

Protection of EU external borders

Achievements during the legislative term 2014-2019: the role of the European Parliament

KEY FINDINGS

Protection of the EU external borders has an internal and an external dimension. As President Emmanuel Macron put it in his letter to the Citizens of Europe in March 2019¹: the EU has to look at the realities of the world not only at its internal free movement.

A single area **without internal border checks** — the Schengen Area — requires a **common policy on the EU external borders**.

When the Schengen Area entered into force in 1995, checks at the internal borders were abolished and a single external border was created. The European Parliament has always insisted on the need that all action happens with due regard for the EU borders and asylum acquis, as well as the EU Charter of Fundamental Rights, it has been calling for reliable and fair procedures and for a holistic EU approach to migration.² Considerable progress was made regarding safeguarding the EU's external borders during the legislative term 2014-2019 - most importantly after the migratory crisis of 2015 had made the deficiencies of the European common policy had become evident.

Legal bases

Article 3 par. 2 TEU which demands that the Union “shall offer its citizens an area (...) without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls (...)”.

Long before enshrining for the first time the conferral to the EU of “flanking measures with respect to external border controls” in the **Treaty of Amsterdam (Article 61)** in 1999, five Member States (Belgium, France, Germany, Luxembourg and the Netherlands) decided to create a common area of free movement – **a territory without internal borders**. In 1985, they signed the first agreement in Schengen – which was followed in 1990 by a **Convention on the gradual abolition of checks on**

¹ “Pour une Renaissance européenne” : <https://www.elysee.fr/emmanuel-macron/2019/03/04/for-european-renewal.en>

² European Parliament Resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration (2015/2095(INI)): <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0102>



the movement of nationals of the Member States at their common borders.³ In its Article 17 the Agreement calls on the Parties to endeavour to abolish checks on persons at common borders and transfer them to their external borders. Article 1 of the Convention defines as “external borders” the Member states land and sea borders and their airports and sea ports, provided that they are not internal borders. But also with regard to the **movement of goods**, the Parties shall seek means of transferring the checks currently carried out at the common borders to the external borders or to within their own territories (Article 24 of the Convention).

Article 67, par 2 TFEU stipulates that the EU “shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States which is fair towards third-country nationals.”

According to **Article 77, par 1 lit b) TFEU** the EU shall develop a policy to “carrying out checks on persons and efficient monitoring of the crossing of external borders”. Originally a political objective, the **integration of border management at the European level** is now expressly foreseen in EU primary law after the entry into force of the Lisbon Treaty in 2009.

The Union therefore is constantly setting out to establish common standards with regard to controls at its external borders and to put in place an integrated system for the management of those borders.

Objective of the Policy

The objective of the EU in the area is to safeguard the freedom of movement **within the Schengen area** (as it can not be separated from security at external borders) and to effectively monitor and control **persons and goods crossing the external borders**.

“Safe Borders” is not a “technical” problem only, to be solved with better or enhanced technology but a much broader issue, demanding solutions in the field of judicial al police cooperation, asylum and migration and external EU policy⁴. Sophisticated IT-tools and equipment for border control (for surveillance, upgrading of information systems in the area of border checks and complete interoperability) will not be sufficient for citizens to perceive the external borders safe or to stop MS reintroducing internal frontiers to control secondary movements of migrants for political or electoral reasons.

Correct and appropriate legislative instruments and the financing to cope with the issue of strengthening EU external borders needs therefore a variety of legislative tools: ETIAS, EES, the Regulation of Interoperability between EU information Systems in the field of borders and visa, the EU-LISA and many other legislation in this field need to be adopted and tested over the next 10 years.

Safe Borders demands to make advancements in migration and Asylum and Migration policies in general. The difficult task of having a **Common Asylum and Migration policies** is of paramount importance. In the next years, *the Regulations on the Dublin System, on the European Union Agency for Asylum, on EURODAC, on Standards for the qualification of third-country national or stateless persons as beneficiaries of international protection, on the Common procedure for international protection in the Union*, and some others of the so called “Asylum package”, **will need to be adopted**

³ Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, OJ L 239, 22.9.2000, p. 19:
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2000.239.01.0001.01.ENG&toc=OJ:L:2000:239:FULL

⁴ European Parliament Resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration(2015/2095(INI)): <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0102>

and tested. Without developing a common Asylum and Migration policy in a spirit of solidarity, responsibility and respect of the rule of law and international obligations the Union will most probably never have truly safe borders.

The Lisbon Treaty has given the EU the instruments to agree with the **Ordinary Legislative Procedure** on many of the issues at stake. However, **new problems have arisen with the reluctance of some MS to apply and implement the Union law adopted with qualified majority.** This has been particularly challenging in the area of asylum and migration and had repercussions on the credibility of the EU but also in the effectiveness of the asylum policy and indirectly on the management of internal and external borders. If asylum procedures are not properly applied at the external borders, additional problems will arise, such as secondary migration (or movements), violations of fundamental rights, violations of the borders, increase of nationalistic and anti-immigration political parties...

Another **challenge is to have a safe neighbourhood**, i.e. the **collaboration and agreements with EU neighbouring countries.** Legal migration schemes for labour and traineeship purposes, illegal immigrations returns schemes, collaboration on criminal and police matters and truly helping the economic development of these countries will be a very challenging task for the next ten years.

Main legislative instruments in force

The unprecedented arrival of refugees and irregular migrants in the EU, which peaked in 2015, exposed a series of **deficiencies in EU policies on external borders and migration.** But also cross border criminal activities, unrest in the EU neighbouring countries has caused high concern and distress. Since mid-2016, a **total of ten Schengen States have reintroduced (or prolonged) temporary internal border controls** in their territories on the basis of the Schengen Borders Code for various reasons. In response to these challenges, the EU has embarked on a broader process of reform aimed at rebuilding its common asylum policies on fairer and more solid ground, strengthening its external borders by **reinforcing the links between border controls and security**, and renewing cooperation with third countries on migration issues. During this legislature 2014 - 2019 very relevant legislation has been adopted: the **Schengen Borders Code** is the main instrument laying down rules on external border crossing; the **EU's Integrated Border Management** has as central pillar the **European Border and Coast Guard/FRONTEX** furthermore national authorities and EU agencies active in the field of security, border and migration management, such as [EUROPOL](#), [EASO](#) and [EUROJUST](#), use centralised large-scale information systems more importantly the **Schengen Information System SIS.**

The European Border and Coast Guard Regulation

The European Border and Coast Guard Regulation (EU)2016/1624 of 14.9.2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/ and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, [OJL 251 16.9.2016, p. 1](#) has established the EBCG which is the **European Border and Coast Guard Agency (EBCGA) and the national authorities combined.**

EBCG became operational in October 2016. This [decentralised agency](#) is in charge of monitoring the EU's external borders and, together with Member States, identifying and addressing any potential security threats to the EU's external borders. Already since years before 2015, the EP had called for the role of Frontex to be bolstered in order to increase its capacity to respond more effectively to changing migration flows. E.g. in its [Resolution of 2 April 2014 on the mid-term review of the](#)

[Stockholm Programme](#)⁵, the EP called for the establishment of European border guards to guard Schengen borders. In its October 2015 conclusions, the European Council also expressed its support for the 'gradual establishment of an integrated management system for external borders'. The Commission presented a legislative proposal on the creation of the European Border and Coast Guard in December 2015, which was then negotiated and approved by the legislators in a record time of nine months. The EP amendments were designed to enhance the efficiency of the agency, further expand its role in the field of return **while ensuring respect for fundamental rights**, and increase transparency and accountability to the European Parliament. The Parliament insisted that the agency's new powers to intervene would be activated by a decision of the Member States in the Council and not of the Commission, as originally proposed.

The regulation extends the scope of the activities of EBCGA/Frontex to include enhanced support for Member States in the field of migration management, the fight against cross-border crime, and search and rescue operations. It provides for a **greater role for Frontex in returning migrants** to their countries of origin, according to decisions taken by national authorities. The Council, based on a Commission proposal, may ask the agency to intervene and assist Member States in exceptional circumstances. This is the case when: 1) a Member State does not comply (within a set time limit) with a binding decision of the agency's management board to address vulnerabilities in its border management; and 2) there is specific and disproportionate pressure on the external border that is putting the functioning of the Schengen area at risk. If a Member State opposes a Council decision to provide assistance, the other EU countries may temporarily reintroduce internal border checks.

Moreover, in September 2018, the Commission presented a [new proposal to strengthen the European Border and Coast Guard Agency](#)⁶ The Agency would gain a new mandate and its own means and powers to protect external borders, carry out returns more effectively and cooperate with non-EU countries. On 1 April 2019, the Council green-lighted the political agreement reached and the EP LIBE committee voted on 2 April in favour also. the final stamp of approval will be put in April EP Plenary. The regulation is foreseen to enter into force end 2019.

The centre piece of this reinforced Agency will be a standing corps of **10,000 border guards with executive powers** ready to support Member States at any time. The Agency will also have a **stronger mandate on returns** and will cooperate more closely with non-EU countries, including those beyond the EU's immediate neighbourhood. The EP's LIBE Committee still has to confirm the political agreement reached in trilogues. Then both EP and the Council will have to formally adopt the Regulation. **The new European Border and Coast Guard standing corps will be available for deployment starting from 2021, once it becomes fully operational and will reach its full capacity of 10,000 border guards by 2027.**

Entry/Exit System (EES) Regulation

Entry/Exit System (EES) Regulation 2017/2226 of 30 November 2017 establishing an Entry/Exit System to register entry and exit data and refusal of entry data of **third-country nationals crossing the external borders** of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, [OJ L 327 9.12.2017, p. 20](#).

⁵ Par. 74 of the European Parliament Resolution of 2 April 2014 on the mid-term review of the Stockholm Programme (2013/2024(INI)) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0276+0+DOC+XML+V0//EN&language=EN>

⁶ Proposal for a Regulation on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council: [http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com_2018_0631_COM\(2018\)0631_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com_2018_0631_COM(2018)0631_EN.pdf)

Building on an earlier version of the smart borders package, in April 2016, the Commission presented a proposal to establish the Entry/Exit System (EES), a new information system that speeds up and reinforces **border checks for non-EU nationals travelling to the EU**. The EES replaces the manual stamping of passports at the border with electronic registration in the database.

Adopted in November 2017, the main objectives of EES are:

- to reduce border check delays and improve the quality of border checks by automatically calculating the authorised stay of each traveller;
- to ensure systematic and reliable identification of over-stayers;
- to strengthen internal security and the fight against terrorism by allowing law enforcement authorities access to travel history records.

Access to EES is granted to national law-enforcement authorities and Europol, but not to asylum authorities. The possibility of transferring data for law enforcement or return purposes to third countries and EU Member States not participating in the EES is allowed but under certain conditions. EES will register travellers' data (name, type of travel document, fingerprints, visual image, and the date and place of entry and exit) when crossing the Schengen external borders. It will apply to all non-EU nationals, both those who require a visa and those who are exempt. It will be used by consular and border authorities. The EES and VIS will be interconnected in order to reduce duplication of data.

The related regulation amending the Schengen Borders Code (→ 3.2.) as regards the use of the EES provides a harmonised legal basis for the establishment of national registered travellers' programmes by Member States on a voluntary basis. This entails pre-vetting frequent travellers in a specific Member State in the Schengen area in order to speed up their border-crossings. The new system will be built by the [eu-LISA agency](#), together with MS and is expected to be operational by 2020.

European travel information and authorisation system (ETIAS) Regulation

European travel information and authorisation system (ETIAS) Regulation (EU) 2018/1240 of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, [OJ L 236 19.09.2018, p. 1](#), as well as [regulation \(EU\) 2018/1241 of 12 September 2018 -Europol tasks, OJ L 236 19.09.2018, p. 72](#).

Purpose of this new centralised information system is to collect information on **non-EU nationals who don't need a visa** and are to enter the Schengen area that will help to identify any potential security or irregular migration risks. The data base will carry **advance checks** (see INFOGRAPHIC I) on visa-exempt travellers and deny them travel authorisation if necessary⁷ (similar to existing systems in place in the US (ESTA), Canada and Australia, among others).

ETIAS will bring several **benefits** such as improved internal security, better prevention of illegal immigration, reduced public health risks and reduced delays at the borders. Although the system will conduct prior checks, the final decision on whether to grant or refuse entry, even in cases where the person has a valid travel authorisation, will be taken by the national border guards conducting the border controls, according to the rules of the Schengen Borders Code. ETIAS will be developed by **eu-LISA**.

⁷ ETIAS- Council press release, 05/09/2018) : <https://www.consilium.europa.eu/en/infographics/schengen-border-controls/>

ETIAS will have three main functions:

- verifying the information submitted online by visa-exempt third-country nationals ahead of their travel to the EU;
- processing applications against other EU information systems (such as SIS, VIS, Europol's database, Interpol's database, the EES, Eurodac);
- and issuing travel authorisations in cases where no hits or elements requiring further analysis are identified.

In most cases, travel authorisations should be obtained in a matter of minutes. An application fee of EUR 7 will be charged. In June 2017, Council had decided to split the proposal into two distinct legal acts⁸, on the basis that the (Schengen) legal basis of the proposal **cannot cover amendments to the Europol Regulation**. The regulations establishing ETIAS were signed by the presidents of both institutions on 12 September 2018. ETIAS will, however, not become operational before 2021.

EU Agency for the operational management of large scale IT systems in the area of freedom, security and justice ([eu-LISA](#)) Regulation

EU Agency for the operational management of large scale IT systems in the area of freedom, security and justice ([eu-LISA](#)) Regulation (EU) 2018/1726 of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, [OJ L 295, 21.11.2018, p. 99–137](#).

Established in 2011, eu-LISA is responsible for the operational management of three EU centralised information systems: **SIS, VIS, and Eurodac**.

In June 2017, the Commission presented a proposal to revise the mandate of eu-LISA. The proposal is part of the Commission's approach to improving and expanding EU information systems in the area of freedom, security and justice and to **achieving interoperability between these systems** by 2020.

In the future, the eu-LISA will be able to develop, manage and/or host common systems established by a group of at least six Member States opting on a voluntary basis for a centralised solution. It delivers proactive advice and assistance to Member States on technical issues relating to the existing or new IT systems, including ad-hoc support to Member States. The agency will also be in charge of developing data quality control mechanisms and indicators, generating and publishing statistics and engaging in pilot projects and research activities.

⁸ Regulation (EU) of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018, p.1 : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1240> and Regulation (EU) 2018/1241 of 12 September 2018 amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS)- Europol tasks, OJ L 236 19.9.2018, p. 72: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018R1241&from=EN>

Interoperability between EU information systems in the field of borders and visa and in the field of police and judicial cooperation, asylum and migration proposal

Interoperability between EU information systems in the field of borders and visa and in the field of police and judicial cooperation, asylum and migration proposal for a regulation on establishing a framework for interoperability between EU information systems⁹ (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226 - [COM\(2017\) 793 final and proposal](#) for a regulation on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration), [COM\(2017\) 794 final](#).

The EU has been developing large-scale centralised IT systems (SIS, VIS, Eurodac, EES, ETIAS) for collecting, processing and sharing information which is vital for security cooperation, as well as for the management of external borders (and migration). The Commission proposed in December 2017 to make these information systems at EU level **interoperable** — that is, able to exchange data and share information so that authorities have all the information they need, when and where they need it. Interoperability refers to the ability of information technology systems and of the business processes they support to exchange data and to enable the sharing of information and knowledge and **avoid information gaps caused by the complexity and fragmentation** of these systems¹⁰.

In December 2017, the Commission put forward two specific proposals on interoperability: one for a regulation establishing a framework for interoperability between EU information systems on borders and visas and another for a regulation establishing a framework for interoperability between EU information systems on police and judicial cooperation, asylum and migration.

The Commission proposed **four interoperability solutions**:

- The **European Search Portal (ESP)** will enable simultaneous searches on multiple EU information systems and provide a '**one-stop shop' (on a single computer screen)** for all the document check results.
- The **Shared Biometric Matching service (SBM)** will enable the querying and or multiple identities. To ensure that the border guards and police officers have complete and accurate information available, appropriate **data quality control mechanisms will be established**.
- The **Common Identity Repository (CIR)** will provide basic biographical and biometric information, such as names and dates of birth of non-EU citizens, so that they can be reliably identified.
- Lastly, the **Multiple-Identity Detector (MID)** will help to establish that different names belong to the same identity and alert border guards and police cases of fraudulent .

On 5 February 2019, Council and European Parliament reached a preliminary agreement on the two proposed regulations.¹¹ The agreed text now needs to be formally approved (the vote in EP is scheduled for April 2019), before entering into force.

⁹https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20180516_eu-information-systems-security-borders_en.pdf

¹⁰ EP Study on "Interoperability of Justice and Home Affairs Information Systems", 2018, PE604.947: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604947/IPOL_STU\(2018\)604947_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604947/IPOL_STU(2018)604947_EN.pdf)

¹¹ [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2017%2F0351\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2017%2F0351(COD)&l=en)

EUROSUR

EUROSUR, the European Border Surveillance system, a multipurpose system for cooperation between the EU Member States and the “old” Frontex in order to improve situational awareness and increase reaction capability at external borders will be becoming obsolete. Its aim ([regulation \(EU\) No 1052/2013 of 22 October 2013 establishing the European Border Surveillance System \(Eurosir\)](#)) to prevent cross-border crime and irregular migration and to contribute to protecting migrants' lives is taken over by new EBCG-regulation which will repeal EUROSUR regulation which becomes part of the EBCG regulation, making the overall governance of border management more coherent.

Ongoing efforts and overview of recent EU legislative proposals

In the next years, *the regulations on the Dublin System, on the European Union Agency for Asylum, on EURODAC, on Standards for the qualification of third-country national or stateless persons as beneficiaries of international protection, on the Common procedure for international protection in the Union, and some others of the so called “Asylum package”, still need to be adopted and tested.*

European Integrated Border Management (EIBM)

The European Integrated Border Management (EIBM) concept is part of the strategy **“to compensate” for the abolition of internal borders within the Schengen area.** It is based on the assumption that strengthened operational and technical cooperation at the EU external borders is necessary for both facilitating the legitimate movement of goods and persons and for the detection, prevention and reduction of irregular migration and cross-border crime. Article 77(2)(d) of the TFEU includes the progressive introduction of a EIBM system among the goals to be achieved by the EU policies on borders checks, asylum and migration. The integrated management of EU external borders has, at a normative level, entailed the development and implementation of common rules for the conduction of EU external borders checks, surveillance activities and return operations.

At the operational level, the creation of a EIBM system has relied on the development of a framework for coordination which applies to all relevant authorities and agencies involved in the performance of border security and immigration management functions in the scope of the Schengen system.

Under the EIBM regime, national authorities are not only meant to cooperate among themselves, but also with relevant EU Justice and Home Affairs agencies (e.g. Frontex, Europol and Eurojust, and EU-Lisa), **as well as with the authorities of third countries.** The implementation and future development of the EIBM concept falls under the “shared responsibility or competences” between EU and Member States’ actors. It must conform with Lisbon Treaty standards, secondary (Schengen-related) legislation—mainly the SBC- and the EU Charter of Fundamental Rights. Until recently, no clear indications have been provided at the EU level as to the exact ways in which executive powers, operational competences and related responsibilities were meant to be implemented and shared in practice between the EU agencies, Member States and third countries’ authorities. **This will now be progressively changing with the establishment of the EBCG.** The new EBCG regulation introduces a multiannual policy cycle for the EIBM. Outcome for the cycle would be a policy communication by the Commission that is agreed prior to its adoption with EP and Council.

The European Border and Coast Guard

The first EU legislative attempt at enacting the EIBM was made with the adoption of Regulation EU/1624/2016, which created the European Border and Coast Guard (EBCG → 3.1.). This new piece of EU legislation describes the integrated management of EU external borders as a “fundamental component” of the Area of Freedom, Security and Justice (AFSJ), and entrusts the EBCG with an enhanced operational mandate. In the field of return, the agency has been given the competence to implement joint return flights.

The EBCG is authorised to conduct these actions both within the EU and in cooperation with non-EU countries.

However, the actual integration of profoundly different (national, regional, and supranational) border security structures under the strategic coordination of Frontex/EBCG remains problematic. Under the EBCG regulation Member States still maintain the “primary responsibility” for the management of their external borders. The effective ‘integration’ of the EBCG activities with national coast guard authorities remains to be seen.

The Visa Information System (VIS)

The Visa Information System (VIS) (EU database to check non-EU nationals who need a visa to travel to the Schengen area) is currently also to be reformed. The reform will further improve the EU's external border management. EU Regulation No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) sets out the procedures and conditions for the issuing of short-term visas for short stays (up to 90 days in any 180-day period) and transits in the Schengen area. The Regulation lists the non-EU countries whose nationals are required to hold an airport transit visa when passing through the international transit areas of EU airports and establishes the procedures and conditions for issuing such visas. On 13 March 2018 submitted a [proposal](#) amending Regulation (EC) No 810/2009. The aim of the proposal is to facilitate legitimate travel for tourism, trade and business, to prevent irregular immigration and to contribute to internal security.

The Parliament voted on the report at 1st reading on 11 December 2018 and adopted amendments to the text. The revised visa rules will bring incentives for non-EU countries to cooperate on readmitting their citizens who stay illegally in the EU. Some provisions, such as the visa fees, the time taken to issue decisions on applications, and the period of validity of multiple entry visas, may be adapted depending on whether a given non-EU country shows “sufficient”, or alternatively “insufficient”, cooperation on readmitting irregular migrants, following a full and objective assessment by the European Commission. On 19 June 2018, COREPER endorsed, on behalf of the Council, a mandate for negotiations on a proposal.

Humanitarian visas

Humanitarian visas are a tool to address the issue of establishment of a legal framework of a new EU humanitarian visa system and harmonisation at Union level of protected entry procedures (legal avenue of access).¹² On 11 December 2018 EP plenary adopted a legislative initiative report¹³. There, it deplores the intolerable death toll in the Mediterranean and the fact that the number of persons admitted on the basis of national entry procedures for humanitarian protection or through

¹²European Added Value Assessment accompanying the European Parliament's legislative own-initiative report EPRS [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621823/EPRS_STU\(2018\)621823_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621823/EPRS_STU(2018)621823_EN.pdf); LIBE Hearing of 10 July 2018 on the Visa Code and Humanitarian Visas: <http://www.europarl.europa.eu/committees/en/libe/events-hearings.html?id=20180703CHE04581>

¹³ European Parliament resolution of 11 December 2018 with recommendations to the Commission on Humanitarian Visas <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2018-0494>

resettlement remains low in comparison to global needs. It called on the Commission to submit by March 2019 a proposal for a regulation establishing a **European humanitarian visa** giving access to European territory for the sole purpose of submitting an application for international protection in the Member State issuing the visa. Member States shall have the possibility to issue a humanitarian visa to **persons seeking international protection**, to allow those persons to enter the territory of the Member State issuing the visa for the sole purpose of submitting an application for international protection.

In its answer, the Commission considers its [proposal for a Union Resettlement Framework](#)¹⁴ as sufficient, as it “has the potential to achieve the objective pursued by the Parliament’s initiative”, and as creating a subjective right to readmission politically not feasible. Instead, as explained in [this briefing](#)¹⁵, the Commission is considering other channels for legal access to the EU besides resettlement, such as community and private sponsorship schemes, and different Member states have humanitarian corridors or humanitarian admission programmes in place.

Reinforcing the EU's external cooperation on migration¹⁶

The [European agenda on migration](#) includes policy measures to reduce the incentives for irregular migration by means of development cooperation and acting to combat smugglers and human traffickers, while strengthening the safe country of origin concept.

Also, the agenda pursues the development of a new policy on legal migration, based on a stronger link between development and migration policy that helps countries of origin generate better economic opportunities at home. The EU's external migration management is based on a wide range of tools, building dialogue and partnerships with countries of origin and transit, based on solidarity and responsibility. The European Parliament, in its resolution “Addressing refugee and migrant movements: the role of EU external action” of 5 April 2017¹⁷, stressed the concern and solidarity with regard to the large number of refugees and migrants who suffer human rights violations in their countries or origin.

The external policy of the EU as a whole is building upon international engagement at bilateral, regional and multilateral levels. Since 2005, the main tools managing the external dimension of migration policies have been covered by the Global Approach to Migration and Mobility ([GAMM](#)). The current version of the GAMM was adopted in 2012 and seeks to create a balanced and comprehensive approach to migration by partnering with nonEU countries. Furthermore, the implementation of the GAMM is achieved by means of political and legal instruments, as well as operational support and capacity building, while it also includes action concerning human rights. The European Commission and the European External Action Service (EEAS) are conducting cooperation processes under the migration and mobility dialogues in the context of the GAMM. Two new projects have now extended the GAMM: the 2015 European agenda on migration and the [2016 partnership framework](#). The European agenda on migration launched the partnership framework on migration with third countries to build and expand the existing initiatives.

The partnership framework is also designed to address the root causes of migration by improving opportunities in countries of origin, through alternative job programmes in regions where trafficking used to be the main source of income, as well as measures to support the reintegration

¹⁴ COM(2016)468

¹⁵ EPRS: “Legal migration to the EU” [http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI\(2019\)635559_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635559/EPRS_BRI(2019)635559_EN.pdf)

¹⁶ EPRS “EU asylum, borders and external cooperation on migration”, PE 625.194 – September 2018: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/625194/EPRS_IDA\(2018\)625194_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/625194/EPRS_IDA(2018)625194_EN.pdf)

¹⁷ Addressing refugee and migrant movements: the role of EU external action: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0124>

of returning migrants. The EU initially implemented this framework with certain priority countries of origin and transit (Ethiopia, Mali, Nigeria, Niger and Senegal), but is currently extending its scope of application to other countries in North and West Africa, as well as in Asia. [Dialogue frameworks among European and African governments](#) have been in place for more than 10 years at both continental and regional levels. These include the Africa-EU Migration and Mobility Dialogue, the Khartoum and Rabat process with key countries and the partnership framework with third countries on migration. Significant results have already been achieved in jointly managing migration flows with countries of origin and transit since the establishment of the partnership framework for migration.

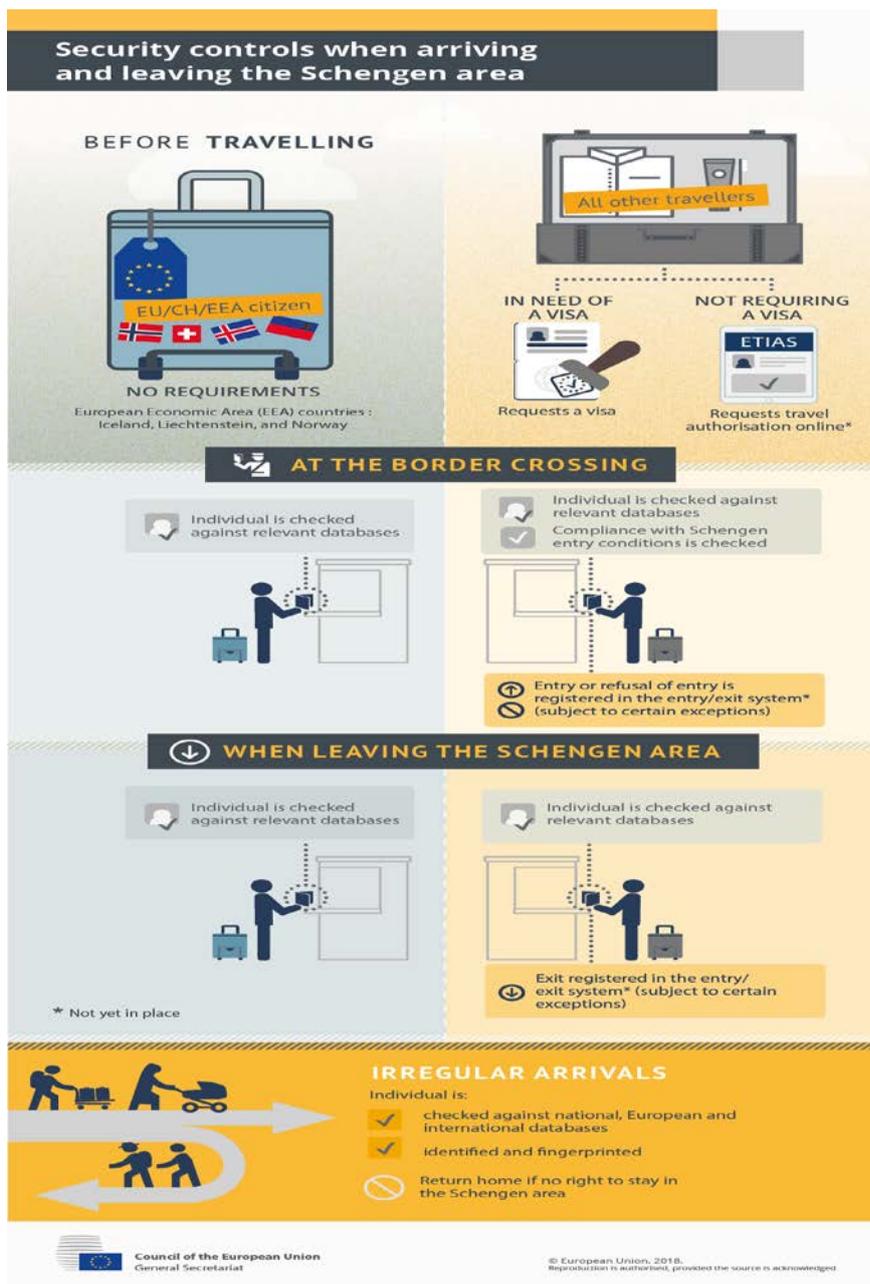
Conclusions

In sum, it is fair to say that considerable progress was made regarding safeguarding the EU External borders during the legislative term 2014-2019. EP has had mixed reactions to the development of external border management policy. It has broadly supported the upgraded organisational role of the EBCGA and the other relevant Union agencies, often calling for their role to be further enhanced as the EU grapples with the migration crisis in the Mediterranean. While Parliament's view of the EBCGA's development has been largely positive, its stance on smart borders has been far warier.

In its resolution on the annual report on the functioning of the Schengen area in 2018¹⁸ Parliament sought to draw attention to the fact that although the EU had adopted so many measures to strengthen its external borders, including border controls, there had been no corresponding reaction in terms of the removal of internal border controls.

¹⁸ European Parliament Resolution of 30 May 2018 on the annual report on the functioning of the Schengen area: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0228+0+DOC+XML+V0//EN&language=EN>

Infographic 1 -Security controls when arriving and leaving the Schengen area



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