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Committee on Civil Liberties, Justice and Home Affairs

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances
(COM(2011)0560 – C7-0248/2011 – 2011/0242(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Renate Weber

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances

(COM(2011)0560 – C7-0248/2011 – 2011/0242(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0560),
 - having regard to Article 294(2) and Articles 77(1) and 77(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0248/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the French National Assembly, Netherlands Senate, Netherlands House of Representatives, Portuguese Parliament, Romanian Senate, Slovak Parliament, Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

(1) The creation of an area in which the

(1) The creation of an area in which the

free movement of persons across internal borders is ensured is one of the main achievements of the European Union. In such an area without controls at internal borders, it is necessary to have a common response to situations seriously affecting the public policy or internal security of the European Union or of one or more Member States by allowing for the reintroduction of border control at internal borders in exceptional circumstances, but without jeopardising the principle of the free movement of persons. A *common Union* response is therefore needed, given the impact that such measures of last resort may have on all persons having the right to circulate within this area without border control at internal borders.

free movement of persons across internal borders is ensured is one of the main achievements of the European Union. In such an area without controls at internal borders, it is necessary to have a common response to situations seriously affecting the public policy or internal security of the European Union or of one or more Member States by allowing for the reintroduction of border control at internal borders in exceptional circumstances, but without jeopardising the principle of the free movement of persons. A *coordinated* response is therefore needed, given the impact that such measures of last resort may have on all persons having the right to circulate within this area without border control at internal borders.

Or. en

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Free movement within the area without internal border controls is a key Union achievement. As free movement is affected by the temporary reintroduction of border control at internal borders, any decision to do so should be *taken at the Union level*. In any case, reintroduction of border control at internal borders should only take place as a measure of last resort, for a strictly limited scope and period of time, based on specific objective criteria and on an assessment of its necessity which should be made *at Union level*. In cases where the serious threat to public policy or internal security requires immediate action, a Member State should be able to reintroduce border control at its internal borders for a period not exceeding *five*

Amendment

(2) Free movement within the area without internal border controls is a key Union achievement. As free movement is affected by the temporary reintroduction of border control at internal borders, any decision to do so should be *coordinated*. In any case, reintroduction of border control at internal borders should only take place as a measure of last resort, for a strictly limited scope and period of time, based on specific objective criteria and on an assessment of its necessity which should be made *in a coordinated manner*. In cases where the serious threat to public policy or internal security requires immediate action, a Member State should be able to reintroduce border control at its internal borders for a period not exceeding *ten*

days, any prolongation of which needs to be decided *at Union level*.

days, any prolongation of which needs to be decided *in a coordinated manner*.

Or. en

Amendment 3

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) The situations can arise where a large numbers of third country nationals cross the external border of one or more Member States. This might result in an unexpected and significant increase in secondary movements of third country nationals found to be irregularly staying in the territory of another Member State or States. Taking into account the number of Member States affected by such an unexpected and significant increase in secondary movements, and the overall impact of this increase on the migratory situation in the Union or in an individual Member State, it may be considered necessary to temporarily reintroduce border control at internal borders where the circumstances would be such as to constitute a serious threat to public policy or to internal security at the Union or national level. The crossing of the external border of a large number of third-country nationals might, in exceptional circumstances, justify the immediate reintroduction of some internal border controls, if such a measure is needed to safeguard public policy and internal security at the Union or national level from a serious and urgent threat.

Amendment

(5) The crossing of external borders by a large number of third-country nationals should not per se be considered to be a threat to public policy or internal security.

Or. en

Amendment 4

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) It is necessary for the Commission to draw up guidelines in order to ensure coherent implementation of the Schengen rules. These guidelines should provide for clear indicators to facilitate the assessment of threats to public policy and national security.

Or. en

Amendment 5

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) The temporary reintroduction of certain controls at internal borders could also be a response to serious deficiencies identified by Schengen evaluations in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, where the circumstances would be such as to constitute a serious threat to public policy or to internal security ***at the Union or national level.***

(6) The temporary reintroduction of certain controls at internal borders could also be a response to serious deficiencies identified by Schengen evaluations in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, where the circumstances would be such as to constitute a serious threat to public policy or to internal security ***in the area without internal border controls.***

Or. en

Amendment 6

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Before any decision is taken on the temporary reintroduction of certain controls at internal borders, the possibility of resorting to measures aimed at addressing the underlying situation, including assistance by Union bodies such as Frontex or Europol, and technical or financial support measures at the national and/or Union level, should be fully explored. Moreover, any decision to reintroduce internal border control should be based on substantiated information, which may be provided by the Member ***State requesting the reintroduction***, or come from other sources, including inspection visits.

Amendment

(7) Before any decision is taken on the temporary reintroduction of certain controls at internal borders, the possibility of resorting to measures aimed at addressing the underlying situation, including assistance by Union bodies such as Frontex or Europol, and technical or financial support measures at the national and/or Union level, should be fully explored. Moreover, any decision to reintroduce internal border control should be based on substantiated information, which may be provided by the Member ***States***, or come from other sources, including inspection visits.

Or. en

Amendment 7

Proposal for a regulation

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In an area where persons can move freely, the reintroduction of controls at internal borders should remain an exception.

Or. en

Amendment 8

Proposal for a regulation Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) It is necessary for the Commission to present an annual overview to the Union institutions on the functioning of the Schengen area. This should provide the basis for an annual debate in the European Parliament and in the Council and contribute to the strengthening of political guidance and cooperation in the Schengen area.

Or. en

Amendment 9

Proposal for a regulation Recital 8

Text proposed by the Commission

Amendment

(8) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. ***These*** powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. ***Except in cases of urgency, and in*** view of the terms of Article 2(2)(b)(iii) of that Regulation, the examination procedure is applicable.

(8) In order to ensure uniform conditions for the implementation of ***Article 26 of Regulation (EC) No 562/2006,*** implementing powers should be conferred on the Commission. ***Those*** powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. ***In*** view of the terms of Article 2(2)(b)(iii) of that Regulation, the examination procedure ***should be used for the adoption of those implementing acts.***

Or. en

Amendment 10

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) The Commission should adopt immediately applicable implementing acts where, in duly justified cases related to the imminence of the threat to public policy or internal security at the Union or national level, imperative grounds of urgency so require.

Amendment

deleted

Or. en

Amendment 11

Proposal for a regulation Article 1 – point 1 Regulation (EC) No 562/2006 Article 23

Text proposed by the Commission

Article 23

General framework for the temporary reintroduction of border control at internal borders

1. Where in the area without border control at internal borders there is a serious threat to public policy or internal security at the Union or national level, border control at internal borders may exceptionally be reintroduced at all or specific parts of the internal borders of one or several Member States for a limited period of no more than 30 days or for the foreseeable duration of the serious threat if its duration exceeds the period of 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the

Amendment

Article 23

General framework for the temporary reintroduction of border control at internal borders

1. Where in the area without border control at internal borders there is a serious threat to public policy or internal security at the Union or national level, border control at internal borders may exceptionally be reintroduced at all or specific parts of the internal borders of one or several Member States for a limited period of no more than 30 days or for the foreseeable duration of the serious threat if its duration exceeds the period of 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the

serious threat.

2. Border control at internal borders may only be reintroduced in accordance with the procedures foreseen in Articles 24, 25 and 26 of this Regulation. The criteria listed in Article 23a must be taken into account in each case where a decision on the reintroduction of border control at internal borders is contemplated.

3. If the serious threat to public policy or internal security at the Union or national level persists beyond the period provided for in paragraph 1, border control at internal borders may, taking account of the criteria listed in Article 23a, be prolonged on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days.

4. The total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 and prolongations under paragraph 3, shall not exceed six months. *In cases of persistent serious deficiencies related to external border control or return procedures identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the Commission can decide to extend* this period.

serious threat.

2. Border control at internal borders may only be reintroduced ***subject to and*** in accordance with the procedures foreseen in Articles 24, 25 and 26 of this Regulation. The criteria listed in Article 23a must be taken into account in each case where a decision on the reintroduction of border control at internal borders is contemplated.

3. If the serious threat to public policy or internal security at the Union or national level persists beyond the period provided for in paragraph 1, border control at internal borders may, taking account of the criteria listed in Article 23a ***and the procedure provided for in Article 24***, be prolonged on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days.

4. The total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 and prolongations under paragraph 3, shall not exceed six months. ***In exceptional circumstances such as those referred to in Article 26, this total period may be extended to the maximum length provided for in that Article.***

Or. en

Amendment 12

Proposal for a regulation

Article 1 – point 1

Regulation (EC) No 562/2006

Article 23 a

Text proposed by the Commission

Article 23a

Criteria for the temporary reintroduction of border control at internal borders

1. When deciding on the temporary reintroduction of border control at one or more internal borders or parts thereof, the Commission, or the Member State concerned in cases referred to in Article 25 **paragraph 1**, shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security at the Union or national level, and shall assess the proportionality of the measure to that threat. This assessment shall be based on the detailed information submitted by the Member State(s) concerned and any other relevant information, including any information obtained pursuant to paragraph 2. In making such an assessment, the following considerations shall in particular be taken into account

(a) the likely impact of any threats to public policy or internal security at the Union or national level, including following terrorist incidents or threats as well as threats posed by organised crime;

(b) the availability of technical or financial support measures which could be or have been resorted to at the national and/or European level, including assistance by

Amendment

Article 23a

Criteria for the temporary reintroduction of border control at internal borders

1. When, **as a last resort**, deciding on the temporary reintroduction of border control at one or more internal borders or parts thereof, the Commission, **in cases referred to in Articles 26**, or the Member State concerned in cases referred to in **Articles 23 and 25(1)**, shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security at the Union or national level, and shall assess the proportionality of the measure in relation to that threat. This assessment shall be based on the detailed information submitted by the Member State(s) concerned and any other relevant information, including any information obtained pursuant to paragraph 2. In making such an assessment, the following considerations shall in particular be taken into account:

(a) **in cases referred to in Articles 23 and 25:**

(i) the likely impact of any threats to public policy or internal security at the Union or national level, including following terrorist incidents or threats as well as threats posed by organised crime;

(ii) **the likely impact of such a measure on free movement in the area without internal border controls.**

(b) **in the cases referred to in Article 26:**

Union bodies such as Frontex, the EASO or Europol, and the extent to which such measures are likely to adequately remedy the threats to public policy or internal security *at the Union or national level*;

(c) the current and likely future impact of any serious deficiencies related to external border control or return procedures identified by Schengen evaluations in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*;

(d) the likely impact of such a measure on free movement within the area without internal border controls.

2. Before taking a decision, the Commission may:

(a) request Member States, Frontex, Europol, Eurojust, the Fundamental Rights Agency or any other Union body to provide it with further information,

(b) carry out inspection visits, with the support of experts from Member States and of Frontex, Europol and any other relevant European body, in order to obtain or verify information relevant for a decision to temporarily reintroduce border control at internal borders.

(i) the availability of technical or financial support measures which could be or have been resorted to at the national and/or European level, including assistance by Union bodies such as Frontex, the EASO or Europol, and the extent to which such measures are likely to adequately remedy the threats to public policy or internal security *in the area without internal border controls*;

(ii) the current and likely future impact of any serious deficiencies related to external border control or return procedures identified by Schengen evaluations in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*;

(iii) the likely impact of any threats to public policy or internal security in the area without internal border controls;

(iv) the likely impact of such a measure on free movement within the area without internal border controls.

2. Before taking a decision *in accordance with Article 26*, the Commission may:

(a) request Member States, Frontex, Europol, Eurojust, the Fundamental Rights Agency or any other Union body to provide it with further information,

(b) carry out inspection visits, with the support of experts from Member States and of Frontex, Europol and any other relevant European body, in order to obtain or verify information relevant for a decision to temporarily reintroduce border control at internal borders.

3. The Commission shall draw up guidelines in order to ensure coherent

implementation of the Schengen rules. These guidelines shall provide clear indicators to facilitate the assessment of threats to public policy and national security.

4. The Commission, without prejudice to Article 258 TFEU may issue an opinion on ex-post evaluation of the temporary reintroduction of border control at one or more internal borders or parts thereof.

Or. en

Amendment 13

Proposal for a regulation

Article 1 – point 1

Regulation (EC) No 562/2006

Article 24

Text proposed by the Commission

Article 24

Procedure for the temporary reintroduction of border control at internal borders

1. Where a Member State considers that border control at internal borders should be reintroduced under Article 23(1), it shall **submit a request to** the Commission at the latest six weeks before the planned reintroduction, or within a shorter period where the circumstances giving rise to the need to reintroduce border control at internal borders do not become known until less than six weeks before the planned reintroduction, and shall supply the following information:

(a) the reasons for the proposed reintroduction, including all relevant data detailing the events that constitute a serious threat to public policy or internal security at the Union or national level;

Amendment

Article 24

Procedure for the temporary reintroduction of border control at internal borders

1. Where a Member State considers that border control at internal borders should be reintroduced under Article 23(1), it shall **notify the other Member States and** the Commission **accordingly** at the latest six weeks before the planned reintroduction, or within a shorter period where the circumstances giving rise to the need to reintroduce border control at internal borders do not become known until less than six weeks before the planned reintroduction, and shall supply the following information:

(a) the reasons for the proposed reintroduction, including all relevant data detailing the events that constitute a serious threat to public policy or internal security at the Union or national level;

(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;

(c) the names of the authorised crossing-points;

(d) the date and duration of the proposed reintroduction;

(e) where appropriate, the measures to be taken by the other Member States.

Such *a request could* also be *submitted* jointly by two or more Member States.

2. The information referred to in paragraph 1 shall *also* be submitted to *the Member States and* the European Parliament *at the same time as the request is made*.

3. Following *a request by a Member State pursuant to paragraph 1, or on its own initiative based on the information specified in sections (a) to (e) of that paragraph, the Commission shall decide on the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a (2)*.

4. *The Commission shall decide on the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2)*.

5. *On duly justified grounds of urgency, related to situations where the*

(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;

(c) the names of the authorised crossing-points;

(d) the date and duration of the proposed reintroduction;

(e) where appropriate, the measures to be taken by the other Member States.

Such *notification may* also be *made* jointly by two or more Member States.

2. The information referred to in paragraph 1 shall be submitted *at the same time* to the European Parliament. *If necessary, the Commission may request additional information from the Member State(s) concerned*.

3. Following *the notification by the Member State(s) planning to reintroduce border control and for the purpose of the consultation provided for in paragraph 4, the Commission shall issue an opinion without prejudice to Article 72 TFEU*.

4. *The information referred to in paragraph 1, as well as the opinion that the Commission is required to provide in accordance with paragraph 3, shall be the subject of consultations, including joint meetings, between the Member State planning to reintroduce border control at internal borders, the concerned neighbouring Member States and the Commission, with a view to examining the proportionality of the measures to the events giving rise to the reintroduction of border control and the threats to public policy or internal security*.

5. *The consultation referred to in paragraph 4 shall take place at least*

circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 4, do not become known until less than 10 days before the planned prolongation, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a(3).

fifteen days before the date planned for the reintroduction of border control at internal borders.

Or. en

Amendment 14

Proposal for a regulation

Article 1 – point 1

Regulation (EC) No 562/2006

Article 25

Text proposed by the Commission

Article 25

Specific procedure for cases requiring immediate action

1. Where a serious threat to public policy or internal security in a Member State demands immediate action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders, for a limited period of no more than **five** days.
2. The Member State reintroducing border control at internal borders shall at the same time notify the other Member States and the Commission accordingly, and shall supply the information referred to in Article 24 (1) and the reasons that justify the use of this procedure. ***The Commission may consult the other Member States immediately upon receipt of the notification.***
3. If the serious threat to public policy or internal national security persists beyond

Amendment

Article 25

Specific procedure for cases requiring immediate action

1. Where a serious threat to public policy or internal security in a Member State demands immediate action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders, for a limited period of no more than **ten** days.
2. The Member State reintroducing border control at internal borders shall at the same time notify the other Member States and the Commission accordingly, and shall supply the information referred to in Article 24 (1) and the reasons that justify the use of this procedure.
3. If the serious threat to public policy or internal national security persists beyond

the period provided for in paragraph 1, the **Commission shall** decide on the prolongation of the border control at internal borders. **Given the need to take immediate action after the expiry of the period provided for in paragraph 1, which constitutes an imperative ground of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a (3).**

the period provided for in paragraph 1, **the Member State may** decide on the prolongation of the border control at internal borders **taking account of the criteria listed in Article 23a, including an actual assessment of the necessity and the proportionality of the measure and taking into account any new elements that might arise.**

The provisions of Article 24 (2) and (4) apply accordingly and the consultations shall take place immediately after the notification.

4. Without prejudice to Article 23(4), the total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 and prolongations under paragraph 3, shall not exceed two months.

Or. en

Amendment 15

Proposal for a regulation

Article 1 – point 1

Regulation (EC) No 562/2006

Article 26

Text proposed by the Commission

Article 26

Specific procedure for cases of persistent serious deficiencies

1. In cases where the Commission finds that there are persistent serious deficiencies related to external border control or return procedures identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the

Amendment

Article 26

Specific procedure for cases of persistent serious deficiencies

1. In cases where the Commission finds that there are persistent serious deficiencies related to external border control or return procedures identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the

application of the Schengen acquis, and insofar as these deficiencies constitute a serious threat to public policy or internal security *at the Union or national level*, border control at internal borders may be reintroduced for a period of no more than six months. This period can be prolonged by a further period of no more than six months if the serious deficiencies are not remedied. No more than three such prolongations will be possible.

2. The Commission shall decide on the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a (2).

3. The Commission shall decide on the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a (2).

4. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 3, do not become known until less than 10 days before the *planned prolongation*, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a(3).

application of the Schengen acquis, and insofar as these deficiencies constitute a serious threat to public policy or internal security *in the area without internal border controls*, border control at internal borders may be reintroduced for a period of no more than six months. This period can be prolonged by a further period of no more than six months if the serious deficiencies are not remedied. No more than three such prolongations will be possible.

2. The Commission shall, *, where no other measures are capable of effectively mitigating the serious threat identified*, decide on the reintroduction of border control at internal borders, *as a measure of last resort, to protect common interests in the area without internal border controls*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a (2).

3. The Commission shall decide on the prolongation of border control at internal borders, *acting in accordance with paragraphs 1 and 2*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a (2).

4. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 3, do not become known until, less than 10 days before the *end of the preceding reintroduction period*, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a(3).

Or. en

Amendment 16

Proposal for a regulation

Article 1 – point 3

Regulation (EC) No 562/2006

Article 29

Text proposed by the Commission

Article 29

Report on the reintroduction of border control at internal borders

At the latest four weeks after the lifting of border control at internal borders, the Member State which has carried out border control at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the operation of the checks **and** the effectiveness of the reintroduction of border control at internal borders.

Amendment

Article 29

Accountability

1. In order to enhance the dialogue between the European Parliament, the Council and the Commission, and to ensure greater transparency and accountability at the latest four weeks after the lifting of border control at internal borders, the Member State which has carried out border control shall present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the operation of the checks, the effectiveness of the reintroduction of border control at internal borders ***and the proportionality of the measures taken.***

2. The Commission shall present to the European Parliament and to the Council an annual report on the functioning of the area without internal border controls. The report shall include a list of all decisions to reintroduce controls at internal borders taken during the year covered.

3. The representatives of the Member States which have reintroduced internal border controls referred to in paragraph 1 shall be invited to the presentation of the report referred to in paragraph 2.

Or. en

EXPLANATORY STATEMENT

Free movement is a defining principle of the European Union and the ability to move within the European Union without facing border checks at internal borders is one of its most successful achievements. Many people use this freedom and public opinion repeatedly ranks freedom to travel as among the most significant benefits brought about by the Union.

The fundamentals of the Schengen cooperation are relatively sound. However recent developments have undermined the confidence in the ability of some Member States to manage the borders in a way that is not detrimental to the free movement of people inside the Schengen area. These events challenged the balance that has to be found between security and freedom of movement.

Your Rapporteur insists on the fact that migration per se is not a threat to public policy and national security. Therefore she categorically opposes any attempt to introduce new grounds such as migration flows for reintroducing controls at the internal borders. The root cause of the problems is not external, but internal. Indeed these recent events are symptoms that the current Schengen system, relying on an inter-governmental system of peer review, is not strong enough to remedy weaknesses of some of its Members and to prevent potential abuses. The European Union now has to act in order to ensure that a repetition of these events is not possible and that the proportionality of any measure of reintroduction of controls at the internal borders is properly assessed, as it has been recognized by the European Council of June last year which has requested it as well.

Your Rapporteur supports the principle of a more coordinated and collective decision-making process in case of reintroduction of controls at the internal borders. An EU right such as free movement, which is benefitting to a huge number of EU citizens, should not be altered by the decision of a single individual Member state. Therefore unilateral national initiatives should be prevented as much as possible, and all European interests should be taken into account in securing the Schengen area.

Your Rapporteur is convinced that a sound balance can be found that leaves the Member States enough room for manoeuvre in unpredictable events as well as in foreseeable events, whilst ensuring a more collective decision-making process. She therefore suggests that any Member State wishing to reintroduce controls at the internal borders invites the European Commission and the concerned neighbouring countries to discuss this measure.

In case serious deficiencies in the carrying out of external border control are identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the evaluated Member state may be requested to take specific measures, including the closing of a border crossing point. For this specific case, your Rapporteur is of the opinion that comitology should apply.

Considering that there are different views on the interpretations and implementation of the Schengen acquis, your Rapporteur proposes to adopt Commission guidelines, according to the Commission Communication of 16 September 2011 on the Schengen governance (COM

(2011)561) where these guidelines have been mentioned. The guidelines would ensure a coherent implementation of the Schengen rules and provide for clear indicators on how to assess a threat to public policy and national security in a coherent way.

Your Rapporteur supports the idea of the adoption of these guidelines and invites the Commission to proceed without delay. Your Rapporteur also feels that the Commission should be invited to present these guidelines before the European Parliament in the context of a broader debate on Schengen governance.

Finally your Rapporteur is convinced that a right balance between the competences of each institution can easily be found in dealing with this proposal. She reminds that the European Parliament is a full participant in the area of justice and home affairs, and makes some concrete proposals in order to reinforce the Commission and Council's general accountability towards the European Parliament.