonstrated that they were based on evidence derived from reliable data and sound analysis.

The evaluation report, as well as the case studies and a quality assessment are published in the Commission's evaluation database<sup>12</sup> and in the online EU bookshop,<sup>13</sup> both accessible via the Europa website.

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<sup>12</sup> <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=12413265> ;  
<http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=12418342> ;  
<http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=12408188> ;  
<http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=12398034> .

<sup>13</sup> [http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en\\_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215024](http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215024) ;  
[http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en\\_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215025](http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=DR0215025) ;

### 3.2. RELEVANCE

Under the evaluation of Schengen Facility II against the criterion of relevance, it was assessed to what extent the objectives of the instrument were pertinent to the needs. In addition, the relevance of the actual Schengen Facility II effects (outputs, results and impacts) to the needs (utility) was assessed.

The general objective of the Schengen Facility II can be deduced from the wording of Article 32(1) of the Accession Act which stated that the instrument was created "*to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control*". The general objective of Schengen Facility II would be therefore to ensure the preparedness of Bulgaria and Romania for the accession to the Schengen area by strengthening and upgrading the border controls at the future external border. This would in turn contribute to the prevention of irregular migration across these borders and to the high level of internal security within the Schengen area after the accession of Bulgaria and Romania.

As the objectives defined by the Schengen Facility II indicative programmes for Bulgaria and Romania were not consistent and in some cases were formulated as funding priorities, rather than objectives, the evaluation reformulated the specific and operational objectives on the basis of the Schengen Catalogue and on the basis of decision C(2007)1417 on the Schengen Facility II management and control. The specific objectives were defined as:

- Upgrading surveillance of the future external border;
- Upgrading border checks at the future external border;
- Increasing capacity for Schengen related data provision and access; and
- Upgrading visa management systems.

The operational objectives were defined as:

- Investment in construction, renovation or upgrading of border crossing infrastructure and related buildings;
- Investments in any kind of operating equipment (e.g. laboratory equipment, detection tools, SIS II, hardware and software, the creation of the IT systems needed to implement Schengen acquis, means of transport);
- Training of border guards;
- Support to costs for logistics and operations, including payment of the salaries of the personnel required to fulfil the obligations of the beneficiary Member State in respect of the Schengen acquis.

The needs of Bulgaria in terms of external border control and the Schengen acquis can be described as inadequate and obsolete fleet at the maritime borders and on the Danube river; inefficient maritime surveillance system; inadequate air surveillance; inadequate mobility of the border police; obsolete communication infrastructure along the external borders; non-existent national part of SIS and inadequate data storage facilities; inadequate operational

communication between the systems used for border surveillance; and insufficient staff qualification.

For Romania, the needs can be described as inadequate border infrastructure at the level of the border crossing points and the operational units; lack of cohesive systems to counteract irregular migration; inadequate border surveillance systems; inadequate training of officers and administration staff; inadequate IT and data-voice communication systems; and inadequate or not-fit-for-purpose infrastructure at consulates.

The evaluation concluded that the **objectives and actual effects of Schengen Facility II were relevant to the needs.**

The investments relating to the surveillance of the maritime and Danube border (Objective 1 of the Schengen Facility II indicative programme for **Bulgaria**) addressed clear needs, as the heavily frequented Black Sea coast and the Danube River had been insufficiently covered by border patrol vessels which became gradually depreciated and outdated since the 1990s and did not have the capacity to secure the sea and river borders under severe weather conditions. The surveillance system relied on individual reports sent from separate observation posts which were compiled in the border police headquarters by police officers. The system could not provide 90% detection rate for small objects and the coordination was extremely difficult.

In a similar vein, investments relating to air surveillance (Objective 1 of the Schengen Facility II indicative programme for Bulgaria) addressed a situation when the Ministry of the Interior did not have any air surveillance capacity, although a strategic document<sup>14</sup> identified such a need which was regarded as an integral element of a comprehensive border surveillance system complementing ground and maritime surveillance.<sup>15</sup>

The development and expansion of the digital radio communication system TETRA along the western, south-eastern and maritime borders (Objective 3 of the Schengen Facility II indicative programme for Bulgaria) contributed to the modernisation of the communications infrastructure along Bulgaria's external borders, which had been identified as one of the problems and needs of the country. Border police and regional police directorates needed reliable and secure radio communication for the management of human and technical resources, interaction among the reaction units and access to centralised databases.

Finally, the development of the national component of SIS (N.SIS II) was highly relevant to the needs and problems identified at the outset of the Schengen Facility II (Objective 4 of the Schengen Facility II indicative programme for Bulgaria). The development of the national component of SIS is a precondition for the accession to the Schengen area.

The investment in the naval and terrestrial mobility of the Romanian Border Police (Objective 1 of the Schengen Facility II indicative programme for **Romania**) is directly linked to the main objectives of the Schengen Facility II. Before investments were made, the fleet of existing vessels and vehicles was not adequate enough for the needs of the Romanian border police. In 2009, border guards estimated their needs in special vehicles at 5 471 units, while only 1 544 were available. In terms of sea and maritime capacity, the objectives of the Schengen Facility II were in line with the needs identified in the Romanian government's 2006 strategy, and more generally, with the identified inadequacy of border surveillance

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<sup>14</sup> Chief Directorate "Border Police" (2009) Concept for Air Surveillance of the State Border of the Republic of Bulgaria, Sofia: 2.07.2009.

<sup>15</sup> Strategy for Integrated Border Management of the Republic of Bulgaria 2010-2013, p.13.

systems<sup>16</sup>. A survey carried out amongst the users of the vehicles purchased confirmed the appropriateness of the specifications of the vehicles.

The objective of the construction and renovation of border crossing points' facilities (Objective 1 of the Schengen Facility II indicative programme for Romania) directly reflected needs identified in the National Strategy of Integrated Management of the Romanian State Border for the period 2007-2010<sup>17</sup> and the National Strategy for Accession to the Schengen Area, as well as the Schengen Action Plan. Moreover, it addressed a clear need as land border crossing points had been neglected for a while and deemed either too old or not-fit-for-purpose to respond to the requirements of the Schengen borders code.

Investment in surveillance vehicles and border control equipment (Objective 1 of the Schengen Facility II indicative programme for Romania) also addressed the need of enhancing the surveillance capacity of the Romanian border police at the external borders, as defined in the National Strategy of Integrated Management of the Romanian State Border for the period 2007 – 2010. Existing vehicles were outdated and inefficient in terms of running costs and operational availability.

The investments made for the modernisation of the consulates (Objective 1 of the Schengen Facility II indicative programme for Romania) reflected the needs to upgrade consular offices which could not be considered secure based on standards set by the EU Schengen Catalogue<sup>18</sup>. After the accession of Romania to the EU, the number of visa applications in third countries soared, reaching 2.5 million with the majority coming from neighbouring Moldova and Ukraine. Moreover, staff in these offices lacked the knowledge required for the processing of the Schengen visas. The measures proposed clearly addressed these needs by setting up a central training centre, offering continued training for staff in third country consular offices and modernising the facilities to improve quality of service and security.

The investment in TETRA terminals (Objective 2 of the Schengen Facility II indicative programme for Romania) addressed the need to improve the mobile communication capacities of the Romanian police, enabling it to contribute to the control of the external borders and enforcing the Schengen *acquis* within Romania.

The investment related to NISA (Objective 2 of the Schengen Facility II indicative programme for Romania) addressed the need to create a single, national interface to SIS II, and to enable public authorities to exchange information related to the external border control through a fast and secure connection. Moreover, it enhanced the compatibility of the IT systems of all public bodies in charge of public order and national security, and contributed to the completion of a joint communication infrastructure.

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<sup>16</sup> Conception for surveillance of the naval traffic and monitoring suspect vessels on the interior Danube, Danube-Black Sea channel, lower Danube and Black Sea as well as Sectorial Strategy of the Romanian Border Police on Surveillance and Control of the Maritime border.

<sup>17</sup> Article 4.3.1. (Infrastructure Subsystem) of the National Strategy of 28th of March 2007 of Integrated Management of the Romanian State Border for the period 2007 – 2010..

<sup>18</sup> EU Schengen Catalogue, Volume 3, Issuing of visa. Recommendations and Best Practices, Council of the European Union, General Secretariat, March 2003.

### 3.3. EFFECTIVENESS

Under the evaluation of Schengen Facility II against the criterion of effectiveness, it was assessed to what extent the objectives of the instrument were achieved.

In particular, it was assessed to what extent Schengen Facility II contributed to the preparedness of Bulgaria and Romania for the accession to the Schengen area by upgrading surveillance of and border checks at the future external border, increasing the capacity for Schengen related data provision and access as well as upgrading visa management systems.

The evaluation concluded that, overall, the **Schengen Facility II was effective in achieving its objectives**.

The sufficient level of preparedness of Bulgaria and Romania for the accession to the Schengen area as of June 2011 was confirmed by the Council conclusions.<sup>19</sup> The extent to which the Schengen Facility II contributed to this preparedness was assessed on the basis of the Schengen Facility II contributions to the upgrading of the border surveillance, border checks, IT and communication systems and visa management.

The setting-up of an Integrated System for control and **surveillance** at the Black Sea border (ISBB) (Objective 1 of the Schengen Facility II indicative programme for **Bulgaria**) was highly effective as it transformed the way in which control over the maritime border is exerted and ensured continuous surveillance of the maritime borders. Thanks to the investment, the border police surveillance and cross-border crime fighting capacity has increased. The ISBB allows for the automatic detection of targets, and broadcasts real time video feed to the regional headquarters<sup>20</sup>. It allows for even the smallest mobile objects to be detected with an accuracy of 98-99%, up from 90% before the Schengen Facility II investment. Maritime vessels purchased under the Schengen Facility II are being effectively used as demonstrated by their significant share of the time spent at sea<sup>21</sup>. The equipment purchased under the Schengen Facility II helped to reduce the time to react to threats at the external border. For instance the new ships are quicker to leave port (15 minutes, instead of 40) and are up to three times faster than the old ones.

The purchase of the helicopters (Objective 1 of the Schengen Facility II indicative programme for Bulgaria) increased the border surveillance capacity of Bulgaria. The use of helicopters for the border surveillance is particularly effective in remote mountain regions, such as those near the Turkish border where sections of the green border are not accessible by patrol vehicles. Prior to the implementation of the Schengen Facility II, the Ministry of Interior had no air surveillance capacity whatsoever. Nevertheless, there have been issues with the effectiveness of the air surveillance equipment. The legal limitations to carry out flights at night and lack of anti-icing equipment allowing for flights in all weather conditions, in combination with insufficient staff over the first two years after the purchase, severely limited the effectiveness of the investment. This problem was exacerbated by the fact that as many as 80% of illicit

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<sup>19</sup> Council conclusions on completion of the process of evaluation of the state of preparedness of Bulgaria to implement all provisions of the Schengen acquis (9167/4/11); Council conclusions on completion of the process of evaluation of the state of preparedness of Romania to implement all provisions of the Schengen acquis (9166/4/11).

<sup>20</sup> Interview with Head of Bulgarian National Maritime Border Communication and Information Centre (Burgas) (site visit on 28 March 2014).

<sup>21</sup> Statistics provided by Bulgarian Ministry of Interior – Chief Directorate Border Police.

green border crossings take place at night<sup>22</sup>. The effectiveness of the investments in aerial surveillance was also limited by lack of fuel and delays in deliveries of spare parts.

The investment in the naval, fluvial and terrestrial mobility of the Romanian Border Police (Objective 1 of the Schengen Facility II indicative programme for **Romania**) enhanced the capacity of the Romanian Border Police to carry out **surveillance** activities on the maritime and land borders. The equipment purchased expanded the capacity to intervene in regions where previously surveillance coverage was difficult and not frequently carried out. Since 2010, maritime surveillance has been extended beyond the 24 nautical miles of contiguous zone into Romania's exclusive economic zone, thanks to the increased operational autonomy of the new ships. The completion of the Caras-Severin surveillance system and the acquisition of special surveillance vehicles improved the surveillance at the Serbian border, a geographical zone characterised by complex terrain with wooded mountainous areas along the Danube River.

The investment in mobile laboratories (Objective 2 of the Schengen Facility II indicative programme for **Bulgaria**) allowed the border police units to quickly re-allocate resources in periods of critical migratory pressure or in the case of mechanical failure of second-line equipment at border crossing points (BCPs), for example during the 2013 crisis situation at the Bulgarian-Turkish border,<sup>23</sup> and increase the capacity for **border checks** at smaller BCPs. However, at the green border with Turkey, the effectiveness of the laboratories has been limited by the fact that persons intercepted rarely possess any documents to be verified<sup>24</sup>. Mobile laboratories were not used to their full potential because of lack of trained staff at the border police regional units, as well as a lack of winter tyres and fuel<sup>25</sup>. The actual number of checks is modest: on average, 30 checks per unit per month were performed in 2013 at Bulgaria's external borders<sup>26</sup>. In the winter, statistics showed months without any checks being carried out.

In the case of **Romania**, **border checks** have been enhanced through the investment in the modernisation of the BCPs (Objective 1 of the Schengen Facility II indicative programme for Romania). The refurbishment of the existing infrastructure and the improved working conditions at BCPs increased the number of officers that can be accommodated which in turn allows for a greater number of border checks<sup>27</sup>.

As far as the **information and communication systems** in **Bulgaria** are concerned, the investments in the TETRA communication system (Objective 3 of the Schengen Facility II indicative programme for Bulgaria) increased the operational capacities of the Bulgarian border police and provided a more secure channel for information exchange. The network is essential to achieving an integrated communications network as it provides connectivity on a national level, including to the border police headquarters in Sofia, and provides access to databases such as the N.SIS II which was not available through the previous analogue systems. Part of the external borders (the Black Sea and the Bulgarian-Turkish borders) had been partially covered by the TETRA communication system before the Schengen Facility II investment which was utilised to connect border areas without prior coverage (borders with Serbia and with the Former Yugoslav Republic of Macedonia) and to enhance the coverage of

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<sup>22</sup> Interview with Bulgarian border police official, see case study BG2, p. 8.

<sup>23</sup> Interview with the Director of Bulgarian Regional Directorate of Border Police – Elhovo (site visit on 27 March 2014).

<sup>24</sup> *Ibid.*

<sup>25</sup> Confirmed by on-site visits at three locations and by an interview with Bulgarian border police staff.

<sup>26</sup> Statistics provided by Bulgarian Ministry of Interior – Chief Directorate border police.

<sup>27</sup> Confirmed by an on-site visit: the Romanesti BCP could accommodate 80 officers, up from about 20.

the Black Sea and the Bulgarian-Turkish borders. On average, a data terminal acquired through the Schengen Facility II is used for about 13 hours of calls per month<sup>28</sup>. Officers using the system were satisfied with the improvement in their efficiency and the security and speed of the connection. Bulgarian Border Police can now use the resources of the central SIS II and contribute to and use information from the national information systems. On-site visits carried out showed that the systems respond without any delay and passengers are processed very quickly.

The effectiveness of the implementation of the N.SIS (Objective 4) can be assessed positively. It speeds up the automated access to alerts for searched persons and objects while implementing border controls and provides a possibility to connect with other EU police structures. N.SIS II provides fast and reliable access at all BCPs to SIS II, with a response time of three seconds<sup>29</sup>. The system also allows officers to use a PC (instead of phone calls) to enter information on queries, which limits the probability of errors and makes the work of border police officers more efficient. The statistics demonstrate that Bulgaria's authorities with access to SIS II are actively using the system both for entry of information and for queries.

TETRA investments in **Romania** (Objective 2) enhanced the reaction capabilities of the Romanian police by improving the **information exchange** through a secure information channel. The terminals also allow easier and faster checks<sup>30</sup>. Measurable indicators at the TETRA system level such as encrypted voice/data traffic show a significant increase in the volume of calls after the terminals acquired under the Schengen Facility II became operational. From March 2009 to April 2010, the number of voice calls recorded on the TETRA platform grew by approximately 300%. At the end of the implementation period, all end-users were able to access the data they needed via a secure digital radio network. The old, analogue VHF radio system did not provide the security required when working with sensitive data.

A total of 197 965 953 queries<sup>31</sup> were made from October 2010 to March 2014 on the NISA. At the same time, 1 577 373<sup>32</sup> input operations were made in the system (creation, updating and deletion of alerts) for 2011 – 2013. The large numbers clearly show that there is a take-up of the system by relevant stakeholders. N.SIS data (Objective 2) provided by the General Inspectorate of the Romanian Police indicate that 100% of the territory is now connected to NISA and N.SIS. They are used by police officers on a regular basis, as confirmed by on-site visits. The number of accesses to the system between 2011 and 2013 has constantly increased (744 121 in 2011; 1 292 146 in 2012; and 1 749 319 in 2013); and in the same period input operations (creation, updating and deleting of alerts) by the Romanian police amounted to 116 390 incidents. This data usage of NISA and N.SIS (number of queries and alerts entered in NISA) suggests that the measure has enabled the Romanian police to participate in the exchange of information related to protection of the external borders through activities within Romania.

The Schengen Facility II was used in **both Bulgaria and Romania** for investment in the **Visa Information System (VIS)**. The investment included the setting up of national VIS centres,

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<sup>28</sup> Data are only for the January-February 2014 time period, as usage statistics are kept for only a month by the Bulgarian Ministry of Interior. Therefore comparisons are not possible.

<sup>29</sup> Interviews with Bulgarian experts from the Directorate for Communications and Information Services (Ministry of Interior), 14 February 2014.

<sup>30</sup> Interviews with local Romanian police officers.

<sup>31</sup> National SIS Centre, Romania.

<sup>32</sup> National SIS Centre, Romania.

development of software and provision of hardware for connection of the national VIS (NVIS) to the central VIS and the visa consultation network VISION. The objectives of the investments have been achieved and the initial tests of the national connections with the central VIS have been successful. The national component, providing connectivity between consular offices and the national authorities, is functional. However, the complete functionality of the developed systems will be utilised only when Bulgaria and Romania become part of the Schengen area and start issuing Schengen visas. The positive impact is that border police at BCPs can check in NVIS visas issued by Bulgarian or Romanian consulates abroad. While a basic database check was available prior to the introduction of NVIS, the new system allows including biometric data which increases security. Thus controls are strengthened both at entry and exit points. However, since the accession of Bulgaria and Romania to the EU, the two countries recognise visas issued by Schengen area Member States. Border police officers, though, cannot check in the central VIS the Schengen visas issued to third country nationals, but only inspect security features on the visa stamps.<sup>33</sup> In the case of VIS-related investments, the usefulness of the developed software and hardware infrastructure will depend on the date of the accession of the two countries to the Schengen area. At present the acquired software and hardware equipment is already three years old, and is only partially used but its capacity is much larger than the one needed for the operation of the NVIS. If accession is delayed beyond 2015, new equipment will have to be purchased and software upgraded. The longer the period between the investment and the accession, the higher the risk that the funds spent would need to be supplemented with significant additional investments. The central VIS is in constant development and the new version of the system can only be tested by Bulgaria and Romania in test mode, but not in operational environment.

In the case of **Romania**, the effectiveness of the Schengen Facility II on the preparedness of visa management can also be derived in terms of the upgrading of the **consular offices** (Objective 1). Consular offices are operational and in compliance with the requirements of the Schengen Catalogue. One result should be accelerated and simplified visa issuing procedures<sup>34</sup>. A survey of consular office staff<sup>35</sup> confirms that the changes are viewed highly positively and that waiting time have decreased, application submission is better organised and conditions for visa applicants have been improved. Positive impacts have been reported regarding faster and better services offered to citizens in the context of visa issues because of the enhancement of the consular offices. High-level diplomats within the Romanian Ministry of Foreign Affairs were of the opinion that Schengen Facility II investments accelerated visa processing procedures which increased the efficiency of the work in consulates. They also believed that better conditions were created in waiting areas which provided comfort to visa applicants and could have a positive effect on the image of Romania and the EU in general. Consular staff surveyed thought the modernisation projects had a positive effect on various aspects of the visa application process.

### ***3.4. EFFICIENCY***

Under the evaluation of Schengen Facility II against the criterion of efficiency, it was assessed to what extent the desired effects of the instrument were achieved at reasonable cost.

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<sup>33</sup> Interview with representative of IT department at the Bulgarian Ministry of Foreign Affairs.

<sup>34</sup> Comprehensive report on the implementation of actions and the financial execution of the lump sum grant payments under the Schengen part of the Schengen Facility with a statement justifying the expenditure (Article 32 of 2005 Accession Act). Romania. 2011.

<sup>35</sup> Distributed to 50 Romanian consular offices which were beneficiaries under the measure. 31 survey questionnaires were returned.

The evaluation concluded that **the efficiency of the Schengen Facility II can be assessed as adequate, although the procurement processes were not always optimal.**

The evaluation of the efficiency was based on benchmarking (comparison of costs under the Schengen Facility II to costs under comparable instruments) and on the analysis of procurement procedures which were considered an appropriate proxy for the efficiency, assuming that a competitive procurement ensures that market prices are paid for the procured goods or services.

An analysis of the funds disbursed for air surveillance (Objective 1 of the Schengen Facility II indicative programme for Bulgaria) compared to purchases of helicopters under Schengen Facility I indicates that the contracts awarded to the manufacturer Agusta in Bulgaria were similar per unit in value (taking into account that the Schengen Facility I contracts were signed several years earlier and that contracts included optional sets of equipment)<sup>36</sup>.

Under Schengen Facility I in Lithuania, a mobile laboratory was acquired for EUR 66 024<sup>37</sup>, while the 10 mobile laboratories acquired by Bulgaria (Objective 2) had a unit price of EUR 57 500. The unit prices of minibuses and vehicles for transportation of detained persons were also similar: minibuses were purchased for EUR 26 076 in Bulgaria and for EUR 20 966 in Lithuania, while the detention vehicles were EUR 18 894 in Bulgaria and EUR 26 363 in Lithuania<sup>38</sup>.

The main issues experienced with regard to the public procurement related to: (i) limited competition on some of the tenders; (ii) a culture of appealing procurement decisions resulting in longer procedures; and (iii) indicative budgets seemingly too high for the bidding process.

Overall, the evaluation has found the efficiency of the **procurement** processes under the Schengen Facility II in **Bulgaria sub-optimal.**

The procurement process for the “maritime and river surveillance” (Objective 1) had limited competition in terms of the number of companies participating in the tenders for ISBB, as five of the six bidders were disqualified on technical grounds. The maritime and river vessel tenders were dealt with in a similar manner. In one case (200 GT ship and 60 GT ships), the tender was cancelled, as the only two bidders were both disqualified on technical grounds, and a negotiated procedure with one of the bidders was used. In the second case (20 GT and 15 GT vessels), two of the three submitted bids were disqualified on technical grounds.

The same goes for the “air surveillance” (Objective 1) where the tendering procedures were cancelled twice before the third one resulted in a contract being awarded. All three tenders were restricted to EU bidders<sup>39</sup> and all but one bidder (the same for all three tenders) were dismissed on technical grounds before they could make a financial offer. The decision was appealed by one of the disqualified bidders. The complaint was dismissed both by the Public Procurement Complaint Committee (CPC) and the Supreme Administrative Court. In conclusion, the tendering procedure seems to have restricted competition, which puts the efficiency of the measure in doubt.

For compatibility reasons, the TETRA base stations needed for the western border and for enhancing the coverage on the Black Sea and Bulgarian-Turkish borders (Objective 3) had to be purchased from the manufacturer who had already supplied the existing infrastructure

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<sup>36</sup> Schengen Facility Comprehensive Reports of Latvia, Estonia, Lithuania, Slovenia and Bulgaria.

<sup>37</sup> Contract (21)-16-318(2006), Schengen Facility Comprehensive Report of Lithuania

<sup>38</sup> Schengen Facility Comprehensive Reports of Lithuania and Bulgaria.

<sup>39</sup> Interviewees argued that “the selection of a non-EU candidate may lead to excessive scrutiny on the side of the European Commission, and eventual non-recognition of expenses”.

(EADS). Competition was thus non-existent. Four bidders participated in the tender for mobile, portable and stationary TETRA terminals. Three of them were disqualified for technical reasons, a decision which was, again, contested. Since only one bidder was allowed to make a financial offer, the selection criterion of lowest price could not be a guarantee that the equipment was acquired at the most efficient price.

Finally, in case of the “SIS National Component (N.SIS)” (Objective 4), there were two tenders, each with two lots. There were eight bids for Tender 1 (two for Lot 1 and six for Lot 2) and seven for Tender 2 (four for Lot 1 and three for Lot 2). One company, CNSYS, was awarded all four lots. The selection criterion was “lowest price”. Several bidders were disqualified but did not contest that decision. It can thus be concluded that the tendering procedure, with selection criteria ‘lowest price’, guaranteed the most efficient use of the Schengen Facility II funds in developing the N.SIS for Bulgaria.

In **Romania**, there were also issues regarding the efficiency of the procurement process, although they appear to have been resolved more swiftly causing fewer delays than in Bulgaria. There was also an issue relating to the indicative values of the contracts often being much higher than the bids received.

Procurement relating to “terrestrial and naval mobility” (Objective 1), for example, had two components for which competition varied. For the maritime tenders, there were fewer bidders per tender, and many of them were disqualified in the pre-selection stage. For the terrestrial mobility component, only one bidder was disqualified (out of a total of 15 bidders for the five contracts awarded) for exceeding the maximum budget. The bidders did not have to be based in the EU, and the electronic bidding procedure increased efficiency of the procurement. The selection criterion for all tenders was lowest price and the amounts offered by winning bids were significantly lower than the allocated budget (by up to 50% for the terrestrial mobility component).

Under the procurement for the “modernisations and re-configuration of BCPs” (Objective 1), only 11 out of 31 tender procedures were considered competitive enough to ensure best value for money. In consequence, EUR 1.5 million was not recognised as eligible by the Commission, precisely because the handling of some tender contracts limited competition<sup>40</sup>.

Regarding the NISA measure (Objective 2), five out of seven initial bidders were disqualified for not meeting the tender requirements or incomplete responses to requests for clarifications by the selection committees. There were several appeals and one litigation relating to the technical specifications. Following a decision of the Bucharest Court of Appeal, the NISA contract was awarded to the bidder offering the second-lowest price. The value of the winning bid was much lower than the amount allocated by the procurement opportunity (56% of the amount).

On the other hand, all major TETRA terminal producers participated in the tender for the TETRA terminals (Objective 2). The result of the process again led to the overall value of the contract being much lower than the indicative amount.

The procurement for the “modernisation of consulates” (Objective 1) was the first measure in Romania for which electronic bidding was adopted in the procurement process, providing an opportunity for multiple bids that led to significant savings in the contracting process.

For most measures financed by the Schengen Facility II in Romania, the offer with the lowest price appears to have won the public tenders, resulting in considerable savings compared to

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<sup>40</sup> Schengen part of the Cash-flow and Schengen Facility. Clearance of accounts final audit report. Romania.

the maximum amounts planned for each measure. This can be explained by inadequate planning or lack of market research on the part of the responsible contracting authorities.

### **3.5. COMPLEMENTARITY AND COHERENCE**

Under the evaluation of Schengen Facility II against the criteria of complementarity and coherence, it was assessed to what extent other interventions contributed to the Schengen Facility II objectives and to what extent the Schengen Facility II did not contradict other interventions with similar objectives.

The evaluation concluded that the **Schengen Facility II was coherent with and complementary to border control measures financed from other sources** in both Bulgaria and Romania.

In both Bulgaria and Romania, resources from different funds were allocated to achieve objectives similar to those of the Schengen Facility II. There is a good level of complementarity and synergies between national strategies for the accession to the Schengen area and the Schengen Facility II.

The investments in border surveillance, border checks, IT systems and visa management were supported by loans of the **World Bank** and the **International Bank for Reconstruction and Development** (IBRD). The IBRD, for instance, provided a loan to Bulgaria to finance the cost of the Second Trade and Transport Facilitation. These funds were used for the reconstruction of the infrastructure at seven BCPs, including some of the largest and most important ones at the external borders (at Kalotina (EUR 12 million), K. Andreevo (EUR 12 million), and the Port of Varna (EUR 2.55 million)). **World Bank** funding was used to upgrade regional offices of the border police in Elhovo, Kyustendil, and Dragoman, as well as infrastructures at the Port of Burgas.

Bulgaria and Romania also benefitted from several bilateral support schemes during the implementation period of the Schengen Facility II. These include the **German federal police** providing Bulgaria with surveillance equipment, **Norway** funding digital radio-communication structure for the Bulgarian Ministry of Interior for high speed data transmission<sup>41</sup> and a programme to support Schengen cooperation and combat cross-border crime in Romania<sup>42</sup>. Finally, the **Bulgarian-Dutch cooperation programme** funded the development of the internal structure and working procedures of the SIRENE Bureau-Bulgaria. As such, they complemented funding under Objective 4 of the Bulgarian Schengen Facility II, which targeted the technical procedures for automatic exchange of data with SIRENE which are integral parts of the SIS II.

The EU has supported Bulgaria and Romania through several successive instruments. Under the **Phare** Programme, which was the main form of financial and technical cooperation between the EU and candidate countries during the pre-accession period until 2006, much emphasis was put on creating a modern border police that meets EU standards. Projects funded through Phare began the process of establishing suitable institutional structures pertaining to border control. This includes the demilitarisation and professionalisation of staff as well as the modernisation of equipment and infrastructure for border surveillance

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<sup>41</sup> Работен план за Фонда за двустранни отношения на национално ниво за България [Work Plan on Norwegian Financial Mechanism for Bulgaria for 2009 – 2013], p. 5. <http://www.eufunds.bg/en/page/45>

<sup>42</sup> Norway grant, Programme fact sheet Romania, 2013.

activities<sup>43</sup>. The eligibility period of the 2006 Phare programme was set for three years. Therefore, the implementation of the Phare programme in Bulgaria and Romania lasted until the end of 2009. As a result there was a two year overlapping period (2007-2009) in the implementation of the last Phare Programmes and of the Schengen Facility II financial instruments. The **External Borders Fund (EBF)** was set up for the period 2007-2013 as part of the General Programme ‘Solidarity and Management of Migration Flows’<sup>44</sup>. No EBF funding was allocated to Bulgaria and Romania in 2007-2009, as both countries were receiving the Schengen Facility II payments during this period. However, there was an overlap in the eligibility periods for the two instruments in 2010 due to the Schengen Facility II implementation period covering the whole of 2010, while the eligibility period of the first EBF annual programmes for Bulgaria and Romania started on 1 January 2010.

In the context of the surveillance of the maritime border in **Bulgaria** (Objective 1), the Schengen Facility II funding was complementary to other investments in the maritime and river border surveillance capacity. In the period 2006-2010, a number of patrol ships were supplied and most of the outdated patrol ships replaced with new vessels<sup>45</sup>. With the help of national funding and under the Phare projects<sup>46</sup>, three patrol ships were renovated, six ships were purchased, as well as a repair facility for border-police ships, rigid inflatable boats and specialized clothes for border police officers operating on the vessels acquired. The EBF later supported the construction of a new port and administrative and training facilities at the port of Sozopol for a value of EUR 825 575.

Similarly in the field of air surveillance (Objective 1), Phare provided a first opportunity for the development of new air-surveillance capabilities with the purchase of an Agusta AW109E helicopter in 2008. In 2010, the Bulgarian Council of Ministers decided to provide additional financing for the reconstruction of the Bezmer Airbase administrative building, for the acquisition of a cistern truck, as well as for some additional repairs. In continuity with the Schengen Facility II, the construction of the EUR 11 million permanent base at Sofia Airport (Vrajdebna) for the Specialised Air-Surveillance Unit of the Border Police, supported under the EBF, started in 2013. The new hangar at the permanent base near Sofia Airport can accommodate four helicopters<sup>47</sup>.

The components of the Bulgarian TETRA system that were developed under the Schengen Facility II (Objective 3) coherently built upon and complemented the pre-existing radio-communication system set up through various sources, including national financing. The measure is part of the long-term communications strategy of Bulgaria and its efforts to comply with the Schengen acquis. Overall, the TETRA system was financed by the Phare programme, the World Bank, EBF, the Operational Programme “Environment” from the European Regional Development Fund, as well as the EU's Seventh Framework Programme

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<sup>43</sup> European Commission (2006), From pre-accession to accession. Thematic evaluation of European Union Phare Programme Support to Public Administrative and Judicial Capacity in Bulgaria and Romania.

<sup>44</sup> Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders fund for the period 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows", OJ L 144, 6.6.2007, p. 22.

<sup>45</sup> Statistical data on maritime and river vessels inventory provided during on-site visit to the Bulgarian Chief Directorate of the Border Police on 14 February 2014.

<sup>46</sup> Project identification number: BG 9911.01, BG 0203.11, BG 0203.11, BG 2004/016-711.08.06, BG 2004/006-070.03.02 and BG 2005/017-353.07.05.

<sup>47</sup> Interviews at the Bulgarian Chief Directorate of the Border Police on 14 February 2014.

for research, technological development and demonstration actions (FP7)<sup>48</sup> and national sources.

Similarly, the measure to put in place the N.SIS (Objective 4) benefitted from investments that were implemented both prior to and after the end of the Schengen Facility II. The first contribution was made as part of the 1999 Phare Programme. Components of the QUEST Automated Information System for Search Activities (the backbone of the future N.SIS), were financed from the national budget<sup>49</sup>.

In **Romania**, the Schengen Facility II IT investments were complementary to several related investments made prior to and following the Schengen Facility II. In detail, Phare funds were used in a pilot phase for NISA to secure the development environment and the core of the testing environment for the system. Consistently, the enhancement of the police IT system was achieved on the basis of two previous projects: the national project “Technical and legal assistance to set up the National Schengen Information System compatible with the SIS” and 2004 Phare project “Fight against organized crime – an inter-institutional approach”.

The Schengen Facility II investment into the Visa Information System (VIS) complemented a number of VIS-related measures that started under Phare and continued under the EBF programmes<sup>50</sup>. Under the 2002 Phare project "Information system for processing on-line visa requests", an electronic system for visa processing was set up. The initial phases of the rolling out of this system were also funded by Phare before a national project funded the last consular offices, leading to the complete implementation of Romania’s visa on-line system in 2006.

### **3.6. SUSTAINABILITY**

Under the evaluation of Schengen Facility II against the criterion of sustainability, it was assessed to what extent the positive effects of the instrument lasted after the intervention had ended.

The evaluation concluded that **most Schengen Facility II measures would not have had a continued impact after their termination if they had not been supported by further expenditure on maintenance and training**. There have been occasions in which a **lack of adequate budgeting resulted in a situation where equipment purchased through the Schengen Facility II was not operational for some time due to high maintenance or repair costs**, particularly in Bulgaria.

Regarding the investment in the surveillance of the maritime border in **Bulgaria** (Objective 1), evidence suggests that the integrated system for control and surveillance of the Black Sea border (ISBB) has experienced a maintenance problem despite being very highly sustainable in general. Since the launch of the ISBB, it became evident that there were already difficulties regarding expenses considered consumables and not always covered by the warranty. The problem which was mentioned most often by interviewees is wear and tear of the radar’s

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<sup>48</sup> FP7 Topic SEC-2012.5.3-4. used for the development of inter-system interfaces to connect the TETRA system to Bulgaria and Romania.

<sup>49</sup> Data provided by the Directorate for Communications and Information Systems (Bulgarian Ministry of Interior) in email communication with Mr. Ivalin Iliev, Communication & Information Systems Development Department, 26 February 2014.

<sup>50</sup> Comprehensive Report on the implementation of actions and the financial execution of the lump sum grant payments under the Schengen part of the Schengen Facility. Romania, p.47 – 49.

magnetrons at the 12 stationary surveillance posts<sup>51</sup>. Upon reaching a certain level of depreciation of the magnetron, the radar starts to lose track of the smaller targets in peripheral zones. The average price for the full replacement of a magnetron in Bulgaria is EUR 1 000<sup>52</sup>. In practice, however, for 2014 the total amount allocated for overall equipment maintenance including ISBB, maritime and river vessels, helicopters and other border facilities did not exceed EUR 0.6 million, the same as for Romania, which has a smaller Black Sea border area to cover (238 km compared to 378 km in Bulgaria).

In July 2012, one of the 60 GT vessels in the Black Sea was damaged and the insurance company refused to pay for the necessary repairs worth EUR 1 million. The issue was brought before the judicial bodies, which resulted in the vessel being out of service for almost two years. The Ministry of Interior finally received additional funding to repair the vessel which was expected to be completed by mid-2014<sup>53</sup>. The reason for the non-payment of the insurance is not included in the insurance contract, which is supposed to cover such accidents. Interviewees consulted as part of the case study attributed this to the fact that one of the helicopters (A109) was involved in an accident that took place in the same month, and was insured by the same company<sup>54</sup>. The company, in the opinion of the interviewees, had been trying to avoid the payment by going to court<sup>55</sup>. Moreover, no framework maintenance contract has been envisaged after the expiry of the warranty, potentially jeopardizing the sustainability of the investment. Instead, funds are provided *ad-hoc* when a problem occurs.

Acquired vessels' activity on Danube River has decreased over the last three years after an initial increase. This is due to regulatory restrictions prohibiting maritime and river border patrolling by a single crew for more than 24 hours<sup>56</sup>, as well as budgetary restrictions. The same trend was observed with sea patrols. Operational time increased considerably directly after the completion of the implementation of the Schengen Facility, before decreasing slightly<sup>57</sup>.

As far as the air surveillance (Objective 1) is concerned, annual maintenance included insurance (around EUR 1.5 million), hangar rent (EUR 25 000), and fuel<sup>58</sup>. Fuel costs seem to be fairly stable and in line with the use of the helicopters. Additional needs could be satisfied on an ad-hoc basis<sup>59</sup>. It was clear though, that the "needs" (i.e. scheduled flights) were heavily influenced by the available budget. The data on flights show that the use of the different classes of helicopters was limited after the year 2010. Overall only one of the light-class helicopters (the A109-SN11790) was used actively, while the others had limited use, or hardly any use during some years. The use of light-class helicopters is generally prioritised as they are more fuel-efficient, while having equal surveillance capabilities as the AW139. The difference

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<sup>51</sup> Interviews with the Head and Deputy Head of the Bulgarian Border Police Regional Directorate in Burgas. The so called "cavity magnetron" is a key component of marine radars, allowing detection of small objects. It is a high-powered vacuum tube that generates microwaves using the interaction of a stream of electrons with a magnetic field.

<sup>52</sup> The magnetrons need to be changed every 4000 hours, after which their effectiveness gradually falls and some small targets may not be detected (Interviews with the Deputy Head of the Bulgarian Border Police Regional Directorate in Burgas).

<sup>53</sup> Bulgarian Council of Ministers Decree, No 15, of 21 February 2014.

<sup>54</sup> Discussion with Border Police officers during visit to Sozopol, Bulgaria, 28 April 2014.

<sup>55</sup> Ibid.

<sup>56</sup> Interview with Head of Naval Group Sozopol during visit to Sozopol, Bulgaria, 28 March 2014).

<sup>57</sup> Statistics provided by Bulgarian Ministry of Interior – Chief Directorate Border Police.

<sup>58</sup> Statistical information provided by Mr. Milen Stefanov, Bulgarian Chief Directorate Border Police, 20 March 2014.

<sup>59</sup> Interviews with Head of Specialised Unit for Air Surveillance (SUAS) at Bezmer Airbase, Director of Elhovo Regional Border Police Directorate during visits to Bezmer and Elhovo, Bulgaria, 27 March 2014.

in the number of flights is also explained by the down-time because of one significant accident as a result of which one of the A109 helicopters has not been in operation since 2012. The increased use of the heavier AW139 after July 2012 instead of the smaller class A109 (under reparation) increased the fuel costs per flight hour, and in 2013, despite the significantly lower number of flight hours, the overall cost of the fuel increased<sup>60</sup>.

Other initial problems are related to the lack of adequate storage facilities for the helicopters. The Bezmer Airbase for helicopters did not provide optimal conditions, as the hangar and storage facilities did not have the recommended temperature and humidity controlled environment. The helicopter will be relocated to a new airbase in Sofia, funded by the EBF. However, in the long-term, the availability of a proper hangar and operational facilities near the Black Sea and south-east border remains an issue to be addressed<sup>61</sup>.

The EBF programmes also targeted basic training of pilots and flight engineers<sup>62</sup>. Existing staffing difficulties were due to the failure of some staff to pass the exams during previous trainings provided by the manufacturer, and due to the lack of available pilots within the Ministry of Interior's system. Planned training on the part of AgustaWestland ran into a number of difficulties because of the prerequisites for pilot and engineering staff to be trained<sup>63</sup>. As candidates put forward did not meet these criteria, the trainings included in the contractor's offer were not utilised within the agreed time-frame and new ones needed to be purchased, while the company agreed to provide them within the warranty period. Further difficulties with the training were also noted with one of the pilots failing to gain a training certificate, after failing the exams due to poor command of English<sup>64</sup>.

Timely and appropriate training seems to have been provided to the users of the TETRA communication services (Objectives 3). The contractor delivering the terminals provided training for operators of the equipment. Training sessions were held in April-June 2010 in various locations involving 40 trainees. Sessions lasted around one week and covered system administration and operators' modules, including 'train-the-trainers' modules. Seventy-seven percent (n=179) of surveyed TETRA end users reported that they received training, with another 15% reporting that they did not need training. In the summer of 2013, following the increased migratory pressure at the Bulgarian-Turkish border as a result of the Syrian crisis, the Ministry of Interior significantly increased the number of officers patrolling the green border. They were all equipped with TETRA terminals from various regional units of the border police (where the surveillance needs were less urgent).

The sustainability of the N.SIS (Objectives 4) is also guaranteed by the number of trained users of the system. In 2010, specialized training ('train-the-trainer' modules) was provided to 40 experts financed by the Schengen Facility II. Another 81 experts were involved in training workshops in 2012 and 2013, with financial support from EBF. National funding was used for additional 13 trainees who received training in 2011 and 2012. In this case, the outputs developed under the Schengen Facility II were further expanded and improved by projects

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<sup>60</sup> Statistical information provided by Mr. Milen Stefanov, Bulgarian Chief Directorate Border Police, 20 March 2014.

<sup>61</sup> Interviews with Head of Specialised Unit for Air Surveillance (SUAS) at Bezmer Airbase, and with Chief Mechanic at SUAS during visits to Bezmer and Elhovo, Bulgaria, 27 March 2014.

<sup>62</sup> Action 17 of the EBF 2010 annual programme, Action 18 of the EBF 2011 annual programme.

<sup>63</sup> For instance all pilots to be trained on the new helicopters needed to have already completed at least 30 flight hours, including 10 take-offs and 10 landings as PIC (Pilot in Command) or co-pilot, within the last 12 months on the relevant model and more specifically on the AW109E and AW139. (AgustaWestland letter of 15 October 2010).

<sup>64</sup> AgustaWestland letter of 8 September 2010.

financed by the EBF and by the national budget. Thanks to the built-in functionality of the N.SIS, it can be adapted and modified to respond to the constantly evolving central SIS and the national information systems<sup>65</sup>.

The sustainability of the equipment acquired under the Schengen Facility II has been more pronounced in **Romania** where national funds have been used to pay for maintenance of vehicles and vessels (Objective 1). A significant minority (42%, n=31) of surveyed consular personnel were of the opinion that consular offices built using the Schengen Facility II funds, are not adequately maintained.

Survey respondents expressed a high level of satisfaction regarding the sustainability of both TETRA terminals and the NISA system, even though in the latter case maintenance was provided by the EBF after the Schengen Facility II. The EBF was used to ensure the full compatibility of NISA with the central SIS II, and also for post-warranty maintenance of the IT infrastructure, including hardware and commercial software.

According to interviews and surveys with end users, the TETRA terminals (Objective 2) caused very few maintenance problems and did not present a financial burden on the units they were allocated to. Out of a total of 45 000 terminals, only seven were found faulty and in need of replacement. No post-warranty maintenance contracts have been signed, as the number of required repairs did not justify this expense. When necessary, terminals were repaired utilizing internal sources of the Directorate of Communication and IT within the Ministry of Internal Affairs.

### ***3.7. IMPACT***

Under the impact evaluation, intended and unintended long-term effects produced directly or indirectly by the Schengen Facility II were assessed.

The evaluation concluded that, overall, the **Schengen Facility II had the desired impacts, especially with regards to the preparedness of Bulgaria and Romania for the accession to the Schengen area.** However, **although the Schengen Facility II investments impacted positively on irregular migration across the future external borders of Bulgaria and Romania and on the security in these two countries, the full impact of the investments at the future external borders to the security of citizens within the Schengen area will only materialise when Bulgaria and Romania accede to the Schengen area.** The evaluation did not identify any negative impacts, although there were a number of unintended positive impacts linked to the increased capacity supported under the Schengen Facility II.

Schengen Facility II had a positive impact on the preparedness of Bulgaria and Romania for the accession to the Schengen area, as evidenced by the upgraded surveillance of the future external border, border checks, IT and communication systems and visa management (please see section 4.3 on the effectiveness) and the relevant Council conclusions of June 2011.

As far as the wider impacts of the Schengen Facility II are concerned, the measures funded under the instrument had positive effects on the irregular migration across the future external

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<sup>65</sup> Data provided by the Directorate for Communications and Information Systems (Bulgarian Ministry of Interior) in email communication with Mr. Ivalin Iliev, Communication & Information Systems Development Department, 26 February 2014.

borders of Bulgaria and Romania and on the security in these two countries, as demonstrated by an increase of the detected irregular border crossings and cross-border crimes, although the increase in the detected irregular border crossings could be also attributed to external factors (increased migratory pressure). The Schengen Facility II investment (in particular the investments in the border surveillance system) had a deterrence effect, both on the irregular migration and the cross-border crime. However, the impact of the Schengen Facility II investments on the security within the Schengen area is limited until Bulgaria and Romania join it, as border controls are still performed at the borders between Bulgaria and Romania on the one hand and the Schengen area on the other hand. In consequence, any variation in the quality of the border controls at the borders between Bulgaria and Romania on the one hand and non-EU members on the other hand can have only marginal impact on the security within the Schengen zone.

The evaluation has not identified any negative impacts. As far as the unintended positive impacts are concerned, the evaluation found out that the investments in the surveillance of the maritime border also contributed to the detection of smuggling or environmental crime (waste dumping at the sea).

#### **4. CONCLUSIONS**

The Schengen Facility II, an instrument whose objectives were “*to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control*”, has been implemented in a successful manner. The Schengen Facility II provided a total of EUR 476 million to Bulgaria and Romania.

Overall, the instrument played a crucial role in ensuring that both Romania and Bulgaria could be considered technically prepared to join the Schengen area in 2011. The investment funded by the Schengen Facility II upgraded the surveillance of the future external border, border checks, IT and communication systems and visa management. The intervention was relevant to the identified needs, coherent with other sources of funding and effective in achieving its objectives. The efficiency with which these were achieved could have been improved, as well as the sustainability of some of the investments which required future funding to continue having an impact.

While the investment in Schengen Facility II contributed to the prevention of irregular migration across the future external borders of Bulgaria and Romania and to the security in these two countries, the impact of the Schengen Facility II investments on the security within the Schengen area remains limited until Bulgaria and Romania join it.

Although the non-accession of Bulgaria and Romania to the Schengen area has so far had limited impacts on the effectiveness of the Schengen Facility II investments, the continued postponement of accession of these countries to the Schengen area will most likely lead to a situation where parts of the investment will require significant upgrades.