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Report from the consultation with the Member States as regards the internal borders controls reintroduced by Denmark, Germany, France, Austria, Norway and Sweden between May and November 2023

Accompanying the document

COMMISSION RECOMMENDATION

on cooperation between the Member States with regard to serious threats to internal security and public policy in the area without internal border controls

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Report from the consultation with the Member States as regards the internal borders controls reintroduced by Denmark, Germany, France, Austria, Norway and Sweden between May and November 2023

1. Introduction

In June and July 2023, the Schengen Coordinator held several meetings to discuss the situation at internal borders in view of the notifications reintroducing internal border controls received from France, for the period between 1 May and 30 October 2023, as well as from Denmark, Germany, Austria, Norway and Sweden, for the period between 12 May and 11 November 2023¹. The discussions involved Belgium, Denmark, Germany, Spain, France, Italy, Luxembourg, Hungary, Austria, Norway, Slovenia, Sweden, and Switzerland.

The meetings have been organised in follow-up to the State of Schengen Report adopted by the Commission on 16 May 2023², where the Commission announced launching the consultation process in line with Article 27(5) of the Schengen Borders Code to respond to the opinion of the Slovenian authorities concerning the necessity and proportionality of internal border controls between Austria and Slovenia, as shared with the Commission on 26 April 2023. The consultation process builds on the informal dialogue that the Schengen Coordinator has been conducting with these countries since autumn 2022.

In October 2023, the European Commission received the notifications of reintroduction of internal border controls by France, for the period between 31 October 2023 and 30 April 2024, and Denmark, Germany, France, Austria, Norway and Sweden for the period between 12 November 2023 and 11 May 2024. In parallel, following the increasing migratory pressure at the EU's external borders and the rise in terrorist threats across the Schengen area, some Schengen Member States decided to temporarily reintroduce internal border controls at the sections which so far had not been subject to border controls³. These recent reintroductions fall outside the scope of the abovementioned consultation process and as such are not covered in this Report.

This Report therefore provides an overview of the discussions with the Member States concerned by the notifications of reintroduction of internal border controls by Denmark, Germany, France, Austria, Norway and Sweden based on the notifications for the period between 1 May and 11 November 2023. In particular, the Report focuses on the situation at the following internal borders: the Austrian/Hungarian land border, the Austrian/Slovenian land border, the German/Austrian land border, the Danish/German land border, as well as all French, Swedish and Norwegian internal borders. This Report does not present an assessment of the notifications received by the Commission, and it is without prejudice to any future action that the Commission may take in its role as the guardian of the Treaties.

¹ The subsequent notifications received between May and October 2023 from other Member States (Lithuania, Portugal, Finland, Denmark, Spain, Poland, Czechia, Austria and Slovakia) for short-term reintroductions are not part of this exercise.

² (C(2023)274).

³ The following Member States have temporarily reintroduced internal border controls based on Article 28 of the Schengen Borders Code: Czech Republic, Germany, Italy, Slovenia, Slovak Republic, Austria, Poland.

2. Internal borders subject to the controls reintroduced by Austria

2.1. Austrian/Hungarian land border

- *Situation at the border*

The Austrian authorities established fixed check points at the eight cross-border roads with international traffic and three check points at roads with regional traffic. The remaining roads crossing the internal border are patrolled on a non-systematic basis. In total, there are 62 crossing points at different roads and train stations designated under Article 27(1)(c) of the Schengen Borders Code.

Due to decisions of the local Austrian authorities, certain roads can be used only by the inhabitants of certain municipalities⁴. In some other cases, the use of the cross-border roads by car is subject to special permits, with a view to limiting the crossing to local drivers.

In the period 1 January 2023 to 31 August 2023, 111 migrant smugglers, 16,022 trafficked persons, and 642 irregular entries or illegally staying persons were apprehended at the Austrian-Hungarian border⁵. All persons who do not fulfil the entry conditions under the Schengen Borders Code are refused entry unless they request international protection. These controls are carried out by the Austrian Federal Police.

All the checks are carried out in a non-systematic manner, i.e., only on some travellers. The checks include a visual inspection of the passengers, and in some cases also of their documents. In a limited number of cases, the documents are checked against the relevant European and national databases, such as Eurodac and the Schengen Information System (SIS).

The measures at the borders occasionally lead to traffic congestions, due to the speed limitations imposed, which cannot be entirely avoided, despite the use of risk analysis products⁶. In addition, the Commission has received a significant number of complaints from Hungarian citizens affected by the Austrian measures that limit the accessibility of some of the cross-border roads.

- *Cooperation between Austria and Hungary*

Exchange of information: The Austrian authorities have duly consulted their counterparts in Hungary on their intention to reintroduce border controls. Operational information as to where controls are carried out is also exchanged on a regular basis. In particular, there is a comprehensive exchange of information and data, especially within joint police operations such as Operation Fox.

⁴ This concerns in particular, St. Margarethen, Schattendorf and Deutsch Jahrndorf. However, these restrictions are a consequence of the road traffic regulations and not border police measures.

⁵ Whereas between 1 November 2022 to 8 March 2023, there have been 115 migrant smugglers, 16,916 trafficked persons, and 1,071 irregular entries or illegally staying persons apprehended at the Austrian-Hungarian border.

⁶ In the travel periods of foreign workers, congestion occurred mostly in the area of the Győr-Moson-Sopron County Police Headquarters, on the M1 motorway, at the Hegyeshalom-Nickelsdorf road border crossing point, due to the dynamic increase in transit traffic and the (reintroduced) Austrian controls.

While, in principle, the Hungarian authorities are satisfied with the level of cooperation offered by the Austrian counterparts to mitigate the negative effects of the reintroduced controls, they see room for improvement and would appreciate receiving the risk assessment products determining the intensity of the checks. Austria has expressed its readiness to intensify such exchanges.

Alternative measures: The controls at the fixed locations at the main roads are complemented by police checks on the Austrian and Hungarian side of the border, under their respective national laws, and by joint patrols, in particular on board of cross-border trains. In 2022, Austria reported 15 joint patrols per month on the roads, while joint patrols on board of trains are organised on a daily basis. The joint patrols aim to fight cross-border criminality and to verify the regularity of stay of the persons checked.

On the basis of a trilateral agreement between the Federal Ministry of the Interior of the Federal Republic of Germany, the Federal Ministry of the Interior of the Republic of Austria and the National Police Headquarters of Hungary, from 19 February 2015, Hungary carries out joint rail patrols on international trains departing from Hungary and transiting Austria to Germany, as well as at the stations of departure.

Hungary and Austria have concluded a bilateral agreement allowing for the simplified readmission of illegally staying third country nationals. In 2022, 453 irregular migrants were transferred to Hungary based on this agreement. However, currently the use of this agreement is *de facto* suspended by Hungary. Moreover, Dublin transfers to Hungary are currently suspended due to various decisions by the Austrian judiciary.

The Hungarian authorities consider that the challenges related to irregular migration from Serbia require more effective cooperation with Austria and Serbia, building on the existing cooperation (e.g., Hungary and Austria have sent police forces to Serbia in 2023 to support border surveillance tasks).

The lifting of internal border controls in February 2023 at the land border between Austria and Slovakia⁷ was possible thanks to the AGM patrols⁸ (special units for operational compensation measures) as well as targeted actions, both on the traffic routes at the green border and on the main traffic routes (motorway, railway). These measures have been introduced in addition to the bilateral patrols regularly carried out with Slovakia and involved the border police units as well as the traffic police units and the criminal investigation department. In addition, all available technical means (e.g., drones) were used.

2.2. Austrian/Slovenian land border

- *Situation at the border*

The Austrian authorities have submitted the list of border crossing points designated under Article 27(1)(c) of the Schengen Borders Code at the border with Slovenia pointing at 63 locations. They have also informed about four fixed check points at cross-border roads with international traffic and 11 fixed check points on roads with regional traffic. The remaining

⁷ As reintroduced by Austria on 29 September 2022, to prevent threats to the public order and security for Austria arising from the shifting of irregular migration routes, directly associated with increased smuggling and cross-border crime.

⁸ Ausgleichsmaßnahmen patrols.

roads are patrolled on a non-systematic basis. The Slovenian authorities observed nine fixed locations of border controls at the former border crossing points⁹. Frequent checks are also taking place in four locations¹⁰, while occasional checks take place in at least three different locations.

The checks are generally carried out on the roadway and railway. In the event of increased traffic volume or of intensive checks, vehicles are directed to the side, in order not to obstruct the traffic. Each fixed check point has an area for intensive controls.

The scope of the checks corresponds to those referred to in Article 8 of the Schengen Borders Code. Further checks, e.g., in the central weapons database, can be done where necessary. In case of non-fulfilment of all the entry conditions under the Schengen Borders Code, a decision refusing entry is issued, based on Article 14 of the Schengen Borders Code and Article 41 para 2 of the Austrian Aliens Police Act (unless the person concerned applies for international protection), in a standard form provided for in Annex V Part B of the Schengen Borders Code.

In the period from 12 October 2022 to 11 May 2023, the Slovenian authorities reported 207 refusals of entry issued at the border section with Slovenia, based on the practice that the Austrian police informs the Slovenian police of persons originating from the third countries that they consider present migratory risks, who have been refused entry to Austria.

The Austrian authorities reported that in the period from 1 January 2023 to 31 August 2023, 33 migrant smugglers, 155 trafficked persons, and 419 irregular entries or illegally staying persons have been apprehended at the Austrian-Slovenian border¹¹.

Both the checks at the crossing points and border surveillance are carried out by the Austrian Federal Police. The Austrian Armed Forces may assist the Federal Police¹². However, all the actions are taken under the authority of police. The Slovenian authorities reported continuous presence of the armed forces at the former border crossing Cankova.

All the checks are carried out in a non-systematic manner, i.e., only on some travellers, based on the analysis of the migration situation and the volume of travellers at a given moment. The location of controls and targeting criteria are adjusted on a regular basis.

The intensity of controls depends on the category of the crossing point (with permanent or only occasional controls) and the traffic density. No statistics are collected on this matter. Thanks to the intensification of the joint police actions over the last few months the intensity and frequency of the controls have gradually decreased since February 2023.

- *Cooperation between Austria and Slovenia*

Exchange of information: According to the Austrian and Slovenian authorities, the operational cooperation is very good. In 2023, the cooperation has been intensified with several bilateral and trilateral meetings (with the Commission services/Schengen coordinator) being organised.

⁹ Karavanke, Ljubelj, Šentilj (motorway and main road), Holmec, Vič, Radelj, Gederovci, Kuzma and Cankova.

¹⁰ Korensko Sedlo, Jesenice railway station, Jurij, Trate.

¹¹ Whereas from 1 November 2022 to 8 March 2023, there have been seven smugglers, 66 trafficked persons, and 148 irregular entries or illegally staying persons apprehended at the Austrian-Slovenian border.

¹² The Armed Forces support the Austrian police forces, under the legal framework of the Austrian Border Control Act, by: i) independent stationary surveillance, ii) mobile patrolling of border sections between border crossing points, iii) verification of identity and inspection of vehicles.

The situation at the border is a fixed point on the agenda of the bilateral meetings that regularly take place at regional level.

The intensification of these contacts already improved the situation at Karavanke and Šentilj (motorway), where the controls, in the past, together with the road works and toll collection, often led to congestion in the direction of Austria, in particular during the busy periods (holidays and summer tourist season).

Bilateral meetings between Austria and Slovenia in June and July allowed to i) enhance the exchange of information in the event of congestions or long queues; ii) set up the modalities of an information exchange concerning smugglers, migrants and risk profiles; iii) analyse the effectiveness of the joint activities and risk analysis and agree on a further prolongation of the joint activities for July and August 2023; and iv) launch consultations on an amendment of the bilateral police cooperation agreement, based on the proposal shared by the Austrian authorities.

The Austrian authorities underline that they constantly evaluate the level of the threats, taking into account numerous factors, especially the number of apprehensions (including the ones within the state territory), the transfer of persons under bilateral arrangements or agreements as referred to in Article 6(3) of the Return Directive, the migration routes identified and the vehicles (means of transport for trafficking in human beings), number of refusals of entry, as well as the number of asylum applications in Austria. In this process, all relevant figures are collected from all stakeholders and are continuously assessed. Slovenia encourages the Austrian authorities to share information, specifically related to the situation at the Slovenian-Austrian border.

As stated in the opinion shared with the European Commission on 26 April 2023, the Slovenian authorities consider the threat to internal security less significant, based on the overall low number of refusals of entry (compared to the refusals of entry by other Member States) and the decreasing number of persons processed during the joint police activities between the Slovenian and Austrian police. For this reason, they do not consider the reintroduction of internal border controls by Austria necessary. On the other hand, according to the Austrian authorities, the number of apprehensions in Austria has remained stable due to the introduced border controls and the additional bilateral police cooperation measures despite the significant increase of the number of apprehensions of irregular migrants in Slovenia and Croatia in recent months.

As discussed between the parties on a bilateral basis, the Austrian authorities agreed to reflect on possible improvements as regards the control of trucks, their location (with a view to redirecting vehicles to be checked away from the main roads, in order to limit the impact on the traffic) as well as to apply the risk analysis to better target the checks and develop joint risk analysis products.

In response to the Austrian call, at the last bilateral meeting on 4 September, both sides agreed to continue their joint police activities, including as regards cross border railway traffic (in particular, as regards the joint controls at railway stations) and international long-distance bus lines.

Alternative measures: The controls at the fixed locations at the main roads are complemented by police checks on the Austrian and Slovenian side of the border, under their respective

national laws, and as joint patrols, in particular on board of cross-border trains. In the period between March and May 2023, there were 31 joint police patrols and three targeted operations. The Provincial Police Directorate Carinthia (AT) conducted four bilateral patrols and one joint operation every month from March to May 2023. The Provincial Police Directorate Styria (AT) conducted seven joint police patrols in March 2023, and six joint police patrols both in April 2023 and May 2023. The joint patrols have as an objective to fight cross-border criminality but also to verify the regularity of stay of the persons crossing the border. Joint police activities intensified during the summer. In the period between June – August 2023, there were 55 joint police patrols and six targeted operations, taking into account in particular already identified hot spots and the main routes for unauthorised movements.

As a general rule, the intensity of the joint activities is continuously adapted to the development of the migration situation. Moreover, the border police unit “PUMA” carries out targeted operations in neuralgic areas (road, rail, air) to prevent and combat criminal and administrative law offences (including human trafficking). The measures include: i) increased focus on trafficking hotspots; ii) increased surveillance of the green border (including road and rail networks close to the border), iii) targeted use of technical means of intervention (helicopters, drones, heartbeat detectors, etc.).

The joint exercise of establishing a common risk assessment has been launched at the meeting of 20 June in Ljubljana, with a view to improving the effectiveness of joint bilateral patrols.

As agreed at the meeting of 20 June in Ljubljana, Slovenian and Austrian authorities are looking into the possible interpretation of the current bilateral agreement allowing for a more flexible use and possible amendments to the agreement.

3. Internal border between Germany and Austria

- *Situation at the border*

The controls can be carried out on all roads, with a focus on highways, and on railway connections. Where necessary, the route infrastructure on the German side has been adapted, in order to reduce the impact on cross-border traffic. The controls are carried out in a targeted manner, depending on the situation, using a flexible deployment concept, with variable intensity. Any prior checks by other authorities abroad, traffic density and the type of cross-border traffic (including goods and freight traffic) are reflected.

The controls on board of the cross-border trains occasionally generate some delays which are not reflected in the train schedule (e.g. in Freilassing).

Persons who do not fulfil the entry conditions may be refused entry to Germany and redirected to Austria. In principle, third-country nationals seeking international protection are forwarded to the competent German Reception Centre for the purpose of examining asylum-related issues, including possible transfers to other EU Member States in accordance with the Dublin Regulation. On average, there are approximately 750 refusals of entry per month (average of the months from January to June 2023).

The controls are carried out by and under the responsibility of the German Federal Police.

- *Cooperation between Germany and Austria*

Exchange of information: Both parties share the assessment of the necessity of internal border controls under the current circumstances and are satisfied with the level of cooperation.

The responsible Federal Police Directorate in Munich continues to maintain close contact with the Austrian Ministry of Interior as well as with the provincial police directorates in Tyrol, Upper Austria, Salzburg and Vorarlberg, which are primarily affected. The Passau, Rosenheim, Freilassing and Kempten Federal Police Inspectorates maintain constant contact with the neighbouring Austrian police stations and coordinate cross-border procedures with the close involvement of the responsible police headquarters in Lower Bavaria, Upper Bavaria (South) and Swabia (South/West).

In addition, there is also a regular exchange at ministerial level (every two or four weeks) with the Austrian Ministry of the Interior, Swiss authorities and the federal states of Bavaria and Baden-Württemberg.

Alternative measures: After a break caused by the pandemic, the joint patrols with Austria on cross-border trains were resumed in December 2022 (in particular in Seehof, Austria). Also, since November 2022, the triparty joint patrols on train connections from Budapest to Austria and Germany have been resumed. The patrols involve Hungarian, Austrian and German police forces.

The German authorities consider that the temporary reintroduction of internal border controls allows for refusals of entry at the internal borders without needing to refer to the bilateral arrangements or agreements as referred to in Article 6(3) of the Return Directive¹³. The transfer of persons under such agreements or arrangements, is subject to specific formalities (e.g., evidence to be provided that the persons entered in an unauthorised way from Austria and formal presentation of the person to Austria) and are therefore burdensome, in particular also because they are subject to long deadlines. These can lead to delayed transfers and in some cases, to the absconding of the person that was apprehended as any detention measure (to the extent that such a measure is appropriate) must be supported by a court order.

4. Internal border between Denmark and Germany

- *Situation at the border*

The controls are carried out in a non-systematic manner along the land border with Germany and in the areas adjacent to the border. Since May 2023, Denmark is implementing a new type of flexible border controls, involving the use of new technologies. According to Denmark, based on the feedback gathered from commuters and the police, this new type of controls allows for smoother border crossings. However, some traffic congestion occasionally may happen, as a result of different factors (e.g. road works, weather conditions).

In August, between 3 and 22 August 2023, based on the risk assessment related to the security situation, the scope of the controls has been expanded to all internal air, land and sea borders, while maintaining the non-systematic character of such controls.

¹³ This legal interpretation has been subject to the judgment by the Court of Justice in case C-143/22, as delivered on 21 September 2023, currently under assessment by the Commission.

Persons who do not fulfil entry conditions are refused entry based on the Danish Aliens Act. In 2022, there were 3,370 refusals of entry, and in the period from 1 January to 10 February 2023 there were 213 refusals.

The controls are carried out by the police acting in the capacity of border guards.

- *Cooperation between Denmark and Germany*

Exchange of information: Both parties share the assessment of the necessity of internal border controls under the current circumstances and are satisfied with the level of cooperation. The established channels of communications are used on a regular basis.

Alternative measures: The border controls are supported by police checks which, however, under Danish law, continue to be subject to limitations concerning their frequency (Regulation 640 of 12 May 2015).

The 1954 German-Danish Border Crossing Agreement is applicable regardless of whether temporary border control at internal borders has been reintroduced. Persons who do not fulfil the entry conditions can be refused entry based on the agreement. However, it is a requirement that any decision in this regard must be made within the framework of the Danish Aliens Act and EU regulation.

The Danish automated plate recognition system is extensively used and further expanded. The use of this system in the border areas is subject to the same rules and limitations as elsewhere in the territory (e.g. in terms of data protection).

5. French internal borders (land, air and sea)

- *Situation at the borders*

France has designated 188 crossing points under Article 27(1)(c) of the Schengen Borders Code at cross-border roads and train stations. As compared to the previous periods of internal border controls (October 2022 to April 2023), there were nine designated crossing points less in the Pyrenees region. During that period no fixed controls have been carried out at the land borders with Belgium, Luxembourg, Germany and Switzerland. Only the border sections with Italy and Spain are subject to regular controls.

It must be also noted that, as explained by the Italian authorities, the number of refusals of entry does not correspond to the number of third-country nationals refused entry, as some attempt to cross the border multiple times¹⁴.

In addition to that, France is carrying out checks on some intra-Schengen flights, e.g., arriving from Spain or Greece, and in the ports, based on risk assessment products.

The controls are carried out by the French Border Police (Police de la Frontière, PAF). At the land border with Italy and Spain, PAF has deployed 4,800 staff.

All the checks are carried out in a non-systematic manner, based on the intelligence available. In order to ensure that the controls remain proportionate and correspond to the actual level of

¹⁴ In 2022, at the border with Italy, France refused entry more than 40,000 times. Between 1 May and 1 September 2023, France refused entry in more than 22,000 cases.

threats, the reintroduced controls are based on a risk assessment using the tools developed by Frontex (CIRAM 2.0). They also take into account different aspects such as the type of transport, the modus operandi of smugglers, trends concerning the nationalities of the apprehended irregular migrants, and trends related to the use of false documents.

Due consideration is given to limiting the impact on the movement across the borders and to not creating any traffic congestions. For instance, the controls performed by France at the border with Luxemburg usually focus on secondary roads, and the French police always informs their Luxembourgish counterpart before performing such checks. The visibility of checks clearly differs between border sections, with the intensity of checks being the highest at the border with Italy (based on the number of refusals of entry) and the impact being the biggest at the border with Spain (in particular, due to the reduction of the number of designated crossing points) which has provoked protests by local and regional governments. Queues are frequent and long diversions are needed to reach nearby towns on the other side of the border.

- *Cooperation between France and the neighbouring Member States*

Exchange of information: All the neighbouring Member States affected by the controls consider the reintroduced controls should have been a temporary measure. They are satisfied with the level of cooperation on the French side, although the results of this cooperation differ from one border section to the other, and also the French authorities recognise that there is room for further improvement.

The exchange of information at the national and local levels, including with neighbouring Member States, allows for adjustments to be made to the frequency, intensity and timing of checks, and enables the French authorities to target the persons and means of transport submitted to such checks at each designated crossing point. As a result, the checks consist rather in a screening of the traffic, and not in systematic checks as is the case at the external borders. The exchange of information also helped to determine the designated crossing points. The Belgian and Luxembourgish authorities consider the exchange of information exemplary.

The Italian authorities are satisfied with the cross-border cooperation activities with France which, despite the 100% increase in disembarkations on the Italian coasts, have led in 2023 only to a 10% increase in the number of refusals of entry, thus proving the efficiency of these cross-border cooperation activities as well as of the preventive measures put in place within Italy during that period.

The Spanish authorities are satisfied with the level of cross-border police cooperation but not with the level of cooperation concerning internal border controls and their consequences. In their view the mandate for the police in cross-border police cooperation measures should not be focused on the verification of the legality of stay. The French and Spanish authorities continue to discuss at the central level possible ways forward on the new legal framework on police cooperation between France and Spain.

Alternative measures: The controls at the designated crossing points are complemented by joint police actions. This type of cooperation is very well established with Switzerland and with Germany, with prospects for further intensification of such cooperation and possibly creation of a mixed brigade by the end of the year¹⁵. In particular with Germany, France has established at the end of 2021, a joint entity to fight irregular migration. The cooperation is particularly

¹⁵ Based on the trilateral agreement of 22 December 2022 with Germany and Switzerland.

successful in the region of Strasbourg/Kehl. Discussions are ongoing to intensify such cooperation with Belgium. Also, the French/Italian border benefits from this type of cooperation where a mixed brigade is operating to fight organised cross-border crime and irregular migration. On the Italian side, the police activities focus on key locations, such as the Ventimiglia train station, to prevent migrants from leaving Italy towards France, and Bardonecchia. During the consultations the French authorities have expressed their interest in reproducing this experience at the Spanish border.

The bilateral agreements with the neighbouring Member States for the take-back of illegally staying third country nationals are used to a limited extent only, as refusal of entry is considered by France to be a more efficient measure. However, France is open to making arrangements allowing for better use of such agreement with Belgium.

The French authorities intend to propose new legislative measures further reinforcing police powers as regards irregular migration (checks on cars at internal borders and collection of fingerprints in the administrative procedure following the apprehension, in order to facilitate the identification of undocumented migrants). These proposals are being considered in an effort by the French authorities to provide a solid legal framework for efficient police checks in the border areas for the future.

6. Swedish internal borders

- *Situation at the borders (land, air and sea)*

The exact location and intensity of the checks are determined by the Police Authority, based on the available intelligence. In practice, they are mostly carried out at the Öresund Bridge on the border with Denmark, and in some of the ports in the southern region of Sweden, with a view to the ferry connections with the Schengen states and based on access to advanced passenger information. Persons who do not fulfil the entry conditions under the Schengen Borders Code are refused entry. The controls are carried out by the Policy Authority.

Regardless of the mode of transportation, the Police Authority is working as much as possible based on intelligence and other information available, thereby making checks effective and proportionate, with as little negative impact and disruption as possible. Checks are normally performed as spot checks, unless there are grounds for more thorough and frequent controls. On the Öresund Bridge and the car ferries, in practice, only a limited number of vehicles are subject to such checks. As regards checks on train traffic, a minor adjustment of the timetables and the fact that border guards check the passengers in connection with the first scheduled stop on Swedish territory allow for practically no delays on the trains from Denmark to Sweden. The impact on vehicles traffic on the bridge is also limited as the checks are carried out at the bridge toll collection point.

- *Cooperation between Sweden and the affected neighbouring Member States*

Exchange of information: None of the Member States affected by the Swedish controls contested the necessity of the internal border controls in Sweden or criticised the level of cooperation in relation to these controls.

Before taking the decision on the reintroduction of border controls, the Swedish government was in contact with the neighbouring Member States. The Police authority is continuously

consulting the organisation of the reintroduced border controls with the affected Member States (i.e. mostly Denmark). Since 2020, the information is exchanged via the joint police border control centre located on the Danish side of the border. Regular contact and briefings also take place at ministerial level, to ensure that the special situation and needs of the Öresund region are taken into due consideration. Furthermore, since 2017 there is a bilateral agreement between Sweden and Denmark which allows the Swedish Police to board the trains between Denmark and Sweden already in Denmark and conduct checks onboard the moving train as soon as it reaches Swedish territory. Given the fact that checks at the first stop in Sweden have had a very limited negative effect on travel, this agreement has so far not been applied. However, should the need arise, the Swedish Police Authority stands ready to make use of the 2017 agreement. This specific agreement does not affect the Swedish-Danish agreement on police cooperation from 1999, which can be applied in parallel.

Alternative measures: Following the adoption of the new law allowing for the intensification of police checks in the internal border areas, Sweden will assess if the identified threats could be partially or fully addressed by the means offered by this law. The effects of the new law allowing for intensified police checks at internal border areas cannot yet be measured since it has only been in force since 1 August 2023.

Sweden is also looking at best practices as regards the use of maritime passenger data for law enforcement purposes, which could complement the security measures available at the airports thanks to the processing of API/PNR data on air passengers, among other tools¹⁶.

7. Norwegian internal borders

- *Situation at the border*

The border controls are limited in scope, both operationally and geographically, to what the Norwegian authorities consider as strictly necessary to prevent the possible threats to internal security and public policy. The controls are focused on ports with ferry connections to the Schengen area (i.e., to Denmark, Germany, The Netherlands and Sweden). They fully take into account the measures taken by these Member States as their internal border controls lowers the need for controls at the Norwegian internal land border.

The physical checks on persons remain limited, thanks to the consultation of passengers' lists¹⁷, with only about 650 persons submitted to such checks in 2022, equalling an average of only 2% of passengers that were controlled. The impact on the traffic flow is therefore low.

Persons who do not fulfil the entry conditions are refused entry. In 2022, 40 persons were refused entry at arrival, while 89 persons were denied boarding to the ferries, in the absence of the necessary documents.

¹⁶ The use of these tools should duly take into account the conditions set out in the judgment of the Court in Case C-817/19 | *Ligue des droits humains*.

¹⁷ Norwegian law requires reintroduction of internal border controls according to the Schengen Borders Code in order to allow the authorities to oblige ferries to transmit passenger lists to the Police. These lists are screened, and physical controls are carried out on a risk-based manner only.

The controls are carried out by the police. Thanks to the reintroduced controls the presence of police in the ports has significantly increased¹⁸.

The controls are targeted and based on risk assessment, and are carried out in accordance with the Commission guidelines for border management issues.

- *Cooperation between Norway and the affected neighbouring Member States*

Exchange of information: None of the Member States affected by these controls contested the necessity of the internal border controls in Norway, or criticised the level of cooperation in relation to these controls.

Thanks to the long-standing cooperation with the neighbouring Member States, the information is exchanged on a regular basis, both through political and operational channels.

A joint police station at the border between Sweden and Norway is expected to become operational in 2025. The Nordic JHA ministers also have signed an agreement on the intention to further develop the Nordic Police cooperation.

Alternative measures: The Norwegian police authorities have a very good bilateral cooperation with the neighbouring Member States. Norway has been carrying out intensified police checks in the areas of Viken region bordering on Sweden. Thanks to this cooperation, there is no need for controls at this border.

8. Main observations

With the ongoing dialogue initiated by the Schengen Coordinator, there is more transparency on the actions that Member States have been taking, and the notifications submitted by the Member States for the reintroductions provide more information on the measures as compared to the notifications submitted in the past.

Furthermore, the cross-border cooperation, which sometimes concerns more than two Member States, has been intensified at different levels. There is genuine progress in stepping up information-sharing and using measures that limit as much as possible the impact of the reintroduced controls.

Despite the various notifications of internal border controls, the actual checks carried out at fixed locations by the border guards at the designated crossing points are generally not systematic and often complemented by police measures. In most of the cases, the controls are carried out in the vicinity of the internal borders, often by the police. In all instances they are performed in a non-systematic manner, and frequently by the police rather than by border guards.

The checks concern all means of transport (vehicles, trains, ferries, planes) but due to the scale of the traffic, their impact is most visible at cross-border roads, where they can cause traffic congestion. However, national authorities underlined that checks may only be one of the factors for traffic congestion, alongside factors such as road works, accidents, and

¹⁸ Before the reintroduction of border controls, the police presence in the ports was strictly limited, and comparable to the presence on the territory as such.

weather conditions. There were only a few cases where the reintroduced border controls led to restrictions of the use of such roads or their closure in order to direct the traffic to the manned designated crossing points established on those routes.

The number of refusals of entry varies depending on the border section. Following the judgment of the Court of Justice in case C-143/22, the Commission services will discuss with the Member States the follow-up measures, in particular, as regards the use of agreements and arrangements between Member States.

Most of the controls are targeted by using technologies and other tools which can also be used in police measures, without the need for reintroducing internal border controls. This concerns the automated license plate recognitions systems and passenger information in maritime traffic.

Cross-border police cooperation functions well, in some cases providing intelligence determining the scope and intensity of the reintroduced border controls. The joint police patrols are appreciated by all the Member States concerned.

On the basis of this report, and the Recommendation on cooperation between the Member States with regard to serious threats to internal security and public policy in the area without internal border controls, the Commission will continue the dialogue with all the Member States concerned with a view to ensure the high level of security in the Schengen area with controls at internal borders used as a last resort measure.