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NOTE

From:	Presidency
To:	Strategic Committee on Immigration, Frontiers and Asylum/Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject:	Lessons learned from temporary reintroductions of controls at internal borders - Questionnaire

1. Introduction

On 9 November 2015, the Council (Justice and Home Affairs) adopted conclusions on measures to handle the refugee and migration crisis. As regards the functioning of the Schengen area, they read as follows:

"The Council, in full cooperation with the Commission, having in mind the necessity to safeguard the functioning of the Schengen area and to reduce migratory pressures, agreed the following measures to implement fully the orientations already agreed by the European Council and the Council in compliance with EU acquis. It decided: (...)

9. to conduct at the December Justice and Home Affairs Council, on the basis of the 8th bi-annual reporting by the Commission, a thorough debate on the functioning of the Schengen area (1 May 2015 - 31 October 2015) and on the lessons learned from temporary reintroductions of controls at internal borders; (...)"

In order to prepare this debate, the Presidency invites delegations to reply in a concise manner to questions under point 3, via an e-mail to the Presidency (anne.soisson@mae.etat.lu) and the Council Secretariat (carina.rosengren@consilium.europa.eu) by 19 November 2015, closure of business. On the basis of replies received and of information gathered from the Commission and EU agencies, the Presidency will prepare for exchanges at ministerial level on 3-4 December, with prior discussion in Coreper on 25-26 November 2015.

2. Re-introducing temporary controls at internal borders – applicable rules

Article 23 of the Schengen Borders Code¹ (SBC) provides that, where there is a serious threat to public policy or internal security, a Member State (MS) may exceptionally reintroduce border control at all or parts of its internal borders for a period of up to 30 days, or longer if strictly necessary to respond to the serious threat.

The total period shall not exceed six months. Only in cases where, following the procedure defined in Article 19a SBC, it is found that the overall functioning of the area without internal border control is put at risk may the period of reintroduction of controls be extended to two years.

Pursuant to Article 16(1) SBC, which applies also in case of reintroduction of controls on internal borders, Member States shall assist each other, shall maintain close and constant cooperation with a view to the effective implementation of border control and shall exchange all relevant information.

The MS shall as soon as possible notify the other MSs and the Commission accordingly, on the basis of Articles 24 or 25 SBC depending on the urgency. According to Article 29 SBC, the report on the results of temporary reintroduction of border control should outline, in particular, the initial assessment and the respect of the criteria referred to in Articles 23a, 25 and 26a SBC, the operation of the checks, the practical cooperation with neighbouring MSs, the resulting impact on the free movement of persons, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the proportionality of the reintroduction of border control.

¹ Regulation (EC) No 562/2006 (OJ L 105, 13.4.2006, p.1) as amended by Regulation (EU) 1051/2013 (OJ L 295, 6.11.2013, p.1).

To better apply these rules in practice, Coreper approved certain procedures in March 2015¹ in order to improve the sharing of information in cases where a Member State decides to reintroduce border control at internal borders on the basis of Articles 24 or 25 SBC.

N.B.: From the entry into force of the SBC in 2006 until early 2015, almost all cases of reintroduced control were related to preventing and combating different types of crime in connection with high level meetings or major sports events. Most of the latest cases notified since mid-2015 (AT, DE, SE and SI) were activated for public order and/or security reasons related to the migration crisis.

3. Questions

(1) for Member States which, since last summer, have temporarily reintroduced internal border control for the above mentioned reasons related to migratory pressures

Q1. What were the exact dates?

Q2. Despite the urgency, have your authorities found it possible/useful, prior to the notification, to have contacts with other Member States on their intention to temporarily reintroduce border control? If so, how long before the actual reintroduction (please describe briefly the concrete cases)?

Did your authorities agree on a specific procedure for persons refused entry to your territory? If so, which one?

Q3. What procedure did your authorities follow when notifying the reintroduction of internal border control? Were the procedures agreed in Coreper applied in your case²?

Q4. What information did you supply to justify the reintroduction (state only main reasons)?

Q5. What support, in terms of personnel or technical equipment, did you receive from other Member States or EU agencies to face this situation?

¹ 5685/15

(2) **For all Member States**

- Q6. Have your authorities, for reasons related to migratory pressures, reinforced controls at the external borders of your country (air, sea, land)? If so, has that involved reinforcing controls at the so-called "green" borders (*ie* the parts of the external land border between border crossing points)? Please describe the measures taken.
- Q7. Have your authorities systematically checked the persons arriving and their travel documents or have there been any exceptions granted? If so, on what basis?
- Have your authorities made use of clauses contained in Articles 5(4)(c) or 8(1) SBC in order to admit on the territory large groups of persons, notably those travelling without travel documents, or were such persons refused entry?
- Q8. Have your authorities systematically registered and fingerprinted migrants entering your country? If not, what were the exceptions and on which basis?
- Q9. What noticeable impact or repercussions, if any, have recent cases of reintroduction had in/on your territory, e.g. in economic terms and/or in terms of a change in migration patterns?
- Q10. What measures could in your view be taken to improve the functioning of the Schengen area in relation to the control of the external borders, including the "green" borders, so as to decrease or minimise the need for reintroducing internal border control?
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