

TEMPORARY REINTRODUCTION OF BORDER CONTROL AT INTERNAL BORDERS

Proposed decision

The Ministry of the Interior proposes that, in order to prevent an escalation of the outbreak of the coronavirus disease (COVID-19), and to prevent the threat to public health posed by the virus, the Government should take the decision to reintroduce border control between Finland and Sweden and between Finland and Norway from 19 March to 13 April 2020. Authorised border crossing points would be

for air traffic:

- Helsinki-Vantaa, Marienhamn and Turku airports: only goods traffic, return traffic of Finnish citizens and residents of Finland or other EU Member States, necessary travel for work and other necessary traffic
- Enontekiö, Helsinki-Malmi, Ivalo, Joensuu, Jyväskylä, Kajaani, Kemi-Tornio, Kittilä, Kokkola-Pietarsaari, Kuopio, Kuusamo, Lappeenranta, Mikkeli, Oulu, Pori, Rovaniemi, Savonlinna, Seinäjoki, Tampere-Pirkkala and Vaasa airports: only goods traffic

for waterborne traffic:

- Helsinki-Vantaa, Marienhamn, Turku and Vaasa ports: only goods traffic, return traffic of Finnish citizens and residents of Finland or other EU Member States, necessary travel for work and other necessary traffic
- Eckerö, Eurajoki, Färjsundet, Förby, Hamina, Hanko, Haukipudas, Ingå, Kalajoki, Kaskinen, Kemi, Kemiö, Kirkkonummi, Kokkola, Kotka, Kristinestad, Lappeenranta, Loviisa, Långnäs, Merikarvia, Naantali, Nuijamaa, Oulu, Pargas, Pernaja, Jacobstad, Pohja, Pori, Porvoo, Raahe, Rauma, Salo, Sipoo, Taalintehdas, Tammisaari, Tornio and Uudenkaupunki ports: only goods traffic
- Åland, Haapasaari, Hanko and Helsinki Coast Guard Stations, the port of Nuijamaa and Santio border crossing point: only return traffic of Finnish citizens and residents of Finland or other EU Member States and other necessary traffic

for road traffic:

- at the border between Finland and Sweden, Karesuvanto, Kolari, Muonio, Pello, Tornio and Ylitornio: only goods traffic, return traffic of Finnish citizens and residents of Finland or other EU Member States, necessary travel for work and other necessary traffic
- at the border between Finland and Norway, Karigasniemi, Kilpisjärvi, Kivilompolo, Nuorgam, Näätämö and Utsjoki: only goods traffic, return traffic of Finnish citizens and residents of Finland or other EU Member States, necessary travel for work and other necessary traffic

Persons residing in Finland would mean EU citizens who have registered their right of residence in Finland and their family members, as well as third-country nationals residing in Finland with a residence permit. Persons residing in another EU Member State would correspondingly mean citizens of that EU country, EU citizens who have registered their right of residence there and their family members, and third-country nationals residing in that country with a residence permit. Necessary travel for work would mean, for example, cross-border traffic related to the change of vessel crew members. Other necessary traffic would include traffic associated with the provision of rescue services and healthcare and the exit of third-country nationals from the country.

Border control at the internal border would mainly be carried out through border checks of individuals selected on the basis of threat and risk assessments made jointly by the authorities responsible for internal security and healthcare. Border control measures would not therefore be applied to all those entering or leaving the country via the internal border.

Grounds

The COVID-19 outbreak that began in China earlier this year was caused by a novel coronavirus. The World Health Organization (WHO) declared the coronavirus epidemic a pandemic on 11 March 2020. As a result, on 16 March 2020 the Finnish Government, in cooperation with the President of the Republic, declared that the emergency conditions referred to in section 3, paragraph 5 of the Emergency Preparedness Act (1552/2011) prevail in Finland.

In order to prevent an escalation of the disease outbreak and to prevent the threat posed to public health by the coronavirus, it is necessary to close certain border crossing points and to significantly restrict traffic through border crossing points on a temporary basis.

Legislation

Under Article 22 of the Schengen Borders Code (Regulation (EU) 2016/399 of the European Parliament and of the Council), internal borders may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out. Under Article 25, where, in the area without internal border control, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border control at all or specific parts of its internal borders for a limited period of up to 30 days or for the foreseeable duration of the serious threat if its duration exceeds 30 days. The total period may not exceed six months. Where a Member State plans to reintroduce border control at internal borders, it shall notify the other Member States and the Commission and supply the detailed data provided in the Regulation before the planned reintroduction.

Provisions on a specific procedure for cases requiring immediate action are laid down in Article 28. Where a serious threat to public policy or internal security in a Member State requires immediate action to be taken, the Member State concerned may, on an exceptional basis, immediately reintroduce border control at internal borders, for a limited period of up to ten days. If the serious threat to public policy or internal security persists, the Member State may prolong the border control at internal borders for renewable periods of up to 20 days, but the total period may not exceed two months. The other Member States and the Commission shall be notified of the matter at the same time.

Where a Member State reintroduces border control at internal borders, it shall supply the information referred to in Article 27, including the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced, and the names of the authorised border crossing points.

The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.

Under Article 31, the Commission and the Member State(s) concerned shall inform the European Parliament and the Council as soon as possible of any reasons that may lead to specific measures under the Regulation in the case of serious deficiencies relating to external border control and to temporary reintroduction of border control at internal borders. Under Article 33, the Member State shall, after the lifting of border control at internal borders, present a detailed report on how the criteria specified in the Regulation were respected. Presented for the purpose of an ex-post assessment of the reintroduction of border control, the report shall outline, in particular, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the free movement of persons and, for purposes such as an ex-post assessment of the proportionality of the reintroduction of border control, the effectiveness of the reintroduction of border control at internal borders.

Under Article 34 of the Regulation, the decision to reintroduce border control at internal borders shall be made openly and the public shall be provided with all information on the matter, unless there are overriding security reasons for not doing so. Under Article 35, at the request of the Member State concerned, the other Member States, the European Parliament and the Commission shall respect the confidentiality of information supplied in connection with the reintroduction and prolongation of border control and in connection with the report concerning the matter.

Under section 15 of the Border Guard Act (578/2005), decisions on the temporary reintroduction of border control at internal borders are made by the Government. However, where immediate action is required because of a threat to public order, national security or public health, the Ministry of the Interior decides on necessary actions until the matter is decided by the Government. Under subsection 2, further provisions on the prompt handling among the police, Customs and Border Guard of matters concerning the reintroduction of border control at internal borders, and on the submission of notifications and information and on consultation are issued by government decree. Provisions on this matter are laid down in section 9 of the Government Decree on Cooperation between the Police, Customs and the Border Guard (1126/2009). According to section 17 of the Border Guard Act, the Border Guard is the leading border control authority that coordinates the operation of other authorities participating in the border control of passenger traffic.

Under section 9 of the Constitution of Finland, Finnish citizens shall not be prevented from entering Finland. Everyone also has the right to leave the country. The reintroduction of internal border control would not interfere with these rights. Similarly, EU citizens would be treated on equal terms.

Under section 156a of the Aliens Act, entry into and residence in the country by a Union citizen and his or her family members may be restricted on grounds of public health. The restrictions may apply only on the basis of a disease with epidemic potential as defined by the relevant instruments of the World Health Organization and other infectious diseases which would justify restrictions to the freedom of a Finnish citizen who had caught the disease or who was suspected of having caught the disease,

so as to prevent the disease from spreading. A disease posing a threat to public health that occurs after a three-month period from the date of arrival may not constitute grounds for removal from the country.

A Union citizen or his or her family members may, within three months of the date of arrival, and if it is clearly necessary, be required to undergo a free medical examination to certify that they are not suffering from any of the diseases referred to in subsection 1. Such medical examinations may not be required of all applicants as a matter of routine.

Previous practice and actions of other Member States

Finland reintroduced internal border control in 2005 in order to ensure the safety of the World Championships in Athletics, in 2006 (three times) to ensure the safety of meetings held during its Presidency of the Council of the European Union, and in 2008 in connection with security for the OSCE Foreign Ministers' meeting. Most recently, internal border control was reintroduced in 2018 in connection with security for the visit to Helsinki by the presidents of the United States and the Russian Federation. These reintroductions of internal border control were foreseeable cases with prior notification under Article 25 of the Schengen Borders Code. Finland has not so far used the separate procedure under Article 28, which is for situations requiring immediate action to reintroduce internal border control.

Member States of the EU have previously reintroduced border control temporarily when illegal immigration has endangered public order and security, after terrorist attacks, in connection with major public events and in support of security arrangements at high-level meetings.

A number of Member States have recently reintroduced internal border control in connection with measures to respond to the serious threat to internal security from the COVID-19 coronavirus outbreak. According to the European Commission, the threat to internal security also includes public health in this situation.

Impacts

The purpose of reintroducing internal border control would be to ensure that those arriving in or departing from Finland meet the statutory requirements for entry or residence, and to identify any individuals that present a high risk in terms of security, in order to prevent an immediate and serious threat to public order and internal security. The decision is expected to reduce the spread of the coronavirus and thus diminish the threat to public health in Finland posed by the virus.

The reintroduction of internal border control would not entail changes to existing provisions in national legislation. The right of entry and exit would thus be determined in accordance with the legislation currently in force. Crossing Finland's internal border would not require any additional travel documents to those that are required at present. The only change would be that everyone, even at the internal border, would have to be prepared for possible border and alien controls carried out by the authorities.

The temporary reintroduction of internal border control would be led by the Finnish Border Guard. The police and Customs would participate in the reintroduction of internal border control in a manner to be agreed upon separately.

The reintroduction of internal border control would result in additional costs of approximately EUR 2.5 million for the Border Guard in the form of compensation for working hours, expenses for official travel of relocated personnel, payroll costs concerning reserve personnel currently in retirement, and the costs of additional equipment and temporary facilities. The expenditure would be covered by an additional appropriation granted for the operating expenditure item of the Border Guard.

The reintroduction of internal border control would require temporarily relocating Border Guard personnel from other tasks to carry out internal border control. Reintroducing internal border control would temporarily weaken the performance capability of the Border Guard at external borders and in maritime security tasks. The implementation of the decision may also lead to some reorganisation for the police and Customs and affect their performance capability.

Preparation

The draft decision has been prepared by officials of the Ministry of the Interior. The matter has been dealt with in writing by the national PCB steering group in accordance with section 9 of the Government Decree on Cooperation between the Police, Customs and the Border Guard.

Communications

Preliminary measures have been taken at the Ministry of the Interior to inform the European Union institutions and the Member States of Finland's decisions. The Ministry of the Interior is ready to immediately inform all necessary parties as required under the Schengen Borders Code.