



EUROPEAN COMMISSION

Brussels, 3/9/2012  
C(2012) 5626 final

*Dear President*

*The Commission would like to thank the Camera dei Deputati for its Opinion on the Commission proposals for: (1) an amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis {COM(2011) 559 final}, and; (2) a Regulation of the European Parliament and the Council amending Regulation (EC) No 562/2006 (the Schengen Borders Code) in order to provide for common rules on the temporary reintroduction of border controls at internal borders in exceptional circumstances {COM(2011) 560 final}. The Commission apologises for the delay in replying.*

*In its Communication on Migration adopted in May 2011, the Commission set out the reasons why it is necessary to review the way we oversee the management of our external borders as well as the way in which internal border controls can be temporarily reintroduced.*

*The basic starting point and objective of the Commission is that, since the Schengen area is a benefit shared by the whole EU, any decision affecting this benefit must be taken at EU level and not individually.*

*It should be noted that the two legislative proposals which are the subject of the Chamber's opinion form a package building on the Conclusions of the European Council in June, whose purpose is to strengthen the governance of the area without internal border controls (the Schengen area), and enable it to respond effectively to exceptional circumstances that put the overall functioning of Schengen cooperation at risk, without jeopardising the principle of free movement of persons.*

*At the centre of all this remains a consideration which is crucial and recognised as such by all the institutional actors at EU level: free movement of people in the Schengen area is one of the most important and tangible results of the EU integration process. Therefore, this achievement must be preserved and strengthened in an effective and credible way.*

*On. Gianfranco FINI  
Presidente  
Camera dei Deputati  
Piazza Montecitorio  
IT - 00186 - ROMA*

*The Commission welcomes the positive assessment by the Camera dei Deputati of the two proposals, including as regards the legal bases used by the Commission for the adoption of the proposals, and has addressed a number of specific remarks, made by the Camera dei Deputati below.*

*The opinion of the Chamber notes that the purpose of the evaluation visits to be carried out under the evaluation and monitoring mechanism should be to overcome possible problems in the application of the Schengen acquis in a spirit of cooperation rather than imposing penalties. The Commission fully agrees with this sentiment, and notes that the raison d'être of the mechanism is indeed to facilitate the resolution of difficulties in close cooperation with the Member States. The proposed mechanism sets out a gradual process whereby Member States' application of the Schengen rules is first evaluated and, where deficiencies are identified, follow-up steps aimed at resolving these problems are foreseen. This follow-up includes the possibility of operational or financial assistance being provided to the Member State concerned.*

*The Camera dei Deputati's opinion suggests that the legislation on the evaluation and monitoring mechanism should clarify how many times each Member State can be subject to an evaluation visit during the five-year period covered by a multi-annual plan. The Commission would like to underline that its proposal indicates that each Member State should be subject to at least one evaluation during such a five-year period. Such evaluations will normally involve on-site visits, which may be announced or unannounced. It cannot be excluded, however, that more than one evaluation of any Member State will have to be carried out during such a period, in particular if, taking into account the risk analysis and recommendations for prioritisation of evaluations submitted by Frontex to the Commission, this is considered necessary or desirable. In addition, it is possible for on-site visits to be organised in order to verify implementation of the action plan adopted by the Member State concerned in order to fulfil the recommendations contained in the evaluation report.*

*The opinion suggests that the Schengen Borders Code should better define the reference framework for assessing cases relating to the protection of public policy and internal security, which are the basic conditions for activating the mechanism to reintroduce controls. In this regard, the Commission would like to point out that, in its legislative proposal to amend the Code, it has proposed that a new Article (Article 23A of the proposal) should be inserted into the text, setting out the assessment criteria to be applied in making an assessment as to whether or not it would be necessary or proportionate to resort to the reintroduction of internal border controls in order to offset a serious threat to public policy or internal security.*

*The Chamber's opinion notes that there is also a case to be made for allowing a longer time limit than the five days provided for reintroducing temporary unilateral controls in situations where urgent action is required, given the effort that a Member State has to make in terms of organisation, administration and human resources. In this regard, the Commission would like to point out that, in its legislative proposal to amend the Code, a period of five days has been chosen on the basis of experience to date with the unilateral reintroduction of internal border controls by Member States. The Commission looked at all the instances in which border control had been temporarily reintroduced over the past five years (i.e. since the Schengen Borders Code entered into force). In a number of those instances, the period of the reintroduction of controls exceeded five days, but in none of those instances was the reintroduction responding to unforeseeable developments (where resort to this emergency procedure might have been needed).*

*The Commission hopes that this reply addresses the remarks made in the Opinion by the Italian Camera dei Deputati and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*