German Court Finds German Check at Luxembourg Border Unlawful

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News

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On 27 April 2026, the *Verwaltungsgericht Koblenz* (Administrative Court of Koblenz, Germany) ruled that an identity check by the German Federal Police (*Bundespolizei*) at the German–Luxembourg border was unlawful. The judgment is significant because it applies the revised Schengen Borders Code, in particular the amended rules on the temporary reintroduction and prolongation of internal border controls in exceptional situations involving large-scale unauthorised migration movements.

Background of the case

The case concerned a German law professor who travelled by bus from Luxembourg to Saarbrücken in June 2025. Shortly after crossing the border at Perl-Schengen, the bus was directed to a rest area on the A8 motorway, where the Federal Police carried out an identity check. The plaintiff challenged the measure, arguing that the internal border controls on which the check was based had been unlawfully prolonged.

Germany had prolonged internal border controls at the border with Luxembourg for the period from 16 March 2025 to 15 September 2025. The Federal Government mainly invoked continued irregular migration, smuggling-related crime, a high number of asylum applications and pending asylum proceedings, pressure on reception and integration systems, and burdens on administrative and security authorities. The plaintiff argued that these reasons did not satisfy the requirements of the Schengen Borders Code and that he was likely to be affected by similar controls again because of frequent professional travel to Luxembourg.

The Court's decision

The Administrative Court of Koblenz upheld the action and found that the identity check was unlawful. The relevant provision of the Federal Police Act could not justify internal border controls unless those controls had themselves been lawfully reintroduced or prolonged under EU law. Since internal border controls are generally prohibited under Art. 22 of the Schengen Borders Code, as well as under the EU Treaties, they may only be reintroduced or prolonged under the strict conditions laid down in the Schengen Borders Code.

The Court found that Germany had not sufficiently demonstrated that the conditions for prolonging the controls under Art. 25 of the Schengen Borders Code were met. In particular, the government had failed to establish a sufficiently reliable factual basis showing that a sudden and very high number of unauthorised migration movements was placing significant pressure on the resources and capacities of well-prepared authorities. The Court considered the references to exhausted administrative capacities and public services too vague to allow for a plausibility review. The Court also rejected the argument that a protracted or already declining migration situation could still be treated as “sudden” within the meaning of Art. 25(1) of the Schengen Borders Code.

As a result, the Court held that the prolongation of the internal border controls at the German-Luxembourgish border for the relevant period was contrary to EU law. The identity check carried out against the plaintiff therefore lacked a sufficient legal basis and violated his general freedom of action and right to informational self-determination under German constitutional law. The Court allowed an appeal because the legal requirements for internal border controls under the revised Schengen Borders Code have not yet been clarified by higher courts.

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