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NOTE

From:	Danish delegation
To:	Working Party on Frontiers/Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland)
No. prev. doc.:	9129/22
Subject:	Prolongation of the temporary reintroduction 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 17 October 2022 regarding the prolongation of the temporary reintroduction of border controls by Denmark at the internal borders for 6 months as from 12 November 2022.

E-MAIL

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JUSTITS

Ministry of Justice

Commissioner Johansson

Date 14 October 2022

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. The reintroduction of border controls will be carried out for 6 months as from 12 November 2022. 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. However, the border controls will focus on the Danish-German land border, the Danish-Swedish land border (Øresundsforbindelsen) and the Danish ports with ferry connection to Germany or Sweden.

This decision has been reached in order to be able to effectively counter the significant threat to our public order 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. This notification thus provides factual information and elaborates on the circumstances and events which give rise to a new serious threat to our public order 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 currently constitutes an extraordinary and uncertain situation in Europe. It is estimated that approximately 10,5 million people have been displaced since the Russian invasion while approximately 1,3 million Russian nationals have entered the EU. The Center for Terror Analysis (CTA), under the Danish Security and Intelligence Service, assesses that the conflict may cause spillover effects

Slotsholmsgade 10
DK - 1216 København K

Phone +45 7226 8400
Fax +45 3393 3510

www.justitsministeriet.dk
m@jm.dk

influencing on the threat of terror. Thus in the short term the larger flow of migrants and displaced persons could entail a risk that persons who could pose a threat to Denmark would be able to travel into the Schengen area. CTA further assesses that in the long term the presence of an area of conflict in Europe with presumably high accessibility of firearms could potentially attract extremists who could pose a threat to Denmark.

Additionally, due to the migratory pressure on the Schengen area's external border with Belarus the police have had an increased focus on the risk of human smuggling and human trafficking since Russia's invasion of Ukraine. The Danish National Police has further stated that after a short period of decline in 2020 and 2021, there is currently an increase in the number of criminal groups crossing the Danish/German landborder.

In this regard new events such as the recent escalation of the war by Russia, including through military mobilisation as announced on 21 September 2022, are of great concern to the Danish Government.

The military mobilisation in Russia has resulted in a significant increase in arrivals of Russian citizens to the Union's external borders, as well as in visa applications and inquiries to Member States. As also stated by the Commission in the communication of 3 October 2022¹, it cannot be excluded that Russian citizens trying to avoid the mobilisation and entering the EU also constitute a threat to public policy and the internal security. As also stated by the Commission regarding the current geopolitical situation and the military mobilisation in the Russian Federation these events impact the stability and security of the Union and its Member States.

This should be seen against a backdrop where CTA assesses that the terrorist threat against Denmark is considered to be serious.

It is estimated that the threat primarily comes from militant Islamism. CTA estimates that since the summer of 2012 at least 161 adults have traveled from Denmark to Syria/Iraq to join militant Islamist groups. Of the 161 persons who have traveled to Syria/Iraq approximately half have currently

¹ Communication from the Commission (13054/22) of 3 October 2022 on 1) updating guidelines on general visa issuance in relation to Russian applicants following Council Decision (EU) 2022/1500 of 9 September 2022 on the suspension in whole of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation, and 2) providing guidelines on controls of Russian citizens at the external borders

returned to Denmark or have taken up residence in other – primarily European – countries, while approximately a third have died in the conflict zone. According to CTA's information, there are still 29 adults who have left Denmark residing in Syria/Iraq or neighboring countries.

CTA assesses that persons who have travelled from Denmark to the conflict zone in Syria/Iraq may pose a threat to Denmark or to Danish interests abroad. The possible threat includes planning of attacks, radicalization of other persons, propaganda activities, logistical support, terrorist financing and other terrorist-related activities. Persons who departed from countries other than Denmark, including from other European countries, can also pose a threat to Denmark and Danish interests abroad.

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 can emanate from persons with connections to Denmark, but it can also be people living abroad without any previous connection to Denmark. In the coming years a large number of persons convicted of terrorism in Europe will be released. These persons may seek to enter Denmark and thus pose a threat against 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, criminal patterns of organized criminal networks between Denmark and Sweden are also of concern to Danish internal security. The Danish Special Crime Unit is aware of collaboration between different criminal networks and organisations rooted in both Denmark and Sweden.

The Danish Special Crime Unit assesses that during the first half of 2022 multiple violent incidents have taken place between different Swedish criminal networks or organisations in the southern parts of Sweden.

Finally, the recent migration developments within the Schengen area so far in 2022 (as of end September) show that the number of irregular entries along the Mediterranean routes is at its highest since 2018, which raises great concern for Denmark.

Austria is currently experiencing more registrations than during the European migration crisis in 2015. As a consequence, secondary movements of migrants from said countries are seen.

Austria is affected by the movements on the eastern Mediterranean and Western Balkan route, which traditionally has been the most frequently used route of asylum seekers travelling to Denmark. There are also indications of secondary flows to Germany, which probably stems from the Eastern Mediterranean and Western Balkan routes.

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 order and internal security.

This is also supported by the following facts:

- From 1 January 2022 until 31 July 2022 a total of 202 weapons have been confiscated in relation to the border controls against Germany. Over the same period the police has refused entry to 1.994 persons on the Danish-German border. In the police district of South Jutland the internal border controls has resulted in 8.195 charges in the period from 23 September 2020 to 31 August 2021.
- In the police district of South Zealand and Lolland-Falster the internal border controls has resulted in 1.304 charges in the period from 23 September 2020 to 31 July 2022.

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 order 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 conducts the border controls in cooperation with neighboring law enforcement authorities where cooperation is also established regarding exchange of information. During the summer e.g. additional lanes were opened to help minimize the impact on the traffic crossing the Danish-German border.

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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. In addition to the physical control at the fixed border crossing points, automatic license plate recognition-facilities are permanently installed at all border crossing points on the land border with Germany (the green border) and at all ferry ports on the sea border with Germany (the blue border) as well as at the Øresund connection, which registers traffic into Denmark. These registrations are used partly to monitor hits on vehicles registered in the automatic number plate recognition systems, partly to prepare analyzes of the traffic across the borders.

Regarding the temporary border controls on the Danish-Swedish border, the control is carried out as periodic spot-checks targeting road traffic and train traffic over the Øresund connection as well as ferry traffic in the ports of Helsingør, Frederikshavn, Grenå and Rønne. The temporary border controls on the Danish-Swedish border are currently carried out as 1-2 weekly controls on all larger 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 both German and Swedish authorities.

5. The Danish reintroduced internal border controls are complementary to police controls on the territory and is part of a comprehensive police effort in the border regions. The Danish Government thus in 2019 and 2020 decided to significantly strengthen the use of automatic license plate recognition. Hence, the Danish police is in the process of implementing new stationary and mobile automatic license plate recognition-facilities, which will also serve to strengthen the control of border areas. The Danish National Police expects that the new equipment will be ready to use by the end of 2023.

However, it is the opinion of the Government that these efforts do not at the moment fully remedy the need for internal border controls. The reintroduction of internal border controls thus remains a measure of last resort.

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

Yours sincerely,



Mattias Tesfaye