

OPINION

Pursuant to Article 75b para. 1, subpara. 1 of the Rules and Regulations of the Senate (Monitor Polski of 2010, No 39, item 542 and No 57, item 771, of 2011, No 6, item 62) the European Union Affairs Committee submits the following opinion on a draft legislative act of the European Union, adopted at the sitting on January 11, 2012:

1. The European Union Affairs Committee (EUAC) does not support **the proposal for a Regulation of the European Parliament and the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis COM(2011)559** in the form presented in the Commission's amended proposal.
2. EUAC supports the idea behind the proposal, namely the introduction of evaluation and monitoring mechanisms to verify the application of the Schengen acquis by the states.
3. EUAC agrees that such a regulation is necessary to ensure an appropriate level of safety for EU citizens within the area without internal frontiers. However, it postulates that the role of Member States in assessment and auditing processes be increased.
4. EUAC is against the solutions set out in Article 14. Both forcing the allocation of Frontex teams upon a Member State and the power of the European Commission to close down a border crossing point constitute extremely far-reaching measures. Even more so that the Regulation does not point to any criteria which the European Commission should follow while introducing such measures. Moreover, there are no suggestions for less restrictive solutions. For this reason, in the view of EUAC, Article 14 is in breach of the proportionality principle laid out in Article 5 paragraph 4 of the Treaty of the European Union.
5. EUAC is also against the provision proposed in Article 15 of the draft: in case of continued deficiencies in the application of the Schengen acquis, the European Commission would, by implementing acts, automatically reintroduce border control on the internal borders of the Schengen area. Such a solution should be treated as a measure of last resort. EUAC postulates that less restrictive sanctions be introduced at the first level, and that control be reintroduced only in the case of a country's persistent failure to meet its obligations. Due to the above reasons, this provision, in the view of EUAC, does not comply with the proportionality principle set out in Article 5 paragraph 4 of the Treaty of the European Union.