
CHAMBER OF DEPUTIES

Doc XVIII No. 43

COMMITTEE ON CONSTITUTIONAL, PRESIDENCY OF THE COUNCIL OF MINISTERS AND INTERIOR AFFAIRS

FINAL DOCUMENT, PUBLISHED PURSUANT TO RULE 127 OF RULES OF PROCEDURE, AND RELATING TO:

Proposal for a Regulation of the European Parliament and of the Council amending 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) and the Convention implementing the Schengen Agreement [COM(2011) 118 final]

Approved on 23 June, 2011

The Committee on Constitutional, Presidency of the Council of Ministers and Interior Affairs of the Italian Chamber of Deputies;

having examined, pursuant to Rule 127 of the Rules of Procedure, the Proposal for a Regulation of the European Parliament and of the Council amending 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) and the Convention implementing the Schengen Agreement;

having considered the opinion of the Committee on European Union Policies of the Italian Chamber of Deputies, and

having noted that:

the Convention implementing the Schengen Agreement, which came into force in 1995, mandated the removal of internal border controls in order to facilitate free movement within the EU and provided also for the protection of the Union's internal security by means of 'compensatory measures' regulating, in particular, cooperation among police forces, judicial cooperation in criminal matters and extradition cases, the creation of the Schengen Information System (SIS), the

protection of personal data, the transport and circulation of goods. The Schengen Borders Code, which came into force on 13 October 2006, laid out rules and procedures relating to travel across the external borders of the European Union;

at present, the Schengen area encompasses 25 countries, consisting of 22 members of the European Union plus Norway, Iceland and Switzerland, and applies to more than 400 million European citizens;

European citizens have enjoyed the undeniable advantages of simplified procedures and added freedom of movement thanks to the Schengen Agreement, which has also entailed the application of very thorough controls on the crossing of borders by third-country citizens;

the need to strike a balance between freedom of movement and the need for security is embodied in a measure that, in cases of serious threats to law and order or internal security, allows the exceptional reintroduction of border controls at internal borders for a limited period of time only,

considering that:

the proposal relates to a theme that is becoming a crucial aspect in discussions in Europe on the recent events, connected to the steep increase in migratory movements, which have exposed the considerable difference between the current situation and that which prevailed when the Schengen agreement originally came into force, when migratory pressure was quantitatively far less and considerably more manageable;

Italy, along with other partner countries that are particularly exposed to migratory pressure, has repeatedly urged European institutions to make every effort to have the problem dealt with from an EU-wide perspective and therefore in a manner that is consonant with the principle of solidarity among member states as enshrined in Article 80 of the Treaty on the Functioning of the European Union, which states that EU policies relating to border controls, asylum and immigration and the implementation thereof "shall be governed by the principle of solidarity and the fair sharing of responsibility, including its financial implications, between member states and that, whenever necessary, the union acts adopted pursuant to this chapter shall contain appropriate measures to give effect to this principle";

the need for far-reaching amendments to the governance of the Schengen Agreement was most recently reaffirmed in the Communication on Migration, presented by the European Commission on May 4 last (COM (2011) 248);

with this Proposal for a Regulation, the European Union has decided to adduce a number of corrections that need to be made as a result of various issues that have arisen from the application of the Schengen code, and has identified a number of deficiencies in the current regulations such as insufficient clarity in regard to important aspects of the rules for border crossings, which has led to uncertainty in interpretation and contrasting patterns of action among Member States;

the amendments and clarifications relating to the rules for the admittance of citizens from third-country nations are of particular pertinence;

the proposed amendment to the method for calculating the three-month period of stay allowed to third-country citizens is to be particularly recommended, as are the mooted changes to the requirements regarding the travel documents that migrants must have in their possession;

the proposal to set up separate processing channels for third-country citizens who do not need visas to cross the external borders of the Schengen area, with a view to speeding up operations, is likewise congenial;

also to be commended is the stated objective of providing better and more specialised training to guards in charge of carrying out border controls in view of the sensitive nature of the

functions assigned to them in defence of law and order and in execution of surveillance activities, with full observance of humanitarian aspects and the protection of fundamental rights;

considering also that:

the Proposal for a Regulation being considered here would grant the European Commission the power to adopt delegate acts relating to methods of additional surveillance and to enforce them for an indeterminate period of time, and the extensive scope of application of the said delegated powers gives rise to strong reservations;

the Proposal for a Regulation also envisages the repeal of Article 22 of the Convention implementing the Schengen Agreement, which specifies that third-country citizens who have regularly entered a member state or who visit other member states shall declare their presence, without prejudice to the right of member states to derogate this requirement;

acknowledging that the present final document, accompanied by the text of the opinion issued by the Committee on European Union Policies, needs to be transmitted to the European Commission as part of the informal political dialogue, as well as to European Parliament;

does hereby express a favourable opinion, with the following observations:

limitations should be placed on the scope of the delegate powers assigned to the European Commission relating to the adoption of complementary border surveillance measures. The extent and the objectives of the delegate powers need to be more precisely defined so that they do not translate into the exercise of excessive powers without time limits, and the duration of the delegate powers should therefore be determined;

the proposed repeal of the requirement of regular third-country citizens to declare their presence should be reconsidered, because the repeal of the measure could impede efforts to combat irregular immigration;

consideration should be given to the possibility of asking the European Commission to include this proposal in its ongoing development of the Strategy for integrated border management, which is advocated by the European Council itself, and needs to take into account the particular pressures faced by some Member States. The European Commission could also be invited to promote the fair distribution of responsibilities in the spirit of Article 80 of the Treaty on the Functioning of the European Union. In such a context, it should be possible to argue in favour of the swift establishment of an early warning system to deal with emergency situations caused by large migratory movements, such as that envisaged in the EU project for a European Border Surveillance System (EUROSUR).