Basic information

2015/0307(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Schengen Borders Code: reinforcement of checks against relevant databases at external borders Amending Regulation (EU) 2016/399 2015/0006(COD) See also 2017/2691(RSP) **Subject** 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas 7.30 Police, judicial and customs cooperation in general	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	MACOVEI Monica (ECR)	15/02/2016
	Shadow rapporteur KUDRYCKA Barbara (PPE) FAJON Tanja (S&D) IN 'T VELD Sophia (ALDE) VERGIAT Marie-Christine (GUE/NGL) LUNACEK Ulrike (Verts/ALE) WINBERG Kristina (EFDD)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	DE SARNEZ Marielle (ALDE)	16/02/2016
DEVE Development	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3526	2017-03-07

	Justice and Home Affairs (JHA)	3450	2016-02-25

European Commission	Commission DG	Commissioner
	Migration and Home Affairs	AVRAMOPOULOS Dimitris

Key events

Date	Event	Reference	Summary
15/12/2015	Legislative proposal published	COM(2015)0670	Summary
21/01/2016	Committee referral announced in Parliament, 1st reading		
25/02/2016	Debate in Council		
21/06/2016	Vote in committee, 1st reading		
21/06/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
27/06/2016	Committee report tabled for plenary, 1st reading	A8-0218/2016	Summary
08/12/2016	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
15/02/2017	Debate in Parliament		
16/02/2017	Decision by Parliament, 1st reading	T8-0047/2017	Summary
16/02/2017	Results of vote in Parliament		
07/03/2017	Act adopted by Council after Parliament's 1st reading		
15/03/2017	Final act signed		
15/03/2017	End of procedure in Parliament		
18/03/2017	Final act published in Official Journal		

Technical information

Procedure reference	2015/0307(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EU) 2016/399 2015/0006(COD) See also 2017/2691(RSP)
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/05343

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE578.659	05/04/2016	
Amendments tabled in committee		PE582.195	29/04/2016	
Committee opinion	AFET	PE578.843	18/05/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0218/2016	27/06/2016	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0047/2017	16/02/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00055/2016/LEX	15/03/2017	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2015)0670	15/12/2015	Summary
Commission response to text adopted in plenary	SP(2017)156	14/03/2017	
For information	COM(2022)0302	24/05/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2015)0670	16/02/2016	
Contribution	CZ_SENATE	COM(2015)0670	18/03/2016	
Contribution	PT_PARLIAMENT	COM(2015)0670	18/03/2016	
Contribution	IT_SENATE	COM(2015)0670	29/03/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2017/0458
OJ L 074 18.03.2017, p. 0001 Summary

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.

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

2015/0307(COD) - 15/03/2017 - Final act

PURPOSE: to introduce a targeted amendment to Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code in order to increase security within the area without internal border control in response to heightened risks of terrorism.

LEGISLATIVE ACT: Regulation (EU) 2017/458 of the European Parliament and of the Council amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders.

BACKGROUND: checks at the EU's external borders remain one of the main safeguards of the area without internal border control and significantly contribute to ensuring the long-term security of the Union and its citizens. Such checks shall be carried out in the interests of all Member States. One of the purposes of such checks is to prevent any threat to the internal security and public policy of the Member States.

Minimum checks based on a rapid and straightforward verification of the validity of the travel document for crossing the border are currently the rule for persons enjoying the right of free movement under Union law. The **phenomenon of foreign terrorist fighters**, many of whom are Union citizens, demonstrates the need to **reinforce checks at external borders** with regard to persons enjoying the right of free movement under Union law.

CONTENT: the purpose of this regulation is to amend 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 response to the heightened terrorist threat on the EU's territory.

Systematic border checks: the regulation amends the Schengen Border Code which obliges the Member States to **carry out systematic checks on entry and on exit to the external borders of the Member States** using the SIS and Interpol's Stolen and Lost Travel Documents (SLTD) database and other relevant Union databases.

The checks on the relevant persons will be compulsory both **when they enter or leave** by all air, sea and land borders.

Persons who, in principle, are not subject to targeted checks against the databases, shall, as a minimum, be subject to a check with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices, and, in cases where there are doubts about the travel document or where there are indications that such a person could represent a threat to the public policy, internal security, public health or international relations of the Member States, the border guard shall consult the databases and at least one of the biomentric identifiers integrated into the travel documents.

In order to facilitate systematic checks against databases, Member States should **gradually phase out** travel documents without machine-readable zones.

Such systematic checks should be carried out in full compliance with relevant Union law, including the **Charter of Fundamental Rights of the European Union**.

Targeted checks: where the checks against the databases would have a **disproportionate impact on the flow of traffic**, a Member State may decide to carry out those checks on a targeted basis at specified border crossing points, **following an assessment of the risks** related to the public policy, internal security, public health or international relations of any of the Member States.

The scope and duration of the temporary reduction in targeted checks against the databases shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment carried out by the Member State concerned.

Persons who, in principle, are not subject to targeted checks against the databases, shall, **as a minimum, be subject to a check** with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting.

Risk assessment: Member States shall transmit their risk assessments and their updates to the European Border and Coast Guard Agency (and report every 6 months to the Commission).

Where certain Member States, the Agency or the Commission have concerns about the intention to carry out targeted checks against the databases, they shall notify the Member State in question of those concerns without delay. The Member State in question shall take those concerns into account.

The Commission shall, by 8 April 2019, transmit to the European Parliament and the Council an evaluation of the implementation and consequences of the measures envisages in the regulation.

Air borders: with regard to air borders, the Member States may carry out targeted checks for a **maximum transitional period of 6 months** from 7.4.2017. This period may be extended by a maximum of 18 months where, at a particular airport, there are specific infrastructural difficulties requiring a longer period of time for the necessary adaptations. This deadline may be extended in certain cases.

Land borders: at the border crossing points where those systematic checks are not carried out, the identity of persons enjoying the right of free movement under Union law should be established on the basis of the production or presentation of an authentic travel document which is valid for crossing the border.

The United Kingdom and Ireland are not taking part in the adoption of this regulation and are not bound by it. Denmark shall decide within a period of 6 months after the regulation's entry into force whether or not it will implement the regulation in its national law.

ENTRY INTO FORCE: 7.4.2017 The regulation is directly applicable in all the Member States concerned by the envisaged measures.

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

2015/0307(COD) - 27/06/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Monica MACOVEI (ECR, RO) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the reinforcement of checks against relevant databases at external borders.

The committee recommended that the European Parliament's position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Respect for Fundamental Rights: it is recalled that the implementation of the Regulation shall take account the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 2 of the Treaty on European Union (TEU) as well as all Union law relating to data protection. It is also stated that border checks shall be carried out in such a way as to **fully respect human dignity** and that that should be carried out in a professional and respectful manner and should be proportionate to the objectives pursued.

Access to relevant databases: in order to guarantee security of the Union's external borders, Member States shall ensure that their competent authorities (including their border guards):

- have an electronic connection to Interpol 's Stolen and Lost Travel Documents database (SLTD) at external border crossing points;
- have access to the relevant national and European data banks, including the Schengen Information System (SIS) and the Europol Information System (EIS).

In this regard, it is stated that Member States that are not in the Schengen area and whose borders constitute the external borders should be fully integrated into SIS in order to conduct better border management and help preserve the security of the Union.

Targeted checks: as a general rule, systematic checks should be carried out at all external borders. However, if these checks have a disproportionate impact on the flow of traffic, the Member States concerned may carry out those checks on a **targeted basis**, provided that an assessment of the risks shows that this derogation will not harm the internal security of the Union.

Such risk assessment should be based on a set of **common risk indicators developed by the Commission**, in close cooperation with Frontex.

It should be possible for border guards to decide **not to check relevant databases** regarding a person enjoying the right of free movement under Union law if it can be clearly assessed that that person does not jeopardise the internal security of any of the Member States. Such persons could include, inter alia:

- children under the age of 12 and minors accompanied by parents;
- school pupils when travelling on organised excursions;
- elderly persons when travelling in an organised manner;
- pilots of aircraft and other crew members;
- Heads of State or government and the members of their delegations;
- holders of diplomatic, official or service passports and members of international organisations;
- rescue services, police and fire brigades and border guards;
- off-shore workers;
- holders of permits required by national law in accordance with specific Member States' arrangements in bilateral agreements.

Where a Member State intends to carry out targeted checks, it should notify the other Member States, Frontex and the Commission without delay.

The duration and location of the targeted checks shall **not go beyond what is strictly necessary**.

Risk analysis: Frontex shall transmit without delay its evaluations of the Member State's initial assessment and subsequent reports to all other Member States, indicating whether or not it deems the Member State concerned to have conducted an appropriate security risk and traffic flow assessment, and whether or not the Member State has appropriately decided to apply targeted checks on the basis of that assessment.

The risk assessment shall provide statistics on passengers and incidents related to cross-border crime.

Enhance biometric elements included in Member States' identity cards: many identity cards produced by the Member States do not have any security features such as facial image or fingerprints. In order to make it possible for systematic verification to be carried out on travel documents other than passports, taking into account internal security issues, the Commission should take swift action to propose the **establishment of common standards** for the security features and biometrics that are to be included in identity cards issued by the Member States.

Impact of the Regulation: the Commission shall publish a study on the impact of this Regulation on the flow of traffic on the entry and exit at Schengen external borders by one year after the date of entry into force of this Regulation. Then every two years, it shall submit a general evaluation report.

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

2015/0307(COD) - 16/02/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 496 votes to 120, with 42 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the reinforcement of checks against relevant databases at external borders.

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

Border checks: the amended text stipulates that the phenomenon of foreign terrorist fighters, many of whom are Union citizens, demonstrates the need to reinforce checks at external borders with regard to persons enjoying the right of free movement under Union law.

This Regulation amending the Schengen Border Code obliges the Member States to carry out systematic checks on entry and on exit to the external borders of the Member States using the SIS and Interpol's Stolen and Lost Travel Documents (SLTD) database and other relevant Union databases.

Member States are obliged to check systematically third -country nationals against all relevant databases on entry. It should be ensured that such checks are also carried out systematically **on exit**.

One of the purposes of such checks is to prevent any threat to the internal security and public policy of the Member States, irrespective of the origin of such threat, including where such a threat derives from Union citizens.

Such systematic checks should be carried out in full compliance with relevant Union law, including the **Charter of Fundamental Rights** of the European Union.

In order to facilitate systematic checks against databases, Member States should phase out travel documents without machine -readable zones.

Targeted checks: where the checks against the databases would have a **disproportionate impact on the flow of traffic**, a Member State may decide to carry out those checks on a targeted basis at specified border crossing points, following an **assessment of the risks** related to the public policy, internal security, public health or international relations of any of the Member States.

Persons who, in principle, are not subject to targeted checks against the databases, shall, as a **minimum, be subject to a check** with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting.

Transitional period: as regards **air borders**, Member State may decide to carry out those checks on a targeted basis during a maximum transitional period of **six months** from the date of entry into force of this Regulation. This six-month transitional period may be prolonged for that particular airport by a maximum of 18 months in exceptional cases, where, at a particular airport, there are specific infrastructural difficulties requiring a longer period of time for adaptations.

Where a Member State intends to carry out checks against relevant databases on a targeted basis regarding persons enjoying the right of free movement under Union law, it should **notify** the other Member States, the Agency and the Commission without delay. A procedure for such notification should be developed by the Commission, in cooperation with the Member States, in accordance with the Practical Handbook for Border Guards (Schengen Handbook).