Presentation of Study on
The Future of the Schengen Area
Latest Developments and Challenges since 2016
The Future of Schengen Area

Original study (2016) and update requested by EP LIBE Committee

Update commissioned by Policy Department for Citizens' Rights and Constitutional Affairs (POL DEP)

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Research Questions

- *First,* has Schengen governance system been ‘crisis-proof’?

- *Second,* can EU move ‘*beyond crisis-mode policy making*’ in Schengen area?

- *Third,* what *latest developments since 2016 (Previous EP Study)*?
Research Findings

1. Reintroduction of Internal Border Controls

2. Internal Police Checks

3. Frontex: European Border and Coast Guard
1. Reintroduction Internal Border Checks

- 5 Member States (AT, DE, DK, SW and NO) + FR

- November 2017: Time is Up!

- Contrary to SBC: **Art. 29 deadline finished & not re-use Art. 25 for same grounds**

- **Proportionality & necessity**: intensity & impacts
1. Reintroduction of Internal Border Checks

- Risk of “Secondary Movements” as justification?
- Blurring between asylum and internal security
- Relocation (Reform of Dublin Regulation)
- EASO support + new EU Asylum Agency
1. Reintroduction of Internal Border Checks

- Extending deadlines and Risk Assessment
- **Fact-based** and not ‘Risk Assessment Based’
- Schengen Evaluation Mechanism + Complaint Mechanism
2. Internal Police Checks

- CJEU Case C-9/16, *Criminal proceedings against A*, June 2017 (Germany)
- Benchmarks lawfulness national framework: Incremental Legal certainty and non-discrimination
2. Internal Police Checks

- Flexibility *blurs* what is and what is not equivalent to border control, or what is disproportionate policing

- Regular monitoring system as they fall within the scope of EU law

- Systematic statistics overview: *how many checks and who?* (use SIS II)
2. Internal Police Checks

- Databases and Interoperability
- *Who has access to what, and for which purpose?*
- Purpose limitation principle and Privacy
- *Mistrust* and Lowering Data Quality
- Complaint Mechanism at the **Checks Interface**?
CONCLUSIONS

- ‘Crisis’ no longer used by Ministries of Interior to reverse ‘Lisbonisation’

- Reversing Contribution by EP in ensuring more robust EU governance + democratic control

- Current system is sound and crisis-proof

- TIME to reform CEAS!
TIMELINE Internal Border Checks

Event | Terrorism | Event | Terrorism

13/11/2015 - 13/11/2015 - Paris terrorist attack
14/11/2015 - 14/11/2015 - Terrorism in Blc (post-terrorist attack)
28/11/2015 - 28/11/2015 - Terrorism in Blc (post-terrorist attack)

25 SBC

Outside of permitted time period under 25 SBC

13/11/2015 - 13/11/2015 - Paris terrorist attack
14/11/2015 - 14/11/2015 - Terrorism in Blc (post-terrorist attack)
28/11/2015 - 28/11/2015 - Terrorism in Blc (post-terrorist attack)

15/1/2017 - 15/1/2017 - Terrorism in Blc (post-terrorist attack)
27/1/2017 - 27/1/2017 - Terrorism in Blc (post-terrorist attack)
16/1/2017 - 16/1/2017 - Terrorism in Blc (post-terrorist attack)
1/11/2017 - 1/11/2017 - Terrorism in Blc (post-terrorist attack)

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