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NOTE

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

No. prev. doc.: 13939/22

Subject: Prolongation of border controls at the Danish internal borders in accordance with Articles 25 and 27 of 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 copy of a letter received by the General Secretariat of the Council on 14 April 2023 regarding the prolongation of border controls by Denmark at the internal borders with Germany for 6 months as from 12 May 2023.

E-MAIL

Commissioner Johansson



IM 004624 2023
14-04-2023

Date: 14 April 2023

Dear Commissioner Johansson,

1. Please be informed that the Danish Government, in accordance with the provisions in Article 25 and 27 of Regulation (EU) 2016/399 of 9 March 2016 (Schengen Borders Code), has decided to temporarily reintroduce border controls at the internal borders for 6 months as from 12 May 2023. The border controls may extend to all internal borders, including land, sea and air borders, whereby the specific border sections and border crossing points are determined by the Danish National Police. The border controls will focus on the Danish-German land border, and the Danish ports with ferry connection to Germany. Such border control will thus not be carried out on the Danish-Swedish border crossings.

This decision has been reached in order to be able to effectively counter the significant threat to our public policy and internal security caused by terrorists and organized criminals who are able to exploit the free mobility within the Schengen area as well as the current migration situation within the Schengen area and the threat from espionage from foreign state intelligence. This notification provides factual information and elaborates on the circumstances and events which give rise to a new serious threat to our public policy and internal security, while taking into account the free movement of persons in the practical execution of the border controls.

2. First of all, the Russian invasion of Ukraine still constitutes an extraordinary and uncertain situation in Europe. The war affects passenger and migratory flows as well as contributes to higher levels of criminality (smuggling activities) on the EU's external borders and also affects the internal security of the EU.

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The Center for Terror Analysis (CTA), under the Danish Security and Intelligence Service, assesses that the war in Ukraine currently has no direct effect on the terrorist threat in Denmark, but it represents a destabilizing factor which may affect the threat picture across Europe, for example in the form of economic recession or issues related to shortages in the supply of energy and other resources, disinformation and foreign fighters. Over time, it may also affect the terrorist threat in Europe, including Denmark, if weapons currently used in Ukraine fall into the hands of extremists who intend to strike against targets in Europe.

This should be seen against a backdrop where CTA assesses that the terrorist threat against Denmark is still considered to be significant (level 4 of 5).

Most recently, a number of Quran burnings in Sweden and Denmark, in early 2023 have received considerable negative attention from militant Islamists, reflected, for example, in targeted propaganda and a rise in the number of threats. CTA assesses that, just like the so-called cartoon case, the recent events can become a reference point among militant Islamists, thus impacting the threat to individuals or to Denmark in general.

Militant Islamism is estimated to be the primary terror threat towards Denmark. CTA assesses that, since the summer of 2012, a large number of individuals have travelled from Denmark to the conflict zone in Syria/Iraq. Approximately one third of the travellers are presumed to have died in the conflict zone, and approximately half of them have either returned to Denmark or taken up residence in other countries outside of the conflict zone. According to information available, approximately one fifth of the travelers from Denmark, including children of travelers, currently reside in the conflict zone or in neighbouring countries.

There is also a terrorist threat against Denmark from radicalized individuals and smaller groups residing in other countries, primarily Denmark's neighboring countries. The threat from militant Islamists living in other Western countries may emanate from persons with connections to Denmark, but it can also be people living abroad without any previous connection to Denmark.

Exploitation of refugee and migrant routes has previously been included as a central element in the planning of attacks by Islamic State against targets in Europe, and it is possible that militant Islamist groups still intend to exploit these routes.

Furthermore, the Danish Defence Intelligence Service (DDIS) states that Denmark and the West are faced with the prospect of a long-term conflict with Russia that will use an array of different means to create fear and uncertainty.

Apart from escalating rhetoric, threats and military provocations it is not unlikely that Russia will resort to destructive cyberattacks and aggressive intelligence operations. The increased tension between Russia and the West constitutes an ongoing threat from espionage from Russia. DDIS assesses that the security situation in Denmark, among others, must be seen in the light of these developments.

This should be seen in conjunction with the fact that the Danish Security and Intelligence Service assesses that intelligence activities in Denmark performed by foreign states constitute a significant, multifaceted and persistent threat to Denmark. In April 2022, Denmark expelled 15 Russian intelligence officers however the Russian need for gathering information in Denmark has increased. It is thus expected by the Danish Security and Intelligence Service that Russia will look for new ways to receive information e.g. through the use of visiting intelligence officers. According to the the Danish Security and Intelligence Service, foreign intelligence services continuously try to obtain information about e.g. critical infrastructure in Denmark. Such espionage intends, among other things, to provide access to information that may enable physical sabotage.

Finally, the recent migration developments within the Schengen area are of great concern to Denmark. In 2022 approximately 330.000 incidents of irregular entries were recorded which in comparison to 2021 is an increase of 64 percent. The number of filed applications for asylum in EU+ (EU, Norway and Switzerland) in 2022 were one and a half times as many as in 2021 with a total of 991.000.

This year approximately 54.000 incidents of irregular entries were recorded during the first three months and the trend continues in April. For the Central Mediterranean route alone the increase amounts to 305 percent compared to the same time last year. Secondary movements are significantly increasing in several Member States.

3. Against this backdrop and after careful consideration, the Danish Government considers temporary reintroduction of internal border controls as a necessary and effective measure to address these real and current threats to public policy and internal security.

This is also supported by the following facts:

- From 1 august 2022 until 10 February 2023 a total of 340 weapons have been confiscated in relation to the border controls against Germany.
- In 2022 the police has refused entry to 3.370 persons on the Danish-German border as well as 213 persons in the period from 1 January 2023 to 10 February 2023.

4. The Danish Government remains committed to the principle of free movement of persons. Please rest assured that the scope of the internal border checks will continue to be limited to what is deemed strictly necessary to respond to the threat to our public policy and internal security. It thus remains a matter of priority for the Danish Government that the practical execution of the temporary border controls are carried out in a manner with the least negative impact on persons crossing the border for legitimate reasons and with careful considerations taken to the free movement of persons within the EU.

The Danish police conduct the border controls in cooperation with German law enforcement authorities where cooperation is also established regarding exchange of information.

The border controls are carried out as spot-checks which in terms of quantity, location and intensity are adapted to the expected number of travelers as well as the current intelligence picture, the local conditions and the traffic patterns at the individual border crossing points. The internal border controls are thus substantially different from the systematic control of Denmark's external borders. The Danish National Police has found that the previous border controls have not had a distinctive negative impact on the free movement of persons across the internal borders. This will continue to be a priority for the Danish authorities in close cooperation with the German authorities.

Furthermore please note that in order to ensure as efficient and flexible a control as possible the Danish Government has decided to reduce the

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intensity by which the control is carried out, while at the same time further strengthening the efforts to combat cross border crime in the border areas.

Denmark is thus strengthening the use of alternative measures in the border regions by increasing the use of intelligent monitoring of the border areas as well as increasing the number of police patrols and the crime-fighting efforts in the border area while at the same time deescalating the intensity of the border control. However, it is the opinion of the Government that alternative measures at this point cannot fully remedy the need for internal border controls. The reintroduction of internal border controls thus remains a measure of last resort.

The Danish Government will notify the other Member States about this decision.

Yours sincerely,



Peter Hummelgaard