

Draft Council decision supplementing the Schengen Borders Code as regards the surveillance of the external maritime borders by Frontex

2009/2755(RPS) - 25/03/2010

A motion for a resolution, tabled by the Committee on Civil Liberties, Justice and Home Affairs with the aim of opposing a draft [Council decision](#) under the regulatory procedure with scrutiny, did not muster the absolute majority required for rejection of the draft decision.

Parliament voted by 336 to 253, with 30 abstentions, in favour of the motion tabled on behalf of the LIBE committee by Juan Fernando LÓPEZ AGUILAR (S&D, ES). However, under the rules for this procedure, an absolute majority of all Members - 369 - would have been needed to ensure that the motion was carried and the draft decision rejected by Parliament. As the necessary majority was not obtained, the motion fell. The draft decision will therefore be adopted by the Council.

Background

In November 2009 the Commission presented a draft decision based on Article 12 of the [Schengen Borders Code](#), which allows the Commission to adopt rules on border surveillance as part of its implementing powers. The draft decision contained a set of guidelines on the surveillance of external sea borders in the context of the operational cooperation coordinated by the European Agency for the Management of Operational Coordination at the External Borders (FRONTEX). The guidelines covered search and rescue situations and disembarkation procedures and were aimed at protecting the rights of migrants.

Under the regulatory procedure with scrutiny Parliament has the right to scrutinise any proposed implementing measures and may oppose them on the grounds that they exceed the implementing powers provided for in the basic instrument (in this case, the Schengen Borders Code).

MEPs in the LIBE Committee, meeting on 17 March 2010, argued that the proposed measures did indeed exceed the scope of Article 12 of the Schengen Borders Code and that they should instead be the subject of a legislative proposal under the ordinary legislative procedure. In this way, the measures could be enshrined in law and become binding, rather than remaining as mere guidelines. They therefore adopted a resolution formally opposing the draft Council decision. This motion for a resolution was tabled for inclusion on the plenary agenda of the mini-session of 24 and 25 March 2010.

The motion called on the Commission to inform Parliament and the Council whether the objectives of the draft decision could be achieved

- by amending the proposed regulation (see procedure file [2010/0039\(COD\)](#)) amending [Council Regulation \(EC\) No 2007/2004](#) (the original FRONTEX regulation), or
- by means of a new proposal amending the Schengen Borders Code, or
- by means of another new legislative proposal.

It also urged the Council to cooperate "fully and proactively" with the Commission and Parliament on legislative proposals, given the urgent need to improve the situation of migrants and to facilitate joint operations coordinated by FRONTEX on the high seas.

