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European Union

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NOTE

From: Austrian delegation

To: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

Subject: Prolongation of the temporary reintroduction of border controls at the Austrian internal borders in accordance with Articles 25-25 of the Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

Delegations will find attached a courtesy translation of the letter received by the General Secretariat of the Council on 11 October 2019 regarding temporary reintroduction of border controls by Austria at its internal borders between 12 November 2019 and 11 May 2020.

Mr Frans TIMMERMANS
First Vice-President of the
European Commission
1049 Brussels
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Mr Dimitris AVRAMOPOULOS
EU Commissioner for
Migration, Home Affairs and Citizenship
1049 Brussels
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H.E. David SASSOLI
President of the European Parliament
1049 Brussels
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Mr Jeppe TRANHOLM-MIKKELSEN
Secretary-General of the Council
1049 Brussels
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To the Ministers of the Interior of the European Union and Schengen States

Vienna, 10 October 2019

Re: Internal border controls

Dear Vice-President of the Commission,

Dear Commissioner,

Dear President of the European Parliament,

Dear Secretary-General of the Council,

Dear Colleagues,

The Republic of Austria endeavours to ensure the European fundamental freedoms are upheld through effective implementation of the common rules of the European Union.

Regrettably, illegal migration, which is essentially determined by criminal organisations, has for some time been posing a threat to the internal security of the Republic of Austria and the European Union at large.

Regulation (EU) 2016/399 of the European Parliament and the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) marked the new codification of an essential pre-condition for ensuring freedom of movement between the Contracting States, provided that internal security is guaranteed.

According to the Schengen Borders Code, the Contracting States are to refrain from carrying out border controls at internal borders, provided it is ensured through adequate measures at the external borders of the European Union that only persons who fulfil the conditions for entry or who declare themselves as asylum seeker(s) may cross these borders.

The Schengen Borders Code shall be applied by the Republic of Austria.

Although the Republic of Austria does not have external borders, except for the international airports, persons who are not entitled to enter either Austria or the European Union continue to be regularly apprehended at Austria's internal borders and on Austrian territory.

Observations made over the last few months regarding the developments of migratory movements towards Europe, of secondary movements within the Schengen area and of the effects on internal security show that we are still faced with ongoing high migratory pressure, a volatile migratory situation on and along the various routes as well as in the vicinity of the EU, and that human smuggling gangs have increased their activities. This assessment is also corroborated by recent developments in Turkey and Greece as well as on the Western Balkans, particularly as the number of arrivals via and along the eastern and central Mediterranean routes have continuously increased. The rise in migratory movements from Turkey has already resulted in an increased number of arrivals via the eastern Mediterranean route and has led to massive pressure on Greek islands. It is to be expected that the regular transfers of migrants from the Greek islands to the Greek mainland will result in a further increase in illegal migratory movements to central Europe via the Balkans. Since the situation at the external borders of the European Union is still not yet sufficiently stable and external border protection does not yet work sufficiently either, we continue to be faced with a criminal and terrorist threat, particularly as terrorists might use of these migratory movement for their own purposes, movements and operations.

This leads to the existence of a genuine, present and sufficiently serious threat to public policy or internal security in Austria as set out in the Schengen Borders Code. This situation is not a result of omissions on the part of the Republic of Austria, but rather attributable to deficiencies in the controls at the external borders of the European Union and in enforcing asylum policy in Europe.

Under Art. 25 of the Schengen Borders Code, internal border controls may be reintroduced by a Member State in case of a serious threat to public policy or internal security. Every Member State shall assess independently the existence of such serious threat to public policy or internal security.

Circumstances caused by illegal migration across the external borders of the European Union into Austria and the decision of the Federal Republic of Germany to reintroduce border controls at the Austro-German land borders have made it necessary also for Austria to reintroduce border controls at the land borders to Hungary and Slovenia.

Accordingly and based on Articles 25 to 27 of Regulation (EU) 2016/399 (Schengen Borders Code), I, as the competent highest-ranking executive of the Republic of Austria, have therefore ordered that border controls be again performed at the Austrian land borders to Hungary and Slovenia as of 13 November 2019 for a period of six months.

The Republic of Austria will discuss concrete control measures and their implementation with the states affected by these internal border controls on expert level. In line with Art. 23 of the Schengen Borders Code and Austrian national law, the Republic of Austria endeavours to complement the internal border controls on its territory by means of police controls that are situation-based and flexible both in terms of time and place.

Please be assured that the Republic of Austria aims to organise all border control measures in such a manner that will restrict European Union citizens to the least possible extent in enjoying their freedom of movement.

Yours sincerely
