



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 October 2011 (27.10)  
(OR. fr)**

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**Interinstitutional Files:  
2011/0242 (COD)  
2010/0312 (COD)**

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**15853/11**

**LIMITE**

**SCHENGEN 39  
SCH-EVAL 172  
FRONT 139  
COMIX 656  
CODEC 1761**

**NOTE**

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from:	French delegation
to:	Working Party on the Schengen Acquis/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)
Nos prev. docs	10148/11 JUR 230 SCH-EVAL 82 SCHENGEN 16 COMIX 326 CODEC 818 14358/11 SCH-EVAL 152 SCHENGEN 27 FRONT 116 COMIX 582 CODEC 1465 14359/11 FRONT 117 SCH-EVAL 153 SCHENGEN 28 COMIX 583 CODEC 1466
No. Cion prop.:	COM(2011) 560 final
Subject:	Comments on the Schengen governance package

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**I/ Commission proposal on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis**

From the outset, France would point out that the choice of legal basis continues to raise genuine questions which merit a constructive discussion between the European institutions concerned and in which our delegation is willing to adopt an open approach.

In addition, France considers that the two legislative proposals in the package form a coherent whole and should result in an overall compromise.

## *1 - Comments on the legal basis*

The new Commission proposal uses as a legal basis Article 77(2)(e) of the Treaty on the Functioning of the European Union (TFEU). On 13 May 2011<sup>1</sup> and at the request of several Member States, the Council Legal Service (CLS) delivered an opinion which, in essence, concluded that Article 70 TFEU was the appropriate legal basis for those Member States already fully applying the Schengen acquis and that Article 77(2)(e) could be used for Schengen candidate states. The CLS also stated that measures the Council might adopt on the basis of Article 70 TFEU could confer on the Commission the power to adopt certain implementing measures in accordance with Regulation (EU) No 182/2011, provided that the fundamental objective of Article 70 TFEU, namely mutual evaluation by the Member States, is not compromised.

At the Schengen Acquis Working Party meeting on 30 September 2011, several delegations again objected to the choice of Article 77 as the legal basis for the new mechanism.

The analysis by the Council's Legal Service<sup>2</sup>, which seems difficult to contest, does not call into question the active role the European Commission might play in the new evaluation mechanism, particularly via the committee procedure. In addition, the French delegation considers that it should be possible, on an informal cooperation basis, to take into account the European Parliament's opinion on the proposed mechanism if Article 70 was retained as a legal basis.

There is a fundamental need to revise the Schengen evaluation arrangements promptly, particularly so as to address the issue of strengthening Schengen Area governance. It would, therefore, be especially unfortunate if the European Union were condemned to inaction on account of a disagreement over the legal basis. That is why the French delegation is ready to show flexibility in order not to slow down discussions and could ultimately, whilst expressing a preference for Article 70 and on the basis of future compromise, consider the Commission's arguments in favour of Article 77.

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<sup>1</sup> 10148/11 JUR 230 SCH-EVAL 82 SCHENGEN 16 COMIX 326 CODEC 818

<sup>2</sup> 10148/11 JUR 230 SCH-EVAL 82 SCHENGEN 16 COMIX 326 CODEC 818

## *2 - Comments on the remainder of the document*

- Article 14 of the draft Regulation does not provide for the case where a deficient Member State refuses, on political or constitutional grounds, the deployment of European border guard teams on its territory. To take account of this eventuality, in cases of refusal, consideration could be given to applying the provisions set out in Article 15(2) on the re-establishment of border controls. Likewise, on the basis of the current Frontex Regulation, it is not possible to impose the deployment of border guards on a Member State's territory (Article 14(1-1)) even if the measure were decided by the Commission following an opinion under the committee procedure, as provided for in Article 14(1-4).

- Whilst the role of Frontex has been strengthened, it could be further boosted at a structural level by Frontex and Europol becoming more involved in establishing the annual and multi-annual evaluation programmes. Accordingly, Article 5(1) could be amended as follows (with the additions in bold):

*"A multiannual evaluation programme covering a period of five years shall be established by the Commission, **after consulting Frontex and Europol**, not later than six months before the start of the next five-year period. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2)."*

Similarly, these agencies could be involved in the drafting and updating of the questionnaires referred to in Article 7, the first paragraph of which could be amended as follows:

*"The Commission shall send a standard questionnaire to the Member States to be evaluated in the next year by not later than 15 August of the previous year. The standard questionnaires, **drafted and updated in cooperation with Frontex and Europol**, shall cover the relevant legislation and the organisational and technical means available for implementation of the Schengen acquis and statistical data on each field of the evaluation."*

In the same vein, Article 8(1) could also be amended as follows:

*"Taking into account the risk analysis provided ~~by Frontex~~ in accordance with Article 6, the replies to the questionnaire referred to in Article 7 and, where appropriate **Frontex**, Europol or other relevant sources, an annual evaluation programme shall be established by the Commission by not later than 30 November of the previous year."*

Under Article 13(5), Frontex could be consulted on the adequacy of the action plan drawn up by the Member State being evaluated. An alternative wording for the final paragraph of this Article could be:

*"After consulting the team of experts **and Frontex**, the Commission shall present its assessment of the adequacy of the action plan to the committee established in accordance with Article 17, within one month of receiving the action plan from the Member State. Member States shall be invited to comment on the action plan."*

The role of Frontex could also be given more prominence in other provisions.

Furthermore, a provision could be added under a new Article enabling the establishment, in due course, of a body of European inspectors within Frontex made up of seconded national experts responsible for the coordination of all on-site evaluations. This measure would help to significantly improve the efficiency and consistency of evaluations and to overcome the difficulties involved in the secondment of experts from Member States for unannounced inspections, for which very short notice is given.

- We do not think it necessary to retain Article 12 on the verification of the free movement of persons at internal borders, as its provisions are not the focus of this proposal and are likely to cause confusion. The French delegation therefore requests its removal.

## **II/ Commission proposal amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances**

Further to the statements made at the JHA Council on 22 September, and as stated in the joint press release by the French, Spanish and German Ministers of Interior dated 13 September 2011, France thanks the Commission for putting forward a raft of proposals designed to strengthen Schengen governance in response to the request by the European Council on 21 June. It is now generally recognised that there is need to take action so that the Schengen area is preserved.

However, France regrets the proposal to revise existing rules on the re-establishment of borders in **cases of serious threat to public policy or internal security**, regarding which the Commission now intends to assume responsibility for a decision which currently falls within the competence of the Member States.

In essence, assessment of cases of serious threat to public policy and internal security falls within national sovereignty competences, as in fact Article 72 TFEU expressly states. The decision to reintroduce temporary internal border controls is by its nature based on a thorough assessment of the national security situation, which can only be carried out by the Member States on the basis of the expertise and resources of their security services. In these circumstances, prior monitoring of the implementation of measures for the temporary reintroduction of border control at internal borders is not acceptable, as several Member States firmly emphasised at the last JHA Council. Only ex post monitoring would be possible within the context of information gathering and proceedings before the Court of Justice, as indeed the Commission is currently able to do.

France wishes to reiterate that, in the European Commission's own opinion, the current provisions in the event of a serious threat to public policy or internal security have been implemented without any instance of abuse since 2006 and could be used to justify a review of the Code on this point.

In addition, the Commission's proposals go beyond the guidelines laid down by the European Council in June and what the Commission itself had published in its communication of 4 May, and have not been the subject of requests from either the Council or the European Parliament. They could also be regarded by some national parliaments as being contrary to the principle of subsidiarity. However, France is not opposed to a possible improvement in the current rules with, if necessary, greater supervision of the implementing procedure allowing for faster judicial review, as in other areas.

In general, the Commission's choice would seem inappropriate in bringing together, within the same procedure and in respect of public policy and internal security alone, all cases warranting the temporary reintroduction of border controls at internal borders.

Beyond these issues of principle concerning the calling into question of public policy and internal security provisions, and therefore the structure of the proposal, France wishes to make the following comments as regards the other situations described in the Commission's proposal:

**1 - In cases of an unexpected and significant increase in the number of illegally resident third-country nationals:** recital 5 of the Commission's proposal stresses that serious threats to public policy or internal security may arise when large numbers of third-country nationals cross the external border of one or more Member States and that this might result in an unexpected and significant increase in secondary movements of third-country nationals found to be illegally staying in the territory of another Member State or States. Such movements, including in cases of a large and sudden influx, do not necessarily have an impact on security and public policy: it might also be difficult to make this connection.

Accordingly, there should be an *ad hoc* procedure, unrelated to cases of serious threat to public policy, allowing a Member State, under certain conditions, on an exceptional basis and for a limited period (fifteen days maximum), to temporarily reintroduce border controls at internal borders on the grounds of significant and sudden migratory influxes in one Member State having an impact on another State.

Beyond this deadline, the introduction of an implementing measure under the committee procedure would be needed to allow the extension of the measure restoring border controls along the lines of the provision envisaged in the event of serious and persistent deficiencies by a Member State in its external border controls.

2 - With regard to the procedure in cases of **serious and persistent deficiencies in a Member State related to external border control or return procedures** (Article 26); while this proposal is broadly in tune with the proposal submitted by France, France has serious reservations as to the validity of the need to state that these deficiencies also constitute a serious threat to public policy or internal security at the Union or national level (see paragraph 1).

Where the serious and persistent breach is confirmed in accordance with the provisions of the Regulation establishing an evaluation mechanism, there is no need for an additional reference to possible consequences for public order. The failure of a Member State in its duties as regards application of the Schengen acquis has, indeed, serious and undue consequences for the other States in terms of costs (processing of asylum applications, return of illegally resident third-country nationals).

In addition, the advantage of the safeguard mechanism is clearly that it should be applied as long as non-compliance persists. In these circumstances, it does not seem either logical or desirable to provide for a maximum prolongation period for the reintroduction of controls, as the Commission proposes (see: "*No more than three such prolongations will be possible*");

Lastly, it would certainly be preferable, for reasons concerning the Member States' national legal systems (and particularly constitutional reasons), that provision should be made for the Commission to authorise the reintroduction of internal border control rather than for the Commission alone to "decide" on this, and that this applies to prolongation thereof, as provided for in paragraphs 2 and 3.

On the basis of the above observations, France submits a set of proposals listed in the attached table.

**Revision of Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances**

Schengen Borders Code	Commission proposals (14359/11)	French proposals
<p><b><u>Article 23</u></b></p> <p><b>Temporary reintroduction of border control at internal borders</b></p> <p>1. Where there is a serious threat to public policy or internal security, a Member State may exceptionally reintroduce border control at its internal borders for a limited period of no more than 30 days or for the foreseeable duration of the serious threat if its duration exceeds the period of 30 days, in accordance with the procedure laid down in Article 24 or, in urgent cases, with that laid down in Article 25. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.</p> <p>2. If the serious threat to public policy or internal security persists beyond the period provided for in paragraph 1, the Member State may prolong border control on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days, in accordance with the procedure laid down in Article 26.</p>	<p><b><u>Article 23</u></b></p> <p><b>General framework for the temporary reintroduction of border control at internal borders</b></p> <p>1. Where in the area without border control at internal borders there is a serious threat to public policy or internal security at the Union or national level, border control at internal borders may exceptionally be reintroduced at all or specific parts of the internal borders of one or several Member States for a limited period of no more than 30 days or for the foreseeable duration of the serious threat if its duration exceeds the period of 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.</p> <p>2. Border control at internal borders may only be reintroduced in accordance with the procedures foreseen in Articles 24, 25 and 26 of this Regulation. The criteria listed in Article 23a must be taken into account in each case where a decision on the reintroduction of border control at internal borders is contemplated.</p> <p>3. If the serious threat to public policy or internal security at the Union or national level persists beyond the period provided for in paragraph 1, border control at internal borders may, taking account of the criteria listed in Article 23a, be prolonged on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days.</p>	<p><b><u>Article 23</u></b></p> <p><b>General framework for the temporary reintroduction of border control at internal borders</b></p> <p>1. <del>Where in the area without border control at internal borders there is a serious threat to public policy or internal security at the Union or national level,</del> <b>Border control at internal borders may exceptionally be reintroduced at all or specific parts of the internal borders of one or several Member States for a limited period of no more than 30 days or for the foreseeable duration of the <u>situation justifying the temporary reintroduction</u> serious threat if its duration exceeds the period of 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to <del>the serious threat</del> <u>this situation</u>.</b></p> <p>2. Border control at internal borders may only be reintroduced <b><u>under the conditions of and</u></b> in accordance with the procedures foreseen in Articles 24, 25, <b><u>25a and 25b</u></b> <del>26</del> of this Regulation. <del>The criteria listed in Article 23a must be taken into account in each case where a decision on the reintroduction of border control at internal borders is contemplated.</del></p> <p>3. If <del>the serious threat to public policy or internal security at the Union or national level</del> <b><u>the situation justifying the reintroduction of border control at internal borders</u></b> persists beyond the period provided for in paragraph 1, border control at internal borders may, <del>taking account of the criteria listed in Article 23a,</del> be prolonged on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days.</p>



	<p>4. The total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 and prolongations under paragraph 3, shall not exceed six months. In cases of persistent serious deficiencies related to external border control or return procedures identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the Commission can decide to extend this period.</p>	<p>4. The total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 and prolongations under paragraph 3, shall not exceed six months. In cases of persistent serious deficiencies related to external border control or return procedures identified in accordance with <del>Article 15</del> <b><u>the relevant provisions</u></b> of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the Commission can decide to extend this period.</p>
	<p><b><u>Article 23a</u></b>  <b>Criteria for the temporary reintroduction of border control at internal borders</b></p> <p>1. When deciding on the temporary reintroduction of border control at one or more internal borders or parts thereof, the Commission, or the Member State concerned in cases referred to in Article 25 paragraph 1, shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security at the Union or national level, and shall assess the proportionality of the measure to that threat. This assessment shall be based on the detailed information submitted by the Member State(s) concerned and any other relevant information, including any information obtained pursuant to paragraph 2. In making such an assessment, the following considerations shall in particular be taken into account:</p> <p>(a) the likely impact of any threats to public policy or internal security at the Union or national level, including following terrorist incidents or threats as well as threats posed by organised crime;</p> <p>(b) the availability of technical or financial support measures which could be or have been resorted to at the national and/or European level, including assistance by Union bodies such as Frontex, the EASO</p>	<p><b><u>Article 23a</u></b>  <b>Criteria for the temporary reintroduction of border control at internal borders</b></p> <p>1. When deciding on the temporary reintroduction of border control at one or more internal borders or parts thereof, the Commission, or the Member State concerned in cases referred to in Article 25 paragraph 1, <del>25a and 25b, shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security at the Union or national level, and shall assess the proportionality of the measure in relation to that threat. This assessment shall be based on the detailed information submitted by the Member State(s) concerned and any other relevant information, including any information obtained pursuant to paragraph 2. In making such an assessment, the following considerations shall in particular be taken into account:</del></p> <p><b><u>- the threat to public policy or security;</u></b></p> <p><b><u>- the serious and persistent deficiencies in a Member State related to external border control or return procedures;</u></b></p> <p><b><u>- problems posed by the mass influx of migrants found to be staying illegally.</u></b></p> <p>This assessment shall be based on the detailed information submitted by the Member State(s) concerned and any other relevant information, including any information obtained pursuant to paragraph 2. In making such an assessment, the following considerations shall in particular be taken into account:</p>

	<p>or Europol, and the extent to which such measures are likely to adequately remedy the threats to public policy or internal security at the Union or national level;</p> <p>(c) the current and likely future impact of any serious deficiencies related to external border control or return procedures identified by Schengen evaluations in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis; the likely impact of such a measure on free movement within the area without internal border controls.</p> <p>2. Before taking a decision, the Commission may</p> <p>(a) request Member States, Frontex, Europol, Eurojust, the Fundamental Rights Agency or any other Union body to provide it with further information,</p> <p>(b) carry out inspection visits, with the support of experts from Member States and of Frontex, Europol and any other relevant European body, in order to obtain or verify information relevant for a decision to temporarily reintroduce border control at internal borders.</p>	<p>(a) <b><u>in the cases referred to in Articles 24 and 25, paragraph 1</u></b>, the likely impact of any threats to public policy or internal security, <del>at the Union or national level</del>, including following terrorist incidents or threats as well as threats posed by organised crime;</p> <p>(b) <b><u>in the cases referred to in Articles 25a and 25b</u></b>, the availability of technical or financial support measures which could be or have been resorted to at the national and/or European level, including assistance by Union bodies such as Frontex, the EASO or Europol, and the extent to which such measures are likely to <del>adequately remedy the threats to public policy or internal security at the Union or national level</del>; <b><u>the situation in question</u></b>;</p> <p>(c) <b><u>in the cases referred to in Article 25b</u></b>, the current and likely future impact of any serious deficiencies related to external border control or return procedures identified by Schengen evaluations in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis;</p> <p>(d) <b><u>in all cases</u></b>, the likely impact of such a measure on free movement within the area without internal border controls.</p> <p>2. Before taking a decision, <b><u>in accordance with the procedures provided for in Articles 25a and 25b</u></b>, the Commission may:</p> <p>request Member States, Frontex, Europol, Eurojust, <del>the Fundamental Rights Agency</del> or any other Union body to provide it with further information,</p> <p>(b) carry out inspection visits, with the support of experts from Member States and of Frontex, Europol and any other relevant European body, in order to obtain or verify information relevant for a decision to temporarily reintroduce border control at internal borders.</p>

<p><b>Article 24</b> <b>Procedure for foreseeable events</b></p> <p>1. Where a Member State is planning to reintroduce border control at internal borders under Article 23(1), it shall as soon as possible notify the other Member States and the Commission accordingly, and shall supply the following information as soon as available:</p> <p>(a) the reasons for the proposed reintroduction, detailing the events that constitute a serious threat to public policy or internal security;</p> <p>(b) the scope of the proposed reintroduction, specifying where border control is to be reintroduced;</p> <p>(c) the names of the authorised crossing-points;</p> <p>(d) the date and duration of the proposed reintroduction;</p> <p>(e) where appropriate, the measures to be taken by the other Member States.</p> <p>2. Following the notification from the Member State concerned, and with a view to the consultation provided for in paragraph 3, the Commission may issue an opinion without prejudice to Article 64(1) of the Treaty.</p> <p>3. The information referred to in paragraph 1, as well as the opinion that the Commission may provide in accordance with paragraph 2, shall be</p>	<p><b>Article 24</b> <b>Procedure for the temporary reintroduction of border control at internal borders</b></p> <p>1. Where a Member State considers that border control at internal borders should be reintroduced under Article 23(1), it shall submit a request to the Commission at the latest six weeks before the planned reintroduction, or within a shorter period where the circumstances giving rise to the need to reintroduce border control at internal borders do not become known until less than six weeks before the planned reintroduction, and shall supply the following information:</p> <p>(a) the reasons for the proposed reintroduction, including all relevant data detailing the events that constitute a serious threat to public policy or internal security at the Union or national level;</p> <p>(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;</p> <p>(c) the names of the authorised crossing-points;</p> <p>(d) the date and duration of the proposed reintroduction;</p> <p>(e) where appropriate, the measures to be taken by the other Member States.</p> <p>Such a request could also be submitted jointly by two or more Member States.</p> <p>2. The information referred to in paragraph 1 shall also be submitted to the Member States and the European Parliament at the same time as the request is made.</p> <p>3. Following a request by a Member State pursuant to paragraph 1, or on its own initiative</p>	<p><b>Article 24</b> <b>Procedure for the temporary reintroduction of border control at internal borders <u>where there is a serious threat to public policy or internal security</u></b></p> <p>1. Where a Member State considers that border control at internal borders should be reintroduced under Article 23(1), <del>it shall submit a request to</del> <b>it shall notify the other Member States and</b> the Commission accordingly at the latest <del>six weeks</del> <b>four weeks</b> before the planned reintroduction, or within a shorter period where the circumstances giving rise to the need to reintroduce border control at internal borders do not become known until less than <del>six weeks</del> <b>four weeks</b> before the planned reintroduction, and shall supply the following information:</p> <p>(a) the reasons for the proposed reintroduction, including all relevant data detailing the events that constitute a serious threat to public policy or internal security <del>at the Union or national level</del>;</p> <p>(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;</p> <p>(c) the names of the authorised crossing-points;</p> <p>(d) the date and duration of the proposed reintroduction;</p> <p>(e) where appropriate, the measures to be taken by the other Member States.</p> <p>Such a request could also be submitted jointly by two or more Member States.</p> <p>2. The information referred to in paragraph 1 shall <del>also</del> <b>be submitted at the same time</b> to the <del>other</del> <b>other</b> Member States and the European Parliament <del>at the same time as the request is made. If necessary, the Commission may request additional information from the Member State(s) concerned to be provided within 72 hours at the latest.</del></p> <p><del>3. Following a request by a Member State pursuant to paragraph 1, or on its own initiative based on the information specified in sections (a) to</del></p>
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<p>the subject of consultations between the Member State planning to reintroduce border control, the other Member States and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the measures to the events giving rise to the reintroduction of border control and the threats to public policy or internal security.</p> <p>4. The consultation referred to in paragraph 3 shall take place at least fifteen days before the date planned for the reintroduction of border control.</p>	<p>based on the information specified in sections (a) to (e) of that paragraph, the Commission shall decide on the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>4. The Commission shall decide on the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>5. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 4, do not become known until less than 10 days before the planned prolongation, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a(3).</p>	<p><del>(e) of that paragraph, the Commission shall decide on the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</del></p> <p><del>4. The Commission shall decide on the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</del></p> <p><del>5. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 4, do not become known until less than 10 days before the planned prolongation, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a(3).</del></p> <p><b><u>NB - the following paragraphs (3 to 5) reproduce paragraphs 2, 3 and 4 of the current Article 24 of the Schengen Borders Code with a number of modifications in the interests of drafting consistency.</u></b></p> <p><del>3.</del> Following the notification from the Member State concerned, and with a view to the consultation provided for in paragraph <del>3</del> <b>4</b>, the Commission may issue an opinion without prejudice to Article <del>64(1)</del> <b>72 of the TFEU.</b></p> <p><del>24.</del> The information referred to in paragraph 1, as well as the opinion that the Commission may provide in accordance with paragraph <del>3</del> <b>2</b>, shall be the subject of consultations between the Member State planning to reintroduce border control, the other Member States and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the</p>
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		<p>measures to the events giving rise to the reintroduction of border control and the threats to public policy or internal security.</p> <p><del>45.</del> The consultation referred to in paragraph <del>43</del> shall take place at least fifteen days before the date planned for the reintroduction of border control. <b><u>The Commission may, if necessary, organise a meeting for that purpose.</u></b></p>
<p><b><u>Article 25</u></b> <b>Procedure for cases requiring urgent action</b></p> <p>1. Where considerations of public policy or internal security in a Member State demand urgent action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders.</p> <p>2. The Member State reintroducing border control at internal borders shall notify the other Member States and the Commission accordingly, without delay, and shall supply the information referred to in Article 24(1) and the reasons that justify the use of this procedure.</p>	<p><b><u>Article 25</u></b> <b>Specific procedure for cases requiring immediate action</b></p> <p>1. Where a serious threat to public policy or internal security in a Member State demands immediate action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders, for a limited period of no more than five days.</p> <p>2. The Member State reintroducing border control at internal borders shall at the same time notify the other Member States and the Commission accordingly, and shall supply the information referred to in Article 24 (1) and the reasons that justify the use of this procedure. The Commission may consult the other Member States immediately upon receipt of the notification.</p> <p>3. If the serious threat to public policy or internal national security persists beyond the period provided for in paragraph 1, the Commission shall decide on the prolongation of the border control at internal borders. Given the need to take immediate action after the expiry of the period provided for in paragraph 1, which constitutes an imperative ground of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a (3).</p>	<p><b><u>NB: retain the current wording of Article 25 as regards the procedure for cases in which a serious threat to public policy or internal security requires urgent action.</u></b></p> <p><del><b><u>Article 25</u></b></del> <del><b>Specific procedure for cases requiring immediate action</b></del></p> <p><del>1. Where a serious threat to public policy or internal security in a Member State demands immediate action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders, for a limited period of no more than five days.</del></p> <p><del>2. The Member State reintroducing border control at internal borders shall at the same time notify the other Member States and the Commission accordingly, and shall supply the information referred to in Article 24 (1) and the reasons that justify the use of this procedure. The Commission may consult the other Member States immediately upon receipt of the notification.</del></p> <p><del>3. If the serious threat to public policy or internal national security persists beyond the period provided for in paragraph 1, the Commission shall decide on the prolongation of the border control at internal borders. Given the need to take immediate action after the expiry of the period provided for in paragraph 1, which constitutes an imperative ground of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a (3).</del></p>

	<p><b><u>Article 26</u></b>  <b>Specific procedure for cases of persistent serious deficiencies</b></p> <p>1. In cases where the Commission finds that there are persistent serious deficiencies related to external border control or return procedures identified in accordance with Article 15 of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and insofar as these deficiencies constitute a serious threat to public policy or internal security at the Union or national level, border control at internal borders may be reintroduced for a period of no more than six months. This period can be prolonged by a further period of no more than six months if the serious deficiencies are not remedied. No more than three such prolongations will be possible.</p> <p>2. The Commission shall decide on the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>3. The Commission shall decide on the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>4. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 3, do not become known until less than 10 days before the planned prolongation, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a (3)."</p>	<p><b><u>Article 25a 26</u></b>  <b>Specific procedure for cases of persistent serious deficiencies</b></p> <p>1. In cases where the Commission finds that there are persistent serious deficiencies related to external border control or return procedures identified in accordance with <del>Article 15</del> <b><u>the relevant provisions</u></b> of the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, <del>and insofar as these deficiencies constitute a serious threat to public policy or internal security at the Union or national level,</del> border control at internal borders may be reintroduced for a period of no more than six months. This period can be prolonged by a <del>further</del> period of no more than six months if the serious deficiencies are not remedied. <del>No more than three such prolongations will be possible.</del></p> <p>2. The Commission shall <del>decide on</del> <b><u>authorise</u></b> the reintroduction of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>3. The Commission shall <del>decide on</del> <b><u>authorise</u></b> the prolongation of border control at internal borders. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33a(2).</p> <p>4. On duly justified grounds of urgency, related to situations where the circumstances giving rise to the need to prolong border control at internal borders, in accordance with paragraph 3, do not become known until less than 10 days before the <del>planned prolongation</del> <b><u>end of the preceding reintroduction period</u></b>, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 33a (3)."</p>
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<p><b><u>Article 26</u></b>  <b><u>Procedure for prolonging border control at internal borders</u></b></p> <p>1. 1. Member States may only prolong border control at internal borders under the provisions of Article 23(2) after having notified the other Member States and the Commission.</p> <p>2. The Member State planning to prolong border control shall supply the other Member States and the Commission with all relevant information on the reasons for prolonging the border control at internal borders. The provisions of Article 24(2) shall apply.</p>		

<p><b><u>Article 27</u></b> <b>Informing the European Parliament</b></p> <p>The Member State concerned or, where appropriate, the Council shall inform the European Parliament as soon as possible of the measures taken under Articles 24, 25 and 26. As of the third consecutive prolongation pursuant to Article 26, the Member State concerned shall, if requested, report to the European Parliament on the need for border control at internal borders.</p>	<p><b><u>Article 27</u></b> <b>Informing the legislators</b></p> <p>The Commission and the Member State(s) concerned shall inform the European Parliament and the Council as soon as possible of any reasons which might trigger the application of Articles 23 to 26."</p>	
<p><b><u>Article 29</u></b> <b>Report on the reintroduction of border control at internal borders</b></p> <p>The Member State which has reintroduced border control at internal borders under Article 23 shall confirm the date on which that control is lifted and, at the same time or soon afterwards, present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the operation of the checks and the effectiveness of the reintroduction of border control.</p>	<p><b><u>Article 29</u></b> <b>Report on the reintroduction of border control at internal borders</b></p> <p>At the latest four weeks after the lifting of border control at internal borders, the Member State which has carried out border control at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the operation of the checks and the effectiveness of the reintroduction of border control at internal borders.</p>	
<p><b><u>Article 30</u></b> <b>Informing the public</b></p> <p>The decision to reintroduce border control at internal borders shall be taken in a transparent manner and the public informed in full thereof, unless there are overriding security reasons for not doing so.</p>	<p><b>Informing the public</b></p> <p>The Commission shall inform the public on a decision to reintroduce border control at internal borders and indicate in particular the start and end date of such a measure, unless there are overriding security reasons for not doing so."</p>	
	<p><b><u>Article 33a</u></b> <b>Committee procedure</b></p> <p>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</p> <p>2. Where reference is made to this paragraph Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p>3. Where reference is made to this paragraph Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply."</p>	