

NOTIFICATION OF REINTRODUCTION OF BORDER CONTROL AT INTERNAL BORDERS OF THE NETHERLANDS

I. Notification submitted by: The Netherlands

II. Date of notification: 11 November 2024

III. Notification for a(n):

Unforeseeable threat, first introduction (article 25a (1) and (3) SBC)

Unforeseeable threat, prolongation (article 25a (3) SBC)

Foreseeable threat, first introduction (article 25a (4) und (5) SBC)

Foreseeable threat, prolongation within first 2 years of reintroduction (article 25a (4) SBC)

Foreseeable threat, 1st prolongation after 2 years, in case of a major exceptional situation (article 25a (6) SBC)

Foreseeable threat, 2nd prolongation after 2 years in case of a major exceptional situation (article 25a (6) SBC)

Introduction of border controls in accordance with a Council Decision on large-scale public health emergencies (article 28 (1) SBC)

IV. Threat to public policy or internal security, consisting of:

Terrorist incidents or serious crimes

Please specify:

Large scale public health emergencies

Please specify:

Exceptional situation characterized by a sudden large-scale unauthorised movement of third country nationals, in the sense of article 25(1)(c) of the SBC

Please specify:

Large scale or high-profile international event

Please specify:

Other

Please specify:

Despite the action that both the EU and the Netherlands have taken to strengthen the Schengen area, the pressure on the EU caused by irregular migration and migrant smuggling remains high. For years, the Netherlands has been confronted with the consequences of a large influx of irregular migration, migrant smuggling, and substantial secondary migration flows, exacerbated by the malfunctioning Dublin system. This has caused high and cumulative pressure on the existing migration system, in particular on reception capacity and the available housing at local level. At the same time, the number of criminal incidents at reception centres has increased. The Dutch government is taking all possible measures to prevent further disruption to the migration system, as that would lead to dire circumstances and pose an increased threat to public policy. Given this

combination of factors, the Dutch government has decided to temporarily reintroduce internal border controls.

European migration situation

According to the European Border and Coast Guard Agency (Frontex) there have already been around 164,000 irregular border crossings in 2024. Although this number is about 42% lower than in the same period in 2023, the pressure of irregular migration on the external borders remains significant and is subject to fluctuations. Despite measures taken by Member States and supported where necessary by Frontex, the large and persistent pressure of irregular migration on the EU's external borders has resulted in major challenges for several Member States, including the Netherlands. According to Integrated Situational Awareness and Analysis (ISAA) report no. 433, secondary movements in the EU+ in the first eight months of 2024 remained stable at a high level compared with the same period in 2023. These secondary movements, some of which are facilitated by migrant smugglers, are the main source of the large inflows of asylum seekers experienced by several Member States, including the Netherlands. Given the situation in many asylum seekers' countries of origin, there is no expectation of a permanent reduction in irregular migration to the EU.

In addition, international people smuggling networks are flourishing due to high numbers of irregular migrants coming to the EU, putting pressure on both the Schengen area and the Netherlands' internal borders. Migrants pay high fees for dangerous border crossings and rival gangs are increasingly deploying violence, especially in the Balkan region and Libya. Despite government measures, smuggling organisations are constantly finding new routes. In addition to being a destination country, the Netherlands is also a transit country and a logistical hub for nautical goods used to make the crossing to the United Kingdom. The quality of the hundreds of items of nautical goods seized is so poor that an immediate danger is posed to the lives of migrants. Between January and November 2024, nearly 180 instances of migrant smuggling were recorded by the Royal Netherlands Marechaussee (RNLM) during police checks in the vicinity of the internal land border with Belgium and Germany alone. As a consequence, nearly 200 individuals were registered as criminal suspects.

The overall situation is causing serious problems with regard to irregular migration, migrant smuggling, asylum and basic services such as reception and housing, and in relation to public safety in this regard.

National migration pressure

In recent years, the Netherlands has had to deal with a persistently high influx of asylum seekers. The Dutch Immigration and Naturalisation Service (IND) is unable to keep up with this sustained influx. In addition, the return of migrants who are not permitted to stay in the Netherlands is not proceeding quickly enough, partly because countries of origin are not cooperating sufficiently. The outflow of beneficiaries of international protection to regular housing in municipalities is also low. As a result, reception centres are overcrowded, which at times leads to incidents. The challenges facing the asylum system as a whole, and the pressure on that system, therefore remain extremely great.

A significant percentage of migrants who apply for international protection in the Netherlands are already Eurodac-registered in another Member State. At the same time, the ongoing impossibility of Dublin transfers to Greece, Hungary and Italy is increasing the pressure on the Dutch asylum system. The continuing influx of irregular migration, including asylum seekers, has left the asylum system of the Netherlands overburdened and no longer able to cope. An increase in the number of migrants arriving in the Netherlands has also driven up demand for facilities such as housing, care, education and integration programmes. More and more municipalities are indicating that they do not have the capacity to accommodate any (or more) asylum seekers or beneficiaries of international protection. On top of that, in addition to asylum seekers, Dutch municipalities have also provided reception to around 120,000 Ukrainian displaced persons, some 91,000 of whom are housed in public reception facilities. The occupancy rate of these emergency facilities is currently around 99%.

Due to the developments described above, the Central Agency for the Reception of Asylum Seekers (COA) is having to cope with an increasing number of residents (both asylum applicants and beneficiaries of international protection to whom it has not been possible to assign housing). In 2023, occupancy at COA reception centres rose from 51,600 to 64,300 residents. Occupancy at the main asylum application centre, Ter Apel, has been above the agreed number of 2,000 since mid-March 2024. At the end of August 2024, the COA had around 70,000 residents, which means that

occupancy has exceeded logistical capacity for quite some time. These high occupancy rates, longer stay times and suboptimal conditions in emergency reception centres regularly put the safety and health of both asylum seekers and COA employees at risk. This is especially the case for vulnerable persons.

Disruptive behaviour and crime

Given the cumulative migration pressure over the years, which has resulted in very high occupancy rates in asylum reception centres, disruptive or criminal asylum seekers pose a growing and persistent problem. Despite stricter measures initiated by central government and enhanced cooperation with municipalities and organisations involved in the migration system, tackling public policy disruptions continues to be a major challenge. As occupancy at general reception centres and emergency reception centres has increased, the number of incidents and reported crimes has increased as well. In 2023, the number of incidents in general reception centres and emergency reception centres increased by 43% compared with 2022. In addition, the nationalities associated with having relatively high percentages of suspected offenders are mainly nationalities associated with a low chance of being granted asylum. The problem of public policy disruptions and criminal behaviour has a negative impact on public perceptions of those asylum seekers who are not responsible for incidents, as well as on the level of public support for asylum seekers generally.

Given the pressure on the external borders and the continued high levels of secondary migration (for which the Netherlands is still an important destination country) the government has decided, as a last resort, to reintroduce internal border controls for a period of six months.

V. Scope of the proposed reintroduction, indicating the part or parts of the internal borders where controls will take place (article 27 (1) (b) SBC)

The temporary reintroduction of internal border controls is limited to the Netherlands' land borders with Belgium and Germany and to air borders. In relation to air borders, controls will be restricted to specific flights which, according to risk analysis or intelligence, are associated with a risk of irregular migration or cross-border crime.

VI. Names of authorised border crossing points

No specific border crossing points are being designated, as these internal border controls will not be carried out systematically. Instead they will be conducted in a risk-based manner, requiring flexibility in terms of time and place.

VII. Date and duration of the planned reintroduction or prolongation

From 9 December 2024 at 00:00 until 8 June 2025 at 00:00.

VIII. Where applicable, measures taken by other Member States

IX. a) Assessment of necessity and proportionality under article 26(1)

1. Appropriateness: explanation how the reintroduction of internal border controls will adequately remedy the threat and whether the objectives of the reintroduction can be obtained by other measures

At the moment, the Royal Netherlands Marechaussee (RNLM) performs mobile security monitoring (MTV) on the basis of the Aliens Act 2000 and Article 23 of the Schengen Borders Code (SBC) in the border regions with Belgium and Germany. These MTV checks, performed on a random basis and/or on the basis of information and intelligence, are carried out on roads, on trains, and at airports for certain flights arriving from the Schengen area. The RNLM verifies the residence status and identity of individuals during these checks, which are primarily for the purpose of aliens supervision. However, national legislation imposes restrictions on MTV checks, including in terms of numbers. The Dutch government is currently examining possible amendments to the applicable legislation, aimed at strengthening the options available for internal border controls. The temporary reintroduction of checks at the internal borders could give the RNLM greater flexibility in the implementation of checks than it has under the current system of MTV checks. It will be possible to carry out checks for a longer period of time at the same spot. In addition, border checks have a broader purpose than MTV, and will assist in the detection and prevention of irregular migration and the detection of smuggling activities,

including people smuggling, and therefore contribute to the security of the Schengen area. Furthermore, temporary checks at internal borders will make it possible to make use of measures to prevent entry under European and national law. The temporary reintroduction of checks at the internal land borders will enable the RNLN to conduct border checks on the basis of the SBC.

These temporary border checks will not be conducted systematically, but in a targeted, situation-specific and risk/intelligence-based manner. Consequently, this measure will not go beyond what is necessary.

Concerning MTV checks, the RNLN will continue to conduct these checks in accordance with national legislation at other points of the internal borders as well, mainly at airports. The Netherlands will also continue its cooperation with Belgium and Germany with regard to cross-border policing and other matters, including the coordination of border checks and the transfer of persons who are apprehended.

Temporary internal border controls will be kept to the minimum that is strictly necessary for the prevention of irregular migration and for the security of the Schengen area. The Netherlands will take measures to minimise the effect on cross-border traffic, for example by refraining in so far as possible from measures that could disrupt traffic flows. As a result, the temporary reintroduction of internal border controls is appropriate for addressing the above-mentioned existing challenges and threats.

2. Impact on the free movement of persons and impact on the functioning of cross border regions

As stated above, the RNLN will be instructed to conduct border checks in such a way as to minimise the impact on cross-border traffic, for example by refraining from measures that could disrupt traffic flows. In addition, the Dutch authorities attach great importance to remaining in close contact with the Belgian and German authorities in order to prevent internal border checks from having a significant impact on the movement of persons and goods. Furthermore, the Netherlands is committed to ensuring that the economic, social and infrastructural impact on border regions and their residents is minimised to the greatest possible extent.