



**European Committee
of the Regions**

CIVEX-VII/014

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OPINION

Revised Schengen Area Governance

THE EUROPEAN COMMITTEE OF THE REGIONS

- points out that the COVID-19 pandemic has been one of the biggest setbacks for cross-border cooperation; stresses that cross-border cooperation is at the very heart of the European integration project and one of the biggest successes of the European Union;
- agrees that internal border controls should always be a measure of last resort and recommends that controls at internal borders should strictly be limited to a maximum of 24 months in total;
- recommends that a notification by a Member State of temporary reintroduction of internal border controls ought to include reasons as to why alternative measures are not appropriate and the position of the authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
- underlines that as it stands, the proposed definition of the concept of instrumentalisation in the Schengen Borders Code is overly broad and unclear, leaving room for misinterpretations. Member States should take the necessary measures to ensure that a sufficient number of registration points, including crossing points, are open and accessible to applicants for international protection in order to guarantee effective protection against refoulement, including the right to make an application for international protection, and that appropriate safeguards for the treatment of vulnerable people are in place;
- calls on the European Commission to thoroughly rework the Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum (Instrumentalisation Regulation), in line with its Better Regulation Guidelines and good law-making principles, and to revise its proposal of the revised Schengen Borders Code accordingly, in line with the principles of subsidiarity and proportionality under Article 5 TEU;
- calls for the enlargement of the Schengen area to include Bulgaria and Romania, provided that they effectively implement the Schengen acquis, and supports the envisaged enlargement to include Croatia as of 1st January 2023.

Rapporteur

Antje Grotheer (DE/PES), Vice-President of Bremen State Parliament

Reference documents

Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum

[\(COM\(2021\) 890 final\)](#)

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders

[\(COM\(2021\) 891 final\)](#)

Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Responding to state-sponsored instrumentalisation of migrants at the EU external border

[\(JOIN\(2021\) 32\)](#)

**Opinion of the European Committee of the Regions –
Revised Schengen Area Governance**

I. RECOMMENDATIONS FOR AMENDMENTS

[COM\(2021\) 891](#)

**Proposal for a Regulation amending
Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons
across borders**

Amendment 1

Recital 3

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
In recent years, the Schengen area has been subject to unprecedented challenges, which by their nature were not confined to the territory of any single Member State. Such challenges underscored the fact that the preservation of public order and security in the Schengen area is a shared responsibility requiring joined and coordinated action between Member States and at Union level. They also highlighted gaps in the existing rules governing the functioning of the Schengen area both at external and internal borders and the need to create a stronger and more robust framework allowing for a more effective response to challenges faced by the Schengen area.	In recent years, the Schengen area has been subject to unprecedented challenges, which by their nature were not confined to the territory of any single Member State. Such challenges underscored the fact that the preservation of public order and security in the Schengen area is a shared responsibility requiring joined and coordinated action between Member States and at Union level. They also highlighted gaps in the existing rules governing the functioning of the Schengen area, <i>including</i> both at external and internal borders, and the need to create a stronger and more robust framework allowing for a more effective response to challenges faced by the Schengen area.

Reason
The functioning of the Schengen area is not solely dependent on the rules regarding controls at the external and internal borders. The recital should reflect this accordingly.

Amendment 2

Recital 4

<i>Text proposed by the European Commission</i>	<i>Amendment</i>
Border control at external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control and the Union as a whole. Member States are required to ensure high	Border control at external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control and the Union as a whole. Member States are required to ensure high

standards in management of their external borders, including through enhanced cooperation between border guards, police, customs and other relevant authorities. The Union provides active support through the provision of financing support by the Agencies, the European Border and Coast Guard in particular and management of the Schengen Evaluation Mechanism. The rules applicable to external borders need to be <i>reinforced</i> in order <i>to</i> better respond to new challenges <i>that have recently emerged</i> at the external borders.	standards in management of their external borders, including through enhanced cooperation between border guards, police, customs and other relevant authorities. The Union provides active support through the provision of financing support by the Agencies, the European Border and Coast Guard in particular and management of the Schengen Evaluation Mechanism. The rules applicable to external borders need to be <i>effectively and efficiently implemented</i> in order better respond to new challenges <i>emerging</i> at the external borders.
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Reason
The rules governing external borders, which are currently in line with international standards and offer sufficient instruments for the competent authorities to conduct efficient and protection- sensitive border controls as they are quite flexible, need to be fully implemented in order to build effectively and efficiently on their potential.

Amendment 3

Recital 8

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
It is also necessary to <i>reinforce</i> the rules and safeguards in Union law in order to allow Member States to act swiftly to counter instances of instrumentalisation of migrants. Such instrumentalisation should be understood as referring to a situation where a third country <i>instigates irregular migratory flows to the Union</i> by actively <i>encouraging or facilitating the arrival of</i> third country nationals to <i>the external borders of the Member States, where such actions indicate an intention</i> to destabilise the Union <i>as a whole</i> or a Member State <i>and</i> where the nature of such actions <i>is liable to put</i> at risk essential State functions, <i>including its territorial integrity</i> , the maintenance of law and order or the safeguard of its national security.	It is also necessary to <i>apply effectively and efficiently</i> the rules and safeguards in Union law in order to allow Member States to act swiftly to counter instances of instrumentalisation of migrants. Such instrumentalisation should be understood as referring to a situation where a third country <i>or an actor sponsored by it</i> actively <i>supports a significant number</i> of third country nationals <i>in attempting to enter a Union Member State irregularly en masse, aiming</i> to destabilise the Union or a Member State, where <i>the Member State affected is able to duly justify why</i> the nature of such actions <i>puts</i> at risk essential State functions, the maintenance of law and order or the safeguard of its national security, <i>and where the European Council has acknowledged, as a matter of urgency, that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants.</i>

Reason
The proposed definition of instrumentalisation is overly broad and lacks clarity, with the risk of many

dissimilar situations being deemed compatible with this definition. It is also contrary to better regulation guidelines as the accompanying Impact Assessment (SWD(2021) 462 final) admits it 'does not look into the instrumentalisation of irregular migration'. A political consensus at EU level on whether a situation constitutes instrumentalisation is therefore necessary. Given the gravity of the restrictive measures imposed on the individuals as a result and given that the Commission's proposal responds to a European Council request (EUCO 17/21), affirmative position of the European Council, meeting swiftly in order to allow for prompt action by the Member State(s) concerned, needs to be factored into the definition.

Amendment 4

Recital 9

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Instrumentalisation of migrants can refer to situations where irregular travel of third country nationals has been actively <i>encouraged or</i> facilitated by a third country onto its own territory to reach the external border of the Member States but can equally refer to the active <i>encouragement or</i> facilitation of irregular travel of third country nationals already present in that third country. Instrumentalisation of migrants may also entail the imposition of coercive measures, intended to prevent the third country nationals from leaving the border areas of the instrumentalising third country, in a direction other than through a Member State.	Instrumentalisation of migrants can refer to situations <i>defined in point 27 of Art. 1 (1)(b)</i> , where irregular travel of third country nationals <i>into the European Union</i> has been actively facilitated by a third country onto its own territory to reach the external border of the Member States but can equally refer to the active facilitation of irregular travel of third country nationals already present in that third country. Instrumentalisation of migrants may also entail the imposition of coercive measures, intended to prevent the third country nationals from leaving the border areas of the instrumentalising third country, in a direction other than through a Member State. <i>Situations in which non-state actors are involved in organised crime, in particular smuggling, should not be considered as instrumentalisation of migrants when there is no aim to destabilise the Union or a Member State. Furthermore, humanitarian aid operations should not be considered as instrumentalisation.</i>

Reason
For the purpose of legal certainty, a reference to the provision where instrumentalisation is defined is necessary.

Amendment 5

Recital 10

<i>Text proposed by the European Commission</i>	<i>Amendment</i>
The Union should mobilise all tools from its toolbox of diplomatic, financial and operational measures to support the Member States	The Union should mobilise all tools from its toolbox of diplomatic, financial and operational measures to support the Member States

confronted with instrumentalisation. Diplomatic efforts by the Union or the Member State concerned, should be given priority as the means of addressing the phenomenon of instrumentalisation. This <i>may</i> be supplemented, <i>where appropriate</i> , by <i>the imposition of restrictive</i> measures by the Union.	confronted with instrumentalisation. Diplomatic efforts by the Union or the Member State concerned, should be given priority as the means of addressing the phenomenon of instrumentalisation. This <i>should</i> be supplemented by <i>appropriate preventive</i> measures by the Union, <i>involving the instrumentalising third countries and the countries of origin of the instrumentalised migrants</i> .
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Reason
Prevention is crucial in all efforts to address instrumentalisation. Situational reports should be regularly drafted by EU delegations in the countries of origin of instrumentalised groups of migrants and in the instrumentalising third countries, and be submitted to the Commission as evidentiary basis for preventive measures.

Amendment 6

Recital 11

Text proposed by the European Commission	CoR amendment
<i>At the same time, in addition to these measures, it is equally necessary to further reinforce</i> the current rules in relation to external border controls and border surveillance. <i>To further assist the Member State facing an instrumentalisation of migrants, Regulation (EU) XXX/XXX complements the rules on border control by providing for specific measures in the area of asylum and return,</i> while respecting the fundamental rights the individuals <i>concerned</i> and in particular by ensuring the respect of the right to asylum and providing the necessary assistance by the UN agencies and other relevant organisations.	<i>It is necessary to fully implement</i> the current rules in relation to external border controls and border surveillance, while respecting the fundamental rights <i>of</i> the individuals <i>seeking asylum</i> and in particular by ensuring the respect of the right to asylum and providing the necessary assistance by the UN agencies and other relevant organisations, <i>especially for unaccompanied minors</i> .

Reason
The adoption of the Instrumentalisation Regulation is conditional upon adoption of the proposals for the Asylum Procedure Regulation as well as the recast of both the Reception Conditions Directive and the Return Directive under the New Pact on Migration and Asylum, which are subject to on-going negotiations or on hold due to an impasse. The reference to Regulation (EU) XXX/XXX in the proposed Schengen Borders Code is a reference to an act the adoption of which is uncertain, the content of which is likely to be modified in the course of the legislative process, and which is moreover conditional upon other proposals under the New Pact being adopted. Furthermore, the impact assessment accompanying the proposed Schengen Borders Code did not assess the potential impact of

the proposed provisions responding to instrumentalisation. Therefore, as it stands, the reference jeopardises the adoption of the very proposal on Schengen and is contrary to legal certainty, the European Commission's Better Regulation Guidelines and the 2016 Inter-Institutional Agreement on Better Law-Making. Moreover, the great numbers of unaccompanied minors in areas suffering the most migratory pressure call for and deserve guarantees for the defence of their rights, their protection, and the coordination of the necessary assistance by all the parties involved.

Amendment 7

Recital 12

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
In particular, in a situation of instrumentalisation, it should, where necessary, be possible for the Member State concerned, to limit border traffic to the minimum by closing some border crossing points, while guaranteeing genuine and effective access to international protection procedures. Any such decision should take into account whether the European Council has acknowledged that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants. Furthermore, any such limitations should take full account of the rights of Union citizens, third country nationals who are beneficiaries of the right of free movement pursuant an international agreement and third-country nationals who are long-term residents under national or Union law or are holders of long-term visas, as well as their respective family members. Such limitations should also be applied in a manner that ensures respect for obligations related to access to international protection, in particular the principle of non-refoulement.	In particular, in a situation of instrumentalisation, as defined in point 27 of Art. 1 (1)(b) , it should, where necessary, be possible for the Member State concerned, to limit border traffic to the minimum by closing some border crossing points, while guaranteeing genuine and effective access to international protection procedures. Any such decision should take into account whether the European Council has acknowledged that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants. Furthermore, any such limitations should not restrict the rights of Union citizens, third country nationals who are beneficiaries of the right of free movement pursuant an international agreement and third-country nationals who are long-term residents under national or Union law or are holders of long-term visas, as well as their respective family members. Such limitations should also be applied in a manner that ensures respect for obligations related to access to international protection, in particular the principle of non-refoulement.

Reason
The proposed measures to limit the number of border crossings will have a negative impact on access to asylum at the EU's external borders and risk running counter to the overall objective of the Schengen Area, that is, maintaining the absence of internal borders. They should therefore be used only as a last resort, and only in cases where instrumentalisation has been acknowledged to exist. The possibility of applying restrictive measures should not be detrimental to the exercise of the right to free movement by EU citizens and lawfully residing non-EU nationals.

Amendment 8

Recital 14

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
By virtue of Article 41(1) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency is required to recommend to a Member State that it request the Agency to initiate, carry out or adjust the Agency's support, in order to address identified threats and challenges at the external borders, where the conditions laid down in that provision are met. <i>In particular, the need for Agency support may become apparent in situations where the European Border and Coast Guard Agency has carried out a dedicated vulnerability assessment in connection with the instrumentalisation of migrants. On the basis of the results of such a vulnerability assessment or where a critical impact level is attributed to one or more external border sections and taking into account the relevant elements in the Member State's contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, the Executive Director should recommend to the Member State concerned to request that the Agency initiate, carry out or adjust the Agency's support in accordance with Article 41(1) of Regulation (EU) 2019/1896. This competence of the Executive Director is without prejudice to the general support that the Agency may be providing to the Member States.</i>	By virtue of Article 41(1) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency is required to recommend to a Member State that it request the Agency to initiate, carry out or adjust the Agency's support, in order to address identified threats and challenges at the external borders, where the conditions laid down in that provision are met.

Reason
The deleted text repeats the exact text of Article 41(1) of Regulation (EU) 2019/1896 and is therefore superfluous.

Amendment 9

Recital 15

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Moreover, in the event of instrumentalisation of migrants, the Member State concerned should	Moreover, in the event of instrumentalisation of migrants, <i>as defined in point 27 of Article 1(1)(b)</i>

reinforce border <i>control, including, as appropriate</i> , through <i>additional measures preventing illegal crossings and</i> the deployment of additional resources and technical means to <i>prevent unauthorised crossing of</i> the border. Such technical means could include modern technologies including drones and motion sensors, as well as mobile units. The use of such technical means, in particular, any technologies capable of collecting personal data, needs to be based on and exercised in accordance with clearly defined provisions of national law.	<i>and acknowledged as such by the European Council</i> , the Member State concerned should reinforce border <i>surveillance</i> , through the deployment of additional resources and technical means, <i>including modern technologies</i> , to <i>address attempts to cross</i> the border <i>irregularly en masse</i> . Such technical means could include modern technologies including drones and motion sensors, as well as mobile units. The use of such technical means, in particular, any technologies capable of collecting personal data, needs to be based on and exercised in accordance with clearly defined provisions of national law <i>and in line with the jurisprudence of the Court of Justice of the European Union</i> .
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Reason
The proposed measures should be used only as a last resort, and only in cases where instrumentalisation has been officially acknowledged to exist by the European Council. Moreover, the use of technical means should not run counter to the jurisprudence of the Court of Justice of the EU.

Amendment 10

Recital 16

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
The Commission should be empowered to specify, in delegated acts adopted under this Regulation, appropriate standards for border surveillance, concerning in particular the new technologies that Member States may use, while taking into account the type of borders (land, sea or air), the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 and other relevant factors, as a specific response to <i>situations of instrumentalisation of migrants</i> .	The Commission should be empowered to specify, in delegated acts adopted under this Regulation, appropriate <i>common</i> standards for border surveillance, concerning in particular the new technologies that Member States may use, while taking into account the type of borders (land, sea or air), the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 and other relevant factors, as a specific response to <i>threats, challenges and vulnerabilities at the external borders</i> .

Reason

Amendment 11

Recital 17

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
In an area without internal border controls, persons should be able to move freely, and in	In an area without internal border controls, persons should be able to move freely, and in security

security between Member States. In this regard, it should be clarified that the prohibition of controls at internal borders does not affect the competence of Member States to carry out checks on their territory, including at their internal borders, for purposes other than border control. It should, in particular, be clarified that <i>national</i> competent authorities, including health or law enforcement authorities, remain, in principle, free to carry out checks in the exercise of public powers provided for under national law.	between Member States. In this regard, it should be clarified that the prohibition of controls at internal borders does not affect the competence of Member States to carry out checks on their territory, including at their internal borders, for purposes other than border control. It should, in particular, be clarified that <i>nationally, regionally and locally</i> competent authorities, including health or law enforcement authorities, remain, in principle, free to carry out checks in the exercise of public powers provided for under national law.
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Reason
To take into account differences in governance structures and related competences across Member States, all levels of government should be included.

Amendment 12

Recital 18

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<i>While the prohibition of internal border controls also extends to checks having equivalent effects, checks by competent authorities should not be considered equivalent to the exercise of border checks where they do not have border control as an objective, where they are based on general information and experience of the competent authorities regarding possible threats to public security or public policy, including where they aim to combat irregular stay or residence and cross-border crimes linked to irregular migration, where they are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, and where they are conducted at transport hubs, such as ports, train or bus stations and airports or directly on board of passenger transport services, and where they are based on risk analysis.</i>	

Reason
The current rules already allow for these measures. It should not be insinuated that more controls and security checks are possible under the proposed amendments. More controls are detrimental to regions

with internal borders in particular. Security measures based on risk analysis should not be limited to these regions.

Amendment 13

Recital 20

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<i>The combatting of illegal residence or stay and of cross-border crime linked to irregular migration such as human trafficking, migrant smuggling and document fraud and other forms of cross-border crime could in particular encompass measures allowing the verification of the identity, nationality and residence status of persons provided that such verifications are non-systematic and carried out on the basis of risk analysis.</i>	

Reason
Article 77 of the Treaty of the Functioning of the European Union lays out the objective of "ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders". Moreover, the combatting of illegal residence or stay is already regulated in Directive 2008/115/EC ("Returns Directive") and should not be linked to controls at internal borders. The framework for combatting cross-border crimes as well as human trafficking is similarly regulated in other legislative acts ¹ . Furthermore, the provision leaves space for non-compliance with the judgment of the Court of Justice of the European Union, according to which the Schengen Borders Code must be interpreted as precluding national legislation by which a Member State obliges a person, on pain of a penalty, to present a passport or identity card on entering the territory of that Member State via an internal border, when the reintroduction of the internal border control in relation to which that obligation is imposed is contrary to that provision (Joined Cases C-368/20 and C-369/20).

Amendment 14

Recital 24

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
It is necessary to ensure that checks carried out by Member States in exercise of national competences remain fully consistent with an area that is free of internal border controls. In accordance with the case law of the Court of Justice, the more extensive the indications are that checks conducted by Member States at their border areas have an equivalent effect to border	It is necessary to ensure that checks carried out by Member States in exercise of national competences remain fully consistent with an area that is free of internal border controls. In accordance with the case law of the Court of Justice, the more extensive the indications are that checks conducted by Member States at their border areas have an equivalent effect to border control, having regard to the objective of

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Overview provided in the European Commission Communication on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025, COM(2021) 171 final

control, having regard to the objective of such checks, their territorial scope and possible differences compared to checks carried out in the remainder of the territory of the Member State concerned, the greater the need for strict and detailed rules and limitations laying down the conditions for the exercise, by the Member States, of their police powers in a border area.	such checks, their territorial scope and possible differences compared to checks carried out in the remainder of the territory of the Member State concerned, the greater the need for strict and detailed rules and limitations laying down the conditions for the exercise, by the Member States, of their police <i>or other public</i> powers in a border area.
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Reason
To achieve consistency with other parts of the proposal.

Amendment 15

Recital 25

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Measures need to be taken to address unauthorised movements of illegally staying third country nationals in an area without internal border controls. <i>In order to strengthen the functioning of the Schengen area, Member States should be able to take additional measures to counter irregular movements between Member States, and combat illegal stays. Where national law enforcement authorities of a Member State apprehend illegally staying third country nationals at the internal borders as part of cross-border police operational cooperation it should be possible for those authorities to refuse such persons the right to enter or remain in their territory and to transfer them to the Member State from which they entered. The Member State from where the person came directly should in turn be required to receive the apprehended third country nationals.</i>	Measures need to be taken to address unauthorised movements of illegally staying third country nationals in an area without internal border controls.

Reason
The proposed possibilities for direct transfers are not in line with international and European legal standards regarding the movement of persons in the Schengen area. Such measures would also be very difficult to align with the standards set by the Dublin system for responsibility sharing and would further contribute to uneven responsibility sharing for asylum and irregular migration, which would be contrary to the correct application of the subsidiarity principle and the objective of a common European approach. The proposed procedure would further contribute to divergent practices and risk violating fundamental rights.

Amendment 16

Recital 26

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<i>The procedure by which a Member State may transfer apprehended illegally staying third country nationals to a Member State from where the person came directly should take place swiftly but be subject to safeguards and carried out in full respect of fundamental rights and the principle of non-discrimination enshrined in Article 21 of the Charter, to prevent racial profiling. It should be possible for the authorities to carry out a verification of relevant information immediately available to the authorities concerning the movements of the persons concerned. Such information may include objective elements that would allow the authorities to conclude that the person had recently travelled from another Member States, such as the possession of documents, including receipts or invoices, evidencing recent travel from another Member State. Third country nationals subject to the transfer procedure should be provided with a reasoned decision in writing. While the decision should be immediately enforceable, the third country national should be afforded an effective remedy to appeal against or seek review of the transfer decision. This remedy should not have suspensive effect.</i>	

Reason
As per Recital 25. Additionally, the part on legal remedies does not seem to be compatible with Article 47 of the Charter of Fundamental Rights.

Amendment 17

Recital 27

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<i>The transfer procedure provided for under this Regulation should not affect the existing possibility for Member States to return irregular third country nationals in</i>	

<p><i>accordance with bilateral agreements or arrangements referred to in Article 6(3) of Directive 2008/115/EC (the "Return Directive")), where such persons are detected outside of the vicinity of internal borders. In order to facilitate the application of such agreements, and to complement the objective of protecting the area without internal borders, the Member States should be afforded the possibility to conclude new agreements or arrangements and update existing ones. The Commission should be notified of any such modifications or updates of new agreements or arrangements. Where a Member State has taken back a third country national under the procedure provided for in this Regulation or on the basis of a bilateral agreement or arrangement, the Member State concerned should be required to issue a return decision in accordance with the Return Directive. In order to ensure consistency between the new procedures provided for in this Regulation and existing rules on the return of third country nationals, a targeted modification of Article 6(3) of the Return Directive is therefore necessary.</i></p>	
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Reason
<p>As per Recitals 25 and 26. Additionally, the large-scale reliance on bilateral agreements between Member States which would be necessary for the implementation of such transfers may undermine European solidarity. Furthermore, in accordance with the opinion of the Legal Service of the Council of the European Union (6357/21, 19.2.2021) explaining in detail the "variable geometry" between the Schengen and Dublin acquis in relation to the proposals under the New Pact on Migration and Asylum, return-related provisions could be re-included in the proposal for the recast of the Return Directive (as proposed by the Commission in 2018, a proposal which is currently on the Council's table). Alternatively, such provisions could be part of a proposal to amend the Return Directive. Including an amendment to the Return Directive through the revised Schengen Borders Code is not in line with the European Commission's commitment to better regulation.</p>

Amendment 18

Recital 29

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<i>Furthermore, a serious threat to public policy or internal security can also result from large</i>	

<p><i>scale unauthorised movements of irregular migrants between the Member States where this creates a situation putting a strain on the overall resources and capacities of the responsible national services, where the other means provided for under this Regulation are not sufficient to address these inflows and movements. In this context, Member States should be able to rely on objective and quantified reports on unauthorised movements whenever available, in particular, when produced on a regular basis by the competent Union agencies in line with their respective mandates. It should be possible for a Member State to use the information provided by the agencies to demonstrate the exceptional character of the identified threat caused by unauthorised movement in the risk assessment, in order to justify the reintroduction of internal border controls on this ground.</i></p>	
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Reason
<p>A situation characterised by large-scale unauthorised movements of third-country nationals between Member States should not be included as constituting a serious threat to public policy or internal security justifying the reintroduction or prolongation of border control at internal borders by individual Member States, as its inclusion under the general framework is incompatible with and contradictory to the proposal's objective as well as to the proper application of the principle of subsidiarity. Movements between the Member States, which might, in fact, affect the majority of Member States, need to be addressed at the Union level as proposed under Article 28 and be subject to a Council's implementing decision.</p>

Amendment 19

Recital 34

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>In order to ensure compliance with the principle of proportionality, the decision of the Council should be adopted for a limited period of time of up to six months that may be prolonged subject to regular review upon a proposal from the Commission, <i>as long as the threat is found to persist</i>. The initial decision should include an assessment of the expected impact of the measures adopted, including its adverse side-effects, with a view to determining if controls at internal borders are justified or whether</p>	<p>In order to ensure compliance with the principle of proportionality, the decision of the Council should be adopted for a limited period of time of up to six months that may be prolonged <i>to up to a total of 24 months if the threat is found to persist</i>, subject to regular review upon a proposal from the Commission. The initial decision should include an assessment of the expected impact of the measures adopted, including its adverse side-effects, with a view to determining if controls at internal borders are justified or whether less restrictive</p>

less restrictive measures could be applied in their place in an effective manner. Subsequent decisions should take account of the evolution of the identified threat. The Member States should immediately notify the Commission and the Member States of the reintroduction of internal border controls in accordance with the decision of the Council.	measures could be applied in their place in an effective manner. Subsequent decisions should take account of the evolution of the identified threat. The Member States should immediately notify the Commission and the Member States of the reintroduction of internal border controls in accordance with the decision of the Council.
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Reason
The controls at internal borders conducted since 2015 show that a fixed upper limit is necessary in order to avoid quasi-permanent controls at internal borders based on the same threat. The initial period of six months and the proposed maximum period of 24 months for such controls are based on the overall aim to look for European rather than national solutions in such situations. In this context, it is worth mentioning that, if a threat of a new nature occurs, the existing rules would allow for the reintroduction of controls at internal borders (CJEU Judgment of 26 April 2022, Joined Cases C-368/20 and C-369/20).

Amendment 20

Recital 35

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Reintroduction of internal border controls should also remain possible where serious deficiencies in the management of the external borders persist, putting at risk the overall functioning of the area without internal border control. Periods where the border controls were introduced by Member States because the urgency of the situation required it or where the Council takes a decision to recommend the reintroduction because a threat affects a significant number of Member States, should <i>not</i> be included in the two years' period applicable to reintroductions based on serious deficiencies at the external borders.	Reintroduction of internal border controls should also remain possible where serious deficiencies in the management of the external borders persist, putting at risk the overall functioning of the area without internal border control. Periods where the border controls were introduced by Member States because the urgency of the situation required it or where the Council takes a decision to recommend the reintroduction because a threat affects a significant number of Member States, should be included in the two years' period applicable to reintroductions based on serious deficiencies at the external borders.

Reason
A maximum time limit of two years should remain in force, in order to allow and call for coordinated European measures to address the serious deficiencies in the management of the external borders as soon as possible.

Amendment 21

Recital 38

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
In order to limit harmful consequences resulting	In order to limit harmful consequences resulting

<p>from the reintroduction of internal border controls, any decision to reintroduce internal border controls should be accompanied by mitigating measures if needed. Such measures should include measures to assure a smooth operation of transit of goods and transport personnel and seafarers by the establishment of 'green lanes'. In addition, and to take account of the need to ensure the movement of persons whose activities may be essential for preserving the supply chain or the provision of essential services, Member States should also apply the existing guidelines on cross-border workers⁴⁵. Against this background, the rules for the reintroduction of border controls at internal borders should take account of the guidelines and recommendations adopted throughout the COVID-19 pandemic as a solid safety net for the Single Market, for the purpose of assuring that they are applied by the Member States, where appropriate, as mitigating measures during reintroduced internal border controls. Measures should in particular be identified with a view to ensuring the uninterrupted functioning of the Single Market and safeguarding the interests of cross-border regions and of 'twin cities' including for instance authorisations or derogations for the inhabitants of cross-border regions.</p>	<p>from the reintroduction of internal border controls, any decision to reintroduce internal border controls should be accompanied by mitigating measures if needed. Such measures should include measures to assure a smooth operation of transit of goods and transport personnel and seafarers by the establishment of 'green lanes'. In addition, and to take account of the need to ensure the movement of persons whose activities may be essential for preserving the supply chain or the provision of essential services, Member States should also apply the existing guidelines on cross-border workers⁴⁵. Against this background, the rules for the reintroduction of border controls at internal borders should take account of the guidelines and recommendations adopted throughout the COVID-19 pandemic as a solid safety net for the Single Market, for the purpose of assuring that they are applied by the Member States, where appropriate, as mitigating measures during reintroduced internal border controls. Measures should in particular be identified, <i>taking into account the position of local and regional authorities in cross-border regions</i>, with a view to ensuring the uninterrupted functioning of the Single Market and safeguarding the interests of cross-border regions and of 'twin cities' including for instance authorisations or derogations for the inhabitants of cross-border regions.</p>
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Reason
To ensure that mitigating measures are proposed in cooperation and coordination with the competent authorities in the cross-border regions that will be affected by them.

Amendment 22

Recital 45

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
In order to enable the post factum analysis of the decision on the temporary reintroduction of border controls at the internal borders, Member States should remain obliged to submit <i>a report</i> on the reintroduction of border control at internal borders to the European Parliament, the Council and the Commission once they lift the controls. Where the controls are kept in place for prolonged periods of	In order to enable <i>both the ongoing and</i> the post factum analysis of the decision on the temporary reintroduction of border controls at the internal borders, Member States should remain obliged to submit <i>regular</i> reports on the reintroduction of border control at internal borders to the European Parliament, the Council and the Commission <i>while such controls are conducted and a final report</i> once they lift the controls. Where the controls are kept in

time, <i>such</i> a report should <i>also</i> be submitted <i>after twelve months, and every year thereafter if exceptionally controls are maintained and for as long as the controls are maintained</i> . The report should outline, in particular, the initial and follow-up assessment of the necessity of internal border controls and the respect of the criteria for reintroduction of border controls at internal borders. The Commission should adopt in an implementing act <i>a</i> template and make <i>it</i> available online.	place for prolonged periods of time, <i>ongoing assessment</i> reports should be submitted <i>every six months and a final post factum report has to be submitted once internal border controls are lifted</i> . The reports should outline, in particular, the initial and follow-up assessment of the necessity of internal border controls and the respect of the criteria for reintroduction of border controls at internal borders. The Commission should adopt in an implementing act templates and make <i>these</i> available online.
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Reason
The assessment should be ongoing. As internal border controls should be limited to a maximum of 24 months, it is not necessary to foresee more than one post factum assessment report in case these controls are prolonged for more than 12 months. However, ongoing assessment reports should take place at the end of each 6-month period and a final post factum report should be issued upon the termination of internal border controls.

Amendment 23

Article 1(1)(b)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>b) the following points 27 to 30 are added:</p> <p>27.'instrumentalisation of migrants' refers to a situation where a third country <i>instigates irregular migratory flows into the Union by actively encouraging or facilitating the movement</i> of third country nationals to <i>the external borders, onto or from within its territory and then onwards to those external borders, where such actions are indicative of an intention of a third country</i> to destabilise the Union or a Member State, where the nature of such actions <i>is liable to put</i> at risk essential State functions, <i>including its territorial integrity</i>, the maintenance of law and order or the safeguard of its national security;</p> <p>28.'essential travel' means travel in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States and listed in Annex XI;</p> <p>29.'non-essential travel' means travel for purposes other than essential travel;</p> <p>30.'transport hubs' means airports, sea or river ports, train or bus stations.'</p>	<p>b) the following points 27 to 30 are added:</p> <p>27.'instrumentalisation of migrants' refers to a situation where a third country <i>or an actor sponsored by it</i> actively <i>supports a significant number</i> of third country nationals <i>in attempting to enter a Union Member State irregularly en masse, aiming</i> to destabilise the Union or a Member State, where <i>the Member State affected is able to duly justify why</i> the nature of such actions <i>puts</i> at risk essential State functions, the maintenance of law and order or the safeguard of its national security, <i>and where the European Council has acknowledged, as a matter of urgency, that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants</i>;</p> <p>28.'essential travel' means travel in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States and listed in Annex XI;</p> <p>29.'non-essential travel' means travel for purposes other than essential travel;</p> <p>30.'transport hubs' means airports, sea or river ports, train or bus stations.'</p>

Reason
<p>The proposed definition of instrumentalisation is overly broad and lacks clarity, with the risk of many dissimilar situations being deemed compatible with this definition. It is also contrary to the Better Regulation Guidelines as the accompanying Impact Assessment (SWD(2021) 462 final) admits it 'does not look into the instrumentalisation of irregular migration'. Recital 12 of the proposal requires that any operational decision by a concerned Member State' should take into account whether the European Council has acknowledged that the Union or one or more of its Member States are facing a situation of instrumentalisation of migrants'. According to Recital 10 of the proposal, 'The Union should mobilise all tools from its toolbox of diplomatic, financial and operational measures to support the Member States confronted with instrumentalisation. Diplomatic efforts by the Union or the Member State concerned, should be given priority as the means of addressing the phenomenon of instrumentalisation'. A political consensus at EU level on whether a situation constitutes instrumentalisation is therefore necessary. Given the gravity of the resulting restrictive measures imposed on the individuals and given that the Commission's proposal responds to a European Council request (EUCO 17/21), affirmative position of the European Council, meeting swiftly in order to allow for prompt action by the Member State(s) concerned, needs to be factored into the definition. As for the restrictive measures available to the Member States for a variety of other situations, the current legal framework of Directive 2013/32/EU and Directive 2013/33/EU already provides them with operational flexibility in order to specify the locations where asylum applications should be lodged, extend registration deadlines and adjust material reception conditions.</p>

Amendment 24

Article 1(2)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>In Article 5, a new paragraph 4 is added:</p> <p>'4. In a situation of instrumentalisation of migrants, Member States may limit the number of border crossing points as notified pursuant to paragraph 1 <i>or their opening hours where the circumstances so require.</i></p> <p>Any limitations adopted pursuant to the first subparagraph shall be implemented in a manner that is proportionate and that takes full account of the rights of:</p> <p>(a) the persons enjoying the right of free movement under Union law;</p> <p>(b) third-country nationals who are long-term residents under Council Directive 2003/109/EC⁵⁶, persons deriving their right to reside from other instruments of Union or national law or who hold national long-term visas, as well as their respective family members;</p>	<p>In Article 5, a new paragraph 4 is added:</p> <p>'4. In a situation of instrumentalisation of migrants, <i>as defined in point 27 of Article 1(1)(b)</i>, Member States may limit the number of border crossing points as notified pursuant to paragraph 1 <i>in strictly limited and well-defined</i> circumstances. Any limitations adopted pursuant to the first subparagraph shall be implemented in a manner that is proportionate and that takes full account of the rights of: (a) the persons enjoying the right of free movement under Union law; (b) third-country nationals who are long-term residents under Council Directive 2003/109/EC⁵⁶, persons deriving their right to reside from other instruments of Union or national law or who hold national long-term visas, as well as their respective family members; (c) third-country nationals seeking international protection. <i>Member States shall take the necessary measures to ensure that a sufficient number of</i></p>

(c) third-country nationals seeking international protection.'	<i>registration points, including crossing points, are open and accessible to applicants for international protection in order to guarantee effective protection against refoulement, including the right to make an application for international protection, and that appropriate safeguards for the treatment of vulnerable people are in place.'</i>
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Reason
The proposed measures to limit the number of border crossings will have a negative impact on the right to make an application for international protection and may lead to unlawful refoulement at the EU's external borders and risk running counter to the overall objective of the Schengen Area, that is, maintaining the absence of controls at internal borders. They should therefore be used only as a last resort. Lowering EU standards in asylum law will not solve a geopolitical crisis. Instead, it will weaken the EU's image in the world as a community of values.

Amendment 25

Article 1(3)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 13 is replaced by the following:</p> <p style="text-align: center;">"Article 13 <i>Border surveillance</i></p> <p>1. The main purpose of border surveillance shall be to detect and prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally. A person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.</p> <p>2. The border guards shall use stationary or mobile units to carry out border surveillance. That surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points and from circumventing the checks at border crossing points.</p> <p>3. Surveillance between border crossing points shall be carried out by border guards whose numbers and methods shall be adapted to</p>	<p>Article 13 is replaced by the following:</p> <p style="text-align: center;">"Article 13 <i>Border surveillance</i></p> <p>1. The main purpose of border surveillance shall be to detect and prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally. A person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.</p> <p>2. The border guards shall use stationary or mobile units to carry out border surveillance. That surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points and from circumventing the checks at border crossing points.</p> <p>3. Surveillance between border crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats. It shall involve frequent and</p>

<p>existing or foreseen risks and threats. It shall involve frequent and sudden changes to surveillance periods and other methods or techniques, so that unauthorised border crossings are effectively detected or prevented.</p> <p>4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to prevent unauthorised border crossings or apprehend individuals crossing the border illegally. Surveillance may also be carried out by technical means, including electronic means, equipment and surveillance systems.</p> <p>5. In a situation of instrumentalisation of migrants, the Member State concerned shall intensify border surveillance <i>as</i> necessary in order to address <i>the</i> increased <i>threat</i>. <i>In particular</i>, the Member State shall <i>enhance</i>, as appropriate, the resources and technical means to <i>prevent an unauthorised crossing of the border</i>.</p> <p>Those technical means may include modern technologies including drones and motion sensors, as well as mobile units to prevent unauthorised border crossings into the Union.</p> <p>6. Without prejudice to the support that the European Border and Coast Guard Agency may provide to the Member States, in the event of a situation of instrumentalisation of migrants, the Agency may carry out a vulnerability assessment as provided for in Articles 10(1), point (c), and Article 32 of Regulation (EU) 2019/1896 of the European Parliament and Council⁵⁷, with a view to providing the necessary support to the Member State concerned. On the basis of the results of that assessment or any other relevant vulnerability assessment or the attribution of a critical impact level to the border section concerned within the meaning of Article</p>	<p>sudden changes to surveillance periods and other methods or techniques, so that unauthorised border crossings are effectively detected or prevented.</p> <p>4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to prevent unauthorised border crossings or apprehend individuals crossing the border illegally. Surveillance may also be carried out by technical means, including electronic means, equipment and surveillance systems.</p> <p>5. In a situation of instrumentalisation of migrants, <i>as defined in point 27 of Article 1(1)(b) and acknowledged as such by the European Council</i>, the Member State concerned shall intensify border surveillance <i>when</i> necessary in order to address increased <i>attempts to cross the border irregularly en masse</i>. <i>To this effect</i>, the Member State shall <i>reinforce</i>, as appropriate, the resources and technical means to <i>enhance border surveillance</i>.</p> <p>Those technical means may include modern technologies including drones and motion sensors, as well as mobile units to prevent unauthorised border crossings into the Union.</p> <p>6. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning additional measures governing surveillance, including the development of standards for border surveillance, in particular the use of surveillance and monitoring technologies at the external borders, taking into account the type of borders, the impact levels attributed to each external border section in accordance with Article 34 of the Regulation (EU) 2019/1896 and other relevant factors."</p>
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<p><i>35(1)(d) of Regulation (EU) 2019/1896, the Executive Director of the European Border and Coast Guard Agency shall make recommendations, in accordance with Article 41(1) of that Regulation to any Member State concerned.</i></p> <p>7. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning additional measures governing surveillance, including the development of standards for border surveillance, in particular the use of surveillance and monitoring technologies at the external borders, taking into account the type of borders, the impact levels attributed to each external border section in accordance with Article 34 of the Regulation (EU) 2019/1896 and other relevant factors."</p>	
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Reason
The proposed measures to intensify border surveillance should be used only as a last resort, and only in cases where instrumentalisation has been officially acknowledged to exist by the European Council. The deleted text referring to the European Border and Coast Guard Agency repeats the exact text of Article 41(1) of Regulation (EU) 2019/1896 and is therefore superfluous.

Amendment 26

Article 1(5)

<i>Text proposed by the European Commission</i>	<i>Amendment</i>
<p>(5) Article 23 is replaced by the following: “Article 23</p> <p>Exercise of public powers</p> <p>The absence of border control at internal borders shall not affect:</p> <p>a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.</p> <p>The exercise by competent authorities of their powers may not, in particular, be considered equivalent to the exercise of border checks when the measures:</p>	<p>(5) Article 23 is replaced by the following: “Article 23</p> <p>Exercise of public powers</p> <p>The absence of border control at internal borders shall not affect:</p> <p>a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.</p> <p>The exercise by competent authorities of their powers may not, in particular, be considered equivalent to the exercise of border checks when the measures:</p>

<p>i) do not have border control as an objective;</p> <p>ii) are based on general information and experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:</p> <ul style="list-style-type: none"> – combat cross-border crime; – combat irregular residence or stay, linked to irregular migration; or – contain the spread of an infectious disease with epidemic potential as detected by the European Centre for Disease Control; <p>iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger services and when they are based on risk analysis;</p> <p>iv) are carried out, where appropriate, on the basis of monitoring and surveillance technologies generally used in the territory, for the purposes of addressing threats to public security or public policy as set out under ii);</p> <p>b) the possibility for a Member State to carry out security checks on persons carried out at transport hubs by the competent authorities under the law of each Member State, by their competent authorities or by carriers, provided that such checks are also carried out on persons travelling within a Member State;</p> <p>c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;</p> <p>d) the possibility for a Member State to provide by law for an obligation on third-country nationals to report their presence on its territory pursuant to the provisions of Article 22 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention');</p> <p>e) checks for security purposes of passenger data</p>	<p>i) do not have border control as an objective;</p> <p>ii) are based on general information and experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:</p> <ul style="list-style-type: none"> – combat cross-border crime; – combat irregular residence or stay, linked to irregular migration, <i>provided that verifications of identity, nationality and residence status are non-systematic and carried out on the basis of a continuous risk analysis</i>; or – contain the spread of an infectious disease with epidemic potential as detected by the European Centre for Disease Control; <p>iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger services and when they are based on risk analysis;</p> <p>iv) are carried out, where appropriate, on the basis of monitoring and surveillance technologies generally used in the territory, for the purposes of addressing threats to public security or public policy as set out under ii);</p> <p>b) the possibility for a Member State to carry out security checks on persons carried out at transport hubs by the competent authorities under the law of each Member State, by their competent authorities or by carriers, provided that such checks are also carried out on persons travelling within a Member State;</p> <p>c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;</p> <p>d) the possibility for a Member State to provide by law for an obligation on third-country nationals to report their presence on its territory pursuant to the provisions of Article 22 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the</p>
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against relevant databases on persons traveling in the area without controls at internal borders which can be carried out by the competent authorities under the applicable law.”	gradual abolition of checks at their common borders (‘the Schengen Convention’); e) checks for security purposes of passenger data against relevant databases on persons traveling in the area without controls at internal borders which can be carried out by the competent authorities under the applicable law.”
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<i>Reason</i>
Alignment of the text to the wording of Recital 20. Checks to combat irregular migration across borders are per se checks that aim at achieving the result of border controls and may therefore not be exempted from being regarded as controls at internal borders. The insertion is an unwarranted extension of Article 23 of the Schengen Borders Code currently in force. Achieving an area in which the free movement of persons across internal borders is ensured is one of the main achievements of the Union. Given the impact that such measures of last resort may have on all persons having the right to move within the area without internal border controls, the conditions and procedures for reintroducing such measures should be provided for, in order to ensure that they are exceptional and justified, and that the principle of proportionality is respected.

Amendment 27

Article 1(6)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p><i>The following Article 23a is inserted:</i></p> <p><i>"Article 23a</i></p> <p><i>Procedure for transferring persons apprehended at the internal borders</i></p> <p><i>1. This Article applies to the apprehension of a third-country national in the vicinity of internal borders, in circumstances where all of the following conditions are fulfilled:</i></p> <p><i>a) the third country national concerned does not or no longer fulfils the entry conditions laid down in Article 6(1);</i></p> <p><i>b) the third country national is not covered by the derogation laid down in Article 6(5) point (a);</i></p> <p><i>c) the third country national is apprehended as part of cross-border police operational cooperation, in particular, during joint police patrols;</i></p>	

d)there are clear indications that the third country national has arrived directly from another Member State, on the basis of information immediately available to the apprehending authorities, including statements from the person concerned, identity, travel or other documents found on that person or the results of searches carried out in relevant national and Union databases.

2. The competent authorities of the Member State may, based on a finding that the third country national concerned has no right to stay on its territory, decide to immediately transfer the person to the Member State from which the person entered or sought to enter, in accordance with the procedure set out in Annex XII.

3. Where a Member State applies the procedure referred to in paragraph 2, the receiving Member State shall be required to take all measures necessary to receive the third country national concerned in accordance with the procedures set out in Annex XII.

4. From [one year following the entry into force of the Regulation] and annually thereafter, Member States shall submit to the Commission the data recorded in accordance with point 3 of Annex XII, regarding the application of paragraphs 1, 2 and 3."

Reason

As per Recitals 25 to 27.

Amendment 28
Article 1(8)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 25 is replaced by the following:</p> <p style="text-align: center;">"Article 25</p> <p style="text-align: center;"><i>General framework for the temporary reintroduction or prolongation of border control at internal borders</i></p> <p>1. Where, in the area without internal border controls, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border controls at all or specific parts of its internal borders.</p> <p>A serious threat to public policy or internal security may be considered to arise from, in particular:</p> <p>(a) activities relating to terrorism or organised crime;</p> <p>(b) large scale public health emergencies;</p> <p><i>(c) a situation characterised by large scale unauthorised movements of third-country nationals between the Member States, putting at risk the overall functioning of the area without internal border control;</i></p> <p><i>(d) large scale or high profile international events such as sporting, trade or political events.</i></p> <p>2. Border controls may only be introduced pursuant to Articles 25a and 28 where a Member State has established that such a measure is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the criteria referred to in Article 26(2). Border controls may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.</p> <p>In all cases, border controls at internal borders</p>	<p>Article 25 is replaced by the following:</p> <p style="text-align: center;">"Article 25</p> <p style="text-align: center;"><i>General framework for the temporary reintroduction or prolongation of border control at internal borders</i></p> <p>1. Where, in the area without internal border controls, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border controls at all or specific parts of its internal borders.</p> <p>A serious threat to public policy or internal security may be considered to arise from, in particular:</p> <p>(a) activities relating to terrorism or organised crime;</p> <p>(b) large scale public health emergencies;</p> <p><i>(c) large scale or high profile international events such as sporting, trade or political events.</i></p> <p>2.Border controls may only be introduced pursuant to Articles 25a and 28 where a Member State has established that such a measure is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, in case such controls are prolonged, also the criteria referred to in Article 26(2). Border controls may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.</p> <p>In all cases, border controls at internal borders shall be reintroduced as a measure of last resort. The scope and duration of the temporary reintroduction of border control shall not exceed what is strictly necessary to respond to the serious threat identified."</p>

<p>shall be reintroduced as a measure of last resort. The scope and duration of the temporary reintroduction of border control shall not exceed what is strictly necessary to respond to the serious threat identified.</p> <p><i>3. Where the same threat continues to persist, border controls at internal borders may be prolonged in accordance with Articles 25a, 28 or 29.</i></p> <p><i>The same threat shall be considered to exist where the justification advanced by the Member State for prolonging border controls is based on the determination of the continuation of the same threat that had justified the initial reintroduction of the border controls."</i></p>	
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Reason
<p>The introduction of letter c) goes against the rationale of the specific mechanism proposed under Article 28 and against the principle of subsidiarity. A situation characterised by large-scale unauthorised movements of third-country nationals between Member States should not be included as constituting a serious threat to public policy or internal security justifying the reintroduction or prolongation of border control at internal borders by that individual Member State, as its inclusion under the general framework is incompatible and contradictory to the proposal's objective as well as to the proper application of the principle of subsidiarity. To quote the proposal COM(2021) 891 itself:</p> <p><i>"Action in the area of freedom, security and justice falls within an area of competence shared between the EU and the Member States in accordance with Article 4(2) TFEU. Therefore, the subsidiarity principle is applicable by virtue of Article 5(3) TEU, according to which the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.</i></p> <p><i>The objectives of this proposal cannot be sufficiently achieved by the Member States acting alone, and can be better achieved at the level of the Union. This is because they concern checks on persons at the external borders which are a precondition of the area without controls at internal borders. Furthermore, the integrity of the Schengen area and the need to ensure uniform conditions for exercising the right to free movement require a coherent approach across the entire Schengen area to confidence-building measures at the external borders, including on restrictions for non-essential travel to the EU and response to instrumentalisation of migrants by the authorities of third countries.</i></p> <p><i>The absence of any controls at internal borders is guaranteed by the Treaty in Article 77(2)(e) TFEU. While Member States retain the right to take actions in order to respond to internal security and public policy, and thus to exercise the right guaranteed in Article 72 TFEU even if this means reintroducing</i></p>

internal border controls, the rules for such temporary reintroductions have been set out in the Schengen Borders Code in order to ensure that they are applied only under strict conditions. Therefore, any changes concerning these conditions for reintroduction of border controls at internal borders require EU legislation.

The objective of establishing a contingency planning for Schengen, including specific measures at internal borders to address a threat affecting a majority of Member States at the same time and to mitigate the negative impacts of border controls where they have become inevitable, cannot be sufficiently achieved by the Member States acting alone, and can be better achieved at the level of the Union."

Given that a situation under the proposed Article 25(1)(c) refers to movements between the Member States, which might, in fact, affect the majority of Member States, in order to comply with the principle of subsidiarity, it needs to be addressed at the Union level as proposed under Article 28 and be subject to the Council's implementing decision.

Deletion of sub-paragraph 3 as per Recitals 34, 35 and 45.

Amendment 29

Article 1(9)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>A new Article 25a is inserted after Article 25:</p> <p style="text-align: center;">"Article 25a</p> <p style="text-align: center;"><i>Procedure for cases requiring action due to unforeseeable or foreseeable events</i></p> <p>1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border control at internal borders.</p> <p>2. The Member State shall, at the same time as reintroducing border control under paragraph 1, notify the Commission and the other Member States of the reintroduction of border controls, in accordance with Article 27(1).</p> <p>3. For the purposes of paragraph 1, border control at internal borders may be immediately reintroduced for a limited period of up to one month. If the serious threat to public policy or internal security persists beyond that period, the</p>	<p>A new Article 25a is inserted after Article 25:</p> <p style="text-align: center;">"Article 25a</p> <p style="text-align: center;"><i>Procedure for cases requiring action due to unforeseeable or foreseeable events</i></p> <p>1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border control at internal borders.</p> <p>2. The Member State shall, at the same time as reintroducing border control under paragraph 1, notify the Commission and the other Member States of the reintroduction of border controls, in accordance with Article 27(1).</p> <p>3. For the purposes of paragraph 1, border control at internal borders may be immediately reintroduced for a limited period of up to one month. If the serious threat to public policy or internal security persists beyond that period, the</p>

<p>Member State may prolong the border control at internal borders for further periods, leading to a maximum duration not exceeding three months.</p> <p>4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State shall notify the Commission and the other Member States and the Commission in accordance with Article 27(1), at the latest four weeks before the planned reintroduction of border controls, or within a shorter period where the circumstances giving rise to the need to reintroduce border controls at internal borders become known less than four weeks before the planned reintroduction.</p> <p>5. For the purposes of paragraph 4, <i>and without prejudice to Article 27a(4)</i>, border control at internal borders may be reintroduced for a period of up to six months. Where <i>the serious</i> threat to public policy or internal security <i>persists</i> beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to six months.</p> <p>Any prolongation shall be notified to the Commission and the other Member States in accordance with Article 27 and within the time limits referred to in paragraph 4. <i>Subject to Article 27a(5), the</i> maximum duration of border control at internal borders shall not exceed two years.</p> <p>6. The period referred to in paragraph 5 shall <i>not</i> include periods referred to in paragraph 3."</p>	<p>Member State may prolong the border control at internal borders for further periods, leading to a maximum duration not exceeding three months.</p> <p>4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State shall notify the Commission and the other Member States and the Commission in accordance with Article 27(1), at the latest four weeks before the planned reintroduction of border controls, or within a shorter period where the circumstances giving rise to the need to reintroduce border controls at internal borders become known less than four weeks before the planned reintroduction.</p> <p>5. For the purposes of paragraph 4, border control at internal borders may be reintroduced for a period of up to six months. Where <i>a</i> threat <i>of a new nature</i> to public policy or internal security <i>occurs</i> beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to six months.</p> <p>Any prolongation shall be notified to the Commission and the other Member States in accordance with Article 27 and within the time limits referred to in paragraph 4. <i>The</i> maximum duration of border control at internal borders shall not exceed two years.</p> <p>6. The period referred to in paragraph 5 shall include periods referred to in paragraph 3."</p>
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Reason
<p>Controls at internal borders should not exceed 24 months in total. According to the ruling of the Court of Justice of the European Union (Joined Cases C-368/20 and C-369/20), the Schengen Borders Code must be interpreted as precluding border controls at internal borders from being temporarily reintroduced by a Member State on the basis of Articles 25 and 27 of that Code where the duration of its reintroduction exceeds the maximum total duration of six months, and no threat of a new nature occurs that would justify applying afresh the periods provided for in Article 25.</p>

Amendment 30
Article 1 (10)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 26 is replaced by the following:</p> <p style="text-align: center;">"Article 26</p> <p><i>Criteria for the temporary reintroduction and prolongation of border control at internal borders</i></p> <p>1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article 25, a Member State shall in particular consider:</p> <p>(a) the appropriateness of the measure of reintroducing border controls at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border controls at internal borders is likely to adequately remedy the threat to public policy or internal security;</p> <p>(b) the likely impact of such a measure on:</p> <ul style="list-style-type: none"> – movement of persons within the area without internal border control and – the functioning of the cross-border regions, taking into account the strong social and economic ties between them. <p>2. Where a Member State decides to prolong the border control at internal borders pursuant to Article 25a(5), it shall also assess in detail whether the objectives pursued by such prolongation could be attained by:</p> <p>a) the use of alternative measures such as proportionate checks carried out in the context of the lawful exercise of powers as referred to in Article 23 point (a);</p> <p><i>b) the use of the procedure as referred to in Article 23a;</i></p> <p>c) forms of police cooperation as provided for</p>	<p>Article 26 is replaced by the following:</p> <p style="text-align: center;">"Article 26</p> <p><i>Criteria for the temporary reintroduction and prolongation of border control at internal borders</i></p> <p>1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article 25, a Member State shall in particular consider:</p> <p><i>(a) the use of alternative measures such as proportionate checks carried out in the context of the lawful exercise of powers as referred to in Article 23 point (a);</i></p> <p>(b) the appropriateness of the measure of reintroducing border controls at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border controls at internal borders is likely to adequately remedy the threat to public policy or internal security;</p> <p>(c) the likely impact of such a measure on:</p> <ul style="list-style-type: none"> – movement of persons within the area without internal border control and – the functioning of the cross-border regions, taking into account the strong social and economic ties between them. <p>2. Where a Member State decides to prolong the border control at internal borders pursuant to Article 25a(5), it shall also assess in detail whether the objectives pursued by such prolongation could be attained by:</p> <p>a) the use of alternative measures such as proportionate checks carried out in the context of the lawful exercise of powers as referred to in Article 23 point (a);</p>

<p>under Union law, including on matters such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits, or cross-border surveillance.</p> <p>3. Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, where necessary, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the cross-border regions."</p>	<p><i>b)</i> forms of police cooperation as provided for under Union law, including on matters such as joint patrols, joint operations, joint investigation teams, cross-border hot pursuits, or cross-border surveillance.</p> <p>3. Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, where necessary, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the cross-border regions."</p>
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Reason
<p>To achieve the objectives of the proposal, it is essential that alternative measures are already considered at a stage prior to reintroducing border controls, not only at the stage of prolongation.</p> <p>Article 23a is suggested to be deleted and therefore has to be deleted from Article 26 as well.</p>

Amendment 31

Article 1 (11)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 27 is replaced by the following:</p> <p>"Article 27</p> <p><i>Notification of temporary reintroduction of internal border controls and risk assessment</i></p> <p>1. Notifications by Member States of the reintroduction or prolongation of internal border controls shall contain the following information:</p> <p>(a) the reasons for the reintroduction or prolongation, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;</p> <p>(b) the scope of the proposed reintroduction or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced, or prolonged;</p>	<p>Article 27 is replaced by the following:</p> <p>"Article 27</p> <p><i>Notification of temporary reintroduction of internal border controls and risk assessment</i></p> <p>1. Notifications by Member States of the reintroduction or prolongation of internal border controls shall contain the following information:</p> <p>(a) the reasons for the reintroduction or prolongation, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security, <i>and reasons as to why alternative measures were not appropriate;</i></p> <p>(b) the scope of the proposed reintroduction or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced, or prolonged;</p>

<p>(c) the names of the authorised crossing-points;</p> <p>(d) the date and duration of the planned reintroduction or prolongation;</p> <p>(e) the considerations as to the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation, in Article 26(2);</p> <p>(f) where appropriate, the measures to be taken by the other Member States.</p> <p>A notification may be submitted jointly by two or more Member States.</p> <p>The notification shall be provided in accordance with a template to be established by the Commission by an implementing act and to be made available online. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2)."</p> <p>2. Where border controls have been in place for six months in accordance with Article 25a(4), any subsequent notification for the prolongation of such controls shall include a risk assessment. The risk assessment shall present the scale and anticipated evolution of the identified serious threat, in particular how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as information regarding coordination measures with the other Member States impacted or likely to be impacted by such measures.</p> <p>3. Where the reintroduction of border controls or its prolongation refers to large scale unauthorised movements referred to in Article 25(1) point (b), the risk assessment shall also provide information on the scale and trends of such unauthorised movements, including any information obtained from the relevant EU agencies in line with their respective mandates and data analysis from relevant information</p>	<p>(c) the names of the authorised crossing-points;</p> <p>(d) the date and duration of the planned reintroduction or prolongation;</p> <p>(e) the considerations as to the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation, in Article 26(2);</p> <p>(f) where appropriate, the measures to be taken by the other Member States.</p> <p>A notification may be submitted jointly by two or more Member States.</p> <p>The notification shall be provided in accordance with a template to be established by the Commission by an implementing act and to be made available online. <i>The template should include the position of the authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h).</i> That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).</p> <p>2. Where border controls have been in place for six months in accordance with Article 25a(4), any subsequent notification for the prolongation of such controls shall include a risk assessment. The risk assessment shall present the scale and anticipated evolution of the identified serious threat, in particular how long the identified serious threat is expected to persist and which sections of the internal borders may be affected, as well as information regarding coordination measures with the other Member States <i>and cross-border regions</i> impacted or likely to be impacted by such measures.</p> <p>3. Where the reintroduction of border controls or its prolongation refers to large scale unauthorised movements referred to in Article 25(1) point (b), the risk assessment shall also provide information on the scale and trends of such unauthorised movements, including any information obtained from the relevant EU agencies in line with their</p>
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<p>systems.</p> <p>4. The Member State concerned shall upon request by the Commission, provide any further information, including on the coordination measures with the Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Article 23 and 23a.</p> <p>5. Member States submitting a notification under paragraphs 1 or 2 may, where necessary and in accordance with national law, decide to classify all or parts of the notified information.</p> <p>Such classification shall not preclude access to information, through appropriate and secure police cooperation channels, by the other Member States affected by the temporary reintroduction of border controls at internal borders."</p>	<p>respective mandates and data analysis from relevant information systems.</p> <p>4. The Member State concerned shall upon request by the Commission, provide any further information, including on the coordination measures with the Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Article 23 and 23a.</p> <p>5. Member States submitting a notification under paragraphs 1 or 2 may, where necessary and in accordance with national law, decide to classify all or parts of the notified information.</p> <p>Such classification shall not preclude access to information, through appropriate and secure police cooperation channels, by the other Member States affected by the temporary reintroduction of border controls at internal borders."</p>
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Reason
Alignment with the preceding amendment.

Amendment 32

Article 1(12)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>The following Article 27a is inserted:</p> <p style="text-align: center;">"Article 27a</p> <p style="text-align: center;"><i>Consultation with the Member States and opinion of the Commission</i></p> <p>1. Following receipt of notifications, submitted under Article 27(1), the Commission <i>may</i> establish a consultation process, where appropriate, including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures and the relevant Union agencies.</p>	<p>The following Article 27a is inserted:</p> <p style="text-align: center;">"Article 27a</p> <p style="text-align: center;"><i>Consultation with the Member States and opinion of the Commission</i></p> <p>1. Following receipt of notifications, submitted under Article 27(1), the Commission <i>shall</i> establish a consultation process, where appropriate, including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures, <i>the European Parliament, the European Committee of the Regions</i> and the relevant Union</p>

<p>The consultation shall concern in particular the identified threat to public policy or internal security, the relevance of the intended reintroduction of border controls taking into account the appropriateness of alternative measures, as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduced border controls.</p> <p>The Member State planning to reintroduce or prolong border control at internal borders shall take utmost account of the results of such consultation when carrying out border control at the internal border.</p> <p>2. Following the receipt of notifications, submitted in relation to the reintroduction or prolongation of border controls at internal borders, the Commission or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.</p> <p>3. 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 controls at internal borders for <i>eighteen</i> months in total, the Commission shall issue an opinion on necessity and proportionality of such internal border controls.</p> <p>4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission <i>may</i> establish a consultation process in order to discuss the opinion with the Member States. Where the Commission or a Member State issues an opinion expressing concerns on the necessity or proportionality of reintroduced internal border</p>	<p>agencies.</p> <p>The consultation shall concern in particular the identified threat to public policy or internal security, the relevance of the intended reintroduction of border controls taking into account the appropriateness of alternative measures, as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduced border controls.</p> <p>The Member State planning to reintroduce or prolong border control at internal borders shall take utmost account of the results of such consultation when carrying out border control at the internal border.</p> <p>2. Following the receipt of notifications, submitted in relation to the reintroduction or prolongation of border controls at internal borders, the Commission or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.</p> <p>3. 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 controls at internal borders for <i>twelve</i> months in total, the Commission shall issue an opinion on necessity and proportionality of such internal border controls. <i>This opinion should also be informed by the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h) included in the notification.</i></p> <p>4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission <i>shall</i> establish a consultation process in order to discuss the opinion with the Member States. Where the Commission or</p>
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controls the Commission shall launch such a process.	a Member State issues an opinion expressing concerns on the necessity or proportionality of reintroduced internal border controls the Commission shall launch such a process.
5. Where a Member State considers that there are exceptional situations justifying the continued need for internal border controls in excess of the maximum period referred to in Article 25(5), it shall notify the Commission in accordance with Article 27(2). The new notification from the Member State shall substantiate the continued threat to public policy or internal security, taking into account the opinion of the Commission given pursuant to paragraph 3. The Commission shall issue a follow up opinion."	5. Where a Member State considers that there are exceptional situations justifying the continued need for internal border controls in excess of the maximum period referred to in Article 25a(5), it shall notify the Commission in accordance with Article 27(2). The new notification from the Member State shall substantiate the continued threat to public policy or internal security, taking into account the opinion of the Commission given pursuant to paragraph 3. The Commission shall issue a follow up opinion."

Reason
It is essential that the European Commission assesses swiftly the necessity and proportionality of prolonged internal border controls and that its recommendations are informed by the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h). In the process, the European Parliament and the European Committee of the Regions should be consulted. Furthermore, reference to the prolongation of border controls at internal borders is covered in Article 25a(5) and this needs to be corrected.

Amendment 33
Article 1(13)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Article 28 is replaced by the following: "Article 28 <i>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</i>	Article 28 is replaced by the following: "Article 28 <i>Specific mechanism where the serious threat to public policy or internal security puts at risk the overall functioning of the area without internal border controls</i>
1. Where the Commission, establishes that the same serious threat to internal security or public policy affects a majority of Member States, putting at risk the overall functioning of the area without internal border, it may, make a proposal to the Council to adopt an implementing decision authorising the reintroduction of border controls by Member States where the available measures referred to in Articles 23 and 23a are not sufficient to address the threat.	1. Where the Commission, establishes that the same serious threat to internal security or public policy affects a majority of Member States, putting at risk the overall functioning of the area without internal border, it may, make a proposal to the Council to adopt an implementing decision authorising the reintroduction of border controls by Member States where the available measures referred to in Article 23 are not sufficient to address the threat.
	2. The decision shall cover a period of up to six

<p>2. The decision shall cover a period of up to six months and may be renewed, upon proposal from the Commission, for further periods of up to six months <i>as long as the threat persists</i>, taking into account the review referred to in paragraph 5.</p> <p>3. Where Member States reintroduce or prolong border controls because of the threat referred to in paragraph 1, those controls shall, as of the entry into force of the Council decision, be based on that decision.</p> <p>4. The decision of the Council referred to in paragraph 1 shall also refer to any appropriate mitigating measures that shall be established at national and Union level in order to minimise the impacts caused by the reintroduction of border controls.</p> <p>5. The Commission shall review the evolution of the identified threat as well as the impact of the measures adopted in accordance with the Council decision referred to in paragraph 1, with a view to assess whether the measures remain justified.</p> <p>6. Member States shall immediately notify the Commission and the other Member States in the Council of a reintroduction of border controls in accordance with the decision referred to in paragraph 1.</p> <p>7. The Commission may issue a recommendation indicating other measures as referred to in Articles 23 <i>and 23a</i> that could complement internal border controls or be more suitable to address the identified threat to internal security or public policy as referred to in paragraph 1."</p>	<p>months and may be renewed, <i>if the threat persists</i>, upon proposal from the Commission, for further periods of up to six months <i>and a total of 24 months</i>, taking into account the review referred to in paragraph 5.</p> <p>3. Where Member States reintroduce or prolong border controls because of the threat referred to in paragraph 1, those controls shall, as of the entry into force of the Council decision, be based on that decision.</p> <p>4. The decision of the Council referred to in paragraph 1 shall also refer to any appropriate mitigating measures that shall be established at national and Union level in order to minimise the impacts caused by the reintroduction of border controls.</p> <p>5. The Commission shall review the evolution of the identified threat as well as the impact of the measures adopted in accordance with the Council decision referred to in paragraph 1, with a view to assess whether the measures remain justified.</p> <p>6. Member States shall immediately notify the Commission and the other Member States in the Council of a reintroduction of border controls in accordance with the decision referred to in paragraph 1.</p> <p>7. The Commission may issue a recommendation indicating other measures as referred to in Article 23 that could complement internal border controls or be more suitable to address the identified threat to internal security or public policy as referred to in paragraph 1. <i>Such recommendation should also be informed by the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h).</i>"</p>
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Reason
To ensure consideration of the positions of the local and regional authorities in the cross-border regions and compliance with the provisions set out in the proposal, the uniform format of the report ought to include a section on the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h). Moreover, a fixed upper limit is necessary in order to avoid quasi-permanent controls at internal borders.

Amendment 34

Article 1(14)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 31 is amended as follows:</p> <p>a) Article 31 becomes paragraph 1;</p> <p>b) the following paragraph 2 is added:</p> <p>2. Where a Member State notifies the Commission and the other Member States of the reintroduction of border controls in accordance with Article 27(1), it shall at the same time inform the European Parliament and the Council of the following:</p> <p>a) the details of the internal borders where border control is to be reintroduced;</p> <p>b) the reasons for the proposed reintroduction;</p> <p>c) the names of the authorised crossing-points;</p> <p>d) the date and duration of the planned reintroduction;</p> <p>e) where appropriate, the measures to be taken by the other Member State.</p> <p>3. The provision of information may be subject to classification of information by Member States pursuant to Article 27(4).</p> <p>Member States shall not be required to provide all the information referred to in the paragraph 2 in cases justified on public security grounds.</p> <p>The classification of information shall not preclude information from being made available by the Commission to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European Parliament and the Commission."</p>	<p>Article 31 is amended as follows:</p> <p>a) Article 31 becomes paragraph 1;</p> <p>b) the following paragraph 2 is added:</p> <p>2. Where a Member State notifies the Commission and the other Member States of the reintroduction of border controls in accordance with Article 27(1), it shall at the same time inform the European Parliament and the Council of the following:</p> <p>a) the details of the internal borders where border control is to be reintroduced;</p> <p>b) the reasons for the proposed reintroduction;</p> <p>c) the names of the authorised crossing-points;</p> <p>d) the date and duration of the planned reintroduction;</p> <p>e) where appropriate, the measures to be taken by the other Member State.</p> <p>3. The provision of information may be subject to classification of information by Member States pursuant to Article 27(4).</p> <p>Member States shall not be required to provide all the information referred to in the paragraph 2 in <i>exceptional</i> cases justified on <i>severe</i> public security grounds.</p> <p>The classification of information shall not preclude information from being made available by the Commission to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European Parliament and the Commission."</p>

Reason
Exceptions to transparency should be very limited in scope.

Amendment 35
Article 1(15)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 33 is replaced by the following:</p> <p style="text-align: center;">"Article 33</p> <p style="text-align: center;">Report on the reintroduction of border control at internal borders</p> <p>1. Within four weeks of the lifting of border control at internal borders, Member States which have carried out border controls at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.</p> <p>2. Without prejudice to the first paragraph 1, where border controls are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of twelve months and every twelve months thereafter if border control is exceptionally maintained.</p> <p>3. The report shall outline, in particular, the initial and follow-up assessment of the necessity of border controls and the respect of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the movement of persons in particular in the cross-border regions, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the proportionality of the reintroduction of border control.</p> <p>4. The Commission shall adopt a uniform format for such report and make it available online.</p> <p>5. The Commission may issue an opinion on that ex-post assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.</p> <p>6. The Commission shall present to the European Parliament and to the Council, at least annually, a report on the functioning of the area without internal border control entitled ('State of Schengen report'). The report shall include a list of all decisions to reintroduce border control at internal borders taken during the</p>	<p>Article 33 is replaced by the following:</p> <p style="text-align: center;">"Article 33</p> <p style="text-align: center;">Reports on the reintroduction of border control at internal borders</p> <p>1. Every four weeks while border controls are conducted at internal borders and within four weeks of the lifting of border control at internal borders, Member States which are carrying out border controls at internal borders shall present reports to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.</p> <p>2. Without prejudice to the first paragraph 1, where border controls are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of twelve months if border control is exceptionally maintained.</p> <p>3. The reports shall outline, in particular, the initial and follow-up assessment of the necessity of border controls and the respect of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the movement of persons in particular in the cross-border regions, the effectiveness of the reintroduction of border control at internal borders, including an ongoing assessment of the proportionality of the reintroduction of border control.</p> <p>4. The Commission shall adopt a uniform format for such reports and make it available online. The report shall include a section on the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h).</p> <p>5. The Commission shall issue an opinion on that ongoing assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.</p> <p>6. The Commission shall present to the European Parliament and to the Council, at least annually, a</p>

relevant year. It shall also include information on the trends within the Schengen area as regards the unauthorised movements of third country nationals, taking into account available information from the relevant Union agencies, data analysis from relevant information systems and an assessment of the necessity and proportionality of the reintroductions of border controls in the period covered by that report."	report on the functioning of the area without internal border control entitled ('State of Schengen report'). The report shall include a list of all decisions to reintroduce border control at internal borders taken during the relevant year. It shall also include information on the trends within the Schengen area as regards the unauthorised movements of third country nationals, taking into account available information from the relevant Union agencies, data analysis from relevant information systems and an assessment of the necessity and proportionality of the reintroductions of border controls in the period covered by that report."
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Reason
<p>To ensure consideration of the positions of local and regional authorities in cross-border regions and compliance with the provisions set out in the proposal, the uniform format of the report ought to include a section on the position of the affected authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h).</p> <p>The necessity and proportionality of reintroduced border controls at internal borders shall be carried out on a regular basis and be subject to a mandatory assessment by the Commission during and after the controls.</p> <p>As controls at internal borders should only be conducted under exceptional circumstances and be a measure of last resort, close monitoring and evaluation should be done from the beginning of such measures. The four week timespan proposed here is in alignment with the timespan foreseen for post factum reporting.</p>

Amendment 36

Article 1(19) – Deletion of Annex XII

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p><i>A new ANNEX XII is added:</i></p> <p><i>"ANNEX XII</i></p> <p><i>PART A</i></p> <p><i>Procedure for transferring persons apprehended at the internal borders</i></p> <p><i>[1. – 7.]</i></p> <p><i>PART B</i></p> <p><i>Standard form for transferring persons apprehended at the internal borders</i></p> <p><i>[...]</i></p>	

Reason
As a result of the suggested deletion of Article 23a, Annex XII also needs to be deleted.

Amendment 37
Article 2(1)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>Article 6(3) of Directive 2008/115/EC is replaced by the following:</p> <p>"3. Member States may refrain from issuing a return decision to a third-country national staying illegally on their territory if the third-country national concerned is taken back by another Member State in accordance with the procedure provided for in Article 23a of the Regulation (EU) 2016/399 of the European Parliament and of the Council* or under bilateral agreements or arrangements.</p> <p>The Member State which has taken back the third-country national concerned in accordance with the first subparagraph shall issue a return decision in accordance with paragraph 1. In such cases, the derogation laid down in the first subparagraph shall not apply.</p> <p>Member States shall without delay notify any existing, amended or new bilateral agreements or arrangements to the Commission."</p> <p>* 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) (OJ L 077 23.3.2016, p. 1).</p>	

Reason
<p>As a result of the suggested deletion of Article 23a, the amendments proposed to Article 6(3) of Directive 2008/115/EC also need to be deleted. The reasoning for the proposed deletion of Recitals 25 and 26 applies. Additionally, the large-scale reliance on bilateral agreements between Member States which would be necessary for the implementation of such transfers may undermine European solidarity. Furthermore, in accordance with the opinion of the Legal Service of the Council of the European Union (6357/21, 19.2.2021) explaining in detail the "variable geometry" between the Schengen and Dublin acquis in relation to the proposals under the New Pact on Migration and Asylum, return-related provisions could be re-included in the proposal for the recast of the Return Directive (as proposed by the Commission in 2018, a proposal which is currently still on the Council's table). Alternatively, such provisions could be part of a proposal to amend the Return Directive. Including an amendment to the Return Directive through the revised Schengen Borders Code is not in line with the European Commission's commitment to better regulation .</p>

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

1. welcomes the Commission's proposal for amendment of the Schengen Borders Code, both regarding the proposed uniformly applicable measures aimed at the protection of external borders, as well as the redefined criteria and procedural safeguards for the reintroduction and prolongation of internal border controls, in particular as they recognise the importance of cross-border cooperation;
2. welcomes the Joint Communication from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy on Responding to state-sponsored instrumentalisation of migrants at the EU external border, adopted on 23 November 2021, which, together with the Renewed EU action plan against migrant smuggling (2021-2025)², addresses the phenomenon of instrumentalisation for the first time;
3. agrees with the need for a better functioning Schengen area framework and with external border control being in the interest of all Member States; recognises that the effective control of the EU's external borders is an important integral part of a comprehensive EU policy on migration;
4. underlines that as it stands, the proposed definition of the concept of instrumentalisation in the Schengen Borders Code is overly broad and unclear, leaving room for misinterpretations, thus potentially leading to insufficiently justified derogations from minimum standards guaranteed by the common rules on international protection. Points out by the same token that the impact assessment accompanying the proposal "does not look into the instrumentalisation of irregular migration, which has manifested in the summer at the land borders with Belarus, i.e. after the work on this document has been completed"³. Therefore, the accompanying impact assessment is incomplete and does not contribute sufficiently in a manner that ensures that the resulting proposal fulfils the intended objective of Better Regulation Guidelines, that is, the delivery of "the full benefits of policies at minimum cost, while upholding the principles of subsidiarity and proportionality"⁴;
5. stresses that complementary and preventive policy measures should also be directed at the countries of origin of instrumentalised migrants as well as the third-country governments responsible for instrumentalisation in order to avoid merely penalising people who become victims of such actions. While the humanitarian needs of instrumentalised migrants should remain a priority, sanctions and other restrictive measures should target those involved in or contributing to activities of the instrumentalising regime that facilitate the illegal crossings of the external borders of the Union, as well as those of migrants' smugglers abusing human rights, or those otherwise involved in trafficking in human beings;

² COM(2021) 591 final

³ SWD(2021) 463 final

⁴ SWD(2021) 305 final

6. points out that the instrumentalisation regulation raises concerns with regard to compliance with the principle of proportionality under Article 5 (4) TEU, according to which the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties. The proposal risks allowing for derogations from uniform EU asylum law and exceeding what is necessary to achieve the EU foreign and security policy objective of stopping a third country from instrumentalising migrants;
7. calls on the European Commission to thoroughly rework the Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum (Instrumentalisation Regulation)⁵, in line with its Better Regulation Guidelines and good law-making principles, and to revise its proposal of the revised Schengen Borders Code accordingly, in line with the principles of subsidiarity and proportionality under Article 5 TEU. Given that the proposed Instrumentalisation Regulation is conditional upon adoption of other proposals under the New Pact on Migration and Asylum and furthermore, that it was not accompanied by an impact assessment, the Committee refrains from suggesting any legislative amendments to the aforementioned proposal for a regulation;
8. points out that, by allowing derogations from the uniform application of EU asylum law for individual Member States, the instrumentalisation regulation risks undermining the very objective of the proposed New Pact on Migration and Asylum, that is, achieving a coherent, uniform and integrated Common European Asylum System, which can only be sufficiently achieved at the level of the Union. In particular, the Committee is highly sceptical of the proposed provisional measures because they fall short of the protection granted by the EU Charter on Fundamental Rights, which guarantees protection against refoulement, effective access to a status determination procedure, the right to asylum, the right to liberty, the right to effective judicial protection and the right to dignity;
9. points to its opinion on the New Pact on Migration and Asylum⁶ and its opposition to the unnecessary prolongation of the asylum border procedures, which would be extended even further under the proposed instrumentalisation regulation together with other restrictions making the right to claim asylum even more difficult to exercise;
10. cautions therefore against the extensive possibilities to apply an accelerated border procedure without consideration of personal circumstances other than particular health issues; warns to this effect against the excessively lengthy period granted to Member States for registering an asylum application and granting access to their territory, which is likely to result in large-scale deprivation of liberty, amounting to unlawful de facto detention at the external borders;
11. deplores by the same token the fact that withholding the automatic suspensive effect of appeals in the ‘emergency migration and asylum management procedure’ and lowering reception standards to the bare minimum, which itself is not further defined in the proposal, risks failing to address particular needs of asylum seekers;

⁵ COM(2021) 890 final

⁶ COR-2020-04843

12. emphasises the fact that the proposal for a Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland, which the proposed instrumentalisation regulation mirrors, has not progressed in the Council negotiations either; points out that flexibility already exists for Member States under the current legal framework to deal with changing events at their border;
13. points out that the invasion of Ukraine by the Russian Federation in February 2022 and the subsequent exodus of Ukrainians and people residing in the country demonstrated the importance of effective and humane management of the EU's external borders. Poland, Romania, Slovakia and Hungary faced a major challenge related, on the one hand, to maintaining security at the border and on the other hand, to managing the migration of hundreds of thousands of people having left Ukraine and seeking refuge in EU Member States. The armed conflict in Ukraine also highlighted the great importance of intra-EU and extra-EU cross-border cooperation, particularly in the context of providing humanitarian assistance.
14. applauds the Member States for staying united and activating the Temporary Protection Directive for the benefit of all Ukrainian refugees, and not derogating from asylum law standards, which would be the case should the instrumentalisation regulation apply; stresses that the complexity of the situation demands a coordinated approach which respects human rights and the right to asylum and is based on solidarity and fair sharing of responsibility with the Member States and the regions that are most affected by this situation; is proud that the current response has been solidarity by governments and citizens alike;
15. agrees that internal border controls should always be a measure of last resort and emphasises the fact that the temporary reintroduction of border controls at internal borders severely jeopardises the ability of neighbouring regions to cooperate with each other, and has severe impacts on regional economies;
16. stresses that cross-border cooperation is at the very heart of the European integration project and one of the biggest successes of the European Union. It is at the borders that the real benefits of European integration are being experienced by citizens. Cross-border cooperation fosters contacts between regions' residents, stimulates development and directly improves the quality of life of local communities;
17. points out that the COVID-19 pandemic has been one of the biggest setbacks for cross-border cooperation in the past decades, but even before the pandemic, many border regions were already struggling with a multitude of unique regional obstacles, such as cross-border transport and connectivity as well as bureaucratic hurdles for citizens and businesses as the biggest obstacles faced in their territories;
18. welcomes the confirmation that the absence of border control at internal borders shall not affect the exercise of police or other public powers by the competent authorities, in so far as they do not have an effect equivalent to border checks;
19. welcomes the stricter criteria for the temporary reintroduction and prolongation of border control at internal borders, and in particular the requirement to consider their likely impact on

the functioning of the cross-border regions, taking into account the strong social and economic ties between them;

20. considers, however, that the use of alternative measures should also be included under the criteria for reintroduction of border controls, and not only for their prolongation;
21. recommends that controls at internal borders should strictly be limited to a maximum of 24 months in total;
22. recommends that a notification by a Member State of temporary reintroduction of internal border controls ought to include reasons as to why alternative measures are not appropriate and the position of the authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
23. welcomes the requirement for mitigating measures to accompany the reintroduction or prolongation of border controls with a particular consideration for the cross-border regions; such consideration should be based on consultation with the authority or authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
24. welcomes the references to 'competent authorities' as a recognition of public powers of administrative units at regional and local level;
25. calls for extensive consultations by the European Commission with the relevant actors, including at the local and regional level, before proposing delegated acts under the new Schengen framework;
26. cautions against the discretionary use of border checks which would, in substance, amount to internal border controls;
27. agrees that the subsidiarity principle is applicable by virtue of Article 5(3) TEU, and the Union shall act as the objectives of the proposed action – the integrity of the Schengen area and the need to ensure uniform conditions for exercising the right to free movement – cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level;
28. agrees that, while irregular migratory flows should not, per se, be considered as a threat to public policy or internal security, they may require additional measures to ensure the functioning of the Schengen area;
29. disagrees, however, that a situation characterised by large-scale unauthorised movements of third-country nationals between the Member States should be included as a possible justification for the reintroduction or prolongation of border control at internal borders by an individual Member State, as this contradicts the objective of the proposal and the proper application of the principle of subsidiarity. Given that such a situation refers to movements between the Member

States, in order to comply with the principle of subsidiarity, it needs to be addressed at the Union level as proposed under Article 28;

30. recommends that the reintroduction of border controls in a situation characterised by large-scale unauthorised movements of third-country nationals between the Member States should fall solely under the specific mechanism proposed under Article 28 and be subject to the Council's implementing decision;
31. recommends that monitoring and reporting should start in due course when controls at internal borders are introduced and not be limited to post factum analysis and reporting;
32. welcomes the consultation process introduced under Article 27a and asks for authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h) to be able to submit observations to the Member State notifications which directly concern their administrative unit;
33. points out that a risk assessment to be submitted by a Member State in case of prolongation of border controls ought to include the results of consultations with authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
34. asks the Commission to base its opinion on the necessity and proportionality of border controls also on consultation with the authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
35. similarly, asks the Commission, when issuing a recommendation indicating other measures as referred to in Article 23 that could complement internal border controls or be more suitable to address the identified threat to internal security or public policy, to base its recommendation also on consultations with the authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
36. asks, in order to ensure that the views of the cross-border regions are taken into consideration at all stages, for the post factum analysis presented by a Member State as a report to the European Parliament, the Council and the Commission to include the position of the authorities governing the local administrative areas considered as the cross-border regions under Article 39(1)(h);
37. finally, supports the envisaged enlargement of the Schengen area to include Croatia as of 1st January 2023. Furthermore, the CoR calls for the enlargement of the Schengen area to include Bulgaria and Romania, provided that they effectively implement the Schengen acquis. The Committee shares the conviction of the European Commission expressed in its Communication 'A strategy towards a fully functioning and resilient Schengen area' that "all three countries joining Schengen in full will increase security in the EU as a whole, as these countries will then be able to fully exploit the tools available [...] and] their accession is finally crucial for a reinforced mutual trust in the Schengen area"⁷.

Brussels, 12 October 2022

The President
of the European Committee of the Regions

Vasco Alves Cordeiro

The Secretary-General
of the European Committee of the Regions

Petr Blížkovský

III. PROCEDURE

Title	Revised Schengen Area Governance
References	COM(2021) 890, COM(2021) 891, JOIN(2021)32
Legal basis	Article 307(4) of the Treaty on the Functioning of the European Union
Procedural basis	Rule 41b) i)
Date of Council/EP referral/ Date of Commission letter	N/A
Date of Bureau/President's decision	N/A
Commission responsible	Commission for Citizenship, Governance, Institutional and External Affairs
Rapporteur	Antje Grotheer (DE/PES)
Analysis	24 April 2022
Discussed in commission	23 June 2022
Date adopted by commission	23 June 2022
Result of the vote in commission (majority, unanimity)	Majority
Date adopted in plenary	12 October 2022
Previous Committee opinions / resolutions	<ul style="list-style-type: none"> • CoR Resolution on the European Committee of the Regions' priorities for 2020-2025 – Europe closer to the people through its villages, cities and regions, RESOL-VII/004 • CoR Resolution on a vision for Europe: The Future of Cross-border Cooperation, RESOL-VII/014 • CoR Resolution on the Threats to the EU's Schengen Border-free Area, RESOL-VI/009 • New Pact on Migration and Asylum, rapporteur Antje Grotheer (DE/PES), CDR-4843-2020 • Renewed partnership with the Southern Neighbourhood – A new Agenda for the Mediterranean (Vincenzo Bianco (IT/PES), CDR-1952-2021 • A Counter-Terrorism Agenda for the EU: anticipate, prevent, protect, respond (Karl Vanlouwe (BE/EA), CDR-1900-2021 • Opinion on the Proposal for a Regulation on the European Border and Coast Guard, rapporteur Anna Magyar (HU/EPP), CDR-6213-2018
Date of subsidiarity monitoring consultation	N/A