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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
Subject:	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 - Four-column table

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Delegations will find in the annex the four-column table regarding the above-mentioned proposal.

**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**

**2021/0428(COD)**

	<b>Commission Proposal</b>	<b>EP Mandate</b>	<b>Council Mandate</b>	<b>Draft Agreement</b>
1	2021/0428 (COD)	2021/0428 (COD)	2021/0428 (COD)	
2	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	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	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	
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	EUROPEAN UNION,	EUROPEAN UNION,	EUROPEAN UNION,	
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and (e) and Article 79(2)(c) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and (e) <del>and Article 79(2)(e)</del> thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and (e) and Article 79(2)(c) thereof,	
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
8	Whereas:	Whereas:	Whereas:	
9	(1) In accordance with Article 3(2) of the Treaty on European Union	(1) In accordance with Article 3(2) of the Treaty on European Union	(1) In accordance with Article 3(2) of the Treaty on European Union	

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	(“TEU”), the Union comprises an area of freedom, security and justice that is free of internal border controls, in which the free movement of persons is ensured in conjunction with appropriate measures regarding external border controls, asylum, immigration and the prevention and combating of crime.	(“TEU”), the Union comprises an area of freedom, security and justice that is free of internal border controls, in which the free movement of persons is ensured in conjunction with appropriate measures regarding external border controls, asylum, immigration and the prevention and combating of crime.	("TEU"), the Union comprises an area of freedom, security and justice that is free of internal border controls, in which the free movement of persons is ensured in conjunction with appropriate measures regarding external border controls, asylum, immigration and the prevention and combating of crime.	
9a		<u><i>(1a) 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 Union. The normal functioning and strengthening of such an area, which is based on trust and solidarity, should be a common objective of the Union and the Member States which have agreed to take part in it. The absence of internal borders and the sharing of external borders create a common responsibility for Member States to ensure an area of freedom, security, and justice. In this respect, the temporary reintroduction of internal border control should be exceptional and used only as a last resort, where</i></u>		

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		<u><i>appropriate subject to consultation and cooperation between the Member States concerned and under the control of the Commission.</i></u>		
10	<p>(2) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 ("Schengen Borders Code")<sup>1</sup> lays down rules governing the movement of persons to and from the area without controls at internal borders (the "Schengen Area") as well as between the Member States that participate in the Schengen Area.</p> <p><sup>1</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.</p>	<p>(2) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 ("Schengen Borders Code")<sup>1</sup> <del>lays down rules governing the movement</del><u>provides for the absence of border control</u> of persons <del>to and from the area without controls at internal borders (the "Schengen Area") as well as between the Member States that participate in the Schengen Area</del><u>crossing the internal borders of the Member States of the Union and lays down rules governing border control of persons crossing the external borders of the Member States of the Union.</u></p> <p><sup>1</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.</p>	<p>(2) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 ("Schengen Borders Code")<sup>1</sup> lays down rules governing the movement of persons to and from the area without controls at internal borders (the "Schengen Area") as well as between the Member States that participate in the Schengen Area.</p> <p><sup>1</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.</p>	

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11	<p>(3) In recent years, the Schengen area has been subject to unprecedented challenges, which by their nature were not confined to the territory of any single Member State. Such challenges underscored the fact that the preservation of public order and security in the Schengen area is a shared responsibility requiring joined and coordinated action between Member States and at Union level. They also highlighted gaps in the existing rules governing the functioning of the Schengen area both at external and internal borders and the need to create a stronger and more robust framework allowing for a more effective response to challenges faced by the Schengen area.</p>	<p>(3) In recent years, <del>the Schengen area has been subject to unprecedented</del><u>several Member States have resorted to internal border control to address</u> challenges, which by their nature were not confined to the territory of any single Member State. <del>Such challenges underscored the fact that</del><u>In an area of freedom, security and justice,</u> the preservation of public order and security in the Schengen area is a shared responsibility requiring joined and coordinated action <u>at Union level and</u> between Member States, <u>on the basis that that area of freedom, security and justice remains one that is free of internal border controls. The challenges faced by Member States, and the fact that Member States quickly resorted to internal border control to address those challenges, and at Union level.</u> <del>They also</del> highlighted <del>gaps in</del><u>difficulties with</u> the existing rules governing the functioning of the Schengen area <u>and the enforcement of those rules,</u> both at external and internal borders. <u>It also underscored</u> <del>and</del> the need <del>to</del></p>	<p>(3) In recent years, the Schengen area has been subject to unprecedented challenges, which by their nature were not confined to the territory of any single Member State. Such challenges underscored the fact that the preservation of public order and security in the Schengen area is a shared responsibility requiring joined and coordinated action between Member States and at Union level. They also highlighted gaps in the existing rules governing the functioning of the Schengen area both at external and internal borders and the need to create a stronger and more robust framework allowing for a more effective response to challenges faced by the Schengen area.</p>	

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		<del>create a stronger</del> <u>for a clearer</u> and more robust framework <del>allowing for a more effective response to challenges faced by the Schengen area</del> <u>in order to strengthen mutual trust and solidarity and to ensure the absence of any controls on persons, irrespective of their nationality, when crossing internal borders while enabling Member States to provide an effective response to challenges they face.</u>		
12	(4) Border control at external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control and the Union as a whole. Member States are required to ensure high standards in management of their external borders, including through enhanced cooperation between border guards, police, customs and other relevant authorities. The Union provides active support through the provision of financing support by the Agencies, the European Border and Coast Guard in particular and management of	(4) Border control at external borders, <u>in full compliance with the fundamental rights,</u> is in the interest not only of the Member State at whose external borders it is carried out but of <u>the Union as a whole and of all its</u> <del>all</del> Member States, <u>in particular those</u> which have abolished internal border control <del>and the Union as a whole.</del> Member States are required to ensure high standards in management of their external borders, including through enhanced cooperation between border guards, police, customs and other relevant authorities. The Union provides active support	(4) Border control at external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control and the Union as a whole. Member States are required to ensure high standards in management of their external borders, including through enhanced cooperation between border guards, police, customs and other relevant authorities. The Union provides active support through the provision of financing support by the Agencies, the European Border and Coast Guard in particular and management of	

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	the Schengen Evaluation Mechanism. The rules applicable to external borders need to be reinforced in order to better respond to new challenges that have recently emerged at the external borders.	through the provision of financing support by the Agencies, <del>the European Border and Coast Guard in particular</del> and management of the Schengen Evaluation Mechanism. The rules applicable to external borders need to be <del>reinforced</del> <u>amended and harmonised</u> in order to better respond to new challenges that have recently emerged at the external borders.	the Schengen Evaluation Mechanism. The rules applicable to external borders need to be reinforced in order to better respond to new challenges that have recently emerged at the external borders.	
12a			<u>(4a) European integrated border management, based on the four-tier access control model, comprises measures in third countries, such as under the common visa policy, measures with neighbouring third countries, border control measures at the external borders, risk analysis and measures within the Schengen area and return. Border control, including measures to facilitate legitimate border crossings, forms a key part of the European integrated border management. In order to prevent and detect cross-border crime at the external borders, in particular migrant smuggling, trafficking in human</u>	



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			<u>beings, and terrorism, Member States together with the European Border and Coast Guard Agency should implement the European integrated border management, based on the four-tier access control model.</u>	
13	(5) The COVID-19 pandemic has reinforced the need for the Union to be better prepared to respond to crisis situations at the external borders related to situations of diseases with an epidemic potential that are a threat to public health. The COVID-19 pandemic has shown that threats to public health can require uniform rules concerning travel restrictions for travel into the European Union by third country nationals. The adoption of inconsistent and divergent measures at the external borders to address such threats negatively affects the functioning of the entire Schengen area, reduces predictability for third-country travellers and people-to-people contacts with third countries. To prepare the Schengen area for future challenges of a comparable scale related to threats	(5) <del>The COVID-19 pandemic has reinforced the need for the Union to be better prepared to respond to crisis situations at the external borders related to situations of diseases with an epidemic potential that are a threat to public health.</del> The COVID-19 pandemic has shown that threats to public health can require uniform rules concerning travel restrictions for travel into the European Union by third country nationals. The adoption of inconsistent and divergent measures at the external borders to address such threats negatively affects the functioning of the entire Schengen area, reduces predictability for third-country travellers and people-to-people contacts with third countries. To prepare the Schengen area for future challenges of a <del>comparable scale related to threats</del>	(5) The COVID-19 pandemic has reinforced the need for the Union to be better prepared to respond to crisis situations at the external borders related to situations of diseases with an epidemic potential that are a threat to public health. The COVID-19 pandemic has shown that threats to public health can require uniform rules concerning travel restrictions for travel into the European Union by <del>third country</del> <u>third-country</u> nationals. The adoption of inconsistent and divergent measures at the external borders to address such threats negatively affects the functioning of the entire Schengen area, reduces predictability for third-country travellers and people-to-people contacts with third countries. To prepare the Schengen area for future challenges of a comparable	

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	<p>to public health, it is necessary to establish a new mechanism which should allow for a timely adoption and lifting of coordinated measures at Union level. The new procedure at the external border should be applied in a situation of an infectious disease with epidemic potential as identified by the European Centre for Disease Prevention and Control or the Commission. This mechanism should complement the procedures proposed to be established in the Proposal for a Regulation of the European Parliament and of the Council on serious cross-border threats to health<sup>1</sup>, notably in case of the recognition of a public health emergency, and the revised mandate of the European Centre for Disease Control.<sup>2</sup></p> <p>1. COM(2020)727. 2. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control, COM(2020)726.</p>	<p><del>to public health, it is necessary to establish</del> <u>comparable to the Covid-19 pandemic</u>, a new mechanism <del>should be established</del> <u>should</u> <del>allow</del> <u>would</u> allow for a timely adoption and lifting of coordinated measures at Union level. The new procedure at the external border should be applied <del>in a situation of an infectious disease with epidemic potential as identified by the European Centre for Disease Prevention and Control or the Commission. This mechanism should complement the procedures proposed to be established in the Proposal for a Regulation of the European Parliament and of the Council on</del> <u>to a large-scale public health emergency with a</u> serious cross-border <del>threats</del> <u>threat</u> to health<sup>1</sup>; <del>notably in case of the recognition of a public health emergency, and the revised mandate of the European Centre for Disease Control, recognised by</del> <u>the Commission at Union level in accordance with Regulation (EU) 2022/2371<sup>1</sup>.</u><sup>2</sup></p> <p>1. <del>COM(2020)727</del> <u>Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health</u></p>	<p>scale related to threats to public health, it is necessary to establish a new mechanism which should allow for a timely adoption and lifting of coordinated measures at Union level. The new procedure at the external border should be applied in a situation of <u>a threat to public health due to</u> an infectious disease with epidemic potential as <del>identified</del> <u>established</u> by the <u>Commission, following the advice of the</u> European Centre for Disease Prevention and Control <del>or the Commission</del> <u>and taking into account information from the competent national authorities</u>. This mechanism should complement the procedures proposed to be established in the Proposal for a Regulation of the European Parliament and of the Council on serious cross-border threats to health<sup>1</sup>, notably in case of the recognition of a public health emergency, <del>and the revised</del> mandate of the European Centre for Disease Control.<sup>2</sup></p> <p>1. <u>COM(2020)727</u>. 2. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control, COM(2020)726.</p>	

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		<p><a href="#"><u>and repealing Decision No 1082/2013/EU (OJ L 314, 6.12.2022, p. 26).</u></a></p> <p><i>2. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 853/2004 establishing a European Centre for disease prevention and control, COM(2020)726.</i></p>		
14	<p>(6) The mechanism should provide for the adoption by the Council, upon a proposal by the Commission, of a regulation setting out restrictions on travel, including restrictions on entry and any other necessary measures for travel into the European Union, and the conditions for lifting them. In view of the politically sensitive nature of such measures which concern the right to enter the territory of Member States, implementing powers should be conferred on the Council to adopt such a regulation, acting on a proposal from the Commission.</p>	<p>(6) <del>The mechanism should provide for the adoption by the Council, upon a proposal by</del> <a href="#"><u>When there is a large-scale public health emergency with a serious cross-border threat to health,</u></a> the Commission, <del>of a regulation setting out</del> <a href="#"><u>should be able to adopt delegated acts providing for temporary</u></a> restrictions on travel <a href="#"><u>to the Member States,</u></a> including restrictions on entry and any other necessary measures for travel into the European Union, and the conditions for lifting <del>them. In view of the politically sensitive nature of such measures which concern the right to enter the territory of Member States, implementing powers should be conferred on the Council to adopt such a regulation, acting on a proposal from the Commission</del> <a href="#"><u>those restrictions and other measures. It is of particular importance that the Commission</u></a></p>	<p>(6) The mechanism should provide for the adoption by the Council, upon a proposal by the Commission, of a regulation setting out <a href="#"><u>temporary</u></a> restrictions on travel, including restrictions on entry and <del>any other necessary measures for travel into the European Union</del> <a href="#"><u>minimum temporary health-related restrictions</u></a>, and the conditions for lifting them. In view of the politically sensitive nature of such measures which concern the right to enter the territory of Member States, implementing powers should be conferred on the Council to adopt such a regulation, acting on a proposal from the Commission.</p>	

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		<u>carry out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts the Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.</u>		
15	(7) Importantly, in line with the applicable obligations under Union and international law, Union citizens and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, as well as their respective family members should always be permitted to enter the Union. Residents in the Union should also always be permitted to return to the Union. The act should contain all necessary elements to ensure that restrictions on travel are effective, targeted, non-discriminatory and proportionate to the evolving epidemiological	(7) Importantly, in line with the applicable obligations under Union and international law, Union citizens and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, as well as their respective family members should always be permitted to enter the Union. <u>Similarly, in accordance with Union law and international law, beneficiaries of international protection and those persons seeking asylum shall not be prohibited from entering the Union.</u> Residents in the Union should also always be permitted to	(7) Importantly, in line with the applicable obligations under Union and international law, Union citizens and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, as well as their respective family members should always be permitted to enter the Union. Residents in the Union should also always be permitted to return to the Union, <u>and in particular to the Member State in which they legally reside. The act should lay down minimum temporary health restrictions to which these persons may be</u>	

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	<p>situation. It should specify, where relevant, any categories of travellers whose travel should be exempted from restrictions on entry. In addition, or alternatively, the act should specify any geographical areas or third countries from which travel may be subject to specific measures, based on an objective methodology and criteria applicable thereto that should include, in particular, the epidemiological situation. The act could specify the conditions under which travel may be permitted such as testing, quarantine, self-isolation or any other appropriate measures, such as the need to fill in a passenger locator form or other contact tracing tool and having regard, in particular, to any Union systems developed to facilitate travel under safe conditions, such as digital certification systems. Where appropriate, the instrument could also set up a mechanism allowing to take additional measures in case the epidemiological situation dramatically worsens in one or more geographical areas.</p>	<p>return to the Union. <del>The</del><u>That</u> <u>delegated</u> act should contain all necessary elements to ensure that restrictions on travel are effective, targeted, non-discriminatory and proportionate to the evolving epidemiological situation. It should specify, where relevant, any categories of travellers whose travel should be exempted from restrictions on entry. In addition, or alternatively, the act should specify any geographical areas or third countries from which travel may be subject to specific measures, based on an objective methodology and criteria applicable thereto that should <del>include, in particular,</del><u>derive from</u> the epidemiological situation. The act could specify the conditions under which travel may be permitted such as testing, quarantine, self-isolation or any other appropriate measures, such as the need to fill in a passenger locator form or other contact tracing tool and having regard, in particular, to any Union systems developed to facilitate travel under safe conditions, such as digital certification systems. <del>Where appropriate, the instrument could also set up a mechanism allowing</del></p>	<p><u>subject. As regards third-country nationals legally residing in Ireland, Member States should on a reciprocal basis allow those residents to return to Ireland by transiting through the territory of the Member States. Ireland is invited to align its national policy with the restrictions on travel to the European Union.</u> The act should contain all necessary elements to ensure that restrictions on travel are effective, targeted, non-discriminatory and proportionate to the evolving epidemiological situation. It should <del>specify, where relevant, any</del><u>define the</u> categories of <u>essential</u> travellers whose travel should be exempted from restrictions on entry <u>and lay down the conditions under which travel restrictions may exceptionnally be imposed on these travellers. These categories should include, for example, healthcare professionals, cross-border workers, transport personnel, diplomats or other international staff, passengers in transit, passengers travelling for imperative family reasons, seafarers, third-country nationals seeking international protection,</u></p>	

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		<p><del>to take additional measures in case the epidemiological situation dramatically worsens in one or more geographical areas</del><u>In duly justified cases, where grounds of urgency so require, the Commission should adopt an immediately applicable delegated act under the urgency procedure provided for under this Regulation.</u></p>	<p><u>seasonal workers, students and highly qualified workers whose employment is necessary from an economic, societal and security perspective and whose work cannot be postponed or performed abroad.</u> In addition, or alternatively, the act should <del>specify</del> <u>determine</u> any geographical areas or third countries from which travel may be subject to specific measures <u>and define a procedure to periodically review the situation and the travel restrictions</u>, based on an objective methodology and criteria applicable thereto that should include, in particular, the epidemiological situation. The act could specify the conditions under which travel may be permitted such as testing, quarantine, self-isolation or any other appropriate measures, such as the need to fill in a passenger locator form or other contact tracing tool and having regard, in particular, to any Union systems developed to facilitate travel under safe conditions, such as digital certification systems. Where appropriate, the instrument could also set up a mechanism allowing to take additional measures in case the</p>	

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			epidemiological situation dramatically worsens in one or more geographical areas.	
15a			<u>(7a) The effectiveness of restrictions on travel to the European Union is premised on applying uniform rules to third countries and third-country nationals. The application of uniform rules through the implementing Regulation should ensure the protection of public health and thus preserve the functioning of the area without internal border controls. Member States could adopt stricter temporary health and other related restrictions than those laid down in the implementing Regulation provided that such restrictions do not have a negative impact on the functioning of the area without internal border controls. Such measures may include restrictions on travel against other regions or third countries not covered by the implementing Regulation, if they are based on a national risk assessment and are proportionate. In addition, Member States may</u>	

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			<u>adopt restrictions on travel in the absence of a Council implementing Regulation. The implementing Regulation should take into account the specific situation of the Overseas Countries or Territories referred to in Article 355(2) TFEU and listed in Annex II thereto.</u>	
15b			<u>(7b) During the application of the Council implementing Regulation setting out temporary travel restrictions and in application of the entry conditions set out in Article 6 of this Regulation, only third-country nationals who are not subject to restrictions on entry and who comply with other health related entry conditions provided for in the implementing Regulation should be allowed entry.</u>	
15c			<u>(7c) Transit inside the EU for EU citizens and their family members as well as for categories of essential travellers should not be subject to temporary health related restrictions on travel in</u>	



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			<u>order to allow them to reach their final destination. Temporary health related restrictions, where imposed, should be applied upon arrival at the final destination.</u>	
16	(8) It is also necessary to reinforce the rules and safeguards in Union law in order to allow Member States to act swiftly to counter instances of instrumentalisation of migrants. Such instrumentalisation should be understood as referring to a situation where a third country instigates irregular migratory flows to the Union by actively encouraging or facilitating the arrival of third country nationals to the external borders of the Member States, where such actions indicate an intention to destabilise the Union as a whole or a Member State and where the nature of such actions is liable to put at risk essential State functions, including its territorial integrity, the maintenance of law and order or the safeguard of its national security.	<i>deleted</i>	(8) It is also necessary to reinforce the rules and safeguards in Union law in order to allow Member States to act swiftly to counter instances of instrumentalisation of migrants. Such instrumentalisation should be understood as referring to a situation where a third country <del>instigates irregular migratory flows to the Union by actively encouraging or facilitating the arrival of third country</del> <u>or non state actor encourages or facilitates the movement of third-country</u> nationals to the external borders <del>of the</del> <u>or to a</u> Member <del>States, where such actions indicate an intention to destabilise</del> <u>State , with the aim of destabilising</u> the Union <del>as a whole</del> <u>_</u> or a Member State <del>and</del> <u>,</u> where <del>the nature of</del> <u>_</u> such actions <del>is</del> <u>are</u> liable to put at risk essential <del>State functions, including its territorial integrity, of a Member State, including</del> the maintenance of law and order or the safeguard	

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			of its national security.	
17	<p>(9) Instrumentalisation of migrants can refer to situations where irregular travel of third country nationals has been actively encouraged or facilitated by a third country onto its own territory to reach the external border of the Member States but can equally refer to the active encouragement or facilitation of irregular travel of third country nationals already present in that third country. Instrumentalisation of migrants may also entail the imposition of coercive measures, intended to prevent the third country nationals from leaving the border areas of the instrumentalising third country, in a direction other than through a Member State.</p>	deleted	<p>(9) Instrumentalisation of migrants can refer to situations where irregular travel of <del>third country</del><u>third-country</u> nationals has been <del>actively</del> encouraged or facilitated by a third country <del>onto its own</del><u>or non state actor onto a</u> territory to reach the external border of the Member States but can equally refer to the <del>active</del> encouragement or facilitation of irregular travel of third country nationals already present in <del>that</del> <u>a</u> third country. Instrumentalisation of migrants may also entail the imposition of coercive measures, intended to prevent the third country nationals from leaving the border areas of the instrumentalising third country, in a direction other than through a Member State. <u>Situations in which non state actors are involved in organised crime, in particular smuggling, should not be considered as instrumentalisation of migrants when there is no aim to destabilise the Union or a Member State. Furthermore, humanitarian aid operations</u></p>	

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			<u>should not be considered as instrumentalisation of migrants when there is no aim to destabilise the Union or a Member State.</u>	
17a			<u>(9a) As regards Cyprus, Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession provides for specific rules that apply to the line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control and those areas in which the Government of the Republic of Cyprus does not exercise effective control. Although the line does not constitute an external border, it follows that a situation where a third-country or non state actor encourages or facilitates the movement of third country nationals to cross the line should be considered as instrumentalisation.</u>	
18	(10) The Union should mobilise all tools from its toolbox of	<i>deleted</i>	(10) The Union should mobilise all tools from its toolbox of	

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	diplomatic, financial and operational measures to support the Member States confronted with instrumentalisation. Diplomatic efforts by the Union or the Member State concerned, should be given priority as the means of addressing the phenomenon of instrumentalisation. This may be supplemented, where appropriate, by the imposition of restrictive measures by the Union.		diplomatic, financial and operational measures to support the Member States confronted with instrumentalisation. Diplomatic efforts by the Union or the Member State concerned, should be given priority as the means of addressing the phenomenon of instrumentalisation. This may be supplemented, where appropriate, by the imposition of restrictive measures by the Union.	
19	(11) At the same time, in addition to these measures, it is equally necessary to further reinforce the current rules in relation to external border controls and border surveillance. To further assist the Member State facing an instrumentalisation of migrants, Regulation (EU) XXX/XXX complements the rules on border control by providing for specific measures in the area of asylum and return, while respecting the fundamental rights the individuals concerned and in particular by ensuring the respect of the right to asylum and providing the necessary assistance by the UN agencies and other relevant	<i>deleted</i>	(11) At the same time, in addition to these measures, it is equally necessary to further reinforce the current rules in relation to external border controls and border surveillance. To further assist the Member State facing an instrumentalisation of migrants, Regulation (EU) XXX/XXX complements the rules on border control by providing for specific measures in the area of asylum and return, while respecting the fundamental rights <i>of</i> the individuals concerned and in particular by ensuring the respect of the right to asylum and providing the necessary assistance by the UN agencies and other	

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	organisations.		relevant organisations.	
20	<p>(12) In particular, in a situation of instrumentalisation, it should, where necessary, be possible for the Member State concerned, to limit border traffic to the minimum by closing some border crossing points, while guaranteeing genuine and effective access to international protection procedures. Any such decision should take into account whether the European Council has acknowledged that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants. Furthermore, any such limitations should take full account of the rights of Union citizens, third country nationals who are beneficiaries of the right of free movement pursuant an international agreement and third-country nationals who are long-term residents under national or Union law or are holders of long-term visas, as well as their respective family members. Such limitations should also be applied in a manner that ensures respect for obligations related to access to</p>	deleted	<p>(12) <u>Member States may</u>, in particular, in a situation of instrumentalisation, <del>it should, where necessary, be possible for the Member State concerned, to</del> <u>of migrants or in other situations of emergency at the external border</u>, limit border traffic to the minimum by <u>temporarily</u> closing some border crossing points, <del>while guaranteeing genuine and effective access to international protection procedures. Any such decision should take into account whether the European Council has acknowledged that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants. Furthermore,</del> <u>or limit their opening hours, .</u> Any such limitations should take full account of the rights of Union citizens, <del>third country</del> <u>third-country</u> nationals who are beneficiaries of the right of free movement pursuant <u>to</u> an international agreement and third-country nationals who are long-term residents under national or Union</p>	

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	international protection, in particular the principle of non-refoulement.		law or are holders of <del>long-term</del> <u>long-stay</u> visas, as well as their respective family members <u>and third-country nationals seeking international protection.</u> <u>When a border crossing point is closed, such categories should use another border crossing point which remains open.</u> <u>Furthermore, Member States may, in particular in a situation of instrumentalisation of migrants, where third-country nationals attempt to force entry en masse by using violent means, take the necessary measures to preserve security, law and order.</u> <del>Such</del> limitations <del>should also and</del> <u>measures should</u> be applied in a manner that ensures respect for obligations related to access to international protection, in particular the principle of <u>non-refoulement</u> <del>non-refoulement</del> .	
20a			<u>(12a) Without prejudice to the possibility to take measures under this Regulation in the context of instrumentalisation, the Member State concerned should take into account whether the European Council has acknowledged that</u>	

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			<u><i>the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants</i></u>	
21	<p>(13) The European Border and Coast Guard Agency assists Member States with implementing the operational aspects of external border management, including information exchange, the provision of equipment, capacity building and training to national border guards, targeted information and risk analysis, as well as the deployment of the Standing Corps. The Agency's new mandate offers considerable opportunities to support border control activities, including screening and return operations and a launch of rapid border intervention and/or return intervention at the request and on the territory of the host Member State concerned.</p>	<p>(13) The European Border and Coast Guard Agency assists Member States with implementing the operational aspects of external border management, including information exchange, the provision of equipment, capacity building and training to national border guards, targeted information and risk analysis, <u><i>the deployment of the Standing Corps</i></u>, as well as <del><i>the deployment of the Standing Corps</i></del> <u><i>assistance in search and rescue operations for persons in distress at sea launched and carried out in accordance with Regulation (EU) No 656/2014<sup>1a</sup></i></u>. The Agency's new mandate offers considerable opportunities <u><i>for Member States to be assisted in their</i></u> <del><i>to support</i></del> border control activities, including <del><i>screening</i></del> <u><i>and with regard to</i></u> return operations and a launch of rapid border intervention and/or return intervention at the request and on the territory of the host Member</p>	<p>(13) The European Border and Coast Guard Agency assists Member States with implementing the operational aspects of external border management, including information exchange, the provision of equipment, capacity building and training to national border guards, targeted information and risk analysis, as well as the deployment of the Standing Corps. The Agency's new mandate offers considerable opportunities to support border control activities, including screening and return operations and a launch of rapid border intervention and/or return intervention at the request and on the territory of the host Member State concerned.</p>	

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		<p>State concerned. <u><a href="#">These activities are to be conducted in compliance with fundamental rights obligations.</a></u></p> <p><u><a href="#">1a. Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 189, 27.6.2014, p. 93).</a></u></p>		
22	<p>(14) By virtue of Article 41(1) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency is required to recommend to a Member State that it request the Agency to initiate, carry out or adjust the Agency's support, in order to address identified threats and challenges at the external borders, where the conditions laid down in that provision are met. In particular, the need for Agency support may become apparent in situations where the European Border and Coast Guard Agency has carried out a dedicated</p>	<p>(14) By virtue of Article 41(1) of Regulation (EU) 2019/1896, <del>the Executive Director of the European Border and Coast Guard Agency is required to recommend to a Member State that it request the Agency to initiate, carry out or adjust the Agency's support, in order to address identified threats and challenges at the external borders, where the conditions laid down in that provision are met. In particular, the need for Agency support may become apparent in situations where the European Border and Coast Guard Agency has carried out a dedicated</del></p>	<p>(14) By virtue of Article 41(1) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency is required to recommend to a Member State that it request the Agency to initiate, carry out or adjust the Agency's support, in order to address identified threats and challenges at the external borders, where the conditions laid down in that provision are met. In particular, the need for Agency support may become apparent in situations where the European Border and Coast Guard Agency has carried out a dedicated</p>	



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	<p>vulnerability assessment in connection with the instrumentalisation of migrants. On the basis of the results of such a vulnerability assessment or where a critical impact level is attributed to one or more external border sections and taking into account the relevant elements in the Member State's contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, the Executive Director should recommend to the Member State concerned to request that the Agency initiate, carry out or adjust the Agency's support in accordance with Article 41(1) of Regulation (EU) 2019/1896. This competence of the Executive Director is without prejudice to the general support that the Agency may be providing to the Member States.</p>	<p><del>vulnerability assessment in connection with the instrumentalisation of migrants.</del> on the basis of the results of <del>such</del> a vulnerability assessment or where a critical impact level is attributed to one or more external border sections <del>and taking into account the relevant elements in the of a</del> Member State's <del>contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, the Executive Director should,</del> <u>the Executive Director of the European Border and Coast Guard Agency is required to</u> recommend to <del>the</del> <u>a</u> Member State <del>concerned to</del> <u>that it</u> request <del>that</del> the Agency <u>to</u> initiate, carry out or adjust the Agency's support <del>in accordance with Article 41(1) of Regulation (EU) 2019/1896.</del> This competence of the Executive Director is without prejudice to the general support that the Agency may <del>be providing</del> <u>provide</u> to the Member States.</p>	<p>vulnerability assessment in connection with the instrumentalisation of migrants. On the basis of the results of such a vulnerability assessment or where a critical impact level is attributed to one or more external border sections and taking into account the relevant elements in the Member State's contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, the Executive Director should recommend to the Member State concerned to request that the Agency initiate, carry out or adjust the Agency's support in accordance with Article 41(1) of Regulation (EU) 2019/1896. This competence of the Executive Director is without prejudice to the general support that the Agency may be providing to the Member States.</p>	
23	<p>(15) Moreover, in the event of instrumentalisation of migrants, the Member State concerned should</p>	<p>(15) <del>Moreover, in the event of instrumentalisation of migrants, the Member State concerned</del></p>	<p>(15) Moreover, in the event of instrumentalisation of migrants, the Member State concerned should</p>	

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	reinforce border control, including, as appropriate, through additional measures preventing illegal crossings and the deployment of additional resources and technical means to prevent unauthorised crossing of the border. Such technical means could include modern technologies including drones and motion sensors, as well as mobile units. The use of such technical means, in particular, any technologies capable of collecting personal data, needs to be based on and exercised in accordance with clearly defined provisions of national law.	<del>should</del> <u>Where a Member State considers it necessary to</u> reinforce border control, <del>including, as appropriate, through additional measures preventing illegal crossings and the deployment of additional resources and technical means to prevent unauthorised crossing of the border. Such technical means could include</del> <u>and where it considers using</u> modern technologies including drones and motion sensors, as well as mobile units, <del>it is important that the use of any such technologies capable of collecting personal data respects EU primary law, especially the Charter of Fundamental Rights, and Union data protection law, and that it is</del> <u>such technical means, in particular, any technologies capable of collecting personal data, needs to be</u> based on and exercised in accordance with clearly defined provisions of national law.	reinforce border control, including, as appropriate, through additional measures preventing illegal crossings and the deployment of additional resources and technical means to prevent unauthorised crossing of the border. Such technical means could include modern technologies including drones and motion sensors, as well as mobile units, <u>and, where appropriate, all types of stationary and mobile infrastructure</u> . The use of such technical means, in particular, any technologies capable of collecting personal data, needs to be based on and exercised in accordance with clearly defined provisions of national law.	
24	(16) The Commission should be empowered to specify, in delegated acts adopted under this Regulation, appropriate standards for border surveillance, concerning in	(16) <u>In accordance with EU rules on the use of artificial intelligence and Union data protection law,</u> the Commission should be empowered to specify, in delegated acts	(16) The Commission <del>should be empowered to specify, in delegated acts adopted under this Regulation, appropriate</del> <u>may adopt an implementing act concerning</u>	

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	particular the new technologies that Member States may use, while taking into account the type of borders (land, sea or air), the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 and other relevant factors, as a specific response to situations of instrumentalisation of migrants.	adopted under this Regulation, appropriate standards for border surveillance, concerning in particular the new technologies that Member States may use, while taking into account the type of borders (land, sea or air), the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 and other relevant factors. <u>During such surveillance, third-country nationals should not be subject to intrusive biometric technologies;</u> <del>as a specific response to situations of instrumentalisation of migrants.</del>	<u>common minimum</u> standards for border surveillance, <del>concerning in particular the new technologies that Member States may use, while</del> taking into account the type of borders (land, sea or air), the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 and other relevant factors, <u>such as geographical particularities and</u> <del>as</del> a specific response to situations of instrumentalisation of migrants.	
25	(17) In an area without internal border controls, persons should be able to move freely, and in security between Member States. In this regard, it should be clarified that the prohibition of controls at internal borders does not affect the competence of Member States to carry out checks on their territory, including at their internal borders, for purposes other than border control. It should, in particular, be clarified that national competent authorities, including health or law	(17) In an area without internal border controls, persons, <u>irrespective of their nationality,</u> should be able to move freely, and in security between Member States. In this regard, it should be clarified that the prohibition of controls at internal borders does not affect the competence of Member States to carry out checks on their territory, <del>including at their internal borders,</del> for purposes other than border control. It should, in particular, be clarified that	(17) In an area without internal border controls, persons should be able to move freely, and in security between Member States. In this regard, it should be clarified that the prohibition of controls at internal borders does not affect the competence of Member States to carry out checks on their territory, including at their internal borders, for purposes other than border control. It should, in particular, be clarified that national competent authorities, including health or law	

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	enforcement authorities, remain, in principle, free to carry out checks in the exercise of public powers provided for under national law.	national competent authorities, including health or law enforcement authorities, remain, in principle, <del>free to carry out checks in the exercise of public</del> <u>entitled to exercise public powers provided for under national law provided that the effect of those</u> powers <del>provided for under national law is</del> <u>not equivalent to internal border control and does not lead to any form of discrimination.</u>	enforcement authorities, remain, in principle, free to carry out checks in the exercise of public powers provided for under national law.	
26	(18) While the prohibition of internal border controls also extends to checks having equivalent effects, checks by competent authorities should not be considered equivalent to the exercise of border checks where they do not have border control as an objective, where they are based on general information and experience of the competent authorities regarding possible threats to public security or public policy, including where they aim to combat irregular stay or residence and cross-border crimes linked to irregular migration, where they are devised and executed in a manner clearly distinct from systematic	(18) While the prohibition of internal border controls also extends to checks having equivalent effects, checks by <del>competent authorities should</del> <u>police or other public powers might</u> not be considered equivalent to the exercise of border checks where they do not have border control as an objective, where they are based on general <u>law enforcement</u> information and experience <del>of the competent authorities</del> regarding possible threats to public security or public policy, <del>including</del> where they aim <u>in particular</u> to combat <u>cross-border crime, reduce</u> irregular <del>stay or residence and cross-border crimes linked to</del>	(18) While the prohibition of internal border controls also extends to checks having equivalent effects, checks by competent authorities should not be considered equivalent to the exercise of border checks where they do not have border control as an objective, where they are based on general information and experience of the competent authorities regarding possible threats to public security or public policy, including where they aim to combat <del>irregular stay or residence</del> <u>illegal migration</u> and cross-border crimes linked to <del>irregular</del> <u>illegal</u> migration, where they are devised and executed in a manner clearly	

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	checks on persons at the external borders, and where they are conducted at transport hubs, such as ports, train or bus stations and airports or directly on board of passenger transport services, and where they are based on risk analysis.	<del>irregular migration</del> <u>migration or contain the spread of an infectious disease with epidemic potential as identified by the European Centre for Disease Control</u> , where they are devised and executed in a manner clearly distinct from systematic checks on persons at the external <u>or internal</u> borders, and where they are conducted at transport hubs, such as ports, train or bus stations and airports or directly on board of passenger transport services, and where they are based on risk analysis. <u>At the same time, where competent authorities exercise police powers in a border area, they are entitled to do so only subject to strict detailed rules and limitations laid down by Member States in order not to jeopardise the attainment of the objective of the abolition of internal border controls.</u>	distinct from systematic checks on persons at the external borders, and where they are conducted at transport hubs, such as ports, train or bus stations and airports <u>as well as freight terminals</u> or directly on board of passenger transport services, and where they are based on <u>a risk assessment</u> <del>risk analysis</del> .	
27	(19) While irregular migratory flows should not, per se, be considered to be a threat to public policy or internal security, they may require additional measures to ensure the functioning of the	(19) <del>While irregular migratory flows</del> <u>Migration and the crossing of external border by a large number of third-country nationals</u> should not, per se, be considered to be a threat to public policy or	(19) While irregular migratory flows should not, per se, be considered to be a threat to public policy or internal security, they may require additional measures to ensure the functioning of the	

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	Schengen area.	internal security, <del>they may require additional measures to ensure the functioning of the Schengen area.</del>	Schengen area.	
28	(20) The combatting of illegal residence or stay and of cross-border crime linked to irregular migration such as human trafficking, migrant smuggling and document fraud and other forms of cross-border crime could in particular encompass measures allowing the verification of the identity, nationality and residence status of persons provided that such verifications are non-systematic and carried out on the basis of risk analysis.	(20) <del>The combatting of illegal residence or stay and of</del> <u>To counteract irregular migration</u> and cross-border crime linked to irregular migration, such as human trafficking, migrant smuggling and document fraud, <u>and to combat</u> <del>and</del> other forms of cross-border crime, <u>Member States could be required to take measures to verify</u> <del>could in particular encompass measures allowing the verification of</del> the identity, nationality and residence status of persons provided that such verifications are, <u>not systematically carried out at the border or in border regions, do not breach the principle of non-discrimination, and are non-</u> <del>systematic and</del> carried out on the basis of risk analysis.	(20) The combatting of illegal <del>residence or stay</del> <u>migration</u> and of cross-border crime linked to <del>irregular-illegal</del> migration such as human trafficking, migrant smuggling and document fraud and other forms of cross-border crime could in particular encompass measures allowing the verification of the identity, nationality and residence status of persons provided that such verifications are non-systematic and carried out on the basis of <u>a risk assessment</u> <del>risk analysis.</del>	
29	(21) The use of modern technologies to monitor traffic flows, notably on motorways and other important roads determined	(21) The use of modern technologies to monitor traffic flows, notably on motorways and other important roads determined	(21) The use of modern technologies to monitor traffic flows, notably on motorways and other important roads determined	

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	by the Member States, can be instrumental in addressing threats to public policy or internal security. The prohibition of internal border controls should not be understood as preventing the lawful exercise of police or other public powers to carry out checks in the internal border areas. This includes checks that entail the use of monitoring and surveillance technologies which are generally used in the territory or that are based on a risk assessment for the purpose of protecting internal security. The use of such technologies for checks should therefore not be considered as equivalent to border controls.	by the Member States, can be instrumental in addressing threats to public policy or internal security. The prohibition of internal border controls should not be understood as preventing the lawful exercise of police or other public powers to carry out checks <del>in the internal border areas. This includes checks</del> that entail the use of monitoring and surveillance technologies which are generally used in the territory or that are based on a risk assessment for the purpose of protecting internal security. <del>The use of such technologies for checks should therefore not be considered as equivalent to border controls.</del>	by the Member States, can be instrumental in addressing threats to public policy or internal security. The prohibition of internal border controls should not be understood as preventing the lawful exercise of police or other public powers to carry out checks in the internal border areas. This includes checks that entail the use of monitoring and surveillance technologies which are generally used in the territory or that are based on a risk assessment for the purpose of protecting internal security. The use of such technologies for checks should therefore not be considered as equivalent to border controls.	
30	(22) In order to allow for such technologies to be effective, it should be possible to apply proportionate speed limits at road crossings.	<i>deleted</i>	(22) In order to allow for such technologies to be effective, it should be possible to apply proportionate speed limits at road crossings.	
31	(23) The prohibition of border controls at internal borders should not limit the carrying out of checks provided for in other instruments	<i>deleted</i>	(23) The prohibition of border controls at internal borders should not limit the carrying out of checks provided for in other instruments	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	of Union law. The rules provided for in this Regulation, should not therefore, affect the applicable rules regarding the carrying out of checks on passenger data against relevant databases in advance of arrival.		of Union law. The rules provided for in this Regulation, should not therefore, affect the applicable rules regarding the carrying out of checks on passenger data against relevant databases in advance of arrival.	
32	(24) It is necessary to ensure that checks carried out by Member States in exercise of national competences remain fully consistent with an area that is free of internal border controls. In accordance with the case law of the Court of Justice, the more extensive the indications are that checks conducted by Member States at their border areas have an equivalent effect to border control, having regard to the objective of such checks, their territorial scope and possible differences compared to checks carried out in the remainder of the territory of the Member State concerned, the greater the need for strict and detailed rules and limitations laying down the conditions for the exercise, by the Member States, of their police powers in a border area.	(24) It is necessary to ensure that checks carried out by Member States in exercise of national competences remain fully consistent with an area that is free of internal border controls. In accordance with the case law of the Court of Justice, the more extensive the indications are that checks conducted by Member States at their border areas have an equivalent effect to border control, having regard to the objective of such checks, their territorial scope and possible differences compared to checks carried out in the remainder of the territory of the Member State concerned, the greater the need for strict and detailed rules and limitations laying down the conditions for the exercise, by the Member States, of their police powers in a border area.	(24) It is necessary to ensure that checks carried out by Member States in exercise of national competences remain fully consistent with an area that is free of internal border controls. In accordance with the case law of the Court of Justice, the more extensive the indications are that checks conducted by Member States at their border areas have an equivalent effect to border control, having regard to the objective of such checks, their territorial scope and possible differences compared to checks carried out in the remainder of the territory of the Member State concerned, the greater the need for strict and detailed rules and limitations laying down the conditions for the exercise, by the Member States, of their police powers in a border area.	



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32a			<p><u>(24a) The exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their border areas, should not have a disproportionate impact on fluidity of movement across the internal borders, notably by leading to excessive waiting times. In a spirit of dialogue and cooperation, Member States should inform the neighbouring Member State of their actions, in particular when the action is expected to have a more significant effect on cross-border traffic.</u></p>	
32b		<p><u>(24a) Before resorting to the reintroduction of border control at internal borders, Member States should give precedence to alternative measures. Member States should assess whether the situation could be adequately addressed by way of increased cross-border cooperation, both from an operational point of view</u></p>		

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		<u>and from that of information exchange between police services and other competent authorities of the Member State.</u>		
32c		<u>(24b) In the absence of internal border controls, targeted joint patrols in intra-EU border areas are a valuable tool to counter migrant smuggling and trafficking in human beings, to prevent irregular stays and cross-border crime linked to irregular migration. It is possible that such checks prove more effective than internal border controls, in particular as they are more flexible and can be adapted more easily to evolving risks. When opting for cross-border police cooperation, it is important that they are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders and in a non-discriminatory manner.</u>		
33	(25) Measures need to be taken to address unauthorised movements of illegally staying third country	(25) <del>Measures need to be taken to address unauthorised movements of illegally staying third country</del>	(25) Measures need to be taken to address unauthorised movements of illegally staying third country	

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	<p>nationals in an area without internal border controls. In order to strengthen the functioning of the Schengen area, Member States should be able to take additional measures to counter irregular movements between Member States, and combat illegal stays. Where national law enforcement authorities of a Member State apprehend illegally staying third country nationals at the internal borders as part of cross-border police operational cooperation it should be possible for those authorities to refuse such persons the right to enter or remain in their territory and to transfer them to the Member State from which they entered. The Member State from where the person came directly should in turn be required to receive the apprehended third country nationals.</p>	<p><del>nationals in an area without internal border controls. In order to strengthen the functioning of the Schengen area, Member States should be able to take additional</del><u>In order to strengthen the functioning of the Schengen area, and to assist Member States in countering irregular migration, including between Member States, and combat irregular stays, within the last ten years, the Union legislature has adopted numerous flanking measures, including the establishment of an Entry-Exit System, the establishment of a European Travel Information and Authorisation System, the establishment of a European Criminal Records database in respect of</u><del>to counter irregular movements between Member States, and combat illegal stays. Where national law enforcement authorities of a Member State apprehend illegally staying third country nationals at the internal borders as part of cross-border police operational cooperation it should be possible for those authorities to refuse such persons the right to enter or remain in their territory and to transfer them to the</del></p>	<p>nationals in an area without internal border controls. In order to strengthen the functioning of the Schengen area, Member States should be able to take additional measures to counter irregular movements between Member States, and combat illegal stays. Where national law enforcement authorities of a Member State apprehend illegally staying third-country nationals <del>at the internal borders as part of cross-border police operational</del><u>in border areas during checks conducted by the competent authorities within a bilateral cooperation framework, which may include in particular joint police patrols</u> it should be possible for those authorities to refuse such persons the right to enter or remain in their territory and to transfer them to the Member State from which they entered. <u>In a context of preserving and promoting multilateral police cooperation between Member States, checks conducted by the competent authorities in a multilateral cooperation framework are also covered.</u> The Member State from where the person came directly should in turn</p>	

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		<p><del>Member State from which they entered. The Member State from where the person came directly should in turn be required to receive the apprehended third country nationals,</del> <u>the reform of the Schengen Information System, the reform of the Visa Information System, two substantial overhauls of the mandate of the European Border and Coast Guard Agency, and the establishment of an interoperability framework to allow EU databases in the Area of Freedom, Security and Justice to communicate with one another.</u></p>	<p>be required to receive the apprehended <del>third-country nationals</del> <u>third-country nationals.</u> <u>The transfer should not apply to persons making an application for international protection or to persons who may be taken back by a Member State under the conditions laid down in Article 24 of Regulation (EU) 604/2013.</u></p>	
33a		<p><u>(25a) Where, in the context of joint police patrols as part of cross-border police operational cooperation, national law enforcement authorities of a Member State apprehend third country nationals, who have no right to stay, in the vicinity of internal borders, and where that Member State has not reintroduced internal border control, , it should then be possible for those authorities to transfer those third country</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>nationals to the Member State from which they entered, where the law enforcement authorities of that latter Member State are participating in the joint police patrols. The Member State from where the person came directly should in turn be required to receive the apprehended third country nationals.</i></u>		
33b		<u><i>(25b) To prevent racial profiling, the information on the basis of which joint police patrols are carried out in the vicinity of the internal borders should not be based on information collected through automated processing of data available in different data sources or in different data formats in order to forecast or predict trends related to migration and border crossings.</i></u>		
34	(26) The procedure by which a Member State may transfer apprehended illegally staying third country nationals to a Member State from where the person came directly should take place swiftly	(26) The procedure by which a Member State may transfer <del>apprehended illegally staying</del> third country nationals <u>with no right to stay</u> to a Member State from where the person came directly should	(26) The procedure by which a Member State may transfer apprehended illegally staying third-country nationals to a Member State from where the person came directly should take place swiftly	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>but be subject to safeguards and carried out in full respect of fundamental rights and the principle of non-discrimination enshrined in Article 21 of the Charter, to prevent racial profiling. It should be possible for the authorities to carry out a verification of relevant information immediately available to the authorities concerning the movements of the persons concerned. Such information may include objective elements that would allow the authorities to conclude that the person had recently travelled from another Member States, such as the possession of documents, including receipts or invoices, evidencing recent travel from another Member State. Third country nationals subject to the transfer procedure should be provided with a reasoned decision in writing. While the decision should be immediately enforceable, the third country national should be afforded an effective remedy to appeal against or seek review of the transfer decision. This remedy should not have suspensive effect.</p>	<p>take place swiftly but be <u>limited and</u> subject to safeguards and carried out in full respect of fundamental rights, <u>in particular</u> <del>and</del> the principle of non-discrimination enshrined in Article 21 of the Charter, <del>to prevent racial profiling. It should be possible for the authorities to carry out a verification of relevant information immediately available to the authorities concerning the movements of the.</del> <u>Since Union-level rules governing persons seeking international protection and beneficiaries of international protection are laid down in the asylum acquis, including the procedures for the transfer of such persons concerned. Such information may include objective elements that would allow the authorities to conclude that the person had recently travelled from another Member States, such as the possession of documents, including receipts or invoices, evidencing recent travel between Member States, it should be clear that this procedure does not apply, in any circumstances, to persons seeking international protection or beneficiaries of international</u></p>	<p>but be subject to safeguards and carried out in full respect of fundamental rights and the principle of non-discrimination enshrined in Article 21 of the Charter, to prevent racial profiling. It should be possible for the authorities to carry out a verification of relevant information immediately available to the authorities concerning the movements of the persons concerned. Such information may include objective elements that would allow the authorities to conclude that the person had recently travelled from another Member States, such as the possession of documents, including receipts or invoices, evidencing recent travel from another Member State. <del>Third country</del> <u>Third-country</u> nationals subject to the transfer procedure should be provided with a reasoned decision in writing. While the decision should be immediately enforceable, the <del>third country</del> <u>third-country</u> national should be afforded an effective remedy to appeal against or seek review of the transfer decision. This remedy should not have suspensive effect.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>protection. In line with Articles 9 and 24 of the Charter, such a procedure should not apply to minors or members of their family arriving together</u> from another Member State. <del>Third-country nationals subject to the transfer procedure should be provided with a reasoned decision in writing. While the decision should be immediately enforceable,</del> <u>Moreover, the procedure should also not apply to third-country nationals who are holders of long-term residence permits or their family members, third-country nationals who enjoy the right to free movement in the Union, third-country nationals who are holders of valid long-stay visas and their family members in accordance with national law,</u> third country <del>national should be afforded an effective remedy to appeal against or seek review of the transfer decision. This remedy should not have suspensive effect</del> <u>nationals who are holders of a valid short stay visa or to third country nationals who are entitled to visa-free travel within the Schengen Area in so far as they have been on the territory for less</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>than 90 days in any 180-day period.</u>		
34a		<u>(26a) It should be possible for the authorities to carry out a verification of relevant information immediately available to the authorities concerning the movements of the persons who might be the subject of such a procedure. Such information can include objective elements that would allow the authorities to conclude that the person had recently travelled from another Member States, such as the possession of documents, including receipts or invoices, evidencing recent travel from another Member State. Third country nationals subject to the transfer procedure should be provided with a reasoned decision in writing. While the decision should be immediately enforceable, the third country national should have an effective remedy before a court or tribunal to appeal against or seek review of the transfer decision. That remedy should not have suspensive effect.</u>		



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
35	<p>(27) The transfer procedure provided for under this Regulation should not affect the existing possibility for Member States to return irregular third country nationals in accordance with bilateral agreements or arrangements referred to in Article 6(3) of Directive 2008/115/EC (the “Return Directive”), where such persons are detected outside of the vicinity of internal borders. In order to facilitate the application of such agreements, and to complement the objective of protecting the area without internal borders, the Member States should be afforded the possibility to conclude new agreements or arrangements and update existing ones. The Commission should be notified of any such modifications or updates of new agreements or arrangements. Where a Member State has taken back a third country national under the procedure provided for in this Regulation or on the basis of a bilateral agreement or arrangement, the Member State concerned should be required to issue a return decision in accordance with the Return</p>	<p>(27) <del>The transfer procedure provided for under</del> <u>Nothing in</u> this Regulation should <del>not</del> affect the existing possibility for Member States to return irregular third country nationals in accordance with bilateral agreements or arrangements referred to in Article 6(3) of Directive 2008/115/EC (the “Return Directive”), where such persons are detected outside of the vicinity of internal borders. <del>In order to facilitate the application of such agreements, and to complement the objective of protecting the area without internal borders, the Member States should be afforded the possibility to conclude new agreements or arrangements and update existing ones. The Commission should be notified of any such modifications or updates of new agreements or arrangements. Where a Member State has taken back a third country national under the procedure provided for in this Regulation or on the basis of a bilateral agreement or arrangement, the Member State concerned should be required to</del></p>	<p>(27) The transfer procedure provided for under this Regulation <u>is optional and</u> should not affect the existing possibility for Member States to return <del>irregular third country</del> <u>illegally staying third-country</u> nationals in accordance with bilateral agreements or arrangements referred to in Article 6(3) of Directive 2008/115/EC (the “Return Directive”), where such persons are detected outside of the vicinity of <u>border areas. Without prejudice to national competences, Member States may define practical modalities under their bilateral cooperation frameworks, including with a view to limiting the use of this transfer procedure when</u> internal <del>borders</del> <u>border controls are reintroduced or prolonged</u>. In order to facilitate the application of such agreements, and to complement the objective of protecting the area without internal <del>borders</del> <u>border controls</u>, the Member States should be afforded the possibility to conclude new agreements or arrangements and update existing ones. The Commission should be notified of any such modifications or updates</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Directive. In order to ensure consistency between the new procedures provided for in this Regulation and existing rules on the return of third country nationals, a targeted modification of Article 6(3) of the Return Directive is therefore necessary.	<del>issue a return decision in accordance with the Return Directive. In order to ensure consistency between the new procedures provided for in this Regulation and existing rules on the return of third country nationals, a targeted modification of Article 6(3) of the Return Directive is therefore necessary.</del>	of new agreements or arrangements. Where a Member State has taken back a <del>third country</del> <u>third-country</u> national under the procedure provided for in this Regulation or on the basis of a bilateral agreement or arrangement, the Member State concerned should be required to issue a return decision in accordance with the Return Directive. In order to ensure consistency between the new procedures provided for in this Regulation and existing rules on the return of third country nationals, a targeted modification of Article 6(3) of the Return Directive is <u>necessary. This is without prejudice to the application of Article 6(2)</u> <del>therefore necessary.</del>	
36	(28) In exceptional cases, addressing threats to the Schengen area may require the adoption, by the Member States, of measures at the internal borders. Member States remain competent to determine the need for the temporary reintroduction or prolongation of border controls. Under the existing rules, the	(28) In exceptional cases, addressing <u>identified</u> threats to the Schengen area may, <u>as a last resort</u> , require the adoption <u>of measures at the internal borders</u> by the Member States, <del>of measures at the</del> . <u>As free movement of persons is affected by the temporary reintroduction of internal borders, border control,</u>	(28) In exceptional cases, addressing threats to the Schengen area may require the adoption, by the Member States, of measures at the internal borders. Member States remain competent to determine the need for the temporary reintroduction or prolongation of border controls. Under the existing rules, the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>reintroduction of controls at internal borders is provided for in circumstances where a serious threat to internal security or public policy manifests itself in a single Member State for a limited period of time. In particular, terrorism and organised crime, large scale public health emergencies or large scale or high profile international events such as sporting, trade or political events can amount to a serious threat to public policy or internal security.</p>	<p><u>any decision to reintroduce such control should be taken in accordance with commonly agreed criteria and should be duly notified to the Commission, the Parliament and the Council or be recommended by a Union institution. Within the framework and limits laid down in this Regulation.</u> Member States remain competent to determine the need for the temporary reintroduction <del>or prolongation</del> of border controls. Under the existing rules, the reintroduction of controls at internal borders is provided for in circumstances where a serious threat to internal security or public policy manifests itself in a single Member State for a limited period of time. In particular, terrorism and organised crime, large scale public health emergencies or large scale or high profile international events such as sporting, trade or political events can amount to a serious threat to public policy or internal security.</p>	<p>reintroduction of controls at internal borders is provided for in circumstances where a serious threat to internal security or public policy manifests itself in a single Member State for a limited period of time. In particular, terrorism and organised crime, <del>large-scale</del><u>large-scale</u> public health emergencies or <del>large-scale</del><u>large-scale</u> or high profile international events such as sporting, trade or political events can amount to a serious threat to public policy or internal security.</p>	
37	<p>(29) Furthermore, a serious threat to public policy or internal security can also result from large scale</p>	<p>(29) Furthermore, <u>it is possible to consider that</u> a serious threat to public policy or internal security</p>	<p>(29) Furthermore, a serious threat to public policy or internal security can also result from large-scale</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>unauthorised movements of irregular migrants between the Member States where this creates a situation putting a strain on the overall resources and capacities of the responsible national services, where the other means provided for under this Regulation are not sufficient to address these inflows and movements. In this context, Member States should be able to rely on objective and quantified reports on unauthorised movements whenever available, in particular, when produced on a regular basis by the competent Union agencies in line with their respective mandates. It should be possible for a Member State to use the information provided by the agencies to demonstrate the exceptional character of the identified threat caused by unauthorised movement in the risk assessment, in order to justify the reintroduction of internal border controls on this ground.</p>	<p><del>can</del><u>could</u> also result from <del>large scale</del><u>an exceptional situation in which there is an unexpected and sudden large-scale</u> unauthorised <del>movements</del><u>movement</u> of irregular migrants between the Member States, where this creates a situation putting <del>a strain on</del><u>at risk of</u> the overall <del>resources and capacities of the responsible national services</del><u>functioning of the area without internal border controls</u>, where the other means provided for under this Regulation are <u>assessed not to be</u> <del>not</del> sufficient to address these inflows and movements. In this context, Member States should be able to rely on objective and quantified reports on unauthorised movements whenever available, in particular, when produced on a regular basis by the competent Union agencies in line with their respective mandates. <del>It should be possible for a Member State to use the information provided by the agencies to demonstrate the exceptional character of the identified threat caused by unauthorised movement in the risk assessment, in order to justify the reintroduction of internal border</del></p>	<p>unauthorised movements of <del>irregular migrants</del><u>third-country nationals</u> between the Member States where this creates a situation putting a <u>substantial</u> strain on the overall resources and capacities of the responsible national services, where the other means provided for under this Regulation are not sufficient to address these inflows and movements. In this context, Member States should be able to rely on objective and quantified reports on unauthorised movements whenever available, in particular, when produced on a regular basis by the competent Union agencies in line with their respective mandates. It should be possible for a Member State to use the information provided by the agencies to demonstrate the exceptional character of the identified threat caused by unauthorised movement in the risk assessment, in order to justify the reintroduction of internal border controls on this ground <u>as a measure of last resort</u>.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<del>controls on this ground.</del>		
38	(30) While action at Union level is provided for in circumstances where the nature of a threat derives from persistent serious deficiencies at the external borders, there is no Union-wide mechanism that would apply to situations where, within the Schengen area, a serious threat to internal security or public policy area is affecting a majority of Member States, putting at risk the well-functioning of the Schengen area. The gap should be filled by putting in place a new Schengen area safeguard mechanism permitting coordinated solutions to protect the interests of persons entitled to benefit from the area without controls at internal borders, by maximising the effectiveness of the measures taken while minimising their negative side-effects.	(30) While action at Union level is provided for in circumstances where the nature of a threat derives from persistent serious deficiencies at the external borders, there is no Union-wide mechanism <del>that would apply to situations</del> <u>to ensure Union-wide coordination</u> where, within the Schengen area, a serious threat to internal security or public policy area is affecting <del>a majority of Member States</del> <u>several Member States at the same time</u> , putting at risk the well-functioning of the Schengen area. The gap should be filled by putting in place a new Schengen area safeguard mechanism permitting coordinated solutions to protect the interests of persons entitled to benefit from the area without controls at internal borders, by maximising the effectiveness of the measures taken while minimising their negative side-effects.	(30) While action at Union level is provided for in circumstances where the nature of a threat derives from persistent serious deficiencies at the external borders, there is no Union-wide mechanism that would apply to situations where, within the Schengen area, a serious threat to internal security or public policy area is affecting <del>a majority of</del> <u>several</u> Member States, putting at risk the well-functioning of the Schengen area. The gap should be filled by putting in place a new Schengen area safeguard mechanism permitting coordinated solutions to protect the interests of persons entitled to benefit from the area without controls at internal borders, by maximising the effectiveness of the measures taken while minimising their negative side-effects.	
39	(31) The new Schengen area safeguard mechanism should allow	(31) <u>Given the politically sensitive nature of a decision which</u>	(31) The new Schengen area safeguard mechanism should allow	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>the Council to adopt, upon a proposal by the Commission, a decision authorising the reintroduction or prolongation of internal border controls, where this is justified by a particular threat, identified on the basis of notifications received from individual Member States, or other available information, in particular a risk assessment, in case of prolongation of internal border controls beyond six months. Given the politically sensitive nature of such a decision which regulates the possibility for Member States to reintroduce or prolong internal border control in particular circumstances, implementing powers to adopt a decision should be conferred on the Council, acting on a proposal from the Commission.</p>	<p><u>regulates the possibility for Member States to reintroduce or prolong internal border control in particular circumstances, the power to adopt acts in accordance with Article 290 TFEU should be delegated to</u><del>The new Schengen area safeguard mechanism should allow the Council to adopt, upon a proposal by the Commission, a decision to initiate the new Union-level Schengen area safeguard mechanism</del> authorising the reintroduction or prolongation of internal border controls, where this is justified by a particular threat, identified on the basis of notifications received from <u>several</u> individual Member States, <del>or a risk assessment, and</del> other available information, <del>in particular a risk assessment, in case of prolongation of internal border controls beyond six months. Given the politically sensitive nature of such a decision which regulates the possibility for Member States to reintroduce or prolong internal border control in particular circumstances, implementing powers to adopt a decision should be conferred on the Council, acting on a proposal from the Commission</del><u>and to</u></p>	<p>the Council to adopt, upon a proposal by the Commission, a decision authorising the reintroduction or prolongation of internal border controls, where this is justified by a particular threat, identified on the basis of notifications received from individual Member States, or other available information, in particular a risk assessment, in case of prolongation of internal border controls beyond six months. Given the politically sensitive nature of such a decision which regulates the possibility for Member States to reintroduce or prolong internal border control in particular circumstances, implementing powers to adopt a decision should be conferred on the Council, acting on a proposal from the Commission. <u>This decision should include any appropriate mitigating measures.</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i><u>provide supplementary rules on mitigating measures that should be established at national and Union level. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.</u></i>		
40	(32) In determining whether a reintroduction or prolongation of internal border controls by the Member States is justified, the Council should take into account whether any other measures that could ensure a high level of security within the territory, such as reinforced checks in the internal border areas by the competent authorities, are available. In the event that a prolongation of the controls is not considered justified, the Commission should, instead, recommend the use of other	(32) In determining whether a reintroduction or prolongation of internal border controls by the Member States is justified, the <del>Council</del> <u>Commission</u> should take into account <del>whether any other measures that could ensure a high level of security</del> <u>that internal border control remains a measure of last resort which has a serious impact on all persons having the right to move</u> within the <del>territory, such as reinforced checks in the internal border areas by the competent authorities,</del> <u>area without</u>	(32) In determining whether a reintroduction or prolongation of internal border controls by the Member States is justified <u>and proportionate</u> , the Council should take into account whether any other measures that could ensure a high level of security within the territory, such as reinforced checks in the internal border areas by the competent authorities, are available. In the event that a prolongation of the controls is not considered justified <u>and</u>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	measures deemed more appropriate to address the identified threat.	<u>internal border control. The Commission should assess whether the measure is appropriate, necessary and proportionate. The scope and duration of any temporary reintroduction of such measures should be restricted to the minimum needed to respond to the serious threat to public policy or internal security. The Commission should consider whether any other measures that could ensure a high level of security within the territory</u> are available. In the event that a prolongation of the controls is not considered justified, <u>internal border controls should be lifted immediately and</u> the Commission should, <del>instead,</del> recommend the use of other measures deemed more appropriate to address the identified threat.	should, instead, recommend the use of other measures deemed more appropriate to address the identified threat.	
41	(33) The establishment of the new Schengen area safeguard mechanism should not affect the right of Member States to have prior recourse to unilateral measures in accordance with the Regulation, where the situation so requires. However, once adopted,	(33) The establishment of the new Schengen area safeguard mechanism should not affect the right of Member States to have prior recourse to unilateral measures in accordance with the Regulation, where the situation so requires. However, once adopted,	(33) The establishment of the new Schengen area safeguard mechanism should not affect the right of Member States to have prior recourse to unilateral measures in accordance with the Regulation, where the situation so requires. However, once adopted,	



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	the Union measure should become the single basis for a coordinated response to the threat identified.	the Union measure should become the single basis for a coordinated response to the threat identified.	the Union measure should become the single basis for a coordinated response to the threat identified.	
42	<p>(34) In order to ensure compliance with the principle of proportionality, the decision of the Council should be adopted for a limited period of time of up to six months that may be prolonged subject to regular review upon a proposal from the Commission, as long as the threat is found to persist. The initial decision should include an assessment of the expected impact of the measures adopted, including its adverse side-effects, with a view to determining if controls at internal borders are justified or whether less restrictive measures could be applied in their place in an effective manner. Subsequent decisions should take account of the evolution of the identified threat. The Member States should immediately notify the Commission and the Member States of the reintroduction of internal border controls in accordance with the decision of the Council.</p>	<p>(34) In order to ensure compliance with the principle of proportionality, the <del>decision of the Council</del><u>delegated act</u> should be adopted for a limited period of time of up to six months that may be prolonged subject to regular review <del>upon a proposal from the Commission, as long as the threat is found to persist,</del> <u>up to a maximum period of two years in exceptional cases</u>. The initial <del>decision</del><u>delegated act</u> should include an assessment of the expected impact of the measures adopted, including its adverse side-effects, with a view to determining if controls at internal borders are justified or whether less restrictive measures could be applied in their place in an effective manner. <u>Any subsequent decisions</u><u>delegated act prolonging internal border control</u> should take account of the evolution of the identified threat. The Member States should immediately notify the Commission, <u>the Parliament</u>, and</p>	<p>(34) In order to ensure compliance with the principle of proportionality, the decision of the Council should be adopted for a limited period of time of up to six months that may be prolonged subject to regular review upon a proposal from the Commission, as long as the threat is found to persist. The initial decision should include an assessment of the expected impact of the measures adopted, including its adverse side-effects, with a view to determining if controls at internal borders are justified or whether less restrictive measures could be applied in their place in an effective manner. Subsequent decisions should take account of the evolution of the identified threat. The Member States should immediately notify the Commission and the Member States of the reintroduction of internal border controls in accordance with the decision of the Council.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		the Member States of the reintroduction of internal border controls in accordance with the <del>decision of the Council</del> <u>delegated act</u> .		
43	(35) Reintroduction of internal border controls should also remain possible where serious deficiencies in the management of the external borders persist, putting at risk the overall functioning of the area without internal border control. Periods where the border controls were introduced by Member States because the urgency of the situation required it or where the Council takes a decision to recommend the reintroduction because a threat affects a significant number of Member States, should not be included in the two years' period applicable to reintroductions based on serious deficiencies at the external borders.	(35) Reintroduction of internal border controls should also remain possible where serious deficiencies in the management of the external borders persist, putting at risk the overall functioning of the area without internal border control. <del>Periods where the border controls were introduced by Member States because the urgency of the situation required it or where the Council takes a decision to recommend the reintroduction because a threat affects a significant number of Member States, should not be included in the two years' period applicable to reintroductions based on serious deficiencies at the external borders.</del>	(35) Reintroduction of internal border controls should also remain possible where serious deficiencies in the management of the external borders persist, putting at risk the overall functioning of the area without internal border control. Periods where the border controls were introduced by Member States because the urgency of the situation required it or where the Council takes a decision to recommend the reintroduction because a threat affects <del>a significant number of</del> <u>several</u> Member States, should not be included in the two years' period applicable to reintroductions based on serious deficiencies at the external borders.	
44	(36) The reintroduction of border controls at internal borders, whether on the basis of unilateral	(36) The reintroduction of border controls at internal borders, whether on the basis of <u>Union level</u>	(36) The reintroduction of border controls at internal borders, whether on the basis of unilateral	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>decisions of the Member States or at a Union level, has serious implications for the functioning of the Schengen area. In order to ensure that any decision to reintroduce border controls is only taken where necessary, as a measure of last resort, the decision on temporary reintroduction or prolongation of border controls should be based on common criteria, putting an emphasis on necessity and proportionality. The proportionality principle requires that the reintroduction of internal border controls be subject to safeguards that increase over time.</p>	<p><u>decisions or</u> unilateral decisions of the Member States <del>or at a Union level</del>, has serious implications for the functioning of the Schengen area <u>and the rights of individuals</u>. In order to ensure that any decision to reintroduce border controls is only taken where necessary, as a measure of last resort, the decision on temporary reintroduction or prolongation of border controls should be based on common criteria; <del>putting an emphasis on necessity and proportionality</del> <u>and be strictly necessary and proportionate</u>. The proportionality principle requires that the reintroduction of internal border controls be subject to safeguards <u>that are to be respected before internal border controls are considered and</u> that increase over time.</p>	<p>decisions of the Member States or at a Union level, has serious implications for the functioning of the Schengen area. In order to ensure that any decision to reintroduce border controls is only taken where necessary, as a measure of last resort, the decision on temporary reintroduction or prolongation of border controls should be based on common criteria, putting an emphasis on necessity and proportionality. The proportionality principle requires that the reintroduction of internal border controls be subject to safeguards that increase over time.</p>	
44a		<p><u>(36a) Any derogation from the fundamental principle of free movement of persons should be interpreted strictly and the concept of public policy presupposes the existence of a genuine, present and sufficiently serious threat affecting one of the fundamental</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>interests of society. Where Member States reintroduce internal border controls for foreseeable threats, they should be able to do so for a period of three months, renewable up to a maximum period of 18 months.</u>		
45	(37) In the first instance, Member States should assess the appropriateness of internal border controls having regard to the nature of the serious threat identified. In this context, the Member States should pay particular attention to and assess the likely impact of internal border controls on the movement of persons within the area without internal border controls and the functioning of the cross-border regions. This assessment should be part of the notification that Member States are required to transmit to the Commission. In case of prolongation of internal border controls for foreseeable events beyond an initial period of six months, the Member State should also assess the appropriateness of alternative measures to pursue the same objectives as internal border	(37) In the first instance, Member States should assess the appropriateness of internal border controls having regard to the nature of the serious threat identified <u>as well as the appropriateness of alternative measures to pursue the same objectives as internal border controls, such as proportionate checks as carried out in the exercise of police or other public powers or through forms of police cooperation as provided for under Union law, including the possibility to use the transfer procedure.</u> In this context, the Member States should pay particular attention to and assess the likely impact of internal border controls on the movement of persons within the area without internal border controls and the functioning of the cross-border regions. This assessment should be	(37) In the first instance, Member States should assess the appropriateness of internal border controls having regard to the nature of the serious threat identified. In this context, the Member States should pay particular attention to and assess the likely impact of internal border controls on the movement of persons within the area without internal border controls and the functioning of the cross-border regions. This assessment should be part of the notification that Member States are required to transmit to the Commission. In case of prolongation of internal border controls for foreseeable events beyond an initial period of six months, the Member State should also assess the appropriateness of alternative measures to pursue the same objectives as internal border	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>controls, such as proportionate checks as carried out in the exercise of police or other public powers or through forms of police cooperation as provided for under Union law, and the possibility to use the transfer procedure.</p>	<p>part of the notification that Member States are required to transmit to the Commission, <u>the Parliament and the Council</u>. In case of prolongation of internal border controls for foreseeable events beyond <del>an initial</del> a period of six months, the Member State should also <del>assess the appropriateness of alternative measures to pursue the same objectives as internal border controls, such as proportionate checks as carried out in the exercise of police or</del> <u>carry out a risk assessment. That risk assessment should also include details on the scale and anticipated evolution of the identified serious threat, information on how long that serious threat is expected to persist and which sections of the internal borders are affected, information on coordination measures with</u> other <del>public powers or through forms of police cooperation as provided for under Union law, and the possibility to use the transfer procedure</del> <u>Member States impacted or likely to be impacted by such measures and the measures that the Member</u></p>	<p>controls, such as proportionate checks <del>as</del> carried out in the <del>exercise of police or other public powers</del> <u>context of checks within the territory</u> or through forms of police cooperation as provided for under Union law, <del>and</del> <u>including</u> the possibility to use the transfer procedure, <u>or common measures regarding temporary travel restrictions</u>.</p>	

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		<u><i>State concerned has taken and intends to take to alleviate the identified serious threat, with a view to lifting internal border controls in order to reinstate the principle of free movement.</i></u>		
46	(38) In order to limit harmful consequences resulting from the reintroduction of internal border controls, any decision to reintroduce internal border controls should be accompanied by mitigating measures if needed. Such measures should include measures to assure a smooth operation of transit of goods and transport personnel and seafarers by the establishment of ‘green lanes’. In addition, and to take account of the need to ensure the movement of persons whose activities may be essential for preserving the supply chain or the provision of essential services, Member States should also apply the existing guidelines on cross-border workers <sup>1</sup> . Against this background, the rules for the reintroduction of border controls at internal borders should take account of the guidelines and	(38) In order to limit harmful consequences resulting from the reintroduction of internal border controls, any decision to reintroduce internal border controls should be accompanied by mitigating measures, <u><i>but always with a view to lifting internal border control as soon as possible if needed.</i></u> Such measures should include measures to assure a smooth operation of transit of goods and transport personnel and seafarers by the establishment of ‘green lanes’. In addition, and to take account of the need to ensure the movement of persons whose activities may be essential for preserving the supply chain or the provision of essential services, Member States should also apply the existing guidelines on cross-border workers <sup>1</sup> . Against this background, the rules for the reintroduction of border controls at	(38) In order to limit harmful consequences resulting from the reintroduction of internal border controls, any decision to reintroduce internal border controls should be accompanied by mitigating measures if needed. Such measures should include measures to assure a smooth operation of transit of goods and transport personnel and seafarers by the establishment of ‘green lanes’. In addition, and to take account of the need to ensure the movement of persons whose activities may be essential for preserving the supply chain or the provision of essential services, Member States should also apply the existing guidelines on cross-border workers <sup>1</sup> . Against this background, the rules for the reintroduction of border controls at internal borders should take account of the guidelines and	

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	<p>recommendations adopted throughout the COVID-19 pandemic as a solid safety net for the Single Market, for the purpose of assuring that they are applied by the Member States, where appropriate, as mitigating measures during reintroduced internal border controls. Measures should in particular be identified with a view to ensuring the uninterrupted functioning of the Single Market and safeguarding the interests of cross-border regions and of ‘twin cities’ including for instance authorisations or derogations for the inhabitants of cross-border regions.</p> <p>1. 2020/C 102 I/03.</p>	<p>internal borders should take account of the guidelines and recommendations adopted throughout the COVID-19 pandemic as a solid safety net for the Single Market, for the purpose of assuring that they are applied by the Member States, <del>where appropriate</del>, as mitigating measures during reintroduced internal border controls. <del>Measures should in particular be identified</del>, with a view to <del>ensuring the uninterrupted functioning of the Single Market and</del> safeguarding the interests of cross-border regions and of ‘twin cities’ including for instance authorisations or derogations for the inhabitants of cross-border regions.</p> <p>1. 2020/C 102 I/03.</p>	<p>recommendations adopted throughout the COVID-19 pandemic as a solid safety net for the Single Market, for the purpose of assuring that they are applied by the Member States, where appropriate, as mitigating measures during reintroduced internal border controls. Measures should in particular be identified with a view to ensuring the uninterrupted functioning of the Single Market and safeguarding the interests of cross-border regions and of ‘twin cities’ including for instance authorisations or derogations for the inhabitants of cross-border regions.</p> <p>1. 2020/C 102 I/03.</p>	
47	<p>(39) The notification to be provided by the Member States should be decisive when assessing compliance with the criteria and conditions for a temporary reintroduction of internal border controls. In order to ensure a comparable set of information, the Commission should adopt a</p>	<p>(39) The notification to be provided by the Member States should be decisive when assessing compliance with the criteria and conditions for a temporary reintroduction of internal border controls. In order to ensure a <del>comparable set of</del> <u>proper supervision and monitoring of</u></p>	<p>(39) The notification to be provided by the Member States should be decisive when assessing compliance with the criteria and conditions for a temporary reintroduction of internal border controls. In order to ensure a comparable set of information, the Commission should adopt a</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	template for the notification of reintroduction of border controls at internal borders in an implementing act. Member States should be entitled to classify all or parts of the information provided in the notification, without prejudice to the functioning of appropriate and secure police cooperation channels.	<u>internal border controls that have been reintroduced, and improve the quality of the information it receives</u> , the Commission should adopt a template for the notification of reintroduction of border controls at internal borders in an implementing act. Member States should be entitled to classify <del>all or</del> parts of the information provided in the notification, without prejudice to the functioning of appropriate and secure police cooperation channels <u>and to the availability of information to the Commission, the Parliament and the Council.</u>	template for the notification of reintroduction of border controls at internal borders in an implementing act. Member States should be entitled to classify all or parts of the information provided in the notification, without prejudice to the functioning of appropriate and secure <del>police cooperation</del> channels.	
48	(40) In order to ensure that internal border controls are truly a last resort measure applied only for as long as necessary and in order to allow for assessing the necessity and proportionality of internal border controls to address foreseeable threats, Member States should prepare a risk assessment to be submitted to the Commission when internal border controls are prolonged beyond an initial six months in response to foreseeable threats. The Member States must in	(40) In order to ensure that internal border controls are truly a last resort measure applied only for as long as necessary and in order to allow for assessing the necessity and proportionality of internal border controls to address foreseeable threats <u>and to allow the Commission to assess that such controls are an exceptional measure</u> , Member States should prepare a risk assessment to be submitted to the Commission when internal border controls are	(40) In order to ensure that internal border controls are <del>truly</del> a last resort measure applied only for as long as necessary and in order to allow for assessing the necessity and proportionality of internal border controls to address foreseeable threats, Member States should prepare a risk assessment to be submitted to the Commission when internal border controls are prolonged beyond an initial six months in response to foreseeable threats. The Member States must in	



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	particular, explain, the scale and evolution of the identified serious threat, including how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as their coordination measures with the other Member States that are impacted or likely to be impacted by such measures.	prolonged beyond <del>an initial</del> <u>period of</u> six months in response to foreseeable threats. The Member States must in particular, explain, the scale and evolution of the identified serious threat, including how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, <u>why alternative measures will not resolve the identified threat</u> , as well as their coordination measures with the other Member States that are impacted or likely to be impacted by such measures.	particular, explain, the scale and evolution of the identified serious threat, including how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as their coordination measures with the other Member States that are impacted or likely to be impacted by such measures.	
49	(41) The Commission should be entitled to request additional information based on the notification received, including on the risk assessment or cooperation and coordination measures with the Member States affected by the planned prolongation of border control at internal borders. Where the notification does not comply with the minimum requirements, the Commission should discuss the notification with the Member State concerned and request additional information or a resubmission of	(41) The Commission should be entitled to request additional information based on the notification received, including on the risk assessment or cooperation and coordination measures with the Member States affected by the planned prolongation of border control at internal borders. Where the notification does not comply with the minimum requirements, the Commission should discuss the notification with the Member State concerned and request additional information or a resubmission of	(41) The Commission should be entitled to request additional information based on the notification received, including on the risk assessment or cooperation and coordination measures with the Member States affected by the planned prolongation of border control at internal borders. Where the notification does not comply with the minimum requirements, the Commission should discuss the notification with the Member State concerned and request additional information or <del>a resubmission of</del>	

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	the notification.	the notification.	<del>the</del> <u>request this Member State to complete its initial</u> notification.	
50	<p>(42) In order to ensure a sufficient degree of transparency of the actions affecting travel without internal border controls, the Member States should also inform the European Parliament and the Council about the main elements concerning the planned reintroduction of border controls. In justified cases, Member States may also classify such information. Every year, pursuant to Article 33 of the Schengen Borders Code, the Commission should present to the European Parliament and to the Council a report on the functioning of the area without internal border control ('State of Schengen report') which should pay particular attention to the situation as regards the unauthorised movements of third country nationals, building on the available information from the relevant Agencies and data analysis from relevant information systems. It should also assess the necessity and proportionality of the reintroductions of border controls in the period covered by that</p>	<p>(42) In order to ensure <del>a</del> sufficient <del>degree of</del> <u>level of supervision,</u> transparency <del>of the</del> <u>and</u> <u>accountability with regard to</u> actions <u>taken by Member States</u> affecting travel without internal border controls, the Member States should <del>also inform the European Parliament and the Council about the main elements concerning the planned reintroduction of border controls. In justified cases, Member States may also classify such information</del> <u>provide the notifications of reintroduction of internal border control to the European Parliament, the Council and the Commission at the same time in accordance with this Regulation.</u> Every year, pursuant to Article 33 of the Schengen Borders Code, the Commission should present to the European Parliament and to the Council a report on the functioning of the area without internal border control ('State of Schengen report') which should pay particular attention to the <del>situation as regards the</del></p>	<p>(42) <u>In</u> order to ensure a sufficient degree of transparency of the actions affecting travel without internal border controls, the Member States should also inform the European Parliament and the Council about the main elements concerning the planned reintroduction of border controls. In justified cases, Member States may also classify such information. Every year, pursuant to Article 33 of the Schengen Borders Code, the Commission should present to the European Parliament and to the Council a report on the functioning of the area without internal border control ('State of Schengen report') which should pay particular attention to the situation as regards the unauthorised movements of third country nationals, building on the available information from the relevant Agencies and data analysis from relevant information systems. It should also assess the necessity and proportionality of the reintroductions of border controls in the period covered by that</p>	

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	<p>Report. The State of Schengen report shall also cover the reporting obligations resulting from Article 20 of the Schengen Evaluation Mechanism<sup>1</sup>.</p> <p>1. Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen, OJ L 295, 6.11.2013, p. 27.</p>	<p><del>unauthorised movements of third country nationals, building on the available information from the relevant Agencies and data analysis from relevant information systems</del>  <u>border controls that have been in place for longer than twelve months. The report should include all the decisions to reintroduce internal border control and details of the actions taken by the Commission with regard to internal border controls reintroduced.</u> It should also assess the necessity and proportionality of the <u>all</u> reintroductions of border controls in the period covered by that Report <u>building on the information available from the competent authorities of the Member States</u>. The State of Schengen report shall also cover the reporting obligations resulting from Article 20 of the Schengen Evaluation Mechanism<sup>1</sup>.</p> <p>1. Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen, OJ L 295, 6.11.2013, p. 27.</p>	<p>Report. The State of Schengen report shall also cover the reporting obligations resulting from Article 20 of the Schengen Evaluation Mechanism<sup>1</sup>.</p> <p>1. Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen, OJ L 295, 6.11.2013, p. 27.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
51	<p>(43) The mechanism for the temporary reintroduction of border controls at internal borders in urgent situations or to address foreseeable threats should provide for a possibility, for the Commission, to organise consultations between Member States, including at the request of any Member State. Relevant Union Agencies should be involved in this process in order to share their expertise, where appropriate. Such consultations should look into the modalities of carrying out internal border controls and their time-line, possible mitigating measures as well as the possibilities of applying alternative measures instead. Where the Commission or a Member State has issued an opinion expressing concerns regarding the reintroduction of border controls, such consultations should be mandatory.</p>	<p>(43) The mechanism for the temporary reintroduction of border controls at internal borders in urgent situations or to address foreseeable threats should <del>provide for a possibility, for</del><u>oblige</u> the Commission, to organise consultations between Member States, including at the request of any Member State. Relevant Union Agencies <del>should</del><u>may</u> be involved in this process in order to share their expertise, where appropriate. Such consultations should look <del>into the modalities of carrying out internal border controls and their time-line, possible mitigating measures as well as the possibilities of applying alternative measures instead</del><u>at the possibility of applying alternative measures, and if necessary the modalities of carrying out internal border controls and their time-line</u>. Where the Commission or a Member State has issued an opinion expressing concerns regarding the reintroduction of border controls, such consultations should be mandatory. <u>Where border controls at internal borders</u></p>	<p>(43) The mechanism for the temporary reintroduction of border controls at internal borders in urgent situations or to address foreseeable threats should provide for a possibility, for the Commission, to organise consultations between Member States, including at the request of any Member State. <u>This consultation should be organised by the Commission when a Member State requests it.</u> Relevant Union Agencies should be involved in this process in order to share their expertise, where appropriate. Such consultations should look into the modalities of carrying out internal border controls and their time-line, possible mitigating measures as well as the possibilities of applying alternative measures <del>instead</del>. Where the Commission or a Member State has issued an opinion expressing concerns regarding the reintroduction of border controls, such consultations should be mandatory.</p>	

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		<u>have been prolonged beyond a period of six months, the necessity, proportionality and duration of those controls should be discussed in the Schengen Forum.</u>		
51a			<u>(43a) In an area where persons may move freely, without internal frontiers, which constitutes one of the main achievements of the European Union in accordance with Article 3(2) TEU, the reintroduction of internal border controls should remain an exception and should only be effected as a measure of last resort. Exceptions to and derogations from the free movement of persons are to be interpreted strictly. In order not to compromise the very principle that there is to be no internal border control, as enshrined in Article 3(2) TEU and reiterated in Article 67(2) TFEU, the reintroduction of internal border controls on account of the same threat should not be for an unlimited period.</u>	
52				

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	<p>(44) The Commission and Member States should retain the possibility to express any concern as regards the necessity and proportionality of a decision of a Member State to reintroduce internal border controls for reason of urgency or to address a foreseeable threat. In case controls at internal borders are reintroduced and prolonged for foreseeable threats for combined periods exceeding eighteen months, it should be a requirement for the Commission to issue an opinion assessing the necessity and proportionality of such internal border controls. Where a Member State considers that there are exceptional situations justifying the continued need for internal border controls for a period exceeding two years, the Commission should issue a follow-up opinion. Such an opinion is without prejudice to the enforcement measures, including infringement actions, which the Commission may take at any time against any Member State for failure to comply with its obligations under Union law. Where an opinion is issued, the Commission should launch</p>	<p>(44) The Commission and Member States should retain the possibility to express any concern as regards the necessity and proportionality of a decision of a Member State to reintroduce internal border controls for reason of urgency or to address a foreseeable threat. In case controls at internal borders are reintroduced and prolonged for foreseeable threats for combined periods exceeding <del>eighteen</del><u>nine</u> months, it should be a requirement for the Commission to issue an opinion assessing the necessity and proportionality of such internal border controls. <del>Where a Member State considers that there are exceptional situations justifying the continued need for internal border controls for a period exceeding two years, the Commission should issue a follow-up opinion.</del> Such an opinion is without prejudice to the enforcement measures, including infringement actions, which the Commission, <u>in its role as guardian of the Treaties, is required to</u><del>may</del> take at any time against any Member State for failure to comply with its obligations under Union law.</p>	<p>(44) The Commission and Member States should retain the possibility to express any concern as regards the necessity and proportionality of a decision of a Member State to reintroduce internal border controls for reason of urgency or to address a foreseeable threat. In case controls at internal borders are reintroduced and prolonged for foreseeable threats for combined periods exceeding <del>eighteen</del><u>twelve</u> months, it should be a requirement for the Commission to issue an opinion assessing the necessity and proportionality of such internal border controls. <u>In the area without internal border control a serious threat to public policy or internal security in a Member State is not necessarily limited in time. In such a situation,</u> where a Member State considers that there <del>is a major</del><del>are</del> exceptional <del>situations</del><u>situation</u> justifying the continued need for internal border controls for a period exceeding two years, <u>additional safeguards should be set in terms of risk assessment. The notification by the Member State concerned should include the measures it</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	consultations with the Member States concerned.	Where an opinion is issued, the Commission should launch consultations with the Member States concerned.	<p><u>intends to adopt, in cooperation with other Member States where appropriate, enabling the threat to be met as well as a presentation of the means, actions, conditions and timeline considered with a view to lifting the internal border controls in order for the principle of free movement to be maintained after the final period of prolongation.</u></p> <p>The Commission should issue a <del>follow-up</del> new opinion. Where this opinion <u>expresses concerns on the necessity and the proportionality of the prolongation, the Commission should adopt, without undue delay, a recommendation to be addressed to the Member State concerned, identifying means, actions, conditions and a timeline with a view to lifting the internal border controls. Where there is a continued need for internal border controls and an additional period of six months is not sufficient to ensure the availability of effective alternative measures to address this major exceptional situation due to the persisting threat, the Member State concerned should notify without delay the Commission of its intention to prolong its internal border</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>controls and specify the date on which it considers that the controls shall be lifted at the latest. The Commission should adopt without delay a recommendation on the compatibility of such final prolongation, including its date and scope, with the principles of necessity and proportionality in line with the principle of absence of controls at the internal borders set out in Article 3(2) TEU and referred to in Article 67(2) TFEU. The recommendation should also identify, where appropriate with other Member States, effective compensatory measures to be implemented and a reasonable timeline with a view to lifting the internal border controls. In addition, the Council should, in accordance with its rules of procedure, hold an exchange of views on the invoked persisting threat justifying for the Member State concerned the continuous need of internal border controls. This procedure is thus intended to strike a fair balance between free movement and prolonging internal border controls for a limited period of time, taking into</u></p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><u>account the available appropriate alternative measures with respect to external border controls, asylum, immigration and the safeguarding of internal security. Such a procedure is</u> <del>Such an opinion is</del> without prejudice to the enforcement measures, including infringement actions, which the Commission may take at any time against any Member State for failure to comply with its obligations under Union law. Where an opinion is issued, the Commission should launch consultations with the Member States concerned.</p>	
52a		<p><u>(44a) Where a Member State considers that there are exceptional situations justifying the continued need for internal border control in excess of the maximum period of 18 months based on the same foreseeable serious threat, it should be able to request the Commission to propose to the Council an implementing decision authorising the prolongation of internal border control for a period of three months. If the</u></p>		

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		<i><u>Council adopts such an implementing decision, and at the end of that three-month period, the Member State in question still considers that the exceptional situation remains, it may make a maximum of two further requests to the Commission for a prolongation of a further three months.</u></i>		
53	(45) In order to enable the post factum analysis of the decision on the temporary reintroduction of border controls at the internal borders, Member States should remain obliged to submit a report on the reintroduction of border control at internal borders to the European Parliament, the Council and the Commission once they lift the controls. Where the controls are kept in place for prolonged periods of time, such a report should also be submitted after twelve months, and every year thereafter if exceptionally controls are maintained and for as long as the controls are maintained. The report should outline, in particular, the initial and follow-up assessment of the necessity of internal border	(45) In order to enable the post factum analysis of the decision on the temporary reintroduction of border controls at the internal borders, Member States should remain obliged to submit a report on the reintroduction of border control at internal borders to the European Parliament, the Council and the Commission once they lift the controls. Where the controls are kept in place for <del>prolonged periods of time</del> <u>a period exceeding six months</u> , such a report should also be submitted after <del>twelve months</del> <u>that six-month period</u> and every <del>year</del> <u>six months</u> thereafter, if exceptionally controls are maintained and for as long as the controls are maintained. The report should outline, in particular, the	(45) In order to enable the <u>post factum</u> <del>post factum</del> analysis of the decision on the temporary reintroduction of border controls at the internal borders, Member States should remain obliged to submit a report on the reintroduction of border control at internal borders to the European Parliament, the Council and the Commission once they lift the controls. Where the controls are kept in place for prolonged periods of time, such a report should also be submitted after twelve months, and every year thereafter if exceptionally controls are maintained and for as long as the controls are maintained. The report should outline, in particular, the initial and follow-up assessment of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	controls and the respect of the criteria for reintroduction of border controls at internal borders. The Commission should adopt in an implementing act a template and make it available online.	initial and follow-up assessment of the necessity of internal border controls and the respect of the criteria for reintroduction of border controls at internal borders. The Commission should adopt in an implementing act a template and make it available online.	the necessity of internal border controls and the respect of the criteria for reintroduction of <del>border</del> controls at internal borders. The Commission should adopt in an implementing act a template and make it available online.	
54	(46) When implementing this Regulation, Member States shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.	(46) When implementing this Regulation, Member States shall not discriminate against persons on grounds of sex, <del>racial or race</del> , <u>colour</u> , ethnic <u>or social</u> origin, <u>genetic features</u> , <u>language</u> , religion or belief, <u>political or any other opinion</u> , <u>membership of a national minority</u> , <u>property</u> , <u>birth</u> , disability, age or sexual orientation.	(46) When implementing this Regulation, Member States shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.	
55	(47) The competent authorities shall use their powers to carry out checks within the territory and apply relevant procedures in full respect of the rules on data protection under Union law. Regulation (EU) 2016/679 of the European Parliament and of the Council or Directive (EU)	(47) The competent authorities <del>shall use their powers to carry out checks within the territory and apply relevant procedures in full</del> <u>referred to in this Regulation shall in all their activities undertaken in accordance with this Regulation fully</u> respect <del>of</del> the rules on data protection under	(47) The competent authorities shall use their powers to carry out checks within the territory and apply relevant procedures in full respect of the rules on data protection under Union law. Regulation (EU) 2016/679 of the European Parliament and of the Council or Directive (EU)	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2016/680 of the European Parliament and of the Council apply to the processing of personal data by competent national authorities for the purposes of this Regulation, in their respective field of application.	Union law. Regulation (EU) 2016/679 of the European Parliament and of the Council or Directive (EU) 2016/680 of the European Parliament and of the Council apply to the processing of personal data by competent national authorities for the purposes of this Regulation, in their respective field of application.	2016/680 of the European Parliament and of the Council apply to the processing of personal data by competent national authorities for the purposes of this Regulation, in their respective field of application.	
56	(48) The objective of this Regulation is to strengthen the functioning of the Schengen area. This objective cannot be achieved by Member States acting alone. Therefore, an amendment of the common rules established at Union level is necessary. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(48) The objective of this Regulation is to strengthen the functioning of the Schengen area. This objective cannot be achieved by Member States acting alone. Therefore, an amendment of the common rules established at Union level is necessary. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(48) The objective of this Regulation is to strengthen the functioning of the Schengen area. This objective cannot be achieved by Member States acting alone. Therefore, an amendment of the common rules established at Union level is necessary. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	
57	(49) In accordance with Articles 1	(49) In accordance with Articles 1	(49) In accordance with Articles 1	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> , Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.	and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> , Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.	and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i><del>acquis</del>aequis</i> , Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.	
58	<p>(50) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>1</sup>; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p> <p>1. Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>, OJ L 64, 7.3.2002, p. 20.</p>	<p>(50) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>1</sup>; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p> <p>1. Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>, OJ L 64, 7.3.2002, p. 20.</p>	<p>(50) This Regulation constitutes a development of the provisions of the Schengen <i><del>acquis</del>aequis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>1</sup>; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p> <p>1. Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>, OJ L 64, 7.3.2002, p. 20.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
59	<p>(51) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis<sup>1</sup>, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC<sup>2</sup>.</p> <p>1. OJ L 176, 10.7.1999, p. 36. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, OJ L 176, 10.7.1999, p. 31.</p>	<p>(51) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis<sup>1</sup>, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC<sup>2</sup>.</p> <p>1. OJ L 176, 10.7.1999, p. 36. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, OJ L 176, 10.7.1999, p. 31.</p>	<p>(51) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen <del>acquis</del><sup>1</sup>, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC<sup>2</sup>.</p> <p>1. OJ L 176, 10.7.1999, p. 36. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, OJ L 176, 10.7.1999, p. 31.</p>	
60	<p>(52) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the</p>	<p>(52) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the</p>	<p>(52) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <del>acquis</del> within</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC<sup>2</sup> read in conjunction with Article 3 of Council Decision 2008/146/EC.<sup>3</sup></p> <p>1. OJ L 53, 27.2.2008, p. 52. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, OJ L 176, 10.7.1999, p. 31. 3. Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, OJ L 53, 27.2.2008, p. 1.</p>	<p>meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC<sup>2</sup> read in conjunction with Article 3 of Council Decision 2008/146/EC.<sup>3</sup></p> <p>1. OJ L 53, 27.2.2008, p. 52. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, OJ L 176, 10.7.1999, p. 31. 3. Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, OJ L 53, 27.2.2008, p. 1.</p>	<p>the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <del>acquis</del><sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC<sup>2</sup> read in conjunction with Article 3 of Council Decision 2008/146/EC.<sup>3</sup></p> <p>1. OJ L 53, 27.2.2008, p. 52. 2. Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <del>acquis</del>, OJ L 176, 10.7.1999, p. 31. 3. Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <del>acquis</del>, OJ L 53, 27.2.2008, p. 1.</p>	
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>(53) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>2</sup>.</p> <p>1. OJ L 160, 18.6.2011, p. 21. 2. Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>	<p>(53) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>2</sup>.</p> <p>1. OJ L 160, 18.6.2011, p. 21. 2. Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>	<p>(53) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis<sup>1</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>2</sup>.</p> <p>1. OJ L 160, 18.6.2011, p. 21. 2. Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons, OJ L 160, 18.6.2011, p. 19.	development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons, OJ L 160, 18.6.2011, p. 19.	development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons, OJ L 160, 18.6.2011, p. 19.	
62	<p>(54) This Regulation is without prejudice to the application of Directive 2004/38/EC<sup>1</sup>.</p> <p>1. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158 30.4.2004, p. 77).</p>	<p>(54) This Regulation is without prejudice to the application of Directive 2004/38/EC<sup>1</sup>.</p> <p>1. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158 30.4.2004, p. 77).</p>	<p>(54) This Regulation is without prejudice to the application of Directive 2004/38/EC<sup>1</sup>.</p> <p>1. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158 30.4.2004, p. 77).</p>	
63	<p>(55) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.</p>	<p>(55) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.</p>	<p>(55) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.</p>	
64	<p>(56) Regulation (EU) No 2016/399 and Directive 2008/115/EC should therefore be</p>	<p>(56) Regulation (EU) No 2016/399 <del>and Directive 2008/115/EC</del> should therefore be</p>	<p>(56) Regulation (EU) No 2016/399 and Directive 2008/115/EC should therefore be</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	amended accordingly,	amended accordingly,	amended accordingly,	
65	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:		
66	Article 1	Article 1	Article 1	
67	Regulation (EU) No 2016/399 is amended as follows:	Regulation (EU) No 2016/399 is amended as follows:	Regulation (EU) No 2016/399 is amended as follows:	
68	(1) Article 2 is modified as follows:	(1) Article 2 is modified as follows:	(1) Article 2 <del>is modified</del> <u>is amended</u> as follows:	
69	a) point 12 is replaced by the following:	a) point 12 is replaced by the following:	a) point 12 is replaced by the following:	
70	" 12. 'border surveillance' means the surveillance of borders between crossing points and of border crossing points outside fixed	" 12. 'border surveillance' means the surveillance of borders between crossing points and of border crossing points outside fixed	" 12. 'border surveillance' means the surveillance of borders between <u>border</u> crossing points and <u>the surveillance</u> of border crossing	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	opening hours, including preventative measures to detect and prevent unauthorised border crossings or the circumvention of border checks.	opening hours, <del>including preventative measures to detect and in order to</del> prevent unauthorised border crossings or the circumvention of border checks, <u>and to provide situational awareness</u> .	points outside fixed opening hours, including preventative measures, <u>to prevent or detect</u> <del>to detect and prevent</del> unauthorised border crossings or the circumvention of border checks.	
71	b) the following points 27 to 30 are added:	b) the following points 27 to 30 are added:	b) the following points 27 to 30 are added:	
72	" 27. 'instrumentalisation of migrants' refers to a situation where a third country instigates irregular migratory flows into the Union by actively encouraging or facilitating the movement of third country nationals to the external borders, onto or from within its territory and then onwards to those external borders, where such actions are indicative of an intention of a third country to destabilise the Union or a Member State, where the nature of such actions is liable to put at risk essential State functions, including its territorial integrity, the	<i>deleted</i>	" 27. 'instrumentalisation of migrants' <del>refers to</del> <u>means</u> a situation where a third country <del>instigates irregular migratory flows into the Union by actively encouraging or facilitating</del> <u>or non state actor encourages or facilitates</u> the movement of third country nationals to the external borders, <del>onto or from within its territory and then onwards to those external borders</del> <u>or to a Member State</u> , <del>where such actions are indicative of an intention of a third country to destabilise</del> <u>with the aim of destabilising</u> the Union or a Member State, where <del>the nature of</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	maintenance of law and order or the safeguard of its national security;		such actions <del>is</del> <u>are</u> liable to put at risk essential <u>functions of a Member State</u> <del>functions</del> , including <del>its territorial integrity</del> , the maintenance of law and order or the safeguard of its national security;	
72a		" <u>27a. 'large scale public health emergency' means a public health emergency where a serious cross-border threat to health necessitates coordination at Union level in order to ensure a high level of protection of public health, recognised by the Commission at Union level in accordance with Regulation (EU) 2022/2371;</u>		
73	28. 'essential travel' means travel in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States and listed in Annex XI;	28. 'essential travel' means travel in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States and listed in Annex XI;	28. 'essential travel' means travel in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States <del>and listed in Annex XI;</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
74	29. 'non-essential travel' means travel for purposes other than essential travel;	29. 'non-essential travel' means travel for purposes other than essential travel;	29. 'non-essential travel' means travel for purposes other than essential travel;	
75	30. 'transport hubs' means airports, sea or river ports, train or bus stations.' "	30. 'transport hubs' means airports, sea or river ports, train or bus stations.' "	30. 'transport hubs' means airports, sea or river ports, train or bus stations <u>as well as freight terminals.</u> ' "	
76	(2) In Article 5, a new paragraph 4 is added:	<i>deleted</i>	(2) In Article 5, <del>a new</del> <u>the following</u> paragraph 4 is added:	
77	4. In a situation of instrumentalisation of migrants, Member States may limit the number of border crossing points as notified pursuant to paragraph 1 or their opening hours where the circumstances so require.	<i>deleted</i>	4. <u>Member States may, in particular</u> in a situation of instrumentalisation of migrants; <del>Member States may limit the number of</del> <u>or in other situations of emergency at the external border, temporarily close specific</u> border crossing points as notified pursuant to paragraph 1, <u>or limit</u> <del>or</del> their opening hours where the circumstances so require. <u>Member States may, in particular in a situation of</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>instrumentalisation of migrants, where third-country nationals attempt to force entry en masse by using violent means, take the necessary measures to preserve security, law and order.</u>	
78	Any limitations adopted pursuant to the first subparagraph shall be implemented in a manner that is proportionate and that takes full account of the rights of:	<i>deleted</i>	Any <del>limitations adopted</del> <u>measures</u> pursuant to the first <del>subparagraph</del> <u>and second subparagraphs</u> shall be implemented in a manner that is proportionate and that takes full account of the rights of:	
79	(a) the persons enjoying the right of free movement under Union law;	<i>deleted</i>	(a) the persons enjoying the right of free movement under Union law;	
80	(b) third-country nationals who are long-term residents under Council Directive 2003/109/EC <sup>1</sup> , persons deriving their right to reside from other instruments of Union or national law or who hold national long-term visas, as well as their respective family members; _____	<i>deleted</i>	(b) third-country nationals who are long-term residents under Council Directive 2003/109/EC <sup>1</sup> , persons deriving their right to reside from other instruments of Union or national law or who hold national <del>long-term</del> <u>long-stay</u> visas, as well as their respective family members; _____	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).		1. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).	
81	(c) third-country nationals seeking international protection.	<i>deleted</i>	(c) third-country nationals seeking international protection.	
82	(3) Article 13 is replaced by the following:	(3) Article 13 is replaced by the following:	(3) Article 13 is replaced by the following:	
83	Article 13	Article 13	Article 13	
84	Border surveillance	Border surveillance	<del>Border surveillance</del> <del>Border surveillance</del>	
85	1. The main purpose of border surveillance shall be to detect and prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally.	1. The main purpose of border surveillance shall be to <del>detect and</del> prevent unauthorised border crossings, <u>provide situational awareness</u> , to counter cross-border criminality and to take measures against persons who have crossed	1. The main purpose of border surveillance shall be to <del>detect and prevent</del> <u>prevent or detect</u> unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>A person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.</p>	<p>the border <del>illegally</del> <del>irregularly</del>.  <u>Without prejudice to Articles 3 and 4</u>, a person who has crossed a border <del>illegally</del><u>irregularly</u> and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.</p>	<p>border illegally.  <del>—</del> <u>In addition, border surveillance shall contribute to raising situational awareness and carrying out risk analyses.</u> A person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.</p>	
86	<p>2. The border guards shall use stationary or mobile units to carry out border surveillance.</p> <p>That surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points and from circumventing the checks at border crossing points.</p>	<p>2. The border guards shall use <u>all necessary resources, including</u> stationary or mobile units to carry out border surveillance.</p> <p>That surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points and from circumventing the checks at border crossing points, <u>while complying fully with the obligations laid down in Article 4</u>.</p>	<p>2. The border guards shall use <u>all necessary resources, including</u> stationary or mobile units, to carry out border surveillance.</p> <p>That surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points <del>and</del> <u>or</u> from circumventing the checks at border crossing points.</p>	
87	<p>3. Surveillance between border</p>	<p>3. Surveillance between border</p>	<p>3. Surveillance between border</p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats. It shall involve frequent and sudden changes to surveillance periods and other methods or techniques, so that unauthorised border crossings are effectively detected or prevented.	crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats, <u>including the possible risk to life of those seeking to cross the border</u> . It shall involve frequent and sudden changes to surveillance periods and other methods or techniques, so that <u>it is possible for unauthorised border crossings</u> <del>are effectively detected or to be effectively</del> prevented.	crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats. It shall involve frequent and sudden changes to surveillance periods and other methods or techniques, so that unauthorised border crossings are effectively <del>detected or prevented</del> <u>prevented or detected</u> .	
88	4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to prevent unauthorised border crossings or apprehend individuals crossing the border illegally. Surveillance may also be carried out by technical means, including electronic means, equipment and surveillance systems.	4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to prevent unauthorised border crossings or apprehend individuals crossing the border <del>illegally</del> <u>irregularly</u> . Surveillance may also be carried out by technical means, including electronic means, equipment and surveillance systems, <u>where it is conducted in accordance with Article 5 of the future Regulation of the European Parliament and of the Council laying down</u>	4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to prevent unauthorised border crossings or apprehend individuals crossing <u>or having crossed</u> the border illegally. Surveillance may also be carried out by technical means, including electronic means, equipment, <u>surveillance systems and, where appropriate, all types of stationary and mobile infrastructure</u> <del>and surveillance systems</del> .	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>harmonised rules on artificial intelligence (Artificial Intelligence Act).</u>		
89	5. In a situation of instrumentalisation of migrants, the Member State concerned shall intensify border surveillance as necessary in order to address the increased threat. In particular, the Member State shall enhance, as appropriate, the resources and technical means to prevent an unauthorised crossing of the border.	<i>deleted</i>	5. <del>In a situation of instrumentalisation of migrants, the</del> Member <del>State concerned</del> <u>States</u> shall intensify border surveillance as necessary in order to address the increased threat, <u>notably when they face a situation of instrumentalisation of migrants.</u> In particular, <del>the</del> <u>Member State</u> <del>States</del> shall enhance, as appropriate, the resources and technical means to prevent <del>an</del> unauthorised <del>crossing of the border</del> <u>border crossings.</u>	
90	Those technical means may include modern technologies including drones and motion sensors, as well as mobile units to prevent unauthorised border crossings into the Union.	<i>deleted</i>	<del>Those technical means may include modern technologies including drones and motion sensors, as well as mobile units to prevent unauthorised border crossings into the Union.</del>	
91	6. Without prejudice to the support	6. Without prejudice to the support	6. Without prejudice to the support	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>that the European Border and Coast Guard Agency may provide to the Member States, in the event of a situation of instrumentalisation of migrants, the Agency may carry out a vulnerability assessment as provided for in Articles 10(1), point (c), and Article 32 of Regulation (EU) 2019/1896 of the European Parliament and Council<sup>1</sup>, with a view to providing the necessary support to the Member State concerned.</p> <p>On the basis of the results of that assessment or any other relevant vulnerability assessment or the attribution of a critical impact level to the border section concerned within the meaning of Article 35(1)(d) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency shall make recommendations, in accordance with Article 41(1) of that Regulation to any Member State concerned.</p> <p><sup>1</sup>. Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019.</p>	<p>that the European Border and Coast Guard Agency may provide to the Member States, <del>in the event of a situation of instrumentalisation of migrants</del> <u>where a Member State introduces internal border controls on the basis of Article 25(1)(c)</u>, the Agency may, <u>upon request of that Member State, also</u> carry out a vulnerability assessment as provided for in Articles 10(1), point (c), and Article 32 of Regulation (EU) 2019/1896 of the European Parliament and Council<sup>1</sup>, with a view to providing the necessary support to the Member State concerned.</p> <p>On the basis of the results of that assessment or any other relevant vulnerability assessment or the attribution of a critical impact level to the border section concerned within the meaning of Article 35(1)(d) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency shall make recommendations, in accordance with Article 41(1) of that Regulation to any Member State</p>	<p>that the <del>European Border and Coast Guard</del> Agency may provide to the Member States, in the event of a situation of instrumentalisation of migrants, the Agency may carry out a vulnerability assessment as provided for in Articles 10(1), point (c), and Article 32 of Regulation (EU) 2019/1896 of the European Parliament and Council<sup>1</sup>, with a view to providing the necessary support to the Member State concerned.</p> <p>On the basis of the results of that assessment or any other relevant vulnerability assessment or the attribution of a critical impact level to the border section concerned within the meaning of Article 35(1)(d) of Regulation (EU) 2019/1896, the Executive Director of the <del>European Border and Coast Guard</del> Agency shall make recommendations, in accordance with Article 41(1) of that Regulation to any Member State concerned.</p> <p><sup>1</sup>. Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p>concerned.</p> <p>1. Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019.</p>		
92	<p>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning additional measures governing surveillance, including the development of standards for border surveillance, in particular the use of surveillance and monitoring technologies at the external borders, taking into account the type of borders, the impact levels attributed to each external border section in accordance with Article 34 of the Regulation (EU) 2019/1896 and other relevant factors.</p>	<p>7. <u>For the purposes of paragraph 4,</u> the Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning additional measures governing surveillance, including the development of standards for border surveillance, in particular the use of surveillance and monitoring technologies at the external borders, <u>in line with the prohibitions, safeguards and transparency obligations laid down in the Artificial Intelligence Act,</u> taking into account the type of borders, the impact levels attributed to each external border section in accordance with Article 34 of the Regulation (EU) 2019/1896 and other relevant factors.</p>	<p>7. The Commission <del>shall be empowered to</del> <u>may</u> adopt <del>delegated acts in accordance with Article 37</del> <u>an implementing act</u> concerning <u>common minimum additional measures governing surveillance, including the development of</u> standards for border surveillance, <del>in particular the use of surveillance and monitoring technologies at the external borders, taking.</del> <u>These common minimum standards shall take</u> into account <del>the type of</del> borders, the impact levels attributed to each external border section in accordance with Article 34 of the Regulation (EU) 2019/1896 and other relevant factors <u>such as geographical particularities. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).</u></p>	

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93	(4) Chapter V is renamed as follows: “Specific measures relating to the external borders”	(4) Chapter V is renamed as follows: "Specific measures relating to the external <del>borders</del> <u>border control</u> "	(4) Chapter V is renamed as follows: “Specific measures relating to the external borders”	
94	In Chapter V, the following Article 21a is inserted:	In Chapter V, the following Article 21a is inserted:	<del>In Chapter V,</del> The following Article <del>21a</del> is inserted:	
95	“ Article 21a Restrictions on travel to the European Union	“ Article 21a Restrictions on travel to the European Union	“ <u>"Article 21a</u> <u>Restrictions on travel to the European Union</u> <del>Restrictions on travel to the European Union</del>	
96	1. This Article shall apply to situations where the European Centre for Disease Prevention and Control or the Commission identify the existence in one or more third countries of an infectious disease with epidemic potential as defined by the relevant instruments of the World Health Organization.	1. This Article shall apply to <del>situations where the European Centre for Disease Prevention and Control or the Commission identify the existence in one or more third countries of an infectious disease with epidemic potential as defined by the relevant instruments of the</del> <u>a large scale public health emergency, where a serious cross-border</u>	1. This Article shall apply to situations <del>where the European Centre for Disease Prevention and Control or the Commission identify</del> <u>of a threat to public health due to</u> the existence in one or more third countries of an infectious disease with epidemic potential as defined by the relevant instruments of the World Health Organization	

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		<u>threat to health necessitates coordination at Union level in order to ensure a high level of human health protection, recognised by the Commission at Union level in accordance with Regulation (EU) 2022/2371 of the European Parliament and of the <del>World</del> Council of 23 November 2022 on serious cross-border threats to health <del>Organization</del> and repealing Decision No 1082/2013/EU.</u>	<u>where the Commission, following the advice of the European Centre for Disease Prevention and Control, and taking into account information from the competent national authorities, establishes that such a threat may have a negative impact on the area without controls at internal borders.</u>	
97	2. The Council, on the basis of a proposal by the Commission, may adopt an implementing regulation, providing for temporary restrictions on travel to the Member States.	2. <del>The Council, on the basis of a proposal by</del> <u>In situations of a large scale public health emergency</u> the Commission, <del>may</del> <u>shall be empowered to</u> adopt <del>an implementing regulation, delegated</del> <u>acts in accordance with Article 37</u> providing for temporary restrictions on travel to the Member States.	2. The Council, on the basis of a proposal by the Commission, may adopt an implementing Regulation, providing for temporary restrictions on travel to the Member States, <u>applied at the external borders</u>	
98	Such temporary restrictions on travel may include restrictions on entry to the Member States and other measures considered necessary for the protection of	Such temporary restrictions on travel may include restrictions on entry to the Member States and other measures considered necessary for the protection of	<del>Such</del> Temporary restrictions on travel may include restrictions on entry to the Member States and <u>minimum temporary health related restrictions which are</u>	

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	public health in the area without controls at internal borders, such as for instance testing, quarantine, and self-isolation.	public health in the area without controls at internal borders, such as <del>for instance</del> testing, quarantine, and self-isolation.	<del>other measures considered</del> necessary for the protection of public health in the area without controls at internal borders, such as for instance testing, quarantine, and self-isolation. <u>Temporary restrictions on travel shall be proportionate and non-discriminatory.</u> <u>Member States may, where justified on public health grounds, adopt stricter temporary travel restrictions than those laid down in the implementing Regulation to be applied on their territory. Any such stricter restrictions shall be proportionate and non-discriminatory. Adoption of stricter restrictions shall not have a negative impact on the functioning of the area without controls at internal borders.</u>	
99	3. The following categories of persons shall be exempted from the restrictions on entry, independent of the purpose of their travel:	3. The following categories of persons shall be exempted from the restrictions on entry, independent of the purpose of their travel:	3. The following categories of persons shall be exempted from the restrictions on entry, independent of the purpose of their travel:	
100	a) persons enjoying the right of free movement under Union law;	a) persons enjoying the right of free movement under Union law;	a) persons enjoying the right of free movement under Union law;	

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101	b) third-country nationals who are long-term residents under Directive 2003/109/EC, persons deriving their right to reside from other instruments of Union law or national law or who hold national long-term visas, as well as their respective family members.	b) third-country nationals who are long-term residents under Directive 2003/109/EC, persons deriving their right to reside from other instruments of Union law or national law or who hold national long-term visas, as well as their respective family members.	b) third-country nationals who are long-term residents <del>under</del> <u>as defined in</u> Directive 2003/109/EC, persons deriving their right to reside from other instruments of Union law or national law or who hold national <del>long-term</del> <u>long-stay</u> visas, as well as their respective family members.	
101a		<u>(ba) beneficiaries of international protection.</u>		
102	4. The implementing regulation referred to in paragraph 1 shall, where appropriate:	4. The <del>implementing regulation</del> <u>delegated act</u> referred to in paragraph <del>1</del> <u>2</u> shall, where appropriate:	4. The implementing Regulation referred to in paragraph <u>2 shall,</u> <u>where appropriate: The</u> <u>implementing Regulation referred to in paragraph 2</u> <del>+</del> shall, where appropriate:	
103	a) define any categories of persons undertaking non-essential travel to be exempted from any restrictions applicable to travel;	a) define any categories of persons undertaking non-essential travel to be exempted from any restrictions applicable to travel;	<del>a</del> <u>b</u> ) define <del>any</del> <u>the</u> categories of persons <del>undertaking non-essential</del> <u>undertaking essential</u> travel to be exempted from <u>restrictions on entry</u> <del>any</del>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<del>restrictions</del> applicable to travel;	
104	b) identify any geographical areas or third countries from which non-essential travel may be subject to restrictions or exemptions from restrictions, having regard to the particular situation of the areas or countries concerned on the basis of objective methodology and criteria, including, in particular, the epidemiological situation;	b) identify any geographical areas or third countries from which non-essential travel may be subject to restrictions or exemptions from restrictions, having regard to the particular situation of the areas or countries concerned on the basis of objective methodology and criteria, including, in particular, the epidemiological situation;	<del>ba) identify</del> <u>determine</u> any geographical areas or third countries from which <del>non-essential</del> travel may be subject to restrictions or exemptions from restrictions, <del>having regard to the particular</del> <u>and define a procedure to periodically review the</u> situation of the areas or countries concerned <u>and the restrictions on travel imposed</u> on the basis of objective methodology and criteria, including, in particular, the epidemiological situation;	
105	c) lay down the conditions under which non-essential travel as referred to under points (a) and (b) may be restricted or exempt from restrictions, including proof to be presented to support the exemption and the conditions relating to the duration and nature of stay in the areas or countries referred to in point (b);	c) lay down the conditions under which non-essential travel as referred to under points (a) and (b) may be restricted or exempt from restrictions, including proof to be presented to support the exemption and the conditions relating to the duration and nature of stay in the areas or countries referred to in point (b);	<del>ee)</del> lay down the conditions under which non-essential travel <del>as referred to under points (a) and (b)</del> may be restricted or exempt from restrictions, including proof to be presented to support the exemption and the conditions relating to the duration and nature of stay in the areas or countries referred to in point (b);	
105a				

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			<u>(d) lay down minimum temporary health related restrictions to which persons referred to in paragraph 3 a) and b) may be subject;</u>	
106	d) lay down the conditions under which travel restrictions may be imposed, exceptionally, on persons undertaking essential travel, in the event that the epidemiological situation worsens quickly and, in particular where a variant of concern or variant of interest has been detected.	d) lay down the conditions under which travel restrictions may be imposed, exceptionally, on persons undertaking essential travel, in the event that the epidemiological situation worsens quickly and, in particular where a variant of concern or variant of interest has been detected.	<del>d)</del> lay down the conditions under which travel restrictions may be imposed, <del>exceptionally,</del> on persons undertaking essential travel, <del>in the event that the epidemiological situation worsens quickly and, in particular where a variant of concern or variant of interest has been detected.</del> <u>;</u>	
107	5. Restrictions on essential travel referred to in paragraph 4(d) may not include restrictions on entry as regards travellers listed in point i. and points iv. to viii. of Annex XI. ”	5. Restrictions on essential travel referred to in paragraph 4(d) may not include restrictions on entry as regards travellers listed in point i. and points iv. to viii. of Annex XI. ”	5. Restrictions on <u>entry on persons undertaking</u> essential travel <u>may only be imposed exceptionally, for a strictly limited period of time, until sufficient information about the disease</u> referred to in paragraph <del>4(d) may not include restrictions on entry as regards travellers listed in point i. and points iv. to viii. of Annex XI</del> <u>or a new variant thereof is available and until other health related restrictions, to be applied to those persons, necessary to</u>	

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			<u>protect public health, are identified and adopted by the Council.</u>	
107a		<u>5a. Where, in a situation of a large scale public health emergency, imperative grounds of urgency so require, the procedure provided for in Article 37a shall apply to delegated acts adopted pursuant to this Article.</u>		
108	(5) Article 23 is replaced by the following:	(5) Article 23 is replaced by the following:	(5) Article 23 is replaced by the following:	
109	“ Article 23 Exercise of public powers	“ Article 23 Exercise of public powers	“ Article 23 <del>Exercise of public powers</del> <u>Checks within the territory</u>	
109a			<i>deleted</i>	
110				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	The absence of border control at internal borders shall not affect:	The absence of border control at internal borders shall not affect:	The absence of border control at internal borders shall not affect:	
110a				<i>deleted</i>
111	<p>a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.</p> <p>The exercise by competent authorities of their powers may not, in particular, be considered equivalent to the exercise of border checks when the measures:</p>	<p>a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.</p> <p><u>That exercise of police or other public powers by the competent authorities of the Member States in their territory, in particular in their border areas, shall not have a disproportionate impact on the fluid traffic flow at road crossing-points at internal borders, in particular, by leading to excessive waiting times. Within the meaning of the first subparagraph,</u> the exercise by competent authorities of their powers may not, in particular, be considered equivalent</p>	<p>a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.</p> <p><u>The exercise of powers may include, where appropriate, the use of monitoring and surveillance technologies generally used in the territory, for the purposes of addressing threats to public security or public policy.</u></p> <p>The exercise by competent authorities of their powers <del>may</del> <u>shall</u> not, in particular, be considered equivalent to the exercise of border checks when the measures <u>fulfil each of the following conditions:</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		to the exercise of border checks when the measures:		
112	i) do not have border control as an objective;	i) do not have border control as an objective;	i) do not have border control as an objective;	
113	ii) are based on general information and experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:	ii) are based on general <u>law enforcement</u> information and experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:	ii) are based on general information and experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:	
114	- combat cross-border crime;	- <del>combat cross-border crime</del> <u>reduce irregular migration</u> ; <u>or</u>	- combat cross-border crime;	
115	- combat irregular residence or stay, linked to irregular migration; or	- combat irregular residence or stay, linked to irregular migration; or	- combat <del>irregular residence or stay, linked to irregular</del> <u>illegal</u> migration; or	
116	- contain the spread of an infectious disease with epidemic potential as detected by the	- contain the spread of an infectious disease with epidemic potential as <del>detected</del> <u>identified</u> by	- contain the spread of an infectious disease with epidemic potential, <u>the existence of which</u>	

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	European Centre for Disease Control;	the European Centre for Disease Control;	<u>has been established</u> <del>as detected</del> by the <u>Commission, following the advice of the</u> European Centre for Disease Control, <u>and taking into account information from the competent national authorities</u> ;	
117	iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger services and when they are based on risk analysis;	iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger services and when they are based on risk analysis;	iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger <u>transport</u> services and when they are based on <u>a risk assessment</u> <del>risk analysis</del> ;	
118	iv) are carried out, where appropriate, on the basis of monitoring and surveillance technologies generally used in the territory, for the purposes of addressing threats to public security or public policy as set out under ii);	iv) are carried out, where appropriate, on the basis of monitoring and surveillance technologies generally used in the territory, <u>in accordance with the Artificial Intelligence Act and in line with national legislation</u> , for the purposes of addressing threats to public security <del>or public policy</del> as set out under ii).  <u>The general law enforcement information referred to in the</u>	iv) <del>are carried out, where appropriate, on the basis of monitoring and surveillance technologies generally used in the territory, for the purposes of addressing threats to public security or public policy as set out under ii);</del>	

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		<u>second subparagraph, point ii), shall not include information collected through the automated processing of data available in different data sources or in different data formats in order to forecast or predict trends related to migration and border crossings;</u>		
119	b) the possibility for a Member State to carry out security checks on persons carried out at transport hubs by the competent authorities under the law of each Member State, by their competent authorities or by carriers, provided that such checks are also carried out on persons travelling within a Member State;	b) the possibility for a Member State to carry out security checks on persons carried out at transport hubs by the competent authorities under the law of each Member State, by their competent authorities or by carriers, provided that such checks are also carried out on persons travelling within a Member State;	b) the possibility for a Member State to carry out security checks on persons <del>carried out</del> at transport hubs by the competent authorities <u>or by carriers</u> under the law of each Member State, <del>by their competent authorities or by carriers</del> , provided that such checks are also carried out on persons travelling within a Member State;	
120	c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;	c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;	c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;	
121	d) the possibility for a Member State to provide by law for an	d) the possibility for a Member State to provide by law for an	d) the possibility for a Member State to provide by law for an	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	obligation on third-country nationals to report their presence on its territory pursuant to the provisions of Article 22 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention');	obligation on third-country nationals to report their presence on its territory pursuant to the provisions of Article 22 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention');	obligation on third-country nationals to report their presence on its territory <u>and the obligation for managers of establishments providing accommodation to see to it that third-country nationals complete and sign registration forms</u> pursuant <u>respectively</u> to the provisions of <del>Article 22</del> <u>Articles 22 and 45</u> of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention');	
122	e) checks for security purposes of passenger data against relevant databases on persons traveling in the area without controls at internal borders which can be carried out by the competent authorities under the applicable law. ”	<i>deleted</i>	e) checks for security purposes of passenger data against relevant databases on persons traveling in the area without controls at internal borders which can be carried out by the competent authorities under the applicable law.”	
123	(6) The following Article 23a is	(6) The following Article 23a is	(6) The following Article <del>23a</del> is	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	inserted:	inserted:	inserted:	
124	<p>“</p> <p>Article 23a</p> <p>Procedure for transferring persons apprehended at the internal borders</p>	<p>“</p> <p>Article 23a</p> <p>Procedure for <del>transferring</del><u>the possible transfer of</u> persons apprehended <del>in the vicinity of</del> the internal borders</p>	<p>“</p> <p><u>"Article 23a</u></p> <p><u>Procedure for transferring illegally staying third-country nationals apprehended in border areas</u><del>Procedure for transferring persons apprehended at the internal borders</del></p>	
125	<p>1. This Article applies to the apprehension of a third-country national in the vicinity of internal borders, in circumstances where all of the following conditions are fulfilled:</p>	<p>1. <u>Without prejudice to Article 22,</u> this Article applies to the apprehension of <del>a</del><u>an irregularly-staying</u> third-country national in the vicinity of internal borders, in circumstances where <del>all of</del> the following conditions are fulfilled:</p>	<p>1. This Article <del>applies to the apprehension of a</del><u>lays down the procedure for the transfer of an illegally staying</u> third-country national <u>apprehended in border areas as referred to in Article 23 in</u> <del>the vicinity of internal borders</del>, in circumstances where <del>all of</del> the following conditions are fulfilled:</p>	
126	<p>a) the third country national concerned does not or no longer fulfils the entry conditions laid down in Article 6(1);</p>	<p><i>deleted</i></p>	<p>a) <del>the third country national concerned does not or no longer fulfils the entry conditions laid down in Article 6(1);</del></p>	
127				

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	b) the third country national is not covered by the derogation laid down in Article 6(5) point (a);	<i>deleted</i>	b) <del>the third country national is not covered by the derogation laid down in Article 6(5) point (a);</del>	
128	c) the third country national is apprehended as part of cross-border police operational cooperation, in particular, during joint police patrols;	c) the third country national is apprehended <u>during joint police patrols</u> as part of cross-border police operational cooperation, <del>in particular, during joint police patrols</del> ;	<del>ea)</del> the third country national is apprehended <u>during checks conducted by the competent authorities within a bilateral as part of cross-border police operational cooperation framework, which may include</u> in particular, <del>during</del> joint police patrols, <u>where the Member States agree to use such a procedure in that bilateral cooperation framework, and</u>	
129	d) there are clear indications that the third country national has arrived directly from another Member State, on the basis of information immediately available to the apprehending authorities, including statements from the person concerned, identity, travel or other documents found on that person or the results of searches carried out in relevant national and Union databases.	d) there are clear indications that the third country national has arrived directly from another Member State, on the basis of information immediately available to the apprehending authorities, including statements from the person concerned, identity, travel or other documents <del>found</del> <u>on belonging to</u> that person or the results of searches carried out in relevant national and Union databases.;	<del>db)</del> there are clear indications that the <u>illegally staying</u> third country national has arrived directly from <del>another</del> <u>the other</u> Member State, on the basis of information immediately available to the apprehending authorities, including statements from the person concerned, identity, travel or other documents found on that person or the results of searches carried out in relevant national and Union databases.	

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129a		<u>(da) the Member State intending to avail itself of the procedure has not reintroduced or prolonged internal border control in accordance with Article 25a;</u>		
129b		<u>1a. The procedure laid down in paragraph 1 shall not apply to the following categories of person:</u>  <u>a) unaccompanied minors;</u> <u>b) minors and members of their family arriving together from another Member State;</u> <u>c) third-country nationals who are holders of EU long-term residence permits and their family members in accordance with Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents;</u> <u>d) third-country national family members of Union citizens enjoying the right to free movement in accordance with Directive 2004/38;</u> <u>e) third-country nationals who are holders of a valid long-</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>stay visa and their family members in accordance with national law;</u></p> <p><u>f) third-country nationals who are holders of a valid short-stay visa;</u></p> <p><u>g) third-country nationals who are entitled to visa-free travel within the Schengen Area for a 90-day period in any 180-day period, in so far as they have not exceeded that 90-day period;</u></p> <p><u>h) applicants for international protection within the meaning of Article 4 of Regulation xxx/xxx (the Asylum Procedures Regulation)<sup>1a</sup> and beneficiaries of international protection within the meaning of Article 2 of Regulation xxx/xxx (the Qualifications Regulation)<sup>1b</sup>.</u></p> <p><u>With regard to applicants for international protection or beneficiaries of international protection apprehended during joint police patrols as part of cross-border police operational cooperation, the relevant provisions of Regulation xx/xxx (the Asylum and Migration Management Regulation)<sup>1c</sup>, in particular Article [31] thereof,</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>shall apply.</u></p> <p><u>1a. Regulation of the European Parliament and of the Council .../... of ... establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ ...).</u></p> <p><u>1b. Regulation of the European Parliament and of the Council .../... of ... on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ ...).</u></p> <p><u>1c. Regulation of the European Parliament and of the Council .../... of ... on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund] (OJ ...).</u></p>		
130	2. The competent authorities of the Member State may, based on a finding that the third country national concerned has no right to stay on its territory, decide to immediately transfer the person to the Member State from which the person entered or sought to enter,	2. The competent authorities of the Member State may, based on a finding that the third country national concerned has no right to stay on its territory, decide to immediately <del>transfer</del> the person to the Member State from which the person entered or sought to enter,	2. The competent authorities of <del>the</del> <u>a</u> Member State may, <del>based on a finding that the</del> <u>after having apprehended an illegally staying</u> third country national <del>concerned has no right to stay on its territory</del> <u>in the border areas</u> , decide to immediately <del>transfer</del> the	

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	in accordance with the procedure set out in Annex XII.	<u><i>provided that paragraph 1a does not apply and that police authorities from the receiving Member State are participating in the joint police patrols,</i></u> in accordance with the procedure set out in Annex XII. <u><i>This transfer is without prejudice to Article 6(3) of Directive 2008/115/EC.</i></u>	person to the Member State from which the person entered or sought to enter, in accordance with the procedure set out in Annex XII. <u><i>This transfer is without prejudice to bilateral agreements or arrangements as referred to in Article 6(3) of Directive 2008/115/EC.</i></u>	
130a		<u><i>2a. A third-country national, apprehended in the vicinity of the internal borders, who is refused the right to stay in a Member State in accordance with this Article shall have the right to an effective remedy before a court or tribunal. Any appeal shall be conducted in accordance with national law. Member States shall ensure that written information on contact points able to provide information on representatives competent to act on behalf of the third-country national, in accordance with national law, is given to the third-country national, in a language that they understand or are reasonably expected to understand. The lodging of such an appeal shall not have suspensive effect.</i></u>		

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131	3. Where a Member State applies the procedure referred to in paragraph 2, the receiving Member State shall be required to take all measures necessary to receive the third country national concerned in accordance with the procedures set out in Annex XII.	3. Where a Member State applies the procedure referred to in paragraph 2, the receiving Member State shall be required to take all measures necessary to receive the <u>irregularly-staying</u> third country national concerned in accordance with the procedures set out in Annex XII.	3. Where a <u>transferring</u> Member State applies the procedure referred to in paragraph 2, the receiving Member State shall be required to take all measures necessary to receive the third country national concerned in accordance with the procedures set out in Annex XII. <u>Practical modalities can be agreed upon under the bilateral cooperation framework in line with the procedure set out in Annex XII.</u>	
131a		<u>3a. In the context of unannounced visits pursuant to Article 4(3) of Council Regulation (EU) 2022/922<sup>1a</sup>, the Commission shall pay particular attention to the implementation of the procedure laid down in this Article.</u>  <u>1a. Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15.6.2022, p. 1).</u>		

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132	4. From [one year following the entry into force of the Regulation] and annually thereafter, Member States shall submit to the Commission the data recorded in accordance with point 3 of Annex XII, regarding the application of paragraphs 1, 2 and 3.	4. From [one year following the entry into force of the Regulation] and annually thereafter, Member States shall submit to the Commission the data recorded in accordance with point 3 of Annex XII, regarding the application of paragraphs 1, 2, <u>2a</u> and 3.	4. From [ <u>one year following the entry into force of the Regulation</u> <del>one year following the entry into force of the Regulation</del> ] and annually thereafter, Member States shall submit to the Commission the data recorded in accordance with point 3 of Annex XII, regarding the application of paragraphs 1, 2 and 3. <u>"</u>	
133	(7) At the end of the first paragraph of Article 24, the first paragraph is replaced by the following:	(7) At the end of the first paragraph of Article 24, the first paragraph is replaced by the following:	(7) <del>At the end of</del> The first paragraph of Article 24, <del>the first paragraph</del> is replaced by the following:	
134	“ Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not exclusively based on road-safety considerations or required for the use of the technologies referred to in Article 23, point (a)(iv).”	“ Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not exclusively based on road-safety considerations or required for the use of the technologies referred to in Article 23, point (a)(iv).”	“ <u>"</u> Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not exclusively based on road-safety considerations or required for the use of the technologies referred to in Article 23, point (a) <del>(iv)</del> . <u>"</u>	



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	“	“	“	
135	(8) Article 25 is replaced by the following:	(8) Article 25 is replaced by the following:	(8) Article 25 is replaced by the following:	
136	“ Article 25 General framework for the temporary reintroduction or prolongation of border control at internal borders	“ Article 25 General framework for the temporary reintroduction or prolongation of border control at internal borders	“ "Article 25 <u>General framework for the temporary reintroduction or prolongation of border controls at internal borders</u> <del>General framework for the temporary reintroduction or prolongation of border control at internal borders</del>	
137	1. Where, in the area without internal border controls, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border controls at all or specific parts of its internal borders.	1. Where, in the area without internal border controls, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border controls at all or specific parts of its internal borders.	1. Where, in the area without internal border controls, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border <del>controls</del> <u>control</u> at all or specific parts of its internal borders-	
138	A serious threat to public policy or internal security may be considered	A serious threat to public policy or internal security may be considered	A serious threat to public policy or internal security may be considered	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	to arise from, in particular:	to arise from, in particular:	to arise from, in particular:	
139	(a) activities relating to terrorism or organised crime;	(a) <del>activities relating to</del> <u>an identified and immediate threat of acts of</u> terrorism or <u>of serious</u> organised crime;	(a) activities relating to terrorism or organised crime;	
140	(b) large scale public health emergencies;	(b) large scale public health emergencies;	(b) large scale public health emergencies;	
141	(c) a situation characterised by large scale unauthorised movements of third-country nationals between the Member States, putting at risk the overall functioning of the area without internal border control;	(c) <del>a</del> <u>an exceptional</u> situation <del>characterised by large scale</del> <u>in which there is an unexpected and sudden large-scale</u> unauthorised <del>movements</del> <u>movement</u> of third-country nationals between <del>the</del> Member States, putting at risk the overall functioning of the area without internal border control;	(c) <del>a</del> <u>an exceptional</u> situation characterised by large scale unauthorised movements of third-country nationals between the Member States, - putting <del>at risk</del> <u>a substantial strain on</u> the overall <del>functioning</del> <u>resources and capacities</u> of the <del>area without internal border control;</del> <u>responsible national services as evidenced by information analysis and all available data, including from EU agencies.</u>	
142	(d) large scale or high profile international events such as	(d) large scale or high profile international events such as	(d) large scale or high profile international events <del>such as</del>	

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	sporting, trade or political events.	sporting, trade or political events.	<del>sporting, trade or political events.</del>	
143	2. Border controls may only be introduced pursuant to Articles 25a and 28 where a Member State has established that such a measure is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the criteria referred to in Article 26(2). Border controls may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.	2. Border controls may only be introduced <u>or prolonged</u> pursuant to Articles 25a and 28 where a Member State has established that such a measure is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the <del>criteria</del> <u>assessment</u> referred to in Article 26(2). Border controls may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.	2. <del>Border controls may only be introduced pursuant to Articles 25a and 28 where a Member State has established that such</del> <u>In all cases, border controls at internal borders shall only be reintroduced as</u> a measure <del>is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the criteria referred to in Article 26(2))</del> <u>of last resort. The scope and duration of the temporary reintroduction of</u> border controls <del>may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30</del> <u>shall not exceed what is strictly necessary to respond to the serious threat identified.</u>	
144	In all cases, border controls at internal borders shall be reintroduced as a measure of last resort. The scope and duration of the temporary reintroduction of	In all cases, border controls at internal borders shall be reintroduced as a measure of last resort. The scope and duration of the temporary reintroduction of	<del>In all cases, border controls at internal borders shall be reintroduced as</del> <u>Border controls may only be introduced pursuant to Articles 25a and 28 where a</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	border control shall not exceed what is strictly necessary to respond to the serious threat identified.	border control shall not exceed what is strictly necessary to respond to the serious threat identified.	<u>Member State has established that such</u> a measure <del>of last resort. The scope and duration of the temporary reintroduction of</del> <u>is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the criteria referred to in Article 26(2).</u> Border <del>control shall not exceed what is strictly necessary to respond to the serious threat identified</del> <u>controls may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.</u>	
145	3. Where the same threat continues to persist, border controls at internal borders may be prolonged in accordance with Articles 25a, 28 or 29.	<i>deleted</i>	3. Where the same threat <del>continues to persist</del> <u>persists</u> , border controls at internal borders may be prolonged in accordance with Articles 25a, 28 or 29.	
146	The same threat shall be considered to exist where the justification advanced by the Member State for prolonging border controls is based on the determination of the continuation	<i>deleted</i>	The same threat shall be considered to exist where the justification advanced by the Member State for prolonging border controls is based on the determination of the continuation	

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	of the same threat that had justified the initial reintroduction of the border controls. ”		of the same threat that had justified the initial reintroduction of the border controls. ”	
147	(9) A new Article 25a is inserted after Article 25:	(9) A new Article 25a is inserted after Article 25:	(9) A new Article 25a is inserted after Article 25:	
148	“ Article 25a	“ Article 25a	“ <u>”</u> Article 25a	
149	Procedure for cases requiring action due to unforeseeable or foreseeable events	Procedure for <del>cases requiring action due to unforeseeable or foreseeable events</del> <u>the temporary reintroduction or prolongation of border control at internal borders</u>	<u>Procedure for cases requiring action due to unforeseeable or foreseeable events</u> <del>Procedure for cases requiring action due to unforeseeable or foreseeable events</del>	
150	1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border control at internal borders.	1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border control at internal borders.	1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border <del>control</del> <u>controls</u> at internal borders.	

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151	2. The Member State shall, at the same time as reintroducing border control under paragraph 1, notify the Commission and the other Member States of the reintroduction of border controls, in accordance with Article 27(1).	2. The Member State shall, at the same time as reintroducing border control under paragraph 1, notify the <u>European Parliament, the Council, the</u> Commission and the other Member States of the reintroduction of border controls, in accordance with Article 27(1).	2. The Member State shall, at the same time as reintroducing border <del>control</del> <u>controls</u> under paragraph 1, notify the Commission and the other Member States of the reintroduction of border controls, in accordance with Article 27(1).	
152	3. For the purposes of paragraph 1, border control at internal borders may be immediately reintroduced for a limited period of up to one month. If the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for further periods, leading to a maximum duration not exceeding three months.	3. For the purposes of paragraph 1, border control at internal borders may be immediately reintroduced for a limited period of up to one month. If the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for further periods, leading to a maximum duration not exceeding three months.	3. For the purposes of paragraph 1, border <del>control</del> <u>controls</u> at internal borders may be immediately reintroduced for a limited period of up to one month. If the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for further periods, leading to a maximum duration not exceeding three months.	
153	4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State shall notify the Commission and the other Member	4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State <u>may, as a last resort, reintroduce internal border</u>	4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State shall notify the Commission and the other Member	

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	States and the Commission in accordance with Article 27(1), at the latest four weeks before the planned reintroduction of border controls, or within a shorter period where the circumstances giving rise to the need to reintroduce border controls at internal borders become known less than four weeks before the planned reintroduction.	<u>control at internal borders in accordance with this Article. That Member State</u> shall notify the <del>Commission and the other Member States</del> <u>European Parliament, the Council, the Commission</u> and the <del>Commission</del> <u>other Member States</u> in accordance with Article 27(1), at the latest four weeks before the planned reintroduction of border controls, or within a shorter period where the circumstances giving rise to the need to reintroduce border controls at internal borders become known less than four weeks before the planned reintroduction.	States <del>and the Commission</del> in accordance with Article 27(1), at the latest four weeks before the planned reintroduction of border controls, or <del>within a shorter period</del> <u>as soon as possible</u> where the circumstances giving rise to the need to reintroduce border controls at internal borders become known less than four weeks before the planned reintroduction.	
154	<p>5. For the purposes of paragraph 4, and without prejudice to Article 27a(4), border control at internal borders may be reintroduced for a period of up to six months. Where the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to six months.</p> <p>Any prolongation shall be notified to the Commission and the other</p>	<p>5. For the purposes of paragraph 4, and without prejudice to Article 27a(4), border control at internal borders may be reintroduced for a period of up to <del>six</del> <u>three</u> months. Where the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to <del>six</del> <u>three</u> months.</p> <p>Any prolongation shall be notified</p>	<p>5. <del>For the purposes of</del> <u>Where</u> paragraph 4 <u>applies</u>, and without prejudice to Article 27a(4), border control at internal borders may be reintroduced for a period of up to six months. Where the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to six months.</p> <p>Any prolongation shall be notified</p>	

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	Member States in accordance with Article 27 and within the time limits referred to in paragraph 4. Subject to Article 27a(5), the maximum duration of border control at internal borders shall not exceed two years.	to the <u>European Parliament, the Council, the</u> Commission and the other Member States in accordance with Article 27 and within the time limits referred to in paragraph 4. Subject to Article 27a(5), the maximum duration of border control at internal borders shall not exceed <del>two years</del> <u>18 months</u> .	to the Commission and the other Member States in accordance with Article 27 and within the time limits referred to in paragraph 4. Subject to Article 27a(5), the maximum duration of border control at internal borders shall not exceed two years.	
155	6. The period referred to in paragraph 5 shall not include periods referred to in paragraph 3. „	<i>deleted</i>	6. The period referred to in paragraph 5 shall not include periods referred to in paragraph 3. „	
156	(10) Article 26 is replaced by the following:	(10) Article 26 is replaced by the following:	(10) Article 26 is replaced by the following:	
157	“ Article 26 Criteria for the temporary reintroduction and prolongation of border control at internal borders	“ Article 26 Criteria for the temporary reintroduction and prolongation of border control at internal borders	“ <u>Article 26</u> <u>Criteria for the temporary reintroduction and prolongation of border control at internal borders</u> <del>Criteria for the temporary reintroduction and prolongation of border control at internal borders</del>	



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158	1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article 25, a Member State shall in particular consider:	1. To establish whether the reintroduction <u>or prolongation</u> of border control at internal borders is necessary and proportionate in accordance with Article 25, a Member State shall <u>first assess</u> in particular <del>consider</del> :	1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article <del>25</del> <u>25(2)</u> , a Member State shall in particular <del>consider</del> <u>assess</u> :	
159	(a) the appropriateness of the measure of reintroducing border controls at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border controls at internal borders is likely to adequately remedy the threat to public policy or internal security;	(a) the appropriateness of the measure of reintroducing border controls at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border controls at internal borders is likely to adequately remedy the threat to public policy or internal security;	(a) the appropriateness of the measure of reintroducing border controls at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border controls at internal borders is likely to adequately remedy the threat to public policy, or internal security;	
159a		<u>(aa) whether the reintroduction of border controls at internal borders is likely to adequately remedy the serious threat to public policy or internal security;</u>		
159b		<u>(ab) whether measures other than the temporary reintroduction of</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>border control at internal borders are likely to sufficiently remedy the serious threat to public policy or internal security;</u>		
159c		<u>(ac) the use of alternative measures such as proportionate police checks carried out in accordance with Article 23;</u>		
159d		<u>(ad) the use of the procedure laid down in Article 23a;</u>		
159e		<u>(ae) other forms of police cooperation provided for under Union law, including on matters such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits or cross-border surveillance;</u>		
159f		<u>(af) the proportionality of the temporary reintroduction of border control in relation to the serious threat to public policy and internal security by taking into</u>		

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		<u>account the impact of such a measure on all of the following:</u>  <u>(i) the free movement of persons within the area without internal border control;</u> <u>(ii) the functioning of the cross-border regions, taking into account the strong social and economic ties between them; and</u> <u>(iii) the principle of non-discrimination.</u>		
160	(b) the likely impact of such a measure on:	<i>deleted</i>	(b) the likely impact of such a measure on:	
161	- movement of persons within the area without internal border control and	<i>deleted</i>	- <u>the</u> movement of persons within the area without internal border <del>control</del> <u>controls</u> and	
162	- the functioning of the cross-border regions, taking into account the strong social and economic ties between them.	<i>deleted</i>	- the functioning of the cross-border regions, taking into account the strong social and economic ties between them.	
163	2. Where a Member States decides	2. Where a Member <del>States</del> <u>State</u>	2. Where a Member <del>States</del> <u>State</u>	

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	to prolong the border control at internal borders pursuant to Article 25a(5), it shall also assess in detail whether the objectives pursued by such prolongation could be attained by:	decides to prolong the border control at internal borders pursuant to Article 25a(5) <u>beyond a period of six months</u> , it shall <del>also assess in detail whether the objectives pursued by such prolongation could be attained by:</del> <u>carry out a risk assessment which shall include a reassessment of the criteria laid down in the first paragraph of this Article.</u>	decides to prolong the border control at internal borders pursuant to Article 25a(5), it shall also assess in detail whether the objectives pursued by such prolongation could be attained by:	
164	a) the use of alternative measures such as proportionate checks carried out in the context of the lawful exercise of powers as referred to in Article 23 point (a);	<i>deleted</i>	a) the use of alternative measures such as proportionate checks carried out in the context of <del>the lawful exercise of powers</del> <u>checks within the territory</u> as referred to in Article 23 point (a);	
165	b) the use of the procedure as referred to in Article 23a;	<i>deleted</i>	b) <del>the use of the procedure as referred to in Article 23a;</del>	
166	c) forms of police cooperation as provided for under Union law, including on matters such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits, or cross-border	<i>deleted</i>	<del>eb)</del> forms of police cooperation as provided for under Union law, including <del>on matters such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits, or cross-border</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	surveillance.		<del>surveillance</del> <u>the procedure referred to in Article 23a;</u>	
166a			<u>(c) common measures regarding temporary restrictions on travel to the Member States as referred to in Article 21a(2).</u>	
166b		<p><u>2a. In addition to the elements laid down in Article 26(1), the risk assessment shall include the following:</u></p> <p><u>(a) the scale and anticipated evolution of the identified serious threat;</u></p> <p><u>(b) information on how long the identified serious threat is expected to persist and which sections of the internal borders are affected or risk being affected;</u></p> <p><u>(c) information regarding coordination measures with other Member States impacted or likely to be impacted by such measures;</u></p> <p><u>(d) the measures the Member State concerned has taken and</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>intends to take to alleviate the threat, with a view to lifting internal border controls in order to reinstate the principle of free movement.</i></u>		
167	<p>3. Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, where necessary, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the cross-border regions.</p> <p>”</p>	<p>3. Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, where necessary, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the <u><i>specific vulnerabilities of</i></u> cross-border regions.</p> <p><u><i>Where border controls at internal borders have been prolonged beyond a period of six months, the necessity, proportionality and duration of those controls shall be discussed in the Schengen Forum convened for that purpose.</i></u></p> <p>”</p>	<p>3. Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, <del>where necessary</del>, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the <u><i>strong social and economic ties between</i></u> cross-border regions, <u><i>and to persons undertaking essential travel.</i></u>”</p> <p>”</p>	
168	(11) Article 27 is replaced by the	(11) Article 27 is replaced by the	(11) Article 27 is replaced by the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	following:	following:	following:	
169	<p>“</p> <p>Article 27</p> <p>Notification of temporary reintroduction of internal border controls and risk assessment</p>	<p>“</p> <p>Article 27</p> <p>Notification of temporary reintroduction of internal border controls and risk assessment</p>	<p>“</p> <p><u>"Article 27</u>  <u>Notification of temporary reintroduction of internal border controls and risk assessment</u>  <del>Notification of temporary reintroduction of internal border controls and risk assessment</del></p>	
170	<p>1. Notifications by Member States of the reintroduction or prolongation of internal border controls shall contain the following information:</p>	<p>1. Notifications by Member States of the reintroduction or prolongation of internal border controls shall contain the following information:</p>	<p>1. Notifications by Member States of the reintroduction or prolongation of internal border controls shall contain the following information:</p>	
171	<p>(a) the reasons for the reintroduction or prolongation, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;</p>	<p>(a) the reasons for the reintroduction or prolongation, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;</p>	<p>(a) the reasons for the reintroduction or prolongation, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;</p>	
172	<p>(b) the scope of the proposed</p>	<p>(b) the scope of the proposed</p>	<p>(b) the scope of the proposed</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	reintroduction or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced, or prolonged;	reintroduction or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced, or prolonged;	reintroduction or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced, or prolonged;	
173	(c) the names of the authorised crossing-points;	(c) the names of the authorised crossing-points;	(c) the names of the authorised <del>crossing-points</del> <u>crossing points</u> ;	
174	(d) the date and duration of the planned reintroduction or prolongation;	(d) the date and duration of the planned reintroduction or prolongation;	(d) the date and duration of the planned reintroduction or prolongation;	
175	(e) the considerations as to the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation, in Article 26(2);	(e) the <del>considerations</del> <u>assessment</u> as to the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation <u>beyond a period of six months, the risk assessment as referred to</u> in Article 26(2);	(e) the <del>considerations as to</del> <u>assessment of</u> the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation, in Article 26(2);	
176	(f) where appropriate, the measures to be taken by the other Member States.	(f) where appropriate, the measures to be taken by <del>the</del> other Member States.	(f) where appropriate, the measures to be taken by the other Member States.	
177				



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	A notification may be submitted jointly by two or more Member States.	A notification may be submitted jointly by two or more Member States.	A notification may be submitted jointly by two or more Member States.	
178	The notification shall be provided in accordance with a template to be established by the Commission by an implementing act and to be made available online. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2)."	The notification shall be provided in accordance with a template to be established by the Commission by an implementing act and to be made available online. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2)."	<del>The notification</del> <u>Member States</u> shall <del>be provided in accordance with</del> <u>submit the notification using</u> a template to be established <del>by the Commission by an implementing act and to be</del> <u>and</u> made available online. <del>That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).</del> <u>by the Commission.</u>	
179	2. Where border controls have been in place for six months in accordance with Article 25a(4), any subsequent notification for the prolongation of such controls shall include a risk assessment. The risk assessment shall present the scale and anticipated evolution of the identified serious threat, in particular how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as information regarding coordination	2. Where border controls have been in place for six months in accordance with Article 25a(4), any subsequent notification for the prolongation of such controls shall include a risk assessment. <del>The risk assessment shall present the scale and anticipated evolution of the identified serious threat, in particular how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as information regarding</del>	2. Where border controls have been in place for six months in accordance with Article <del>25a(4)</del> <u>a(5)</u> , any subsequent notification for the prolongation of such controls shall include a risk assessment. The risk assessment shall present the scale and anticipated evolution of the identified serious threat, in particular how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	measures with the other Member States impacted or likely to be impacted by such measures.	<del>coordination measures with the other Member States impacted or likely to be impacted by such measures.</del> <u>in accordance with Article 26(2).</u>	information regarding coordination measures with the other Member States impacted or likely to be impacted by such measures.	
180	3. Where the reintroduction of border controls or its prolongation refers to large scale unauthorised movements referred to in Article 25(1) point (b), the risk assessment shall also provide information on the scale and trends of such unauthorised movements, including any information obtained from the relevant EU agencies in line with their respective mandates and data analysis from relevant information systems.	3. Where the reintroduction of border controls or its prolongation refers to <del>large scale unauthorised movements</del> <u>an exceptional situation as</u> referred to in Article 25(1) point <del>(b)</del> <u>(c)</u> , the risk assessment shall also provide information on the <del>scale and trends of such</del> <u>sudden and unexpected large-scale</u> unauthorised movements, including any information obtained from the relevant EU agencies in line with their respective mandates and data analysis from relevant information systems.	3. Where <del>the reintroduction of border controls or its prolongation refers to large scale unauthorised movements</del> <u>Member States reintroduce or prolong border controls because of a situation</u> referred to in Article 25(1) point <del>(b)</del> , <u>the risk assessment (c), the assessment required by paragraph 1(e) of this Article</u> shall also provide <u>a risk assessment and</u> information on the scale and trends of such unauthorised movements, including any information obtained from the relevant EU agencies in line with their respective mandates and data analysis from relevant information systems.	
181	4. The Member State concerned shall upon request by the Commission, provide any further information, including on the coordination measures with the	4. The Member State concerned shall upon request by the Commission, provide any further information, including on the coordination measures with the	4. The Member State concerned shall upon request by the Commission, provide any further information, including on the coordination measures with the	

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	Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Article 23 and 23a .	Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Article 23 and 23a .	Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Article 23 and 23a-.	
182	<p>5. Member States submitting a notification under paragraphs 1 or 2 may, where necessary and in accordance with national law, decide to classify all or parts of the notified information.</p> <p>Such classification shall not preclude access to information, through appropriate and secure police cooperation channels, by the other Member States affected by the temporary reintroduction of border controls at internal borders. ”</p>	<p>5. Member States submitting a notification under paragraphs 1 or 2 may, where necessary and in accordance with national law, decide to classify <del>all or</del> parts of the notified information.</p> <p>Such classification shall not preclude access to information, through appropriate and secure police cooperation channels, by the other Member States affected by the temporary reintroduction of border controls at internal borders <u>or information being made available to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament according to this paragraph shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European</u></p>	<p>5. Member States submitting a notification under paragraphs 1 or 2 may, where necessary and in accordance with national law, decide to classify all or parts of the notified information.</p> <p><u>Such classification shall not preclude access to information, through appropriate and secure <del>police-cooperation</del> channels, by the other Member States affected by the temporary reintroduction of border controls at internal borders."</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>Parliament and the Commission.</u> ”		
182a			<u>6. The Commission shall adopt an implementing act to establish the template referred to in the third subparagraph of paragraph 1. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).”</u> ”	
183	(12) The following Article 27a is inserted:	(12) The following Article 27a is inserted:	(12) The following Article 27a is inserted:	
184	“ Article 27a Consultation with the Member States and opinion of the Commission	“ Article 27a Consultation with the Member States and opinion of the Commission	“ "Article 27a <u>Consultation with the Member States and opinion of the Commission</u> <del>Consultation with the Member States and opinion of the Commission</del>	
185	1. Following receipt of notifications, submitted under	1. Following receipt of notifications, submitted under	1. Following receipt of notifications, submitted under	

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	Article 27(1), the Commission may establish a consultation process, where appropriate, including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures and the relevant Union agencies.	Article 27(1), the Commission may establish a consultation process, where appropriate, including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures and the relevant Union agencies. <u>Such a consultation process shall be mandatory if requested by one or more Member States.</u>	Article 27(1), the Commission may, <u>on its own initiative, or shall establish a consultation process, where appropriate, at the request of a Member State directly affected, establish a consultation process</u> including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures and the relevant Union agencies.	
186	The consultation shall concern in particular the identified threat to public policy or internal security, the relevance of the intended reintroduction of border controls taking into account the appropriateness of alternative measures, as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduced border controls.	The consultation shall concern in particular the identified threat to public policy or internal security, the <del>relevance</del> <u>proportionality and necessity</u> of the intended reintroduction of border controls, <u>including by</u> taking into account the appropriateness of alternative measures, <u>the impact of such border controls where they have already been reintroduced</u> , as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduced border controls.	<u>The objective of</u> the consultation <del>shall concern is to examine</del> in particular the identified threat to public policy or internal security, the <u>necessity and proportionality</u> <del>relevance</del> of the intended reintroduction of border controls taking into account the appropriateness of alternative measures, as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduced border controls.	

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187	The Member State planning to reintroduce or prolong border control at internal borders shall take utmost account of the results of such consultation when carrying out border control at the internal border.	The Member State planning to reintroduce or prolong border control at internal borders shall take utmost account of the results of such consultation when <u>deciding whether to reintroduce or prolong internal border control and when</u> carrying out border control at the internal border.	The Member State planning to reintroduce or prolong border control at internal borders shall take <del>utmost</del> <u>into</u> account <del>of</del> the results of such consultation when carrying out border control at the internal border.	
188	2. Following the receipt of notifications, submitted in relation to the reintroduction or prolongation of border controls at internal borders, the Commission or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.	2. Following the receipt of notifications, submitted in relation to the reintroduction or prolongation of border controls at internal borders, the Commission or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.	2. Following the receipt of notifications, submitted in relation to the reintroduction or prolongation of border controls at internal borders, the Commission <u>shall</u> , or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.	
189	3. Following receipt of	3. Following receipt of	3. Following receipt of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) which leads to the continuation of border controls at internal borders for eighteen months in total, the Commission shall issue an opinion on necessity and proportionality of such internal border controls.</p>	<p>notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) which leads to the continuation of border controls at internal borders for <del>eighteen months in total</del> <u>a period beyond nine months</u>, the Commission shall issue an opinion on necessity and proportionality of such internal border controls.</p> <p><u>The opinion of the Commission shall include at least:</u></p> <p><u>(a) an assessment of whether the reintroduction or prolongation of internal border control complies with the principles of necessity and proportionality;</u></p> <p><u>(b) an assessment whether alternative measures to remedy the serious threat identified were sufficiently explored;</u></p> <p><u>Where the reintroduction of internal border control is assessed and is considered to have complied with the principles of necessity and proportionality, the opinion shall also include:</u></p> <p><u>(a) recommendations on improving cooperation between</u></p>	<p>notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) which leads to the continuation of border controls at internal borders for <del>eighteen</del> <u>twelve</u> months in total, the Commission shall issue an opinion on necessity and proportionality of such internal border controls. <u>The opinion of the Commission shall contain recommendations, where appropriate, on the improvement of the cooperation between Member States in order to limit the impact of the internal border controls and contribute to the reduction of the persisting threat.</u></p>	

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		<u>Member States in order to limit the impact of internal border controls;</u> <u>(b) recommendations on mitigating measures to be taken by the Member State concerned prior to the lifting of internal border controls;</u> <u>(c) recommendations regarding the means, actions, conditions and timeline with a view to lifting internal border controls.</u>		
190	<p>4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission may establish a consultation process in order to discuss the opinion with the Member States. Where the Commission or a Member State issues an opinion expressing concerns on the necessity or proportionality of reintroduced internal border controls the Commission shall launch such a process.</p>	<p>4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission <del>may</del><u>shall</u> establish a consultation process, <u>in accordance with paragraph 1</u>, in order to discuss the opinion with the Member States. <del>Where the Commission or a Member State issues an opinion expressing concerns on the necessity or proportionality of reintroduced internal border controls the Commission shall launch such a process.</del></p>	<p>4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission <del>may</del><u>shall</u> establish a consultation process in order to discuss the opinion with the Member States. <del>Where the Commission or a Member State issues an opinion expressing concerns on the necessity or proportionality of reintroduced internal border controls the Commission shall launch such a process.</del></p>	
191	<p>5. Where a Member State</p>	<p>5. Where a Member State</p>	<p>5. Where a Member State</p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>considers that there are exceptional situations justifying the continued need for internal border controls in excess of the maximum period referred to in Article 25(5), it shall notify the Commission in accordance with Article 27(2). The new notification from the Member State shall substantiate the continued threat to public policy or internal security, taking into account the opinion of the Commission given pursuant to paragraph 3. The Commission shall issue a follow up opinion.</p>	<p>considers that there are exceptional situations justifying the continued need for internal border <del>controls</del><u>control</u> in excess of the maximum period referred to in Article 25(5), <u>based on the same foreseeable serious threat to public policy or internal security that justified the introduction of internal border control pursuant to paragraph 4, it may request</u><del>it shall notify</del> the Commission <del>in accordance with Article 27(2). The new notification from</del><u>to propose to the Council an implementing decision authorising the prolongation of border control by the Member State concerned beyond that maximum period in respect of that ongoing serious threat to public policy or internal security.</u></p> <p><u>In that request,</u> the Member State shall substantiate the <del>continued</del><u>continue</u> threat to public policy or internal security, taking into account the opinion of the Commission given pursuant to paragraph 3 <u>of Article 27a.</u></p> <p><u>The Commission shall make such a proposal to the Council only</u></p>	<p>considers that there <del>are</del><u>is a major</u> exceptional <del>situations</del><u>situation in respect to a persisting threat</u> justifying the continued need for internal border controls, in excess of the maximum period referred to in Article <del>25(5)</del><u>25a(5)</u>, it shall notify the Commission <del>in accordance with Article 27(2).</del><u>and the other Member States of its intention to prolong its internal border controls, at the latest four weeks before the planned prolongation, for an additional period of up to 6 months</u></p> <p>The new notification, <u>taking into account the opinion of the Commission issued pursuant to paragraph 3, from the Member State</u> shall <del>substantiate</del><u>include a risk assessment in accordance with Article 27:</u></p> <ul style="list-style-type: none"> <li>- <u>substantiating</u> the continued threat to public policy or internal security;</li> <li>- <u>substantiating that alternative measures to remedy the threat are deemed or have been found to be ineffective at the time of the notification;</u></li> <li>- <u>presenting the mitigating measures considered to accompany the controls;</u></li> </ul>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>where it considers that the prolongation of internal border control in the specific Member State is justified as a measure of last resort to protect the common interests within the area without internal border controls, and where all other measures, in particular those referred to in Article 23 and Article 23a, are ineffective in mitigating the serious threat identified. In evaluating the request of a Member State, the Commission shall <del>issue a follow up opinion</del> determine whether the criteria laid down in Article 26 are met.</u></p> <p><u>When adopting an implementing decision as referred to in the first subparagraph, the Council shall consider whether the prolongation of internal border control in the specific Member State is justified as a measure of last resort to protect the common interests within the area without internal border control, and whether all other measures, in particular those referred to in Article 23 and Article 23a, were ineffective in mitigating the serious threat</u></p>	<p><u>- including, where appropriate, a presentation of the means, actions, conditions and timeline considered with a view to lifting the internal border controls. Within three months after this notification, the Commission shall issue a new opinion. Where this <del>taking into account the</del> opinion expresses concerns on the necessity and the proportionality of the prolongation, the Commission <del>given pursuant to</del> shall adopt, without undue delay, a recommendation to be addressed to the Member State concerned, identifying means, actions and conditions with a view to lifting the internal border controls. Following the receipt of this notification, the Commission may on its own initiative, or shall at the request of the Member State directly affected establish a consultation process, in accordance with paragraph 1.</u></p> <p><u>Where, in a major exceptional situation, the continued need for internal border controls is confirmed as a result of the procedure referred to in this paragraph <del>3</del> and the additional</u></p>	

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		<p><u>identified.</u></p> <p><u>The Council implementing decision shall permit the prolongation of internal border control for a maximum period of three months. That implementing decision may be renewed no more than two times for maximum periods of three months, up to a maximum total duration of nine months, where at the end of the relevant three-month period, the Member State concerned considers that the serious threat to public policy or internal security for the same foreseeable threat persists, and that internal border controls should be further prolonged.</u></p> <p><u>Where a Member State considers that such a renewal is necessary, it may make a request to the Commission to propose a prolongation of up to a maximum of three months to the Council. The Commission and, where necessary, the Council shall assess such a request for renewal based on the criteria set out in the second and third subparagraphs above and having assessed the</u></p>	<p><u>period of six months referred to therein is not sufficient to ensure the availability of effective alternative measures to address the persisting threat, the Member State concerned shall notify the Commission without delay of its intention to prolong its internal border controls and shall specify the date on which it considers that the controls shall be lifted at the latest, consistently with the risk assessment as referred to in the second subparagraph.</u> The Commission shall <del>issue a follow-up opinion</del> <u>adopt without delay a recommendation on the compatibility with the Treaties of such final prolongation, including its date and scope, in particular with the principles of necessity and proportionality. The recommendation shall also identify, where appropriate with other Member States, the effective compensatory measures to be implemented and a reasonable timeline with a view to lifting the internal border controls. The Member State concerned shall take into account this recommendation with a view to lifting the internal border controls</u></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>compatibility with the Treaties of such a prolongation.</u>  <u>When prolonging internal border controls under the Council implementing decision referred to in this paragraph, the Member State concerned shall notify the other Member States, the European Parliament and the Commission in accordance with Article 27(1).</u>	<u>on a specified date.</u>	
192	(13) Article 28 is replaced by the following:	(13) Article 28 is replaced by the following:	(13) Article 28 is replaced by the following:	
193	<p>“</p> <p>Article 28</p> <p>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</p>	<p>“</p> <p>Article 28</p> <p>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</p>	<p>“</p> <p><u>"Article 28</u>  <u>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</u>  <del>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</del> </p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
194	<p>1. Where the Commission, establishes that the same serious threat to internal security or public policy affects a majority of Member States, putting at risk the overall functioning of the area without internal border, it may, make a proposal to the Council to adopt an implementing decision authorising the reintroduction of border controls by Member States where the available measures referred to in Articles 23 and 23a are not sufficient to address the threat.</p>	<p>1. Where the Commission <u>receives multiple notifications in accordance with Article 27(1), and</u> <del>establishes,</del> <u>on its own initiative or at the request of more than one Member State, that a particularly</u> <del>that the same</del> serious threat to internal security or public policy affects a majority of Member States <u>at the same time, in such a way as to put at immediate</u> <del>putting at</del> risk the overall functioning of the area without internal border, it <del>may, make a proposal to the Council</del> <u>shall be empowered, after having assessed the fulfilment of the criteria laid down in Article 26, to adopt an</u> <del>implementing decision</del> <u>delegated acts in accordance with Article 37</u> authorising the reintroduction of border controls by Member States where the available measures referred to in Articles 23 and 23a are not sufficient to address <del>the</del> <u>that</u> <del>serious</del> threat.</p>	<p>1. <u>Where the Commission,</u> establishes that the same serious threat to internal security or public policy affects <del>a majority of</del> <u>several</u> Member States, putting at risk the overall functioning of the area without internal border <u>controls</u>, it may<del>,</del> make a proposal to the Council to adopt an implementing decision authorising the reintroduction of border controls by Member States, <u>including any appropriate mitigating measures to be established at national and EU level</u>, where the available measures referred to in Articles <u>21a</u>, 23 and 23a are not sufficient to address the threat. <u>The Member States may request the Commission to submit such a proposal to the Council.</u></p>	
195	<p>2. The decision shall cover a period of up to six months and may be renewed, upon proposal from the Commission, for further</p>	<p>2. The <del>decision</del> <u>delegated act</u> shall cover a period of up to six months and may be renewed<del>, upon proposal from the Commission,</del> <u>no</u></p>	<p>2. The decision shall cover a period of up to six months and may be renewed, upon proposal from the Commission, for further</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	periods of up to six months as long as the threat persists, taking into account the review referred to in paragraph 5.	<u>more than three times</u> for further periods of up to six months <del>as long as the threat persists</del> , taking into account the review referred to in paragraph 5. <u>The maximum duration of the internal border controls on the basis of the particularly serious threat identified shall not exceed two years.</u>	periods of up to six months as long as the threat persists, taking into account the review referred to in paragraph 5.	
196	3. Where Member States reintroduce or prolong border controls because of the threat referred to in paragraph 1, those controls shall, as of the entry into force of the Council decision, be based on that decision.	3. Where Member States reintroduce or prolong border controls because of the threat referred to in paragraph 1, those controls shall, as of the entry into force of the <del>Council decision</del> <u>delegated act</u> , be based on that decision.	3. Where Member States reintroduce or prolong border controls because of the threat referred to in paragraph 1, those controls shall, as of the entry into force of the Council decision, be based on that decision.	
197	4. The decision of the Council referred to in paragraph 1 shall also refer to any appropriate mitigating measures that shall be established at national and Union level in order to minimise the impacts caused by the reintroduction of border controls.	4. The <del>decision of the Council</del> <u>delegated act</u> referred to in paragraph 1 shall also refer to any appropriate mitigating measures that shall be established at national and Union level in order to minimise the <del>impacts</del> <u>impact</u> caused by the reintroduction of border controls.	4. <del>The decision of the Council referred to in paragraph 1 shall also refer to any appropriate mitigating measures that shall be established at national and Union level in order to minimise the impacts caused by the reintroduction of border controls.</del>	

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198	5. The Commission shall review the evolution of the identified threat as well as the impact of the measures adopted in accordance with the Council decision referred to in paragraph 1, with a view to assess whether the measures remain justified.	5. The Commission shall <u>on a regular basis</u> review the evolution of the identified threat as well as the impact of the measures adopted in accordance with the <del>Council decision</del> <u>delegated act</u> referred to in paragraph 1, with a view to <del>assess</del> <u>assessing</u> whether the measures remain justified <u>and to proposing the lifting of internal border controls as soon as possible</u> .	5. The Commission shall <u>regularly</u> review the evolution of the identified threat as well as the impact of the measures adopted in accordance with the Council decision referred to in paragraph 1, with a view to <del>assess</del> <u>assessing</u> whether the measures remain justified.	
199	6. Member States shall immediately notify the Commission and the other Member States in the Council of a reintroduction of border controls in accordance with the decision referred to in paragraph 1.	6. Member States shall immediately notify the <u>European Parliament, the</u> Commission and the other Member States in the Council of a reintroduction of border controls in accordance with the <del>decision</del> <u>delegated act</u> referred to in paragraph 1.	6. Member States shall immediately notify the Commission and the other Member States in the Council of a reintroduction of border controls in accordance with the decision referred to in paragraph 1.	
200	7. The Commission may issue a recommendation indicating other measures as referred to in Articles 23 and 23a that could complement internal border controls or be more suitable to address the identified threat to internal security or public	7. The Commission may issue a recommendation indicating other measures as referred to in Articles 23 and 23a that could complement internal border controls or be more suitable to address the identified threat to internal security or public	7. <del>The Commission may issue a recommendation indicating other</del> <u>Member States may take other</u> measures, as referred to in Articles 23 and 23a, <u>in order to limit the scope of</u> <del>that could complement</del> internal border	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	policy as referred to in paragraph 1. ”	policy as referred to in paragraph 1. ”	controls <del>or be more suitable to address the identified threat to internal security or public policy</del> as <u>The Commission shall take this into account in the review</u> referred to in paragraph <del>4</del> 5”. ”	
201	(14) Article 31 is amended as follows:	(14) Article 31 is amended as follows:	(14) Article 31 is amended as follows:	
202	a) Article 31 becomes paragraph 1;	a) Article 31 becomes paragraph 1;	a) Article 31 becomes paragraph 1 <del>;</del>	
203	b) the following paragraph 2 is added:	b) the following paragraph 2 is added:	b) the following <del>paragraph 2</del> <u>is paragraphs 2 and 3 are</u> added:	
204	‘ 2. Where a Member State notifies the Commission and the other Member States of the reintroduction of border controls in accordance with Article 27(1), it shall at the same time inform the European Parliament and the Council of the following:	‘ 2. Where a Member State notifies the Commission and the other Member States of the reintroduction of border controls in accordance with Article 27(1), it shall at the same time <del>inform</del> <u>provide the notification to</u> the European Parliament and the	‘ 2. Where a Member State notifies the Commission and the other Member States of the reintroduction of border controls in accordance with Article 27(1), it shall at the same time inform the European Parliament and the Council of the following:	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Council <del>of the following:</del>		
205	a) the details of the internal borders where border control is to be reintroduced;	<i>deleted</i>	a) <u>the scope</u> <del>the details</del> of the <del>internal borders where</del> <u>border reintroduction, specifying at which part(s) of the internal borders</u> control is to be reintroduced;	
206	b) the reasons for the proposed reintroduction;	<i>deleted</i>	b) the reasons for the <del>proposed</del> reintroduction;	
207	c) the names of the authorised crossing-points;	<i>deleted</i>	c) the names of the authorised <del>crossing points</del> <u>crossing points</u> ;	
208	d) the date and duration of the planned reintroduction;	<i>deleted</i>	d) the date and duration of the planned reintroduction;	
209	e) where appropriate, the measures to be taken by the other Member State.	<i>deleted</i>	e) where appropriate, the measures to be taken by the other Member State.	
210				

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	3. The provision of information may be subject to classification of information by Member States pursuant to Article 27(4).	3. The provision of information may be subject to classification of information by Member States pursuant to Article <del>27(4)</del> 27(5).	3. <del>The provision of information may be subject to classification of</del> Member States shall not be required to provide all the information <del>by Member States pursuant to Article 27(4)</del> referred to in the paragraph 2 in cases justified on public security grounds or confidentiality of ongoing investigations.	
211	Member States shall not be required to provide all the information referred to in the paragraph 2 in cases justified on public security grounds.	deleted	<del>Member States shall not be required to provide all the</del> The provision of information may be subject to classification of information <del>referred to in the paragraph 2 in cases justified on public security grounds</del> by Member States pursuant to Article 27(5).	
212	The classification of information shall not preclude information from being made available by the Commission to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall comply with rules concerning the forwarding and	deleted	The classification of information shall not preclude information from being made available by the Commission to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall comply with rules concerning the forwarding and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	handling of classified information which are applicable between the European Parliament and the Commission. ”		handling of classified information which are applicable between the European Parliament and the Commission.” ”	
213	(15) Article 33 is replaced by the following:	(15) Article 33 is replaced by the following:	(15) Article 33 is replaced by the following:	
214	“ Article 33 Report on the reintroduction of border control at internal borders	“ Article 33 Report on the reintroduction of border control at internal borders	“ <u>"Article 33</u> <u>Report on the reintroduction of border control at internal borders</u> <del>Article 33</del> <del>Report on the reintroduction of border control at internal borders</del>	
215	1. Within four weeks of the lifting of border control at internal borders, Member States which have carried out border controls at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.	1. Within four weeks of the lifting of border control at internal borders, Member States which have carried out border controls at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.	1. Within four weeks of the lifting of border control at internal borders, Member States which have carried out border controls at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
216	2. Without prejudice to the first paragraph 1, where border controls are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of twelve months and every twelve months thereafter if border control is exceptionally maintained.	2. Without prejudice to the first paragraph 1, where border controls are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of <del>twelve</del> <u>six</u> months and every <del>twelve</del> <u>six</u> months thereafter if border control is exceptionally maintained.	2. Without prejudice to the first paragraph 1, where border controls are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of twelve months and every twelve months thereafter if border control is exceptionally maintained.	
217	3. The report shall outline, in particular, the initial and follow-up assessment of the necessity of border controls and the respect of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the movement of persons in particular in the cross-border regions, 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.	3. The report shall outline, in particular, the initial and follow-up assessment of the necessity <u>and proportionality</u> of border controls <del>and the respect</del> , <u>the fulfilment</u> of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the <u>free</u> movement of persons in particular in the cross-border regions, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the <u>necessity and</u> proportionality of the reintroduction of border control.	3. The report shall outline, in particular, the initial and follow-up assessment of the necessity of border controls and the respect of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the movement of persons in particular in the cross-border regions, 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.	
218				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	4. The Commission shall adopt a uniform format for such report and make it available online.	4. The Commission shall adopt a uniform format for such report and make it available online.	4. The Commission shall adopt a uniform format for such report <u>to be established by an implementing act</u> and make it available online. <u>That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).</u>	
219	5. The Commission may issue an opinion on that ex-post assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.	5. The Commission may issue an opinion on that ex-post assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.	5. The Commission may issue an opinion on that ex-post assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.	
220	6. The Commission shall present to the European Parliament and to the Council, at least annually, a report on the functioning of the area without internal border control entitled ('State of Schengen report'). The report shall include a list of all decisions to reintroduce border control at internal borders taken during the relevant year. It shall also include information on the trends within the Schengen area as regards the unauthorised movements of third country nationals, taking into account	6. The Commission shall present to the European Parliament and to the Council, at least annually, a report on the functioning of the area without internal border control entitled ('State of Schengen report'). The report shall include a list of all decisions to reintroduce border control at internal borders taken during the relevant year. <del>It shall also include information on the trends within the Schengen area as regards the unauthorised movements of third country nationals, taking into account</del>	6. The Commission shall present to the European Parliament and to the Council, at least annually, a report on the functioning of the area without internal border <del>control</del> <u>controls</u> entitled ('State of Schengen report'). The report shall include a list of all decisions to reintroduce border <del>control</del> <u>controls</u> at internal borders taken during the relevant year. It shall also include <u>an assessment of the necessity and proportionality of the reintroductions and prolongations of border controls in the period</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>available information from the relevant Union agencies, data analysis from relevant information systems and an assessment of the necessity and proportionality of the reintroductions of border controls in the period covered by that report.</p> <p>”</p>	<p><del>available information from the relevant Union agencies, data analysis from relevant information systems and</del> <u>as well as the actions taken by the Commission with regard to internal border controls reintroduced. The report shall pay particular attention to the border controls that have been in place for longer than twelve months, and shall include</u> an assessment of the necessity and proportionality of the reintroductions of border controls in the period covered by that report. <u>The report shall be accompanied by the report to be provided pursuant to Article 25 of Regulation (EU) 2022/922 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013.</u></p> <p>”</p>	<p><u>covered by that report as well as</u> information on the trends within the <u>area without internal border control</u> <del>Schengen area</del> as regards the unauthorised movements of third country nationals, taking into account available information from the relevant Union agencies, <u>and</u> data analysis from relevant information systems <del>and an assessment of the necessity and proportionality of the reintroductions of border controls in the period covered by that report.</del> <u>”</u></p> <p>”</p>	
220a		<p><u>(15a) Article 37 is replaced by the following:</u></p> <p><u>"Article 37</u></p> <p><u>Exercise of the delegation</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</u></p> <p><u>2. The power to adopt delegated acts referred to in Article 13(5), Article 21a(2), 28(1) and Article 36 shall be conferred on the Commission for an indeterminate period of time.</u></p> <p><u>3. The delegation of powers referred to in Article 13(5), Article 21a(2), 28(1) and Article 36 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</u></p> <p><u>3a. Before adopting a delegated act, the Commission shall consult experts designated by each</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making</u></p> <p><u>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</u></p> <p><u>5. A delegated act adopted pursuant to Article 13(5), Article 21a(2), 28(1) and Article 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."</u></p>		
220b		<u>(15b) The following Article 37a is</u>		



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>inserted :</u></p> <p><u>Article 37a</u></p> <p><u>Urgency procedure</u></p> <p><u>1. Delegated acts adopted under this Article shall enter into force without delay and shall apply for as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.</u></p> <p><u>2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 37(5). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.</u></p>		
221	(16) In Article 39 (1), the following point (h) is added:	(16) In Article 39 (1), the following point (h) is added:	(16) In Article <del>39 (1)</del> <u>39(1)</u> , the following point (h) is added:	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
222	“ h) Member States shall notify to the Commission the local administrative areas considered as the cross-border regions and any relevant changes thereto. ”	“ h) Member States shall notify to the Commission the local administrative areas considered as the cross-border regions and any relevant changes thereto. ”	“ h) <del>Member States shall notify to the Commission the local administrative</del> <u>the</u> areas considered as <del>the</del> cross-border regions and any relevant changes thereto.” ”	
223	(17) The following Article 42b is added:	(17) The following Article 42b is added:	(17) The following Article 42b is added:	
224	“ Article 42b	“ Article 42b	“ <u>"Article 42b</u> <del>Article 42b</del>	
225	Notification of cross-border regions	Notification of cross-border regions	<u>Notification of cross-border regions</u> <del>Notification of cross-border regions</del>	
226	By [two months of the entry into force of this Regulation] at the latest, Member States shall notify the Commission the areas of their territory considered as the cross-border regions.	By [two months of the entry into force of this Regulation] at the latest, Member States shall notify the Commission the areas of their territory considered as the cross-border regions.	By <del>two</del> <u>six</u> months of the entry into force of this Regulation <del>at</del> the latest, Member States <u>with common internal borders</u> shall <del>notify the Commission</del> <u>in close cooperation determine</u> the areas	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			of their territory considered as <u>cross-border regions, taking into account the strong social and economic ties between them, and notify the Commission thereof</u> <del>the cross-border regions.</del>	
227	Member States shall also inform the Commission of any relevant changes thereto. ”	Member States shall also inform the Commission of any relevant changes thereto. ”	Member States shall also inform the Commission of any relevant changes thereto. ”	
228	(18) The following Annex XI is added:	(18) The following Annex XI is added:	(18) <del>The following Annex XI is added:</del>	
229	“ ANNEX XI	“ ANNEX XI	“ <del>ANNEX XI</del> ”	
230	Essential Travel	Essential Travel	<del>Essential Travel</del>	
231	Essential functions or needs referred to in Article 2, point (23) refers to travel for any of the following function or needs:	Essential functions or needs referred to in Article 2, point (23) refers to travel for any of the following function or needs:	<del>Essential functions or needs referred to in Article 2, point (23) refers to travel for any of the following function or needs:</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
232	i. Healthcare professionals, health researchers, and elderly care professionals;	i. Healthcare professionals, health researchers, and elderly care professionals;	i. <del>Healthcare professionals, health researchers, and elderly care professionals;</del>	
233	ii. Frontier workers;	ii. Frontier workers;	ii. <del>Frontier workers;</del>	
234	iii. Transport personnel;	iii. Transport personnel;	iii. <del>Transport personnel;</del>	
235	iv. Diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions;	iv. Diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions;	iv. <del>Diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions;</del>	
236	v. Passengers in transit;	v. Passengers in transit;	v. <del>Passengers in transit;</del>	
237				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	vi. Passengers travelling for imperative family reasons;	vi. Passengers travelling for imperative family reasons;	vi. <del>Passengers travelling for imperative family reasons;</del>	
238	vii. Seafarers;	vii. Seafarers;	vii. <del>Seafarers;</del>	
239	viii. Persons in need of international protection or for other humanitarian reasons. ”	viii. Persons in need of international protection or for other humanitarian reasons. ”	viii. <del>Persons in need of international protection or for other humanitarian reasons.</del> ”	
240	(19) A new Annex XII is added:	(19) A new Annex XII is added:	( <del>19</del> <u>18</u> ) A new Annex XII is added:	
241	“ ANNEX XII	“ ANNEX XII	“ <u>”</u> ANNEX XII	
242	PART A	PART A	PART A	
243	Procedure for transferring persons apprehended at the internal borders	Procedure for <del>transferring the</del> <u>possible transfer of</u> persons apprehended <del>at the</del> <u>in the vicinity of</u> internal borders	<u>Procedure for transferring illegally staying third-country nationals apprehended in border areas</u> <del>Procedure for transferring persons apprehended at the</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<i>internal borders</i>	
244	1. Decisions shall state the grounds for finding that a person has no right to stay. They shall take effect immediately.	1. Decisions shall state the grounds for finding that a person has no right to stay. They shall take effect immediately.	1. <u>Transfer</u> decisions <u>pursuant to Article 23a(2)</u> shall <del>state the grounds for finding that a person has no right to stay</del> <u>be issued by means of a standard form, as set out in Part B, completed by the competent national authority.</u> They shall take effect immediately.	
245	2. The decision shall be issued by means of a standard form, as set out in Part B, completed by the competent national authority.	2. The decision shall be issued by means of a standard form, as set out in Part B, completed by the competent <del>national</del> <u>law enforcement</u> authority.	<del>2. The decision shall be issued by means of a standard form, as set out in Part B, completed by the competent national authority.</del>	
246	The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the decision by signing the form and shall be given a copy of the signed form.	The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the decision by signing the form and shall be given a copy of the signed form.	<u>2.</u> The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the <u>transfer</u> decision by signing the form and shall be given a copy of the signed form.	
247	Where the third-country national	Where the third-country national	Where the third-country national	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	refuses to sign the standard form, the competent authority shall indicate this refusal in the form under the section ‘comments’.	refuses to sign the standard form, the competent authority shall indicate this refusal in the form under the section ‘comments’.	refuses to sign the standard form, the competent authority shall indicate this refusal in the form under the section ‘comments’.	
248	3. The national authorities issuing a refusal decision shall record the following data:	3. The national authorities issuing a <del>refusal</del> decision <u>transferring a person</u> shall record the following data:	3. The national authorities issuing a <del>refusal</del> <u>transfer</u> decision shall record the following data:	
249	a) to the extent that these can be established by them, the identity and nationality of the third-country national concerned,	a) to the extent that these can be established by them, the identity and nationality of the third-country national concerned,	a) to the extent that these can be established by them, the identity and nationality of the third-country national concerned,	
250	b) the references of the identity document, if any,	b) the references of the identity document, if any,	b) the references of the identity document, if any,	
251	c) where available, copies of any documents or data relating to the identity or nationality of the third country national concerned, in combination with the relevant national and Union databases.	<i>deleted</i>	c) where available, copies of any documents or data relating to the identity or nationality of the third country national concerned, in combination with the relevant national and Union databases.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
252	d) the grounds for refusal,	d) the grounds for <del>refusal</del> <u>transfer</u> ,	d) the grounds for <del>refusal</del> <u>transfer</u> ,	
253	e) the date of refusal,	e) the date of <del>refusal</del> <u>transfer</u> ,	e) the date of <del>refusal</del> <u>transfer</u> ,	
254	f) the Member States to which the third country national was sent back.	f) the Member States to which the third country national was sent back.	f) the <del>Member States to which the third country national was sent back</del> <u>receiving Member State</u> .	
255	4. The national authorities issuing a refusal decision shall collect the following data:	4. The national authorities issuing a <del>refusal</del> <u>transfer</u> decision shall collect the following data:	4. The national authorities issuing a <del>refusal</del> <u>transfer</u> decision shall <u>inform the Commission yearly on the number of persons transferred to other Member States, indicating the Member State(s) to which the persons were transferred and, where available, the nationality of the third-country nationals apprehended.</u> <del>collect the following data:</del>	
256	a) the number of persons refused entry;	<i>deleted</i>	a) <del>the number of persons refused entry;</del>	
257				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	b) the number of persons refused stay;	b) the number of persons refused stay <u>and sent back</u> ;	b) <del>the number of persons refused stay</del> ;	
258	c) the number of persons sent back;	<i>deleted</i>	c) <del>the number of persons sent back</del> ;	
259	d) the Member State(s) to which persons were sent back;	d) the Member State(s) to which persons were sent back;	d) <del>the Member State(s) to which persons were sent back</del> ;	
260	e) where this information is available, the nationality of the third country nationals apprehended;	e) where this information is available, the nationality of the third country nationals apprehended;	e) <del>where this information is available, the nationality of the third country nationals apprehended</del> ;	
261	f) the grounds for refusal of entry and stay;	f) the grounds for refusal of <del>entry</del> and stay;	f) <del>the grounds for refusal of entry and stay</del> ;	
262	g) the type of border as specified in Article 2 point 1 of Regulation (EU) 2016/399 at which the third country nationals were sent back.	g) the type of border as specified in Article 2 point 1 of Regulation (EU) 2016/399 at which the third country nationals were sent back.	g) <del>the type of border as specified in Article 2 point 1 of Regulation (EU) 2016/399 at which the third country nationals were sent back</del> .	
263				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>5. Persons refused entry or the right to stay shall have the right to appeal. Appeals shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the third-country national in accordance with national law shall also be given to the third-country national in a language that they understand or are reasonably supposed to understand. Lodging such an appeal shall not have suspensive effect.</p>	<p>5. Persons refused <del>entry or</del> the right to stay shall have the right to appeal. Appeals shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the third-country national in accordance with national law shall also be given to the third-country national in a language that they understand or are reasonably supposed to understand. Lodging such an appeal shall not have suspensive effect.</p>	<p>5. <del>Persons refused entry or the right to stay</del> <u>Third-country nationals subject to a transfer decision</u> shall have the right to appeal. Appeals <u>against the transfer decision</u> shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the third-country national in accordance with national law shall also be given to the third-country national in a language that they understand or are reasonably supposed to understand. Lodging such an appeal shall not have suspensive effect.</p>	
264	<p>6. The authorities empowered under national law shall ensure that the third-country national subject to a refusal decision is transferred to the competent authorities of the neighbouring Member State immediately and within 24 hours at the latest. The authorities empowered under national law in the neighbouring Member State shall cooperate with the authorities of the Member State to that end.</p>	<p>6. The <del>authorities empowered</del> <u>competent law enforcement authority</u> under national law shall ensure that the third-country national subject to a <del>refusal</del> <u>transfer</u> decision is transferred to the competent authorities of the neighbouring Member State immediately and within <del>24</del> <u>12</u> hours at the latest. The authorities empowered under national law in the neighbouring</p>	<p>6. The authorities empowered under national law shall ensure that the third-country national subject to a <del>refusal</del> <u>transfer</u> decision is transferred, <u>in the bilateral cooperation framework as referred to in paragraph 1(a) of Article 23a</u>, to the competent authorities of the <del>neighbouring</del> <u>receiving</u> Member State immediately and within 24 hours at the latest. The authorities</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		Member State, <u>having taken part in a joint police patrol</u> , shall cooperate with the authorities of the Member State to that end.	empowered under national law in the <del>neighbouring</del> <u>receiving</u> Member State shall cooperate with the authorities of the <u>transferring</u> Member State to that end.	
265	7. If a third-country national who has been subject to a decision referred to in paragraph 1 is brought to the border by a carrier, the authority responsible locally may:	<i>deleted</i>	7. If a third-country national who has been subject to a decision referred to in paragraph 1 is brought to the border by a carrier, the <del>authority</del> responsible <del>locally</del> <u>authority</u> may:	
266	(a) order the carrier to take charge of the third-country national and transport him or her without delay to the Member State from which he or she was brought;	<i>deleted</i>	(a) order the carrier, <u>in accordance with national law</u> , to take charge of the third-country national and transport him or her without delay to the <u>receiving</u> Member State <del>from which he or she was brought</del> ;	
267	(b) pending onward transportation, take appropriate measures, in compliance with national law and having regard to local circumstances, to prevent third-country nationals who have been refused entry from entering	<i>deleted</i>	(b) pending onward transportation, take appropriate measures, in compliance with national law and having regard to local circumstances, to prevent third-country nationals who have been <del>refused entry from entering</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	illegally.		<del>illegally</del> <u>subject to a transfer decision from absconding.</u>	
268	PART B	PART B	PART B	
269	Standard form for transferring persons apprehended at the internal borders	Standard form for transferring persons apprehended <del>at</del> <u>in the vicinity of</u> the internal borders	Standard form for transferring <del>persons apprehended at the internal borders</del> <u>illegally staying third-country nationals apprehended in border areas</u>	
270	<p>Name of State Logo of State (Name of Office)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____ (1)</p> <p>TRANSFER PROCEDURE AT THE INTERNAL BORDER</p> <p>On _____ at (time) _____ at the location (indicate type of the internal border nearby or other relevant information related to the apprehension by a joint</p>	<p>Name of State Logo of State (Name of Office)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____ (1)</p> <p>TRANSFER PROCEDURE <del>AT</del> <u>THE IN THE VICINITY OF</u> INTERNAL <del>BORDER</del> <u>BORDERS</u></p> <p>On _____ at (time) _____ at the location (indicate type of the internal border nearby or other relevant information related to the</p>	<p>____ Name of State ____ Logo of State (Name of Office)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____ (1)</p> <p>____ TRANSFER PROCEDURE AT THE INTERNAL BORDER</p> <p>____ On _____ at (time) _____ at the location (indicate type of the internal border</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	patrol) _____ We, the undersigned, _____ _____ ha ve before us: Personal data (subject to availability) Surname _____ _____ First name _____ Date of birth _____ _____ Place of birth _____ _____ Sex _____ Nationality _____ _____ Resident in _____ Type of identity document _____ number _____ _____ Issued in _____ _____ on _____	apprehension by a joint patrol) _____ We, the undersigned, _____ _____ ha ve before us: Personal data (subject to availability) Surname _____ _____ First name _____ Date of birth _____ _____ Place of birth _____ _____ Sex _____ Nationality _____ _____ Resident in _____ Type of identity document _____ number _____ _____ Issued in _____ _____	nearby or other relevant information related to the apprehension <del>by a joint patrol</del> <u>in</u> <u>accordance with Article 23a</u> ) _____ _____ _____ We, the undersigned, _____ _____ have before us: Personal data (subject to availability) _____ Surname _____ _____ First name _____ _____ Date of birth _____ _____ Place of birth _____ _____ Sex _____ Nationality _____ _____ Resident in _____ _____ Type of identity document	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>visa or residence permit  <input type="checkbox"/> (E) has no appropriate documentation justifying the purpose and conditions of stay  The following document(s) could not be provided:</p> <hr/> <hr/> <p><input type="checkbox"/> (F) has already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the European Union  <input type="checkbox"/> (G) does not have sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit  <input type="checkbox"/> (H) is a person for whom an alert has been issued for the purposes of refusing entry  <input type="checkbox"/> in the SIS  <input type="checkbox"/> in the national register  <input type="checkbox"/> (I) is considered to be a threat to public policy, internal security, public health or the international relations of one or more of the Member States of the European Union (each State must indicate the references to national law relating to such transfer)  Comments</p>	<p><input type="checkbox"/> (D) has a false/counterfeit/forged visa or residence permit  <input type="checkbox"/> <del>(E) has no appropriate documentation justifying the purpose and conditions of stay</del>  <del>The following document(s) could not be provided:</del></p> <hr/> <hr/> <p><input type="checkbox"/> (F) has already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the European Union  <input type="checkbox"/> (G) does not have sufficient means of subsistence in relation to the period and form of stay, or the means to return to the <del>country of origin or transit</del> <u>neighbouring Member State</u>  <input type="checkbox"/> <u>(GA) is not an applicant for international protection</u>  <input type="checkbox"/> <u>(GB) is not a minor</u>  <input type="checkbox"/> (H) is a person for whom an alert has been issued for the purposes of refusing entry  <input type="checkbox"/> in the SIS  <input type="checkbox"/> in the national register  <input type="checkbox"/> (I) is considered to be a threat to public policy, internal security, public health or the international relations of one or more of the</p>	<p><del>the national law in force), for the following reasons:</del>  <input type="checkbox"/> <del>(A) has no valid travel document(s)</del>  <input type="checkbox"/> <del>(B) has a false/counterfeit/forged travel document</del>  <input type="checkbox"/> <del>(C)</del> <u>Article 23a of the Schengen Borders Code :</u>  <u>Grounds stating that a person</u>  has no <del>valid visa or residence permit</del>  <input type="checkbox"/> <del>(D) has a false/counterfeit/forged visa or residence permit</del>  <input type="checkbox"/> <del>(E) has no appropriate documentation justifying the purpose and conditions of stay</del>  <del>The following document(s) could not be provided:</del></p> <hr/> <hr/> <hr/> <hr/> <p><input type="checkbox"/> <del>(F) has already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the European Union</del>  <input type="checkbox"/> <del>(G) does not have sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit</del>  <input type="checkbox"/> <del>(H) is a person for whom an</del></p>	


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	<p><input type="checkbox"/> The person concerned declined to sign the form.</p> <p>Person Concerned Officer responsible for checks</p> <p>The person concerned may appeal against the decision that he/she has no right to stay as provided for in national law. The person concerned receives a copy of this document (each State must indicate the references to the national law and procedure relating to the right of appeal).</p>	<p>Member States of the European Union (each State must indicate the references to national law relating to such transfer)</p> <p>Comments</p> <p><input type="checkbox"/> The person concerned declined to sign the form.</p> <p>Person Concerned Officer responsible for checks</p> <p>The person concerned may appeal against the decision that he/she has no right to stay as provided for in national law. The person concerned receives a copy of this document (each State must indicate the references to the national law and procedure relating to the right of appeal <u>as well as contact points able to provide information on representatives competent to act on behalf of the third-country national</u>).</p>	<p><del>alert has been issued for the purposes of refusing entry</del></p> <p><input type="checkbox"/> <u>right to stay</u> in the <del>SIS</del></p> <p><input type="checkbox"/> <del>in the national register</del></p> <p><input type="checkbox"/> <del>(I) is considered to be a threat to public policy, internal security, public health or the international relations of one or more of the Member States of the European Union (each State must indicate the references to national law relating to such transfer)</del></p> <p>:</p> <p>Comments</p> <p><input type="checkbox"/> The person concerned declined to sign the form.</p> <p>Person Concerned <del>Officer</del> Responsible <del>for checks</del> <u>authorities</u></p> <p>The person concerned may appeal against the <del>decision that he/she has no right to stay as provided for in</del> <u>transfer in accordance with</u> national law. The person concerned receives a copy of this document (<u>each State must indicate the references to the national law and procedure relating to the right of appeal</u> <del>each State must indicate the references to the national law and procedure</del></p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<i>relating to the right of appeal).</i> “	
271	“	“		
272	Article 2 Amendment to Directive 2008/115/EC	<del>Article 2</del> <i>deleted</i>	Article 2  <u>Amendment to Directive 2008/115/EC</u> <del>Amendment to Directive 2008/115/EC</del>	
273	1. Article 6(3) of Directive 2008/115/EC is replaced by the following:	<i>deleted</i>	1. Article 6(3) of Directive 2008/115/EC is replaced by the following:	
274	“ 3. Member States may refrain from issuing a return decision to a third-country national staying illegally on their territory if the third-country national concerned is taken back by another Member State in accordance with the procedure provided for in Article 23a of the Regulation (EU)	<i>deleted</i>	“ 3. Member States may refrain from issuing a return decision to a third-country national staying illegally on their territory if the third-country national concerned is taken back by another Member State in accordance with the procedure provided for in Article 23a of the Regulation (EU)	

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	2016/399 of the European Parliament and of the Council* or under bilateral agreements or arrangements.		2016/399 of the European Parliament and of the Council* or under bilateral agreements or arrangements.	
275	The Member State which has taken back the third-country national concerned in accordance with the first subparagraph shall issue a return decision in accordance with paragraph 1. In such cases, the derogation laid down in the first subparagraph shall not apply.	<i>deleted</i>	The Member State which has taken back the third-country national concerned in accordance with the first subparagraph shall issue a return decision in accordance with paragraph 1. In such cases, the derogation laid down in the first subparagraph shall not apply. <u>except for the derogation set out in Article 6(2).</u>	
276	Member States shall without delay notify any existing, amended or new bilateral agreements or arrangements to the Commission.”	<i>deleted</i>	Member States shall without delay notify any existing, amended or new bilateral agreements or arrangements to the Commission.”	
277	* Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1).	<i>deleted</i>	* Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1).	

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	“		“	
278	Article 3 Transposition of amendment to Directive 2008/115/EC	<del>Article 3</del>  <i>deleted</i>	Article 3  <u>Transposition of amendment to Directive 2008/115/EC</u> <del>Transposition of amendment to Directive 2008/115/EC</del>	
279	1. Member States shall adopt and publish, by [6 months from entry into force of this Regulation] at the latest, the laws, regulations and administrative provisions necessary to comply with Article 2. They shall forthwith communicate to the Commission the text of those provisions.	<i>deleted</i>	1. Member States shall adopt and publish, by <del>6</del> <u>12</u> months from entry into force of this Regulation <del>7</del> at the latest, the laws, regulations and administrative provisions necessary to comply with Article 2. They shall forthwith communicate to the Commission the text of those provisions.	
280	They shall apply those provisions from [6 months from entry into force].	<i>deleted</i>	They shall apply those provisions from <del>6</del> <u>12</u> months from entry into force <del>7</del> .	
281	When Member States adopt those provisions, they shall contain a	<i>deleted</i>	When Member States adopt those provisions, they shall contain a	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	reference to Article 2 of this Regulation or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.		reference to Article 2 of this Regulation or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	
282	Article 4	Article 4	Article 4	
283	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	
284	However, Article 1, point 6, shall apply from [the date at which the amendments provided for in Article 2 apply in the Member States].	<i>deleted</i>	However, Article 1, point 6, shall apply from [the date at which the amendments provided for in Article 2 apply in the Member States].	
285	This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	 This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
286	Done at Strasbourg,	Done at Strasbourg,		
287	For the European Parliament	For the European Parliament		
288	The President	The President		
289	For the Council	For the Council		
290	The President	The President		