



C/2026/4085

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COMMISSION OPINION

of 2 June 2026

on the necessity and proportionality of the reintroduction of border control by the Netherlands at its internal land and air borders in accordance with Article 27a(3) of Regulation (EU) 2016/399 (Schengen Borders Code)

(only the Dutch text is authentic)

(C/2026/4085)

- (1) In accordance with Article 3(2) of the Treaty on European Union, the Union shall offer its citizens an area of freedom, security and justice without internal frontiers in which the free movement of persons is ensured, in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
- (2) Pursuant to Article 25 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification) ⁽¹⁾, a Member State may, when confronted with a serious threat to public policy or internal security, exceptionally and temporarily reintroduce border control at all or specific sections of its internal borders. This should only be done as a measure of last resort and the scope and duration of the temporary reintroduction of border control should not exceed what is strictly necessary to respond to the serious threat identified.
- (3) Article 25a(4) of the Schengen Borders Code specifies that where a Member State intends to reintroduce border control at internal borders to address a foreseeable serious threat, it is to notify the European Parliament, the Council, the Commission and the other Member States of the planned reintroduction of such control, at the latest four weeks before the planned reintroduction of border control, or as soon as possible where the circumstances giving rise to the need to reintroduce border control at internal borders become known to the Member State less than four weeks before the planned reintroduction.
- (4) Article 27a(3) of the Schengen Borders Code requires the Commission, following receipt of notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) which leads to the continuation of border control at internal borders for 12 months in total, based on the same grounds, to issue an opinion on the necessity and proportionality of such border control.
- (5) The framework for the reintroduction and prolongation of internal border control was substantially revised by Regulation (EU) 2024/1717 of the European Parliament and of the Council ⁽²⁾, which entered into force on 10 July 2024. The start of all the periods referred to in Title III, Chapter II of the Schengen Borders Code have therefore been calculated from that date.
- (6) By letter dated 11 November 2024, the Dutch authorities notified the introduction of border control on the basis of Article 25a of the Schengen Borders Code, at the internal land and air borders, for a period of six months, from 9 December 2024 until 8 June 2025.
- (7) By letter dated 25 April 2025, the Dutch authorities notified the prolongation of the reintroduction for an additional period of six months, from 9 June 2025 until 8 December 2025.

⁽¹⁾ OJ L 77, 23.3.2016, p. 1.

⁽²⁾ Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (OJ L, 2024/1717, 20.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1717/oj>).

- (8) By letter dated 10 November 2025, the Dutch authorities notified a second prolongation of the reintroduction of internal border control for a further period of six months, from 9 December 2025 until 8 June 2026. By letter dated 8 May 2026, the Dutch authorities notified a third prolongation of the reintroduction of internal border control for an additional period of three months and 22 days, from 9 June 2026 until 30 September 2026.
- (9) On 16 January 2026 and in accordance with Article 33(2) of the Schengen Borders Code, the Netherlands submitted a report on the reintroduction of internal border control for the period between 9 December 2024 and 8 December 2025.
- (10) The Netherlands was included in the Commission's structured dialogue on the reintroduction of internal border control. Following the receipt of the Netherlands' notifications for a prolongation, this structured dialogue has continued as part of a consultation process provided for by Article 27a(4) of the Schengen Borders Code.
- (11) The current state of play at internal borders was described in the State of Schengen Report of 23 April 2025 ⁽³⁾ and is regularly discussed at the Schengen Council.
- (12) Following receipt of notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) of the Schengen Borders Code which leads to the continuation of border control at internal borders for 12 months in total, the Commission is to issue an opinion on the necessity and proportionality of such border control, as provided for by Article 27a(3) of the Schengen Borders Code. This obligation arose with the receipt of the notification of a prolongation of border control at all internal land borders on 25 April 2025.
- (13) Following an assessment of all of the above-mentioned notifications and the report, supplemented with the information provided by the Netherlands in the framework of the consultation process and other official documents, publicly available the Commission adopts the following Opinion.

ASSESSMENT OF THE NOTIFICATIONS AND REPORT

I. FORMAL REQUIREMENTS

- (14) In the framework of notifications, the Schengen Borders Code imposes several formal obligations on the Member States.
- (15) All the notifications on the reintroduction of internal border control as well as the prolongations thereof were notified in accordance with the time limits set out Article 25a(4) of the Schengen Borders Code, that is at the latest four weeks prior to the entry into effect of the prolongation of internal border control.
- (16) The notifications for the reintroduction and prolongations of internal border control were made using the template established for this purpose by Commission Implementing Decision (EU) 2025/315 ⁽⁴⁾.
- (17) The Netherlands has not indicated the names of the authorised border crossing points in its notification as required by Article 27(1)(c) of the Schengen Borders Code.

⁽³⁾ COM(2025) 185 final.

⁽⁴⁾ Commission Implementing Decision (EU) 2025/315 of 14 February 2025 establishing a template for the notification of the temporary reintroduction or prolongation of border control at internal borders (OJ L, 2025/315, 17.2.2025, ELI: http://data.europa.eu/eli/dec_impl/2025/315/oj).

- (18) Article 27(2) of the Schengen Borders Code requires the Member States, in situations where the border control has been in place for six months, to provide a risk assessment in any subsequent notification presenting the scale and anticipated evolution of the serious threat. The Commission notes that the risk assessment of the serious threat at the moment of the notification of a prolongation, was not updated in the notifications of the prolongations. It stresses the importance of making such a risk assessment taking into account trends in the development of the serious threat in the preceding period of reintroduction of internal border control and using risk analyses prepared at national level and by the relevant Union agencies.
- (19) The report on the reintroduction and prolongation of internal border control, based on Article 33(2) of the Schengen Borders Code, which the Netherlands was to submit on 8 December 2025 (at the expiry of 12 months), was submitted on 26 January 2026.
- (20) The report on the reintroduction and prolongation of internal border control follows the uniform format established by Commission Implementing Decision (EU) 2025/308 ⁽⁵⁾.

II. NECESSITY AND PROPORTIONALITY

Position of the Dutch Authorities

- (21) In all their notifications the Dutch authorities invoke the existence of a serious threat to public policy or internal security resulting from a persistent high and cumulative pressure on the national asylum and migration system, due to the inflow of irregular migrants and applicants for international protection, as well as Ukrainian nationals qualifying for temporary protection.
- (22) The reintroduction of internal border control aims to limit the number of irregular migrants and asylum seekers to reduce the strain on the Dutch public services, in particular the asylum reception capacity and public housing, as well as health care, education and integration programmes.
- (23) The Dutch authorities point at:
- the low level of Dublin transfers, with the impossibility to carry out Dublin returns to responsible Member States;
 - the continued challenges posed by human smuggling and instrumentalisation;
 - the risk posed to the health and safety of both asylum seekers and staff working at reception centres due to overcrowding;
 - the increasing number of Dutch municipalities indicating that they cannot accommodate any more applicants for or beneficiaries of international protection;
 - the risk to public policy and safety as a result of disruptions and criminal offences by asylum seekers, often from countries with a low recognition rate;
 - The negative impact on public support for the reception of applicants of international protection.
- (24) The Dutch authorities indicate that the reintroduction of internal border control gives the Dutch border guard authority greater flexibility in the exercise of border checks, allowing for more checks for a longer period of time at the same location than under the national legislation regulating the previously existing law enforcement checks in border areas ('Mobile Security Monitoring') carried out by the Dutch Royal Marechaussee.

⁽⁵⁾ Commission Implementing Decision (EU) 2025/308 of 14 February 2025 establishing a uniform format for the report on the reintroduction or prolongation of border control at internal borders in accordance with Article 33 of Regulation (EU) 2016/399 of the European Parliament and of the Council (OJ L, 2025/308, 17.2.2025, ELI: http://data.europa.eu/eli/dec_imp/2025/308/oj).

- (25) The Dutch authorities submit that internal border control has a broader purpose than the previously existing law enforcement checks in border areas, assisting in the detection and prevention of illegal migration and the detection of cross-border crime, including people smuggling.
- (26) During the first twelve months of the reintroduction of internal border control, the Dutch border guard authority denied entry to approximately 533 third country nationals and apprehended 265 individuals in connection with crime, such as human smuggling (39 persons), human trafficking (one person), drugs related crimes, document fraud and traffic offences.
- (27) In relation to air borders, control is restricted to specific flights which, according to risk analysis or intelligence, are associated with a risk of illegal migration or cross-border crime.
- (28) At the internal land borders, control is limited to a minimum and takes place in a non-systematic, risk-based manner, in the form of targeted spot-checks.

Commission Observations

- (29) The Dutch authorities have provided information on the various aspects of the identified serious threats to public policy and internal security as well as arguments to substantiate the necessity and proportionality of the reintroduced border control. They have also shared with the Commission the information that was sent to the Dutch parliament on the results of the reintroduction of internal border control.
- (30) The Commission observes that the Netherlands is facing a complex national migration situation, which is evidenced by data on the overall numbers of asylum applications, including those lodged following the unauthorised entry, by persons previously registered as asylum seekers or benefitting from international protection in another Member State, as well as resulting from entry permits issued for the purposes of family reunification. The Netherlands' capacity to provide adequate reception conditions for applicants for international protection has also been affected by the need to support beneficiaries of temporary protection following the Russia's war of aggression against Ukraine.
- (31) The Commission notes that unauthorised movements of third country nationals may constitute grounds for a reintroduction of internal border control if these unauthorised movements pose a serious threat to public policy or internal security. In this regard, in its Article 25(1)(c) the Schengen Borders Code refers specifically to the situation in which sudden large-scale unauthorised movements of third-country nationals between the Member States put a substantial strain on the overall resources and capacities of well-prepared competent authorities, and which is likely to put at risk the overall functioning of the area without internal border control.
- (32) The Commission underlines that the reintroduction of internal border control does not alter the Netherlands' obligations under the applicable rules of EU law on asylum and return. The reintroduction of internal border control may contribute to the detection of unauthorised border crossings into a Member State's territory, facilitate swift readmissions at the internal border and ensure that unauthorised movements of applicants for international protection are promptly detected, which allows for the correct application of the Dublin Regulation's rules⁽⁶⁾ on the allocation of responsibility for examining an asylum application. However, the notifications contain only limited information on the number of apprehensions and readmissions at the different sections of the internal border that would justify the reintroduction and prolongations of internal border control.

⁽⁶⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

- (33) The Commission observes that recent data show that both the European and national migratory situation have significantly improved in the Union. The European Border and Coast Guard Agency has observed a sharp drop in unauthorised border crossings in 2024. In 2025, unauthorised border crossings at the EU's external borders decreased by a quarter compared to 2024 (180 429 in 2025, as compared to 240 199 in 2024). According to publicly available data from the Dutch government, the number of first asylum applications fell by 16 % in 2024, with a further steady decline in 2025, which is expected to continue in 2026. This decline is part of a wider trend owing to increased collective efforts to protect the EU's external borders and cannot be solely attributed to the reintroduction of internal border control by the Netherlands.
- (34) The Commission notes that both the Dutch Court of Auditors, as well as the Dutch Advisory Council on Migration and Council for Public Administration have concluded that the Dutch reception crisis is the result of a lack of sufficient funding and a failure to maintain a structural reception capacity ⁽⁷⁾.
- (35) The Commission notes that the Dutch Court of Auditors has concluded that the current reintroduction of internal border control does not reduce the number of asylum applications and has little impact on the pressure on the national asylum system. Although refusals of entry have increased compared to previous law enforcement checks, less than 1 % of asylum seekers are intercepted at the border, and arrests or expulsions have not risen significantly and in some cases have declined ⁽⁸⁾.
- (36) The Commission notes that the notifications and the report do not state specific reasons for the choice of the geographical and temporal scope of the decision to reintroduce internal border control. There is no explanation as to why a six-month duration, rather than a shorter period, seems most appropriate. There is no distinction made as regards the migratory pressure along the Dutch-Belgian and the Dutch-German border.
- (37) The Commission notes that border checks are carried out as risk based spot-checks in order to limit the impact on cross-border travel.

III. ALTERNATIVE MEASURES

Position of the Dutch Authorities

- (38) The Dutch authorities put forward several alternative measures that they use in relation to the reintroduction of border control at internal land and air borders.
- (39) In relation to the cooperation with Germany, the Dutch authorities point at the Dutch-German treaty on cross-border police cooperation (Treaty of Enschede), which entered into force on 1 September 2006, as well as close cooperation between the German police and the Dutch police and border guard authority in border areas within the framework of a Joint Border Coordination Centre and five Cross-Border Police Teams.
- (40) In relation to the cooperation with Belgium, the Dutch authorities point at the updated Benelux treaty on police collaboration which has entered into force on 1 October 2023, which allows for improved information exchange and fostering joint police and law enforcement activities in border areas.
- (41) The Dutch authorities submit that they are in touch with both their German and Belgian counterparts to improve cross-border cooperation at the internal borders, including on readmission. The Netherlands and Belgium have agreed on a cooperation protocol to improve the readmission of irregular migrants apprehended at the internal borders.
- (42) The Dutch border guard authority makes use of various technological solutions, especially Automatic Number Plate Recognition (ANPR).

⁽⁷⁾ Algemene Rekenkamer, Focus op opvangcapaciteit voor asielzoekers, report, 18 January 2023; Adviesraad Migratie en Raad voor Openbaar Bestuur, Asielopvang uit de crisis, report 17 June 2022.

⁽⁸⁾ Algemene Rekenkamer, Focus op grenscontroles, report 3 June 2025.

- (43) The Dutch authorities indicate that national law limits the use of law enforcement checks in border areas and that it is therefore working on amending the national legislation regulating the 'Mobile Security Monitoring', with a view to improving and enhancing the effectiveness of law enforcement checks, including changes to the restrictions on the number and duration of such checks.
- (44) The review of the legal framework for 'Mobile Security Monitoring' also constitutes a step towards the operationalisation of Article 23a of the Schengen Borders Code, which would allow for the fast return of irregular migrants apprehended at the national border.

Commission Observations

- (45) Prior to the reintroduction of internal border control, the Netherlands has always relied on police checks in border areas, even at the height of the migration and asylum crisis of 2015 and the COVID-19 pandemic.
- (46) The Dutch Court of Auditors has concluded that the reintroduction of internal border control, while more effective in countering illegal migration, has not been more effective in countering cross-border crime than the previously existing regime of 'Mobile Security Monitoring' ⁽⁹⁾.
- (47) The ongoing work of the Dutch authorities on amending the national legislation regulating the 'Mobile Security Monitoring', with a view to improving and enhancing the effectiveness of law enforcement checks, including changes to the restrictions on the number and duration of such checks.
- (48) The Commission notes the existence of readmission agreements between the Netherlands and its neighbouring Member States. It notes that the Netherlands acts in accordance with the relevant rules of EU law and in line with the case law of the Court of Justice of the European Union on the application of the Schengen Borders Code and the Return Directive ⁽¹⁰⁾ at internal borders where control is reintroduced.
- (49) The Commission finds that the Dutch authorities have provided insufficient information to explain why an application of law enforcement checks in border areas cannot serve as alternative to the reintroduction of internal border control, in particular in light of the previous experience with the 'Mobile Security Monitoring'.

IV. MITIGATING MEASURES

Position of the Dutch Authorities

- (50) The Dutch authorities submit that they have taken measures to ensure that the impact of the reintroduction of internal border control is kept to a minimum.
- (51) The border guard authority avoids disrupting traffic as much as possible by carrying out control as risk-based spot checks.
- (52) The Dutch authorities remain in close contact with local authorities on both sides of the border. They have monitored traffic flows and cross-border regions from the entry into effect of the reintroduction of internal border control, through contacts with local authorities, other government ministries and neighbouring countries. They have reported no significant negative impact.

⁽⁹⁾ Algemene Rekenkamer, Focus op grenscontroles, report 3 June 2025.

⁽¹⁰⁾ Judgment of the Court of 21 September 2023, Association Avocats pour la défense des droits des étrangers (ADDE) and Others v Ministre de l'Intérieur, Case C-143/22, ECLI:EU:C:2023:689.

- (53) Some cross-border regions have indicated that the reintroduction of internal border control may constitute a psychological barrier which can affect cross-border cooperation initiatives as well as the cross-border labour market and international cohesion negatively.

Commission Observations

- (54) The notifications submitted by the Dutch authorities demonstrate their commitment to ensure that the impact of internal border control remains limited as required by Article 26(3) of the Schengen Borders Code.
- (55) The border control takes place in a targeted and risk-based manner, in order to limit the impact on cross-border travel.
- (56) The reported impact of the reintroduction of internal border control by the Netherlands has been limited, which has assuaged concerns voiced by local authorities at the moment of reintroduction. At the same time, there have been reports of significant traffic congestion at the Dutch-German border, which, however, can be attributed to the progressive intensification of internal border control by Germany.
- (57) The Netherlands has notified its cross-border regions in accordance with Article 42b of the Schengen Borders Code.
- (58) Contrary to the report, the Dutch notifications do not identify the respective cross-border regions that are concerned by the reintroduction of internal border control or indicate the measures that have been taken in cooperation with the German authorities to address disruptions in traffic flows at the German-Dutch border. There is no information on tailor-made measures per border region or category of essential travellers to ensure the fluidity of cross-border travel.

V. RECOMMENDATIONS

- (59) A well-functioning Schengen area relies on the full and effective implementation of the migration and asylum acquis. The start of application of the Pact on Migration and Asylum on 23 June 2026 will be an important driver to address concerns about unauthorised movements of third country nationals or migratory and security concerns related to illegal migration – concerns put forward by the Netherlands as justifying the reintroduction of internal border control.
- (60) The Commission points out that pursuant to the Screening Regulation ⁽¹¹⁾, which forms part of the Pact on Migration and Asylum, a security check of all relevant databases forms part of both screening at the external borders, as well as within the territory.
- (61) The Dutch authorities should make full use of the available alternative measures laid out in Commission Recommendation (EU) 2024/268 ⁽¹²⁾ and the possibilities under the Schengen Borders Code. These measures should reinforce and complement existing measures. They constitute a more efficient and effective means to ensure a high level of security and migration control, without the need to reintroduce internal border control.

⁽¹¹⁾ Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (OJ L, 2024/1356, 22.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1356/oj>).

⁽¹²⁾ Commission Recommendation (EU) 2024/268 of 23 November 2023 on cooperation between the Member States with regard to serious threats to internal security and public policy in the area without internal border controls (OJ L, 2024/268, 17.1.2024, ELI: <http://data.europa.eu/eli/reco/2024/268/oj>).

- (62) The Commission submits that the way in which border checks take place, namely in the form of risk-based spot checks, remains possible under Article 23 of the Schengen Borders Code, without having to resort to an official reintroduction of internal border control or having to compromise on security, provided that these checks do not have an equivalent effect to border checks, requiring that their frequency, intensity and duration remain limited ⁽¹³⁾.
- (63) The Commission recalls that if the Netherlands would revert to the previous practice of law enforcement checks in border areas, Article 25 of the Schengen Borders Code will always allow the Dutch authorities to immediately reintroduce internal border control if necessary to address a serious threat to public policy and national security that arises unexpectedly due to unforeseeable events.
- (64) The Commission encourages the Netherlands to further develop cooperation and information exchange with its neighbours, improving operational arrangements under the existing bilateral readmission agreements or arrangements and/or the conclusion of practical arrangements for the application of the transfer procedure under Article 23a of the Schengen Borders Code, as well reinforce cooperation under its bilateral police cooperation agreements.
- (65) The Netherlands should address any legal or operational obstacles that stand in the way of improving the effectiveness and broadening the scope of alternative measures, such as limitations under national law, as required by Article 23 of the Schengen Borders Code.
- (66) Finally, based on the scale and nature of alternative measures that have been put in place by the Dutch authorities, the Netherlands should work towards the phasing out of the border control at internal land and air borders. The Commission will remain in close contact with all Member States concerned to achieve this goal.

Done at Brussels, 2 June 2026.

For the Commission
Magnus BRUNNER
Member of the Commission

⁽¹³⁾ Judgment of the Court of 21 June 2017, criminal proceedings against A, Case C-9/16 (OJ C 277, 21.8.2017, p. 10).