



EUROPEAN PARLIAMENT

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Plenary sitting

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MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission
pursuant to Rule 110(2) of the Rules of Procedure
on the changes to Schengen

**Martin Schulz, Juan Fernando López Aguilar, Claude Moraes, Monika
Flašíková Beňová, Ioan Enciu**
on behalf of the S&D Group

European Parliament resolution on the changes to Schengen

The European Parliament,

- having regard to the conclusions of the European Council of 24 June 2011,
 - having regard to the European Commission Communication on Migration of 5 May 2011, (COM(2011)0248 final),
 - having regard to Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States,
 - having regard to Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code),
 - having regard to the proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation mechanism to verify application of the Schengen acquis (COM(2010)0624 – C7-0370/2010 – 2010/0312(COD)),
 - having regard to European Parliament resolution of 2 April 2009 on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (2008/2184(INI)),
 - having regard to the draft report on the proposal for a regulation of the European Parliament and of the Council on the establishment of an evaluation mechanism to verify application of the Schengen acquis (COM(2010)0624),
 - having regard to Article 2 TEU and to Articles 18, 20, 21, 67, 77, 80 TFEU,
 - having regard to Article 45 of the Charter of Fundamental Rights of the European Union,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the creation of the Schengen area and the integration of the Schengen acquis into the EU framework were one of the greatest achievements of the European integration process, marked by the removal of border controls on persons at internal borders and by unprecedented freedom of movement inside the European Union,
- B. whereas freedom of movement has become one of the pillars of EU citizenship and one of the foundations of the European Union as an area of freedom, security and justice, enshrining the right to move and reside freely in all Member States enjoying the same rights, protection and guarantees, including the ban on all discrimination based on nationality,
- C. whereas the Schengen rules governing the conditions of movement of persons across

internal borders have been defined in the Schengen Borders Code, Articles 23 to 26 of which already set out the precise measures and procedures for the temporary reintroduction of border controls at internal borders,

- D. whereas according to the Schengen Borders Code and Article 45 of the EU Charter of Fundamental Rights, freedom of movement in the EU may be extended at precise conditions also to third-country nationals legally residing in the EU,
- E. whereas the creation of the Schengen area has in parallel defined a common external border, which the EU has a joint responsibility to manage, according to Article 80 TFEU; whereas the EU has not yet fully complied with this task, while seeking to establish efficient controls and cooperation between customs, police and judicial authorities, a common immigration, asylum and visa policy and the creation of the second generation Schengen Information System (SIS II) and the Visa Information System (VIS),
- F. whereas the evaluation of Member States' compliance with the Schengen acquis is critical to ensure the smooth functioning of the Schengen area and whereas the evaluation mechanism based on the Schengen Evaluation Working Group (SCH-EVAL), a purely intergovernmental body, has not proven sufficiently effective,
- G. whereas a new evaluation mechanism has been set out in the proposal for a Regulation establishing an evaluation mechanism to verify application of the Schengen acquis, involving both Commission and national experts, currently being examined in ordinary legislative procedure by the European Parliament, which already defines procedures, principles and tools for supporting and assessing Member States' compliance with the Schengen acquis, also in cases of unforeseen events,
- H. whereas Article 77 TFEU affirms that the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning, amongst others, the checks to which persons crossing external borders are subject to and the absence of any controls on persons, whatever their nationality, when crossing internal borders,
 - 1. Reaffirms that the creation of the Schengen area and the consequent right to move freely across open borders have been historic achievements in the European integration process;
 - 2. Recalls that the freedom of movement in a European area of freedom, security and justice is a fundamental right and a pillar of EU citizenship, the conditions of exercise of which are laid out in the Treaties and in Directive 38/2004 and the scope of which cannot but be extended and reinforced in order to preserve the principles and values of the European Union;
 - 3. Believes that the conditions for the movement of persons across borders and for the temporary and exceptional reintroduction of controls at internal borders are very clearly and effectively set out in the Schengen Borders Code and only need thorough application;
 - 4. Equally believes that effective support to Member States in order to ensure compliance with the Schengen acquis in case of pressure at external borders can already be fully addressed via the new Schengen evaluation system, currently being redefined in ordinary

legislative procedure;

5. Reminds that the massive influx of migrants and asylum seekers at external borders can in no case, per se, be considered as an additional ground for the reintroduction of border controls and believes that the response of the European Union cannot be the closure of internal borders, but the joint management of external borders based on stringent solidarity mechanisms funded on Article 80 TFEU;
6. Reaffirms its firm opposition to any new Schengen mechanism having other objectives than enhancing freedom of movement and reinforcing EU governance of the Schengen area;
7. Highlights that any attempt to move away from Article 77 TFEU as the correct legal basis for any measure in this field will be considered as a deviation from EU Treaties and reserves the right to use all legal remedies available in case of need;
8. Instructs its President to forward this resolution to the Council, the Commission, the Council of Europe and the governments and parliaments of the Member States.