

Asylum: Eurodac system for the comparison of fingerprints of third-country nationals or stateless applicants; requests for comparison with Eurodac data. Recast

2008/0242(COD) - 08/06/2012

The Council **agreed on a compromise text** (doc. [6161/4/12](#)) relating to the amendments tabled by the Commission in September 2011 which aim to change the last part of the Schengen Borders Code, i.e. the provisions on the reintroduction of controls at internal borders.

The Council also reached a **general approach** on amendments to the the [Schengen Evaluation Mechanism](#), the common rules to verify the application of the Schengen acquis.

This compromise text will now form the basis for negotiations with the European Parliament.

The text provides for the possibility of reintroducing controls at internal borders in **three cases** – two under the heading "Serious threat to public policy or internal security" and one linked to the Schengen evaluation mechanism under the heading "Specific measures in case of serious deficiencies relating to the external border controls":

(i) Serious threat to public policy or internal security: as under the current rules, a member state will be able to unilaterally decide to temporarily reintroduce border controls at internal borders in exceptional circumstances, namely where 'there is a serious threat to public policy or internal security'.

First case: Foreseeable events

– If the threats motivating such re-introduction are foreseeable (e.g. major sporting events, political demonstrations, or high-profile political meetings), the reintroduction of border controls will be limited to 30 days with the possibility of prolonging the period for renewable periods of 30 days not exceeding six months in total. The member state in question must notify the other member states and the Commission not less than four weeks before the planned reintroduction. Shorter periods are possible in specific circumstances.

– The member state will need to provide all relevant information about the scope and duration of the re-introduction, and the reasons for doing so. The Commission can issue an opinion on the notification, which may result in consultations between member states and the Commission.

Second case: Urgent cases

– In urgent cases (e.g. terrorist attack), the re-introduction may be effected immediately. In these cases, the reintroduction of border controls will be limited to 10 days with the possibility of extending that period for renewable periods of 20 days not exceeding two months in total.

(ii) Specific measures in case of serious deficiencies relating to the external border controls

Third case: Persistent serious deficiencies at external borders

- Where an evaluation report under the [Schengen evaluation mechanism](#) identifies serious deficiencies in a member state in carrying out external border controls, the Commission may recommend to the member state concerned the deployment of European Border Guard teams in accordance with the Frontex regulation and/or the submission of its strategic plans to remedy the situation.
- Where an evaluation report under the Schengen evaluation mechanism (see a) concludes that a **member state was seriously neglecting its obligations** putting the overall functioning of the area without internal border controls at risk, and where the Commission finds that after **three months this situation persists**, the Council may on the basis of a Commission proposal recommend that one or more specific member states **reintroduce border controls at all or specific parts of the internal borders**. As in the first and second cases described above, the serious deficiency relating to external border controls must constitute a serious threat to public policy or internal security. The reintroduction of border controls in this case will be limited to six months with the possibility of extending that period for renewable periods of **six months not exceeding two years in total**.
- **Such a recommendation can only be adopted as a last resort**, and the Council has to take into consideration a number of things, including: whether the reintroduction of border controls is likely to adequately remedy the threat to public policy or internal security; whether the measure is proportionate; and whether there are additional technical or financial support measures, including through Frontex, EASO, Europol etc., that could remedy the situation.