

Screening Regulation

2020/0278(COD) - 23/09/2020 - Legislative proposal

PURPOSE: to establish a seamless pre-entry screening procedure at the external borders of the Member States applicable to all non-EU citizens crossing without authorisation.

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: the [New Pact on Migration and Asylum](#) advocates integrated policy-making bringing together policies in the areas of asylum, migration, return, external border protection, fight against migrants' smuggling and relations with key third countries reflecting a whole of government approach. It recognises that a comprehensive approach also means a stronger, more sustainable and tangible expression of the principle of solidarity and fair sharing of responsibility.

The challenges of migration management, related in particular to ensuring a quick identification of those in need of international protection or effective returns (for those who are not in need of protection), should be dealt with in a uniform manner by the entire EU as a whole. The available data demonstrate that the arrival of third-country nationals with clear international protection needs as observed in 2015-2016 has been partly replaced by mixed arrivals of persons. It is therefore important to develop a new effective process allowing for better management of mixed migration flows.

It is also important to create a tool allowing for the identification, at the earliest stage possible, of persons who are unlikely to receive protection in the EU. Such a tool should be built in the process of controls at the external borders, with a swift outcome as well as clear and fair rules, and should result in accessing the appropriate procedure (asylum or the procedure respecting the Return Directive).

CONTENT: given that the external border is where the EU needs to close the gaps between external border controls and asylum and return procedures, the Commission is proposing to establish a seamless procedure at the border applicable to all non-EU citizens crossing without authorisation, comprising pre-entry screening, an asylum procedure and where applicable a swift return procedure – thereby integrating processes which are currently separate.

This proposal seeks to put in place a pre-entry screening that should be applicable to all third-country nationals who are present at the external border without fulfilling the entry conditions or after disembarkation, following a search and rescue operation.

Objectives and main elements of the screening

The objective of the screening is to contribute to the new comprehensive approach to migration and mixed flows by ensuring that the identity of the persons but also any health and security risks are quickly established.

The screening shall include:

- a preliminary health and vulnerability check;
- an identity check against information in European databases;

- registration of biometric data (i.e. fingerprint data and facial image data) in the appropriate databases, to the extent it has not occurred yet; and
- a security check through a query of relevant national and Union databases, in particular the Schengen Information System (SIS), to verify that the person does not constitute a threat to internal security.

Scope

The proposed Regulation shall apply to:

- all third-country nationals who are present at the external border without fulfilling the entry conditions and for whom Member States are required to collect fingerprints under the Eurodac Regulation;
- persons who, although not eligible for entry to the EU, request international protection at border checks;
- people brought ashore following search and rescue operations at sea;
- persons apprehended on the territory if they first evaded external border checks on entering the Schengen area.

Location and duration of the screening

The location shall be at the external borders, except in certain cases. The proposed duration of the screening process is five days, unless the person concerned has already been kept at the border for 72 hours, in relation to unauthorised crossing of the external border. In such a case, the screening should not exceed 2 days. In case of the screening of persons apprehended within the territory the screening should not exceed three days. The proposal also stressed the need for the Member States to involve child protection authorities and the national Anti-trafficking rapporteurs in cases of vulnerable persons or minors.

Identification and security checks

Specific rules are proposed concerning the identification of third-country nationals by means of consulting the Common Identity Repository (CIR) established by the Interoperability Regulation. Consultation of the CIR allows consulting identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring a maximum protection of the data and avoiding unnecessary processing of or duplication of data.

Competent authorities should also consult the Interpol Travel Documents Associated with Notices (TDAWN) database in order to verify whether the third country nationals do not present a security threat. All such checks should be carried out, to the extent possible, on the basis of biometric data, in order to minimise the risk of false identification, and the results of the searches should be restricted to reliable data only.

Role of EU agencies

Lastly, the proposal recognises the role of the EU agencies – Frontex and the European Union Agency for Asylum, which may accompany and support the competent authorities in all their tasks related to the screening. It also gives an important role to the Fundamental Rights Agency in supporting Member States in development of the independent monitoring mechanisms of fundamental rights in relation to the screening.

Budgetary implications

The proposed Regulation has implications for the EU budget. The total financial resources necessary to support the implementation of this proposal is estimated at an amount of EUR 417.626 million, for the period 2021-2027.

The following elements of the screening will potentially require financial support: (i) infrastructure for the screening: creation and use/upgrade of the existing premises at the Border Crossing Points, reception centres etc.; (ii) access to the relevant databases at new locations; (iii) hiring of additional staff to carry out the screening; (iv) training of border guards and other staff to carry out the screening; (v) recruitment of medical staff; (vi) medical equipment and premises for the preliminary health checks, where appropriate; (vii) setting up the independent monitoring mechanism of fundamental rights during the screening.

The expenses related to these new tasks can be covered by the resources available to the Member States under the new Multiannual Financial Framework 2021-2027.