

## The revision of the Schengen Borders Code

Impact assessment (SWD(2021) 462, SWD(2021) 436 (summary)) accompanying a Commission proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (COM(2021) 891)

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned [proposal](#), submitted on 14 December 2021 and referred to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE).

The Schengen area enables the abolition of checks at internal borders, which may be crossed at any point and at any time. With a view to ensuring this freedom of movement in the Schengen area, a body of compensatory measures was adopted (which include, for example, a common visa and return policy). According to the Commission, the Schengen area has been confronted with several challenges in recent years, including terrorist attacks, an increasing number of irregular migrants coming to the EU, the [instrumentalisation of migration](#), and the outbreak of the Covid-19 crisis. In light of these challenges, several Member States have (re-)introduced temporary border controls.<sup>1</sup> In June 2021, the Commission presented its [Schengen strategy](#) for a fully functioning and resilient Schengen area, following calls from Member States and the European Parliament to make Schengen stronger and more resilient, at the [Schengen Forum](#) in 2020.

The Schengen Borders Code (SBC) stipulates the rules governing controls at the EU internal and external borders.<sup>2</sup> With its revision, the Commission aims to take into account the lessons learnt from the lack of support for its 2017 [proposal](#) on rules applicable to the temporary reintroduction of border control at internal borders.<sup>3</sup> The Commission aims to coordinate action better at EU level, and better equip Member States to address challenges, such as those highlighted above, when managing the EU's common external border and internal borders within the Schengen area. The initiative is included in the 2021 [Commission work programme](#) and the 2022 [Joint Declaration on EU legislative priorities](#). In the meantime, the Court of Justice has [ruled](#) on the maximum duration of the reintroduction of internal border controls, setting limits for Member States in this regard.

### Problem definition

The IA states that, since September 2015, **border checks at the internal borders have been reintroduced more than 250 times**. In 2020, the numerous reintroductions of border checks at internal borders intended to contain the spread of Covid-19 revealed several problems, as indicated below (IA, p. 10 and Annex 8). The impact of reintroduced checks at internal borders due to the Covid crisis caused major disruptions to the free flow of goods, services and people, **resulting in a fall in intra-EU trade of 24 % in Q2 and Q3 2020**, while GDP fell by 7 % (IA, p. 26).

The Commission refers to (rather old) 2016 estimates, which demonstrated that, with 1.7 million workers in the EU crossing a border every day to go to work, the reintroduction of border checks at all internal borders would cost commuters and other travellers between €1.3 billion and €5.2 billion in terms of time lost (IA, pp. 22).

The IA highlights that, even though not all regions have been affected equally, it is clear that the **economic and social impacts of persisting border checks are most visible in cross-border regions**. For example, it is estimated that the border controls between Sweden and Denmark in

2016 have led to societal costs of SEK1.5 billion (or €150 million). The Commission refers to the [EPRS study on the cost of non-Schengen](#), which estimated that between €0.6 billion and €5.8 billion of administrative costs would have to be paid by governments due to the need for increased staff for border controls (IA, pp. 24-25).

Based on reports, Eurostat data and consultations (see section on supporting data below), the Commission identifies two main problems. These are triggered by four problem drivers:<sup>4</sup>

**(1) Border checks at internal borders** which are long-lasting and applied against an abstract threat or used as a first aid measure (and as such are often disproportionate and inadequate to address the threats they are supposed to tackle, according to the IA) become an unjustified hurdle to exercising freedom of movement for persons and goods.

**(2) Discrepancies in applying the measures at the external borders**, such as travel restrictions for non-essential travel to the EU by third-country nationals, undermining trust between Member States and increasing the incentives for some to reintroduce internal border checks, thus putting the overall functioning of Schengen at risk (IA, pp. 6-9).

The IA considers that, while the Covid-19 crisis can likely be addressed with the worldwide vaccination programme, similar problems may occur at any moment in the future. Despite the Commission's efforts to convince Member States to go back to a Schengen area without internal border checks, the only (limited) step in this direction has been made by Germany (IA, p. 31). Overall, the Commission demonstrated that the Schengen area has experienced considerable challenges in recent years that need to be addressed, and showed clearly the scale and scope of the problems (IA, pp. 21-72; Annexes 6 and 8).

The IA identifies the following stakeholders as being 'affected': Member States; the three main EU institutions; EU citizens and other persons residing in the Schengen area, particularly in the cross-border regions; and carriers (Annex 3). It is puzzling that the Commission left out businesses here while referring to them in the IA, particularly as the public consultation found that 'businesses are more impacted by internal border controls than private persons, with almost all responding business having suffered from the consequences of internal border controls' (IA, Annex 3, p. 75).

## Subsidiarity/proportionality

The legal basis for this initiative is Article 77(2)(b) and (e) of the Treaty on the Functioning of the European Union (TFEU). In line with Article 4(2) TFEU, competences in the area of freedom, security and justice are shared between the EU and its Member States. The SBC stipulates the rules under which internal border checks can be reintroduced, and the IA points out that any modification of these rules would require EU legislation. The Commission highlights that the objective of establishing a contingency plan for Schengen, as well as limiting the number of cases of temporary reintroduction of border checks at internal borders as a truly last resort measure to the real minimum, cannot be sufficiently achieved by the Member States acting alone, and can be better achieved at the level of the Union (IA, pp. 32-33).

The IA considers that EU action is expected to bring added value for the entire Schengen area, including border regions, by reinforcing overall security and trust among the Member States as the prerequisites of the area without controls at internal borders, as well as the ability of persons and goods to move freely across borders (IA, p. 33). (No reasoned opinions from national parliaments were submitted by the submission deadline of 14 April 2022.<sup>5</sup>) The IA underlines that border checks have to be proportionate, and also assesses each option regarding its proportionality (IA, pp. 53-56).

## Objectives of the initiative

The **general objective** of this initiative is to ensure that persons and goods can move freely without unjustified or disproportionate hurdles within the Schengen area. The Commission further defines the following five **specific objectives**:

- the creation of contingency planning for Schengen;
- the application of mitigating measures and specific safeguards for cross-border regions;
- the uniform application of measures at the external borders, particularly in case of a threat to public health;
- the increased use of compensatory measures to address the identified threats;
- the lifting of the long-lasting border checks at internal borders.

The IA sets out **operational objectives**,<sup>6</sup> which flow from the identified problems and are linked to the preferred option. However, not all objectives appear measurable and time-bound (see S.M.A.R.T. criteria).<sup>7</sup>

## Range of options considered

The Commission considers three policy options to address the identified problems and also describes the baseline (long-lasting border checks at some internal borders would very likely continue). On a closer look, however, it is questionable whether there is a real choice of options. First, it is not clear how Option 1 differs from the baseline ('Overall, this option would be a continuation of the current policy', according to the IA's own terms, IA, p. 39). Second, Option 3 is considered to be the 'most ambitious', reflecting best the idea of Schengen. The Commission admits that 'the persistent use of border checks and the failure of the negotiations on the 2017 proposal of the amendment clearly demonstrate that the EU is not ready for such a radical step' (IA, p. 46). It comes as no surprise then that the preferred option is Option 2, highlighted in grey below.

It would have been reasonable to expect from the Commission a comparative analysis between key elements of the 2017 proposal and the options considered. While the IA does refer to the 2017 proposal (see also Annex 17), such a comparison is lacking. The Commission should also have better explained why no option on enforcing the current rules (including through infringement proceedings) has been included. The IA mentions this possibility but discards it, stating that the problem of border checks being used as a universal remedy for any security or other type of threat would remain (IA, p. 37). The Commission also discarded at an early stage the option of expanding carriers' liability with regard to the intra-Schengen connections as an alternative to border checks at internal borders, because of proportionality considerations (IA, pp. 47-48). The IA explains for all three options how the set objectives are envisaged to be achieved.

### **Option 1: soft law measures** (non-regulatory option) – IA, pp. 37-40

Under Option 1, the Commission draws on the lessons learnt from the Covid crisis: the [Schengen strategy](#) recalls existing rules and calls for the use of compensatory measures instead of border checks at the internal borders, in addition to minimum mitigating measures. The Schengen strategy also provides an overview of guidelines/recommendations adopted in response to the Covid crisis, especially taking into account the interests of cross-border regions. Additionally, Option 1 would entail soft law measures to better coordinate measures at the external borders in situations of crisis. This option builds on the 2017 [Commission Recommendation](#) on proportionate police checks and police cooperation in the Schengen area.

### **Option 2: targeted amendment of the SBC with soft law** – IA, pp. 40-44

Under Option 2, the IA provides for a targeted amendment of the SBC, in particular:

- establishing a new procedure of 'contingency planning for Schengen', applicable in case of any serious threat to several or all Member States;
- creating the possibility of adopting restrictions on non-essential travel into the EU for third-country nationals in a situation of serious threat, in particular to public health, at the external borders;
- developing the concept of 'last resort measure' in the context of a temporary reintroduction of border checks at internal borders in more detail (the intensification

- of police checks supported by new technologies would be listed as a necessary element of the risk assessment);
- limiting the side-effects of any border checks by providing for mitigating measures to be applied where appropriate as part of the obligation to ensure proportionality, and in particular as concerns border regions;
- providing the Commission with better tools to keep an overview of the decision-making process in the Member States and the use of reintroduced border checks.<sup>8</sup>

In addition, Option 2 could be complemented with soft law measures under the Schengen strategy with a proper catalogue of mitigating measures for situations of systematic checks being reintroduced at internal borders (as in Option 1). Specific measures would be envisaged to limit the impacts on twin cities and border regions. Option 2 would replace the 2017 Commission [proposal](#).

### **Option 3: a more fundamental change of the SBC with soft law elements** – IA, pp. 44-46

Under Option 3, the borderless Schengen area is considered as 'one integral space that must not be fragmented by decisions of individual Member States'. It envisages an EU-level approach where:

- any decision on reintroducing border checks at internal borders requires the prior approval of one of the EU institutions; or
- removes the possibility of reintroducing border checks at internal borders.

Under this option, the 'contingency planning for Schengen' would go much beyond the framework currently imposed by the SBC with the rules applicable at the internal/external borders. It would be prohibited for Member States to reintroduce unilaterally border checks at internal borders; instead, the decisions on the measures to address any identified threats affecting some or all EU Member States would be taken at EU level. Like Option 2, Option 3 would create new restrictions on non-essential travel into the EU applicable in the situation of a threat to public health.

## Assessment of impacts

The IA assesses in qualitative terms the expected impacts of each policy option. There is no quantification of costs and benefits, with the IA stating that 'exact data is not available' (see Annex 3). However, as outlined above, the Commission refers to the EPRS study on the cost of non-Schengen, which includes some estimates. The impacts assessed include **economic and social impacts**, **impacts on fundamental rights**, and **impacts on the environment and the administration**. The assessment of impacts is rather short and synthesised on four pages in total (IA, pp. 48-52). The IA does not discuss the impacts on third countries (even though it highlights the problem of 'non-uniform application of travel restrictions at the external borders undermining the trust and impacting the credibility vis-a-vis third countries', IA, p. 19).

As regards **economic impacts**,<sup>9</sup> the Commission states that none of the options is expected to generate direct costs for the economy or for EU citizens compared to the baseline scenario. It adds that the analysis of benefits relies on the assessment of direct benefits related to how each option could help bring back normality in the Schengen area by lifting the current border checks and preventing the reintroduction of border checks at internal borders in the future. The Commission also points out that the assessment of the economic impact of the measures considered to address the second problem (travel restrictions for non-essential travel to the EU) will depend on their effectiveness in preventing the reintroduction of border checks at internal borders due to a divergent approach taken at the external borders (IA, p. 48).

The Commission assessed that the economic benefits under Option 1 (soft law measures) 'would be rather limited' since that option is not likely to limit the duration of the border checks. Option 2 (targeted amendment of SBC), with the new mechanism of contingency planning, is, in the view of the Commission, 'likely to provide a better and more reliable framework for exercising basic freedoms by preventing long-lasting border checks at internal borders in the future'. Option 2 'could be instrumental in limiting the negative economic impact of border checks at internal borders and

thus the economic benefits of this option could be significant'. Option 3 (a more fundamental change of the SBC) 'may appear as having the biggest positive economic impact for the future'. However, it also 'risks having the most unwanted side effects, as the non-transparent use of compensatory measures could lead to border checks in disguise' (IA, pp. 48-49).

In terms of **social impacts**, the analysis focuses on the benefits that each of the options can bring in terms of lifting border checks at internal borders and restoring trust between the Member States, which is of special relevance for cross-border regions (this includes employment impacts, particularly for cross-border workers). The IA considers that Option 1 is not likely to reduce the risk of reintroductions of border checks and, as such, is not likely to have any significant positive social impact. In comparison, Option 2 'can be expected to yield more positive social impacts'. The IA points to the 'further development of the concept of proportionality', as well as a catalogue of mitigating measures to be included in the Schengen Handbook (which would guarantee certain minimum safeguards whenever the reintroduction of border checks is truly necessary and justified).

The IA finds that Option 3 could make the most visible difference, provided that relevant safeguards could be developed to ensure that compensatory measures which the Member States would have to rely on instead do not become equivalent to border checks at internal borders. At the same time, this option could significantly increase the pressure on the EU: 'As certain phenomena (secondary movements, cross-border criminality or even terrorist threats) cannot be eradicated completely, the EU might become an easy target for criticism driven by national debates' (IA, p. 49).

With regard to **impacts on fundamental rights**, the IA emphasises that all options have an impact on: 1) the right to family life of persons residing legally in the EU; 2) the right to work, to exercise the right of establishment and to provide services in any Member State; 3) the right to move and reside freely within the territory of the Member States; 4) the right to privacy and protection of personal data. The IA states that 'the impact of the specific options on fundamental rights may be measured according to the duration of limitations to the fundamental rights likely under each option' (p. 50).

The IA considers that the positive impacts of Option 1 on the rights listed above under points 1-3 would be limited. By contrast, Options 2 and 3 would both have a positive impact on fundamental rights by limiting or eliminating the use of border checks at internal borders. The IA admits that the increased use of the compensatory measures under Options 2 and 3 might increase the risk of racial profiling,<sup>10</sup> stressing the need for strong safeguards to protect against abuses. Concerning the right to privacy and data protection, the IA underscores that 'all measures of considered options in the context of surveillance and monitoring technologies shall be subject to the applicable EU data protection rules' (IA, p. 51). The IA could have discussed safeguards for Options 2 and 3.

The Commission considers that the options do not have any measurable **impacts on the environment**. It merely states that 'the persistence of border checks may generate increased CO<sub>2</sub> emissions caused by waiting cars at the borders, but no data are available in this regard. At the same time, the negative effects of long-lasting border checks on the cross-border mobility could compensate or counterbalance such effects by limiting the overall volume of emissions' (IA, p. 51). This is why the IA does not consider environmental impacts in the assessment of the options.

In terms of **administrative costs**, the IA states that 'the costs of alternative measures are difficult to calculate given that they concern the maintenance of law and order which are under the exclusive responsibility of the Member States. Therefore, the Commission does not have any data on this at its disposal' (IA, p. 51). Option 1 would not create any new obligations for national administrations. Option 2 could have the biggest direct impact on the administration. However, 'as the measures proposed in this option should achieve an overall reduction in the use of border checks, the additional administrative burden should be limited'. In comparison, Option 3 would have a moderate impact on the administration. According to the IA, overall, the perception of the administrative impacts may vary from one Member State to another. For the EU, the new procedure of contingency planning for Schengen, and a more structured approach to notifications/reporting obligations, may require 'some small adjustment of resources' (IA, pp. 51-52).

The Commission then compares the three options in terms of their **effectiveness, efficiency, proportionality and coherence** (IA, pp. 52-55, see Table 9 on p. 55). It concludes that Option 2 is the most effective and efficient option.

On proportionality, the IA considers that Option 2, 'despite certain new obligations on the Member States, appears to be fully proportionate'. This option also complies with the boundary test, as the continued effectiveness of the Schengen area depends on concerted action by the Member States. In contrast, the other options raise proportionality concerns (Option 1 'does not give a sufficient guarantee that the objectives would be achieved'; Option 3 'may appear as going beyond that what is necessary to address the identified problems'). In terms of coherence, all three options are considered to be coherent with the objective of the Schengen strategy and related initiatives. **The Commission's preferred option is Option 2** (IA, p. 56).

### SMEs/Competitiveness

The IA is silent as regards SMEs. This is surprising, because potential impacts on SMEs should systematically be considered and reported in all IAs. Moreover, businesses have been particularly affected by internal border controls. Competitiveness is mentioned in the IA under the impacts of long-lasting border checks at internal borders: 'In the medium term, costs of transport that are unduly increased by delays in border controls could hurt the efficient development of EU value chains and the competitiveness of the EU economy as a whole' (IA, p. 22).

### Simplification and other regulatory implications

The IA suggests that the preferred option (Option 2) 'should help to optimise the allocation of resources in case of crisis and to limit the costs of reintroduction of border checks at internal borders. However, it should be noted that the new obligation concerning the risk assessment, the new template for notifications of reintroductions and reporting obligations, as well as new tasks related to the use of compensatory measures, may lead to a situation where the overall burden on Member States will not be reduced, and in some cases even increased' (IA, p. 56). This seems contrary to the simplification objective, which aims to reduce the administrative burden and costs.

Additional obligations would arise for the EU institutions. However, these additional tasks should generate limited additional costs compared to the significant positive impact on managing the crisis situations that put the overall functioning of the Schengen area at risk. No impact on EU bodies and agencies is expected (IA, pp. 56-57). In the Commission's view, all options are coherent with the overall objective of the Schengen strategy and other initiatives in this area (IA, p. 54).

## Monitoring and evaluation

The Commission presents a list of quantitative indicators to monitor the achievement of the objectives identified in the IA (see Table 11, p. 58); these indicators 'reflect and define, in practice, the success of the policy options' (IA, p. 57). However, these indicators are rather vague.

Indeed, the Commission makes several caveats: first, because 'the proposed option concerns addressing exceptional situations, the regular measurement of the indicators is not possible'. Second, 'this unpredictability prevents setting fixed quantitative targets'. Third, the evaluation of the targeted amendment of the SBC (as regards the response to threats to the area without controls at internal borders) will depend on the information provided by the Member States (IA, p. 57). Despite this, it appears no new provisions are included on data collection by Member States.

It would have been helpful to indicate here the baseline (status quo) – for example, by referring to Annex 6. This annex, which provides a list of reintroduced border checks at internal borders, could be a starting point to measure the trend (the target is a decreasing trend). The Commission also has a [website](#) on the current border checks at internal borders. The conditions of use of the compensatory measures at the internal borders (police spot checks/new technologies) will be subject to monitoring in the framework of the [Schengen Evaluation Mechanism](#), including any possible on-the-spot visits at the internal borders.

## Stakeholder consultation

The Commission organised the first Schengen Forum (involving the relevant national authorities, such as Ministries of Interior and police at national and regional level) with the European Parliament in November 2020 (Annex 5). The Commission consulted on the [inception impact assessment](#) in early 2021 (four replies), and conducted a 12-week open online public consultation from 19 January to 16 March 2021 (to which it received 157 replies). It also held workshops to collect views (transparently set out and broken down), and made efforts to report stakeholders' views in the IA. However, the stakeholders' support for the preferred option is not always apparent.

## Supporting data and analytical methods used

The Commission used several studies, reports and stakeholder feedback (well referenced and publicly available) to substantiate its initiative. The IA is based on a 2021 Commission report (DG for Regional and Urban Policy) on the effects of Covid-19 induced border closures on cross-border regions, along with a case study [report](#). The Commission also used the European Parliament's 2016 [Cost of non-Schengen study](#), and the [recommendations](#) of the Meijers Committee (an expert group of law professors, legal researchers, judges and attorneys). Moreover, the Commission refers to its 2020 evaluation [report](#) on the functioning of the Schengen Evaluation and Monitoring Mechanism, concluding that 'also the situation at the external borders cannot be considered to justify Member States' decisions on the prolongation of border checks at internal borders' (Annex 7). Input was also provided by the Member States and the public (Annexes 1 and 4).

The Commission admits that the quality of some of the data is problematic. It states that the level of detail and parameters used by the Member States to demonstrate the need for border checks varies a lot and is difficult to compare. It also highlights the lack of data regarding the costs of border checks at internal borders. The IA states that qualitative evidence has been used to a much larger extent than quantitative evidence, and that, to the extent possible, the IA relies on quantitative analysis of the data available (IA, Annex 1).

## Follow-up to the opinion of the Commission Regulatory Scrutiny Board

The Commission's Regulatory Scrutiny Board (RSB) issued a positive [opinion](#) with reservations on 18 May 2021, highlighting that the IA report still contains 'significant' shortcomings. The RSB recommended improving the report by: (1) beefing up the evidence on the strengths and weaknesses of the current key measures of the SBC; (2) more clearly describing the policy options and the implementation choices; and (3) better developing the analysis of impacts. The Commission services addressed some comments, while others appear to be still relevant (e.g. the description of the options and the implementation choices could have been improved; the impact analysis is still rather short; it is not clear how the Commission will ensure effective enforcement).

## Coherence between the Commission's legislative proposal and IA

The Commission's legislative proposal seems to correspond mostly to the preferred option identified in the IA. However, the proposal also includes changes which were not reflected in the IA; for example, removing the stand-still clause in Article 6(3) of [Directive 2008/115/EC](#) (the Return Directive), or defining situations of instrumentalisation of migrants at external borders.<sup>11</sup>

The Commission demonstrates that the Schengen area has experienced considerable challenges in recent years and makes a convincing case for the need to act. It made an effort to substantiate the initiative and to consult widely. The IA is transparent about the lack of data, which results in a predominantly qualitative analysis. However, the presentation of options leaves, in fact, only the choice of the preferred option. Moreover, one would have expected a more in-depth assessment of impacts – a point that was already highlighted by the RSB. The Commission did not provide a comparative analysis between the 2017 proposal and the preferred option of the IA. The proposal corresponds mostly to the preferred option, but includes some changes not reflected in the IA.

## ENDNOTES

- <sup>1</sup> See Dumbrava C., [Towards a common EU approach to lifting coronavirus-related restrictions on freedom of movement](#), EPRS, European Parliament, July 2021; Diaz Crego M., Dumbrava C., de Groot D., Kotanidis S. and Mentzelopoulou M.-M., [Legal issues surrounding compulsory Covid-19 vaccination](#), EPRS, European Parliament, March 2022; see also Lilico A., Leghari S. and Hegg M., [The Cost of Non-Schengen – Impact of border controls within Schengen on the Single Market](#), EPRS, European Parliament, April 2016; Wagner M. et al., [The state of play of Schengen Governance](#), study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE committee, November 2020.
- <sup>2</sup> See Dumbrava C., [Revision of the Schengen Borders Code](#), EPRS, European Parliament, April 2022 and Ahamad Madatali H., [Schengen Borders Code, Implementation Appraisal](#), EPRS, European Parliament, March 2021.
- <sup>3</sup> The purpose of the 2017 proposal was three-fold: (1) to update the time limits applicable to foreseeable events posing a serious threat to internal security and public policy, offering also a solution to those Member States who may need to maintain border controls in parallel to national measures; (2) to underline the need to take into account the views of the Member States affected by the intended reintroduction of border controls; (3) to reinforce the existing procedural safeguards to ensure that the reintroduction of border controls is a last resort measure, applied only for as long as necessary and justified (see Annex 17 of the IA).
- <sup>4</sup> The four problem drivers are: (1) disproportionate and inadequate use of border checks at internal borders; (2) the lack of sufficient coordination in the EU; (3) insufficient use of measures other than border checks at internal borders; and (4) the absence of rules concerning the application of extraordinary measures at the external borders during crisis situations affecting several Member States (IA, pp. 27-30).
- <sup>5</sup> See the Platform for EU Interparliamentary Exchange (IPEX).
- <sup>6</sup> Operational objectives are expressed in terms of the deliverables of individual policy actions. As such, they are typically option-specific (see the Better Regulation Toolbox).
- <sup>7</sup> According to the S.M.A.R.T criteria of the [Better Regulation Guidelines](#), objectives should be specific, measurable, achievable, relevant and time-bound.
- <sup>8</sup> Such as modified rules on notifications and reports on the reintroduction of border checks (IA, p. 40).
- <sup>9</sup> The economic impacts cover mainly impacts on the internal market. Tourism and competitiveness are highlighted too.
- <sup>10</sup> Referring to Carrera S. and Luk N., [In the Name of COVID-19: An Assessment of the Schengen Internal Border Controls and Travel Restrictions in the EU](#), study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, September 2020.
- <sup>11</sup> According to M. Weissensteiner, bilateral fast-track readmissions gained renewed significance as a governmental measure to counteract so-called unauthorised 'secondary movements' of persons not registered in Eurodac. See 'Cross-Border Police Cooperation and "Secondary Movements" – On Reconfigurations in Enforcing Differential Mobility Rights within the Spatial-Legal Schengen Space' (2021) 17(4), *Utrecht Law Review*, pp. 73-88.

This briefing, prepared for the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee, analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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