

Schengen Borders Code: reinforcement of checks against relevant databases at external borders

2015/0307(COD) - 15/03/2017 - Final act

PURPOSE: to introduce a targeted amendment to Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code in order to increase security within the area without internal border control in response to heightened risks of terrorism.

LEGISLATIVE ACT: Regulation (EU) 2017/458 of the European Parliament and of the Council amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders.

BACKGROUND: checks at the EU's external borders remain one of the main safeguards of the area without internal border control and significantly contribute to ensuring the long-term security of the Union and its citizens. Such checks shall be carried out in the interests of all Member States. One of the purposes of such checks is to prevent any threat to the internal security and public policy of the Member States.

Minimum checks based on a rapid and straightforward verification of the validity of the travel document for crossing the border are currently the rule for persons enjoying the right of free movement under Union law. The **phenomenon of foreign terrorist fighters**, many of whom are Union citizens, demonstrates the need to **reinforce checks at external borders** with regard to persons enjoying the right of free movement under Union law.

CONTENT: the purpose of this regulation is to amend [Regulation \(EC\) No 562/2006](#) of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) in response to the heightened terrorist threat on the EU's territory.

Systematic border checks: the regulation amends the Schengen Border Code which obliges the Member States to **carry out systematic checks on entry and on exit to the external borders of the Member States** using the SIS and Interpol's Stolen and Lost Travel Documents (SLTD) database and other relevant Union databases.

The checks on the relevant persons will be compulsory both **when they enter or leave** by all air, sea and land borders.

Persons who, in principle, are not subject to targeted checks against the databases, shall, as a minimum, be subject to a check with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices, and, in cases where there are doubts about the travel document or where there are indications that such a person could represent a threat to the public policy, internal security, public health or international relations of the Member States, the border guard shall consult the databases and at least one of the biometric identifiers integrated into the travel documents.

In order to facilitate systematic checks against databases, Member States should **gradually phase out** travel documents without machine-readable zones.

Such systematic checks should be carried out in full compliance with relevant Union law, including the **Charter of Fundamental Rights of the European Union**.

Targeted checks: where the checks against the databases would have a **disproportionate impact on the flow of traffic**, a Member State may decide to carry out those checks on a targeted basis at specified border crossing points, **following an assessment of the risks** related to the public policy, internal security, public health or international relations of any of the Member States.

The scope and duration of the temporary reduction in targeted checks against the databases shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment carried out by the Member State concerned.

Persons who, in principle, are not subject to targeted checks against the databases, shall, **as a minimum, be subject to a check** with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting.

Risk assessment: Member States shall transmit their risk assessments and their updates to the European Border and Coast Guard Agency (and report every 6 months to the Commission).

Where certain Member States, the Agency or the Commission have concerns about the intention to carry out targeted checks against the databases, they shall notify the Member State in question of those concerns without delay. The Member State in question shall take those concerns into account.

The Commission shall, by 8 April 2019, transmit to the European Parliament and the Council an evaluation of the implementation and consequences of the measures envisaged in the regulation.

Air borders: with regard to air borders, the Member States may carry out targeted checks for a **maximum transitional period of 6 months** from 7.4.2017. This period may be extended by a maximum of 18 months where, at a particular airport, there are specific infrastructural difficulties requiring a longer period of time for the necessary adaptations. This deadline may be extended in certain cases.

Land borders: at the border crossing points where those systematic checks are not carried out, the identity of persons enjoying the right of free movement under Union law should be established on the basis of the production or presentation of an authentic travel document which is valid for crossing the border.

The United Kingdom and Ireland are not taking part in the adoption of this regulation and are not bound by it. Denmark shall decide within a period of 6 months after the regulation's entry into force whether or not it will implement the regulation in its national law.

ENTRY INTO FORCE: 7.4.2017 The regulation is directly applicable in all the Member States concerned by the envisaged measures.