

Screening Regulation

2020/0278(COD) - 10/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 366 votes to 229, with 26 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council introducing a screening of third-country nationals at the external borders.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

New rules for checks at EU borders and within its territory for people who entered the EU in an irregular manner

The new Regulation establishes:

- **the screening at the external borders of the Member States of third-country nationals who, without fulfilling the entry conditions**, have crossed the external border in an unauthorised manner, have applied for international protection during border checks, or have been disembarked after a search and rescue operation, before they are referred to the appropriate procedure, and
- **the screening of third-country nationals illegally staying within the territory of the Member States** where there is no indication that those third-country nationals have been subject to controls at external borders, before they are referred to the appropriate procedure.

The objective of the screening should be to strengthen the control of third-country nationals crossing the external borders, to identify all third-country nationals subject to the screening and to check against the relevant databases whether the persons subject to the screening might pose a **threat to internal security**. The screening should also entail **preliminary health and vulnerability checks** to identify persons in need of health care and persons that might pose a threat to public health, and to identify vulnerable persons.

Screening within the territory

Member States should carry out the screening of third-country nationals illegally staying within their territory only where such third-country nationals have crossed an external border to enter the territory of the Member States in an unauthorised manner and have not already been subjected to the screening in a Member State. Member States should lay down in their national law provisions to ensure that those third-country nationals remain available to the authorities responsible for carrying out the screening for the duration of the screening, to **prevent any risk of absconding** and potential threats to internal security resulting from such absconding.

The screening should be conducted at any adequate and appropriate location designated by each Member State, generally situated at or in proximity to the external borders or, alternatively, in other locations within its territory. It should be carried out without delay and in any case be completed within **seven days** from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point.

Security checks should also be carried out by accessing the relevant databases (in particular the Schengen Information System, the Entry/Exit System, the European Information and Travel Authorisation System ETIAS and the European Criminal Records Information System - Third Country Nationals ECRIS-TCN system).

Requirements concerning the screening

Where it proves necessary and on the basis of an individual assessment of each case, Member States may **detain** a person subject to the screening, if other less coercive alternative measures cannot be applied effectively. Detention should only be applied as a measure of last resort in accordance with the principles of necessity and proportionality and should be subject to an effective remedy.

Member States should ensure that all persons subject to the screening are accorded a standard of living which guarantees their subsistence, protects their physical and mental health and respects their rights under the European Union Charter of Fundamental Rights.

Monitoring of fundamental rights

The Regulation provides that each Member State should provide for an **independent monitoring mechanism**, which should:

- monitor compliance with Union and international law, including the Charter, in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child and the relevant rules on detention, including relevant provisions on detention in national law, during the screening; and
- ensure that substantiated allegations of failure to respect fundamental rights in all relevant activities in relation to the screening are dealt with effectively and without undue delay, trigger, where necessary, investigations into such allegations and monitor the progress of such investigations.

The independent monitoring mechanism should carry out its tasks on the basis of on-the-spot checks and random and unannounced checks. It should also have the power to issue annual recommendations to Member States.

Provision of information

Member States should ensure that third-country nationals subject to the screening are informed about: (a) the purpose, duration and elements of the screening, as well as the manner in which it is carried out and its possible outcomes; (b) the right to apply for international protection and the applicable rules on making an application for international protection. In the case of minors, the information should be provided in a child-friendly and age-appropriate manner and with the involvement of the representative.

Guarantees for minors

During the screening, the minor should be accompanied by, where present, an adult family member. The **best interests of the child**, in particular unaccompanied minors, should always be a primary consideration during screening.

Member States should, as soon as possible, take measures to ensure that a **representative** or, where a representative has not been appointed, a person trained to safeguard the best interests and general wellbeing of the minor accompanies and assists the unaccompanied minor during the screening in a child-friendly and age-appropriate manner and in a language that he or she understands.

The person in charge of accompanying and assisting an unaccompanied minor should act independently and should not receive orders either from persons responsible for the screening or from the screening authorities. Even if the unaccompanied minor is not represented, they should always have the right to apply for international protection.

