



Schengen: New rules to make the area without internal border controls more resilient

Strasbourg, 14 December 2021

Today, the Commission is proposing [updated rules](#) to reinforce the governance of the Schengen area. The targeted changes will bring greater EU coordination and better equip Member States to deal with emerging challenges when managing both the EU's common external border and internal borders within the Schengen area. The update seeks to ensure that reintroducing internal border controls remains a measure of last resort. The new rules also introduce common tools to manage the external borders more efficiently in case of a public health crisis, building on the lessons learnt from the COVID-19 pandemic. The instrumentalisation of migrants is also addressed in the update to the Schengen rules, as well as through a parallel [proposal](#) for measures Member States can take in the fields of asylum and return in such a situation.

Vice-President for Promoting our European Way of Life, Margaritis **Schinias**, said: *"The refugee crisis of 2015, the spate of terrorists attacks on European soil and the global COVID-19 pandemic have all put the Schengen area under strain. We have a responsibility to shore up Schengen's governance and make sure Member States are equipped to ensure a rapid, coordinated and European response to situations of crisis, including where migrants are instrumentalised. With today's proposals, we will fortify this 'crown jewel' so emblematic of our European way of life."*

Commissioner for Home Affairs, Ylva **Johansson**, said: *"The pandemic has shown very clearly that the Schengen area is key for our economies and societies. With our proposals today, we will ensure that border controls are introduced as a last resort, based on a common assessment and for only as long as needed. We are giving Member States the tools to address the challenges they face. And we are also ensuring we manage the EU's external borders together, including in situations where migrants are instrumentalised for political purposes."*

Coordinated response to shared threats

The proposal to amend the Schengen Borders Code seeks to draw the lessons of the COVID-19 pandemic and ensure strong coordination mechanisms are in place to deal with health threats. The updated rules will allow the Council to quickly adopt **binding rules** setting out **temporary travel restrictions** at the external borders in case of a threat to public health. Exemptions will be provided, including for essential travellers as well as Union citizens and residents. This will ensure that the travel restrictions are applied uniformly, building on the experience of recent years.

The rules also include a new Schengen safeguard mechanism to provide a **common response at the internal borders in situations of threats affecting a majority of Member States**, such as health threats or other threats to internal security and public policy. With this mechanism, which complements the existing mechanism for deficiencies at the external border, internal border checks in a majority of Member States could be authorised by a Council decision in case of a shared threat. Such a decision should also identify measures mitigating the negative impacts of the controls.

New rules to promote effective alternatives to internal border checks

The proposal seeks to promote the use of alternative measures to internal border controls and ensure that – where they are necessary - internal border controls remain a measure of last resort. The measures include:

- **More structured procedure for any reintroduction of internal border controls, with more safeguards:** As of today, any Member State deciding to reintroduce controls must assess the appropriateness of the reintroduction and its likely impact on free movement of persons. Under the new rules, they must in addition assess the impact on the border regions. Furthermore, a Member State considering prolonging controls in response to foreseeable threats should first assess whether alternative measures such as targeted police checks and enhanced police cooperation could be more appropriate. A risk assessment should be provided for prolongations exceeding 6 months. Where internal controls have been in place for 18 months, the Commission will have to issue an opinion on their proportionality and necessity. In

all cases, temporary border controls should not exceed a total period of 2 years unless for very specific circumstances. This will help ensure that internal border controls remain a measure of last resort and only last as long as strictly necessary.

- **Promoting the use of alternative measures:** In line with the new EU Police Cooperation code, proposed by the Commission on 8 December 2021, the new Schengen rules promote the use of effective alternatives to internal border controls in the form of increased and more operational police checks in border regions, by clarifying that these are not equivalent to border controls.
- **Limiting the impact of internal border checks on border regions:** Learning the lessons of the pandemic, which impacted supply chains, Member States reintroducing controls should take measures to limit negative impacts on border regions and the internal market. This can include facilitating crossings for cross-border workers and establishing green lanes to guarantee the smooth transit of essential goods.
- **Addressing unauthorised movements within the Schengen area:** In order to address the phenomenon of relatively small but constant numbers of unauthorised movements, the new rules will create a new procedure to address unauthorised movements during joint police operations as well as allowing Member States to revise existing or conclude new bilateral readmission agreements between themselves. This complements and should be seen in conjunction with the measures proposed under the New Pact on Migration and Asylum, in particular the binding solidarity framework.

Supporting Member States in managing situations of instrumentalisation of migration

The revised Schengen rules recognise the important role Member States at the external borders play on behalf of all Member States and the Union as a whole. They introduce new measures Member States can take to manage the EU's external borders effectively in a situation where migrants are instrumentalised for political purposes. This includes limiting the number of border crossing points and intensifying border surveillance.

In addition, the Commission is proposing additional measures under the EU asylum and return rules to clarify how Member States can respond in such situations, in full respect of fundamental rights. This includes the possibility to extend registration deadline for asylum applications up to 4 weeks and to examine all asylum applications at the border, except for medical cases. Effective access to the asylum procedure should continue to be guaranteed, and Member States should ensure access for humanitarian organisations providing assistance. Member States will also have the possibility to put in place an emergency return management procedure. Lastly, where requested, EU agencies (EU Agency for Asylum, Frontex, Europol) should provide operational support to the Member State concerned as a matter of priority.

Next steps

It is now for the European Parliament and Council to examine and adopt the two proposals.

Background

The Schengen area is home to more than 420 million people across 26 countries. The removal of internal border controls between Schengen States is an integral part of the European way of life: almost 1.7 million people reside in one Schengen State and work in another. People have built their lives around the freedoms offered by the Schengen area, with 3.5 million people crossing between Schengen States every day.

To boost Schengen's resilience to serious threats and adapt the Schengen rules to evolving challenges, the Commission announced in its [New Pact on Migration and Asylum](#) presented on September 2020 as well as in the June 2021 [Strategy](#) towards a fully functioning and resilient Schengen area that it would propose to revise the Schengen Borders Code. In her 2021 [State of the Union address](#), President von der Leyen also announced new measures to address the instrumentalisation of migrants for political purposes and ensure unity in the management of the EU's external borders.

Today's proposals come in addition to ongoing work towards improving Schengen's overall functioning and governance under the [Strategy](#) towards a stronger and more resilient Schengen area. To foster political dialogue on addressing common challenges, the Commission is convening regular Schengen Forums gathering Members of the European Parliament and Home Affairs Ministers. To support these discussions, the Commission will present every year a report on the state of Schengen summarising the situation as regards the absence of internal border controls, the results of Schengen evaluations, and the state of implementation of recommendations. This will also help support Member States in addressing any challenges. The proposed revision of the Schengen

Evaluation and Monitoring Mechanism, currently under discussion in the European Parliament and Council, will help foster common trust in the implementation of the Schengen rules. The Commission also proposed on 8 December an [EU Police Cooperation Code](#) to enhance law enforcement cooperation across Member States, which is an effective way to address security threats in the Schengen area and will contribute to sustaining an area without controls at internal borders.

Today's [proposal](#) to revise the Schengen Borders Code follows close consultations with Members of the European Parliament and Home Affairs Ministers meeting within the Schengen Forum.

For More Information

Legal documents:

[Proposal for a Regulation amending the rules governing the movement of persons across borders](#)

[Proposal for a Regulation addressing situations of instrumentalisation in the field of migration and asylum](#)

[Q&A](#)

[Factsheet](#)

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