

## Why Bulgaria Is Shut Out of Schengen

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In December 2022, Bulgaria's application to join the Schengen area was blocked by the Netherlands and Austria. With a new deadline for membership in October 2023, we asked political scientist Antony Todorov what Schengen membership means for the country and what hurdles it will need to overcome to join.

**Maria Kasakova: Bulgaria's application to join the Schengen area was once again rejected at the end of 2022. What domestic political impact did this have in Bulgaria?**

**Antony Todorov:** Public opinion in Bulgaria is overwhelmingly in favour of the country joining the Schengen area, even though most Bulgarians perceive this as just the ability to cross internal borders. Very few understand that it is in fact a common legal space, based on trust between partners and the quality of the country's legal system. But the application's rejection has been seen as a national failure, as if the country has been demoted by the EU to the status of second-class member.

This rejection will fan scepticism towards Bulgaria's EU membership. The generation born after 2000 does not see EU membership as a radical political and social transformation of the country after communism but as a fact – something banal that requires no particular effort to be maintained. It's not like my generation, who saw the event as a fundamental choice for the future, as a goal in itself. This type of scepticism is felt differently by the younger generation: as a reaction against a Europe that doesn't respect Bulgaria.

The application's rejection also sparked a fierce political debate between parties and provided more ammunition for attacking political rivals. The GERB party, having been in power from 2009 to 2021, seized the opportunity to criticise Kiril Petkov's government, a heterogeneous coalition built around a new party, as having not done enough to persuade the Netherlands and Austria not to use their veto. GERB and its leader Boyko Borisov are still criticised for having supported corrupt practices and prevented essential reform of the justice system. But the veto also gives them additional arguments with which to defend themselves.

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**Has the domestic political crisis had an impact on this recent development?**

Yes. Without doubt, the political crisis that has prevented the formation of a stable government backed by a parliamentary majority doesn't help the situation. It should be remembered that the Schengen area is based on trust between stakeholders, and not just technical criteria. Since April 2021, Bulgaria has been governed by interim governments appointed by the president and working without a sitting

parliament, in an endless electoral campaign. Kiril Petkov's regular government was in power for just seven months, not long enough to begin major reform of the justice system and give the country more arguments against the veto of its joining Schengen.

I imagine that for the Dutch and Austrian governments, the absence of a regular government with a majority backing justified their veto. At the same time, uncertainty remains about the nature of a possible regular government in Bulgaria. The regular parliamentary elections in April 2021, which were preceded by a long period of protests demanding the resignation of prime minister Borisov and prosecutor general Geshev, were followed by elections in July and November 2021. The Kiril Petkov government, formed in December 2021, was brought down in July 2022 when one party left the ruling coalition. A government failed to emerge after the November 2022 election so we're about to have another election with little prospect of a regular government.

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In principle, Bulgarians have the choice of a government formed around GERB, or Petkov's party, or a grand coalition of both. GERB's return to power would only strengthen the objections to Bulgaria joining the Schengen area because the party is still criticised for not accepting genuine reform of the justice system and has become emblematic of various corruption practices. A grand coalition government would be so much built on compromise that a wide swathe of public opinion would reject it, according to the latest polls. The political uncertainty in Bulgaria favours vetoes.

### **What are the reasons for the separation of Bulgaria and Romania in the admission process?**

It's hard for me to say, because for the EU this separation isn't official. But the countries only seem to be separated by the arguments of the Dutch government. I don't think that the EU would accept the separation of these countries for political reasons — both are fairly close to the war in Ukraine and their separation in this process would be a sign of genuine conflict within the union.

At the same time, Romania seems to know how to fight high-level political corruption much better than Bulgaria. According to an anecdote circulating in Bulgaria, Romanians now have an entire government in prison. This isn't the case in Bulgaria, where every attempt at putting high-ranking politicians on trial has failed. And the current prosecutor's office has been consistently accused of shielding certain politicians. Even after some politicians and businessmen were declared corrupt under the United States's famous Magnitsky Act, Bulgarian prosecutor's office will unlikely open any real investigations into these cases.

### **Do domestic political actors and civil society see the Austrian and Dutch criticism regarding the rule of law and migration control as legitimate?**

The criticisms are perceived as legitimate by some political actors and rejected by others. But all political actors are unanimous in refusing to accept vetoes.

Clearly, rule of law is an issue that is still debated in Bulgaria, especially when it comes to the work of

the prosecutor's office which, under the constitution, is overseen and controlled by the prosecutor general. In 2019, upon the election of the current prosecutor general, Ivan Geshev, who was suspected of being the preferred candidate of then Prime Minister Boyko Borisov, there was opposition and protest. The president used his veto, but this was quickly overruled by a majority of the Supreme Judicial Council. In 2020, prosecutors raided the president's office to arrest and indict a presidential advisor on corruption charges. It sparked protests by thousands of people calling for the resignation of the prosecutor general and the prime minister. The main demand ever since has been to introduce checks on the power of the prosecutor general in Bulgaria. This is tricky because, according to some constitutional experts, it would require the convening of a constituent assembly to amend the constitution, which seems to have been rejected by political parties. Attempts to limit the power of the prosecutor general and to introduce an accountability mechanism for them by passing an ordinary law have failed for the moment.

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There are two reasons for this failure. On the one hand, there's the lack of a political majority that is stable and lasts long enough in parliament to support such a reform. On the other hand, there's the resistance or quite simply boycotting by parties like GERB or DPS (the party of Bulgaria's Muslim community, which has been heavily criticised for its clientelist practices) of any attempt at fundamental reform of the justice system.

But for controlling migration, rule of law is part of the equation. Bulgaria is heavily exposed to migratory flows from the Middle-East via the border it shares with Turkey. Even though various Bulgarian governments have struck agreements with Turkey to reduce these flows, today the Turkish government seems far more preoccupied with the consequences of the earthquake in Anatolia and upcoming elections than it is with controlling migration. To tackle this problem and the significant flux of refugees from Ukraine, Bulgaria needs assistance from the EU.

**The Netherlands have opposed Bulgaria's membership of Schengen for years, whereas Austria has only just joined them in opposition. Why do you think we've seen this change?**

I think that in both cases the reasons lie in domestic politics. In both countries, there have been fears of an uncontrollable influx of migrants for years. In these countries, growing opposition to open borders due to this influx is found among the working classes, but has also been incited by populist parties, whose political influence is growing and who, as is the case in Austria, sometimes make it into government. Even though populists are not in power in either country today, they're still managing to get 15 to 20 per cent of the vote at parliamentary elections, often coming third.

This is surprising in Austria because new chancellor Nehammer is trying to reverse the policy of his predecessor, Kurz, who was also from the same party. It's also a reversal in the country's position when the populists were part of the governing coalition. But there are fears in society — deliberately stirred up by populists — about immigration.

When it comes to the Netherlands' position, Bulgarians suspect it's more a matter of economic interests. There is media discussion about the consequences of Bulgaria joining the Schengen area, such as the

new importance enjoyed by the port of Thessaloniki for imports from the Middle-East to Europe and the diminished role for the port of Amsterdam as a result. This seems to me a bit weak as an explanation of the Dutch veto, but it's out there in the public sphere in Bulgaria.

**Bulgaria and Romania have external EU borders. Migration policy has become a priority for the EU once more. How is this crucial function perceived by local political actors?**

There is a genuine problem: the conflicts in the Middle East create refugees, but the general economic situation in countries in these regions pushes many people to look for work and a better life in the EU. The problem is that Europe is unable to change the situation and pacify these regions, but at the same time it is experiencing growing difficulties in taking in these refugees and migrants. European citizens, themselves feeling under pressure from a global market and diminishing state resources, are becoming very sensitive to issues around immigration.

The issue of immigration is discussed in Bulgaria, but with an awareness that for migrants the country is just a territory to cross and not somewhere to settle. Immigration is mainly discussed in terms of security (for the residents of villages and cities transited), but also in terms of corruption or the participation of border guards in migrant smuggling. Corruption once again! It's obviously a key issue for joining the Schengen area.

But the domestic debate is also about the ability of a mid-sized country like Bulgaria to cope with significant flows of migrants. Bulgaria has one of the EU's external borders and maintaining order on these borders with Turkey is far from a purely domestic issue. That said, in Bulgaria we think that the country could be a more effective guardian of these borders if it were part of the Schengen area rather than playing the difficult role of buffer state between the EU and outside world.



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