

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

2015/0307(COD) - 15/12/2015 - Legislative proposal

PURPOSE: to introduce a targeted amendment to 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 order to increase security within the area without internal border control.

PROPOSED ACT: Regulation of the European Parliament and of the council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: control at external borders remains one of the main safeguards of the area without controls at internal borders. The phenomenon of foreign terrorist fighters, many of whom are Union citizens, demonstrates the necessity to strengthen the checks at external borders with regard to Union citizens.

It is estimated that up to 5 000 EU citizens departed to the conflict zones (notably Syria and Iraq) and most probably joined ISIS forces. Many of the perpetrators of recent terrorist attacks, starting from Charlie Hebdo in January 2015, stayed or were trained abroad in the areas controlled by the terrorist organisations.

This proposal replies to the call expressed in the Council conclusions of 19 and 20 November, which invited the Commission to present a proposal for a targeted revision of the Schengen Borders Code to provide for systematic controls of EU nationals, including the verification of biometric information, against relevant databases at external borders of the Schengen area, making full use of technical solutions in order not to hamper the fluidity of movement.

This proposal is a response to the increase of terrorist threats in Europe as manifested by the attacks in Paris, Copenhagen and Brussels, but should address all potential risks to internal security.

CONTENT: this proposal amends 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).

The amended proposal:

- obliges Member States to carry out systematic checks on persons enjoying the right of free movement under Union law (i.e. EU citizens and members of their families who are not EU citizens) when they cross the external border against databases on lost and stolen documents as well as in order to verify that those persons do not represent a threat to public order and internal security. This obligation shall apply at all external borders i.e. at air, sea and land borders, both at entry and exit;
- enables Member States, where a systematic consultation of databases on all the persons enjoying the right of free movement under Union law could lead to disproportionate impact on the flow of traffic at the border, to carry out only targeted checks against databases provided that a risk assessment shows this does not lead to risks related to internal security, public policy, international relations of the Member States or a threat to the public health. The risk analysis should be communicated to Frontex and should be the subject of regular reporting to the Commission and to Frontex;
- reinforces the need to verify biometric identifiers as contained in [Council Regulation \(EC\) No 2252/2004](#). This Regulation introduced the facial image and fingerprints as security elements in the passport of EU citizens in order to render them more secure and establish a reliable link between the holder and the passport. Therefore in case of doubts on the authenticity of the passport or on the identity of the holder, border guards should verify those biometric identifiers;
- removes the margin left to Member States not to check third country nationals on exit : the amendment will align the obligations to check systematically also on exit that a third country national does not present a threat to public policy and internal security.

The United Kingdom and Ireland shall not take part in the adoption of this Regulation and is not bound by it or subject to its application. Denmark shall decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.