Temporary reintroduction of border control at internal borders

2017/0245(COD) - 04/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 339 votes to 205, with 62 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016 /399 as regards the rules applicable to the temporary reintroduction of internal border control, thus closing its first reading.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

A measure of last resort with enhanced cooperation

Parliament recalled that the creation of an area in which the free movement of persons across internal borders is ensured is one of the main achievements of the Union. The normal functioning and strengthening of such an area, which is based on trust and solidarity, should be a common objective of the Union and the Member States which have agreed to take part in it.

At the same time, it stressed that it is necessary to have a common response to situations seriously affecting the public policy or internal security of that area, or parts thereof, by allowing for the temporary reintroduction of border control at internal borders in exceptional circumstances and as a last resort, while strengthening cooperation between the Member States concerned.

Criteria for the temporary reintroduction of internal border controls

Before reintroducing control at its internal borders, a Member State shall assess:

- whether this measure is likely to sufficiently remedy the threat to public policy or internal security;

whether measures other than the temporary reintroduction of border control at internal borders, such as enhanced cross-border police cooperation or intensified police checks, are likely to sufficiently remedy the threat to public policy or internal security;

- the proportionality of the temporary reintroduction of border control at internal borders in relation to the threat to public policy or internal security.

Where a Member State assesses that the proposed reintroduction of internal border control is not proportionate to the threat, it shall not reintroduce or prolong internal border control. Any measure reintroducing controls at the internal borders of a Member State shall be withdrawn as soon as the underlying grounds for it cease to exist.

Possible serious threat to public policy or internal security

Where, in the area without internal border control, there is a serious threat to public policy or internal security in a Member State, that Member State may, as a measure of last resort, reintroduce border control at all or specific parts of its internal borders for a limited period of up to 30 days or, if the serious threat persists beyond 30 days, for the foreseeable duration of the serious threat but, in any event, for no longer than two months, with a possibility of a prolongation of up to an additional four months.

Whenever the reintroduction of internal border control is proposed for specific planned events of an exceptional nature and duration, such as sporting activities, the duration of such control should be very precise, circumscribed and linked to the actual duration of the event.

Risk assessment

In order to ensure that such internal border control is a measure of last resort and exceptional, Member States shall submit a risk assessment concerning its envisaged extension beyond two months.

The risk assessment shall: (i) assess how long the identified threat is expected to persist and which section of its internal borders is affected; (ii) demonstrate that the prolongation of border control is a last resort; and (iii) explain how border control would better help address the identified threat.

The risk assessment shall also contain a detailed report of the cooperation which took place between the Member State concerned and the Member State or Member States directly affected by the reintroduction of border control. The Commission shall share the risk assessment with the Agency and Europol and may request, where appropriate, their views thereon.

Consultation

Where, based on the information contained in the notification or on any additional information it has received, the Commission has concerns as regards the necessity or proportionality of the planned reintroduction of border control at internal borders, or where it considers that a consultation on some aspect of the notification would be appropriate, it shall issue an opinion to that effect without delay.

The information and any Commission or Member State opinions shall be the subject of a consultation. The consultation shall include:

- joint meetings between the Member State planning to reintroduce border control at internal borders, the other Member States, especially those directly affected by such measures, and the Commission, which shall be held 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, including any possible alternative measures, and the threat to public policy or internal security;

- where appropriate, unannounced on-site visits by the Commission to the relevant internal borders and, where appropriate, with the support of experts from Member States and from the Agency, Europol or any other relevant Union body, office or agency, to assess the effectiveness of border controls at those internal borders and the compliance with this Regulation; the reports of such unannounced on-site visits shall be transmitted to the European Parliament.

Specific procedure in the event of a long-term threat

The Regulation shall also specifically provide for the possibility to prolong internal border controls beyond six months, on an exceptional basis. A subsequent prolongation of controls beyond six months would require an opinion from the European Commission and a Council recommendation. In any event, such a possibility shall not lead to a further extension of temporary border control beyond one year.

The European Parliament shall immediately be informed about the proposed prolongation. The Member States affected shall have the possibility to make observations to the Commission before it issues its opinion.