

Initial Remarks

Dear Professor Alice Cunha,
Dear Guests,
Dear Students,
Ladies and Gentlemen,

I would like to begin by **thanking the invitation** to be here today, for which I feel very honoured. Please allow me to thank in particular Professor Alice Cunha, who was most kind and helpful.

This year we celebrate abolishing internal borders between Portugal, Spain and the other five founding states. **Portugal was at the forefront of the European Integration.**

Indeed, twenty years have passed since a fundamental step towards integration was taken. **But it was not only an act of political significance.** It was a concrete action that citizens could feel directly. Twenty years ago we, the peoples of Europe, got closer to each other.

Such a historical event, of such importance and lasting effects, should no doubt be celebrated. But *au delà de l'histoire*, why does Schengen remain today so important to Europe?

Why is Schengen so important?

First and foremost because it reminds us that **Europe is not only the economy and the internal market.** It reminds us that the European Union is not only about free movement of goods, services and capital. It is also about free movement of people. It is the "*ever closer union*" in the interest of the citizens. A Union of **European Citizenship**, a Union that aims to make easier living across this continent. **An Europe of and for the citizens.**

An Europe for citizens also encompasses security, which is another essential element to understand the importance of Schengen. **When internal borders are abolished, external borders need to become stronger**; they need to be reinforced in order to guarantee that our citizens and our territory remains safe, because **a breach in the external borders weakens the security of the whole Schengen area**. As the agreement foreseen from the beginning, "*compensatory measures*" are required. But because each of the more than 50.000 kilometres of land and sea borders remains under national control, **we must ensure that Member States trust in the work carried out by each other**. And this is the last **fundamental pillar of Schengen: Mutual Trust**.

As it would become known with the Tampere Programme, Schengen encompasses an **area of Freedom, Security and Justice**. And whereas it is clear to me that we cannot have one without the other, or damage one to get the other, it is also very clear that without mutual trust we won't have any. Schengen demands, therefore, that **police and judicial actors can cooperate**, that **information can be shared**; it demands an **impartial and effective evaluation system**. For the benefit of external borders, but also for the benefit of internal security. Ultimately, for the benefit of the European citizens.

At this point, however, I should make a declaration of interests. I want to be clear from the outset: I do not believe in aseptic views of reality, especially if you are a representative of the people. Therefore, my views today will naturally reflect my beliefs. And these can be reduced to this **essential idea that Europe is for the citizens** and therefore it has to continue to reach out to them as it did in the past through the creation of the Schengen area. This is the Europe I believe in.

Recent events, a bit all over Europe, have led us to believe that the support for the European project is declining. As populist and radical parties increase their electoral results, it would seem that the public debate had become limited to two political strands: **those that are against Europe and Schengen**; and those which **focus only on the internal market**, envisaging a Union for economical purposes only.

But looking at what people really think, the conclusion couldn't be more different. Consistently since 2007 at least, Europeans name free movement as one of the most positive outcomes of the European Union. In the Spring of 2014, the Eurobarometer survey showed that **free movement was seen as the most positive outcome**. 56% of Europeans think of free movement of citizens as the most positive realisation of the Union, even ahead of peace amongst Member States.

I am not saying that we don't face problems, that there is no room for improvement or that citizens do not demand for changes, **namely more security**.

Our continent has been for centuries a borderland, where territorial boundaries were always much disputed and **not always reflecting nations**. Therefore, **security** and **identity** were always strongly linked to the idea of controlling who enters our territory. Still today, border-crossing controls remain charged with symbolism.

On the other hand, the economic crisis, the attacks in Paris, foreign fighters, the crisis in the Mediterranean (and now increasingly in the Balkans) have generated a **sense of fear**, of **distrust**. This sentiment is the **root cause for more protectionism and security**.

It is thus **not surprising that Europeans value free movement so much**, while calling for more control when they feel threatened.

Some of you might still remember what it was like to go to Spain to buy candies or coca-cola. How complicated and lengthy it was. When internal borders were abolished, Portuguese and Spaniards felt how crossing the border, for whatever reason, had turned into a simple act, much less bureaucratic and surely faster. But for the countries of the 2004 enlargement, this feeling was something different and filled with hope. For Polish, Hungarians or Czechs (among others), entering the Schengen area was **recognising them as full members of the European Project**. It was a **sign of trust**. In 2007 I witnessed the borders being opened in several of these countries. Believe me when I tell you that it touched everyone. You could feel the emotion in each and every person; you could feel the **renewed sense of freedom**.

Likewise, but for the opposite reasons, Romanians and Bulgarians, member-states since 2007, feel as **second-class citizens** because **they are still subject to border controls**. Their efforts to comply with the schengen *acquis* produced results; the Commission and the European Parliament have already supported their claim to join, but they remain outside the Schengen area.

Ladies and Gentlemen,

I hope that I could in this introduction underline the importance of Schengen. It is not merely an historical agreement or an historical date. **It is a complex system that requires mutual trust**. It is made of balanced approaches, as it touches upon very sensitive political issues. But above all, **it is the core of the**

Europe of citizens. Schengen is the core of the area of Freedom, Security and Justice

During this presentation I intend to focus on the following 3 topics:

- I – From the origin until nowadays
- II – compensatory measures
- III – what is not working

I - From the origin until nowadays

Despite having been signed in 1985, Schengen only entered into force 10 years later, in 1995. As stated earlier, it started outside the EU framework, but it was soon incorporated by the Treaty of Amsterdam in 1997. Even before entering into force, it was accessed by a hand full of countries, **amongst which was Portugal**. In its origin was the will to a deeper and faster integration than the other Member-States.

Although the internal market entailed free movement of workers it would not necessarily lead to abolishing the control at the borders. And, unlike their partners, the Schengen states were willing to do so and even more. Already in the Schengen Agreement the preamble read [quote] "*resolved to continue the process of creating an ever closer union among the peoples of Europe*" [end quote].

Nonetheless, the first and more evident effect was of an economic nature. **Economies become more integrated if products can move more easily, if workers can move freely**. The European Commission estimates that the deepening of the internal market over the period 1992-2006 raised EU GDP and employment by 2.2 per cent and 1.3 per cent, representing figures of 233 billion euro and 2.8 million persons respectively. And if it is true that not all of it results from Schengen, it is undisputed its crucial input. This is also reflected, today, in **tourism**: Europeans do 1.25 billion journeys, yearly, just inside the Schengen area.

But right from the start it was evident that Schengen carried the seed for a Union that wanted to be political as well. With the Maastricht Treaty, in 1992, that seed produced results. **The European Union was created** and national citizens vested with a **second citizenship**, comprising political rights of its own: **the European citizenship**. In the Treaty of the European Union we can still read: [quote] "*Every person holding the nationality of a Member State shall be*

a citizen of the Union” and “Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States [...]” [end quote]. **But Schengen was not about a legal status. It was rather about identity and bringing Europeans together.**

As I already said elsewhere, the European identity is something hard to define. And if existent, I believe it to be more evident by opposition, when it is confronted with other external identities. Probably Portuguese remain Portuguese, French remain French but we are closer.

Comissioner for Research, Science and Innovation, our portuguese Carlos Moedas, is the first Commissioner “son” of the Erasmus family. **There is an entire generation of young people** that never knew what it is to stop between Portugal and Spain or from Paris to Berlin. Today citizens from 26 countries can live, study, or work anywhere they wish. **Crossing borders within this area has been made incredibly simple.** Schengen brought Europeans together, helped dissipate fear and difference, that so many times in the past led to mistrust.

But there still is work to be done.

In a survey from 2009, more affluent EU-15 migrants were often described as "*mobile Europeans*", while those coming from the new Member States were referred to as "*immigrants*", and **could face discrimination regardless of their EU-citizenship status.** More recently, in 2012, the majority of Europeans declared to see positively migrants from other Member-states... as opposed to migrants from third country nationals. In 2013, there were 12 million citizens living in another Member-state, as opposed to only 5 million in 1995.

Despite its evident positive effects, Schengen has been, unfortunately, under enormous pressure: in its external border and internally.

During the last decade, the Mediterranean region - northern Africa, Middle East, Turkey, the Balkans - has been affected by a number of international and regional developments leading to enormous political instability. This has contributed to **increase migration flows and asylum pressure**, especially to Italy, Greece, Spain, Malta and Cyprus.

In the first trimester of 2015, more than fifteen hundred [1500] people died trying to cross the Mediterranean. This year can very well be the deadliest in 20 years. **This brutal reality is clear evidence of the need for immediate response.** It is also demonstrates that we are facing a problem that does not

concern just frontline Member-States, but **calls for solidarity from the entire Schengen area.**

For the past three years too, Europe was also confronted with a new phenomenon of terrorism and home grown jihadists, the so called *foreign fighters*.

These phenomena led to an **increase of populist and simplistic approaches**, which appeal to nationalism rooted in insecurity and fear. Also threatening the very existence of Schengen.

II - Compensatory Measures

As I said at the beginning of my intervention, the greater freedom which came from abolishing internal borders required, on the one hand, **increased security at the external borders** and, on the other hand, **more cooperation within the Schengen area**. These so called "*compensatory measures*" are, as I mentioned before, both at the core of **mutual trust** and result from it.

Indeed, the signatories of the Schengen agreement reaffirmed [quote] "*their objective to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by including provisions on justice and home affairs in this Treaty*" [end quote]. This would be mirrored in the Maastricht treaty, which introduced the three pillars. Justice and home affairs, the lasting third pillar, would see a great increase in instruments due to **the incorporation of the Schengen *acquis* in the EU framework by the Amsterdam Treaty**.

The most recognizable instrument is the **Schengen Information System**. SIS is a huge database, which in December 2014 contained 53 million alerts on objects and almost 2 million alerts on people. As an example, these alerts can be to refuse entry to persons who do not have the right to enter or stay in Schengen territory or they can be to find and detain a person for whom a European Arrest Warrant has been issued. Alerts on objects, also as an example, can be stolen aircrafts, firearms, issued documents amongst many other categories. The System operates 24 hours a day, every day of the week, the whole year and links law enforcement agencies, customs and border guards from all the Schengen States,

As you might know, this is not the only database related to Schengen, although it is the only one foreseen in the Agreement. Others were developed, such as the Visa Information System (VIS), to store visa applications, or Eurodac, used in asylum procedures.

But compensatory measures were not only translated into information systems. Several legal instruments have been approved over time to ensure an efficient, coherent and trustful functioning of the Schengen area. These covered **visa and asylum policies, external borders and judicial and police cooperation in customs and criminal matters.**

For the Schengen Governance however, the **Schengen Borders Code** and the **New Evaluation Mechanism** are particularly important.

III - What is not working well and needs to be improved

The importance of the **Schengen Borders Code** and the **New Schengen Evaluation Mechanism** was already quite evident in 2011, when the migratory pressure was entering the high levels we are still facing today. Member-States, especially in the north of Europe, became increasingly afraid that the Mediterranean countries could not handle the number of migrants entering through their shores. **The simplistic approach was to say: close the internal borders.**

As I said several times today, **solidarity and trust are key in Schengen.** Instead of closing borders, we need an holistic approach to migration and asylum and, on the other hand, ensure a higher level of accountability and greater transparency with regard to how the *schengen acquis* is being implemented and enforced by Member States in order to ensure **maximum compliance.**

This is the reason behind the **New Schengen Evaluation Mechanism**, which entered into force this year. As rapporteur in the European Parliament it was my intention to shift from the old intergovernmental system of peer review to an EU-based approach where the central coordinating role is given to the European Commission. It was also key to me and the European Parliament that the new mechanism would introduce a clause providing for **unannounced visits** of experts, and **clearer rules for the follow-up to evaluations.** We managed to have it and in addition to these improvements, the evaluation process also includes measures aimed to assist Member States in fulfilling the recommendations adopted as part of the evaluation process.

It is quite clear to me that the emigration problem is much bigger and requires an all-encompassing strategy. This includes other policies such as development and foreign affairs, but it also includes other aspects of Schengen, such the full

implementation of the **Common European Asylum System**. It must address **solidarity amongst Member-states** and also ensure that we tackle the root causes of these movements. However, and this is a big however, we must ensure that we can assess whether Member States are complying with what is already in place. **The purpose of an evaluation system is to find what is wrong, what is not being well applied.** Definitely, not to disguise, hide or forget those failures. Instead, the purpose should be to **take action and solve problems**, because the purpose of an effective evaluation mechanism is **to make our borders stronger and more efficient.**

This New Mechanism followed another major change: **the second generation of the Schengen Information System**. Only operational since April 2013, it intended to accomplish, amongst others, two objectives: increase security at the external border, namely with regard to terrorism and irregular migration, but also increase the security inside our territories.

To achieve these objectives new features were introduced. Some of which should be highlighted:

- **Alerts can now be linked;** That is, if a stolen car is found through a random internal control, when accessing the SIS the enforcement officer will be able to see that the car is possibly part of a broader criminal network. Leading to discreet surveillance instead of seizing the car and arresting the suspect. This feature in particular changed the very functioning of the system. It was no longer a hit-no hit reactive vertical system. It became an horizontally integrated, proactive system;
- Another important feature is that now the **European Arrest Warrant** can also be attached to the person concerned, leading to a faster procedure;
- **The number of access points also increased**, following the enlarged purpose of SIS. **But what a user can see is only what it needs to its field of work.** For example in Portugal border guards have access to different elements than the criminal police;
- Lastly, and of crucial importance, **the system can store biometric data.** It improved the effectiveness of the system for the purposes of organized crime and terrorism, in particular arising type of criminality: identity theft and forged identity documents. For the same reason, it also helped decreased the so-called "*John Smith*" phenomenon. That is, to wrongly identify someone because he or she has the same name of someone flagged in the system.

This is particularly important to - again - understand the reactions following the terrorist attacks early this year. The fringes especially saw again an opportunity

to wave the nationalist flag and call for reintroducing internal borders. The major parties, on the other hand, decided to revive data retention, fast-track PNRs and Smart Borders. Forgetting that Schengen is not only security, but also freedom and justice.

In my opinion, we lacked the clarity to understand Schengen. And for several reasons:

- (i) **we have yet to see the first results from the New Schengen Evaluation Mechanism**, which is to say we don't really know whether Member states are implementing correctly the Schengen acquis;
- (ii) but **we know already that the SIS II is not yet being used at its full potential**, as the Commission has noted that time and time again;
- (iii) the Schengen Borders Code already foresees the **possibility to temporarily reintroduce checks at the internal borders** for security reasons;
- (iv) lastly, Europol, Eurojust, European Commission, national stakeholders have several times noted that **Law enforcement agencies and judicial authorities do not cooperate** as much as they should and they could.

Ladies and Gentlemen,

Conclusion

Coming back to beginning of this intervention, **Schengen is about the citizens, their freedom and their security**, internally and at the borders. For a balanced approach, both need to be accounted for in the right proportion.

At the very core of Schengen is mutual trust. **There is neither freedom nor security without mutual trust and both security and freedom must foster it.** We must resist simplistic and populist approaches. For an efficient functioning Schengen area that is centered in the citizens, we need a balanced approach which most of the time is complex.

As First Vice-President Timmermans recently said, "*Schengen is not part of the problem but part of the solution*". I entirely subscribe this statement. Schengen has played an essential role in European integration and in bringing Europeans together. It will never be complete, and its balance will always be difficult. **It is our duty to preserve it and improve it**, as doing so we are improving citizens lives. **As doing so, we are building the Europe of citizens.**

This is what I believe in. This is what the European Parliament is fighting for every day. This is what I think the other EU institutions and Schengen Member States should be doing also.

Thank you.