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ANNEX

ANNEX

to the

COMMISSION RECOMMENDATION

establishing a common "Practical Handbook for Border Guards" to be used by Member States' competent authorities when carrying out the border control of persons and replacing Commission Recommendation C(2006) 5186 of 6 November 2006

ANNEX

Practical Handbook for Border Guards

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FOREWORD

The main objective of the Schengen cooperation is the creation of an area without internal border controls.¹ It requires efficient controls at external borders² as well as the application of relevant flanking measures in areas such as police and judicial cooperation and visa policy. The provisions on external border control apply nevertheless at internal borders in two cases. The first one relates to the situation where the process for the lifting of internal border controls at these internal borders has not yet been finalised³. Border controls at these borders must be carried out in line with the provisions of Title II of the Schengen Borders Code⁴. The second case refers to the situation where controls at internal borders are temporarily reintroduced by a Schengen State fully applying the Schengen *acquis*⁵. The relevant provisions of Title II then apply *mutatis mutandis* as internal borders are not becoming external borders.⁶

The objective of this Practical Handbook for Border Guards is to lay down guidelines, best practices and recommendations relating to the performance of border guard duties in the Schengen States. The handbook is intended as well to be a user guide for border guards in respect of the measures and decisions to be taken along the borders where the external border provisions apply. The content of this handbook deals essentially with the control of persons at the border and is based on Union instruments regulating the crossing of borders (and in particular the Schengen Borders Code), the issuance of visas, the right of free movement under Union law and the application for asylum. A list of legal acts regulating the areas covered by this handbook is contained in Part IV.

When reference is made in this handbook to other types of control which may or should be carried out at the border (for example, customs, phytosanitary or health-related controls), the relevant Union and national legislation will apply to such types of controls. In any case, Schengen States should always ensure a close cooperation between the different authorities carrying out controls at borders, as well as with authorities carrying out controls within the territory.

¹ Internal borders as defined in Article 2 (1) of the Schengen Borders Code.

² External borders as defined in Article 2(2) of the Schengen Borders Code.

³ Article 3(2) of the 2003 Act of Accession (Cyprus), Article 4(2) of the 2005 Act of Accession (Bulgaria and Romania) and Article 4(2) of the 2012 Act of Accession (Croatia).

⁴ 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 77, 23.3.2016, p.1.

⁵ Article 32 of the Schengen Borders Code.

⁶ See in particular Report from the Commission to the European Parliament and the Council on the application of Title III (Internal Borders) of Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

This handbook is not intended to create any legally binding obligations upon Schengen States, or to establish new rights and duties for border guards or any other person who might be concerned by it. Only the legal acts on which this handbook is based, or refers to, produce legally binding effects and can be invoked before a national jurisdiction.

PART ONE - DEFINITIONS

1. **SCHENGEN STATES (EU Member States implementing the Schengen *acquis* related to external borders as well as *Schengen Associated Countries*):**

- | | | |
|-------------------|--------------------------|------------------------|
| 1. Belgium | 11. <i>Iceland</i> | 21. <i>Norway</i> |
| 2. Bulgaria | 12. Italy | 22. Austria |
| 3. Czech Republic | 13. Cyprus | 23. Poland |
| 4. Denmark | 14. Latvia | 24. Portugal |
| 5. Germany | 15. <i>Liechtenstein</i> | 25. Romania |
| 6. Estonia | 16. Lithuania | 26. Slovenia |
| 7. Greece | 17. Luxembourg | 27. Slovakia |
| 8. Spain | 18. Hungary | 28. Finland |
| 9. France | 19. Malta | 29. Sweden |
| 10. Croatia | 20. Netherlands | 30. <i>Switzerland</i> |

Ireland and the United Kingdom have been authorised to apply some parts of the Schengen *acquis* but in a limited number of areas (police and judicial cooperation in criminal matters) which do not include external border control. As a consequence, for the purpose of this Handbook which focuses on border issues and is addressed to border guards, Ireland and the United Kingdom are not included when the term "Schengen States" is used.

2. **EU MEMBER STATES:**

- | | | |
|-------------------|-----------------|--------------------|
| 1. Belgium | 11. Croatia | 20. Austria |
| 2. Bulgaria | 12. Italy | 21. Poland |
| 3. Czech Republic | 13. Cyprus | 22. Portugal |
| 4. Denmark | 14. Latvia | 23. Romania |
| 5. Germany | 15. Lithuania | 24. Slovenia |
| 6. Estonia | 16. Luxembourg | 25. Slovakia |
| 7. Ireland | 17. Hungary | 26. Finland |
| 8. Greece | 18. Malta | 27. Sweden |
| 9. Spain | 19. Netherlands | 28. United Kingdom |
| 10. France | | |

3. **SPECIFIC SITUATION OF SCHENGEN STATES NOT YET FULLY APPLYING THE SCHENGEN *ACQUIS***

Bulgaria, Croatia, Cyprus and Romania do not yet fully apply the Schengen *acquis* and controls at their borders with other Schengen States have not yet been lifted.

They apply at all their borders the rules of Title II of the Schengen Borders Code.

The following specific rules apply:

- checks at their borders (e.g with regard to the length of stay, visa, residence permit, level of means of subsistence) are made in relation to their own territory;
- provisions related to the Visa Code do not apply to Bulgaria, Croatia, Cyprus and Romania. As a consequence, a reference to Schengen visa does not include visa issued by one of these four Schengen States.
- provisions on the VIS will only apply to Bulgaria and Romania when Decision (EU) 2017/1908 of 12 October 2017 on the putting into effect of certain provisions of the Schengen *acquis* relating to the Visa Information System in the Republic of

Bulgaria and Romania⁷ will apply and with the limitations provided in this decision (read-only access).

- provisions on the SIS do not apply to Cyprus; they apply fully to Bulgaria and Romania in accordance with the provisions of Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania⁸ and Council Decision (EU) 2018/934 on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the the Schengen Information System in the Republic of Bulgaria and Romania⁹; they apply partially to Croatia in accordance with the provisions of Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia¹⁰.

- Schengen States not yet fully applying the Schengen *acquis* unilaterally may recognise certain documents as equivalent to their national visa for transit through or intended short-stay on their territory¹¹.

When reference is made to "Schengen States fully applying the Schengen *acquis*" or to "the area without internal border controls", Bulgaria, Croatia, Cyprus and Romania are not included.

4. **EEA Countries:** Norway (NO), Iceland (IS) and Liechtenstein (LI).
5. **'Area without internal border controls'** refers to the area made of the territories of the Schengen States fully applying the Schengen *acquis* (and therefore excluding Bulgaria, Croatia, Cyprus and Romania).
6. **'Persons enjoying the right of free movement under Union law'¹²** are nationals of EU Member States, EEA countries and Switzerland, as well as members of their family, regardless of their nationality accompanying or joining them.

⁷ OJ L 269, 19.10.2017, p. 39–43.

⁸ OJ L 166, 1.7.2010, p.17.

⁹ OJ L 165, 2.7.2018, p. 37–39.

¹⁰ OJ L 108, 26.4.2017, p. 31.

¹¹ OJ L. 157, 27.5.2014, p. 23.

¹² Article 2(5) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

7. **‘Members of the family of EU, EEA or CH citizens enjoying the right of free movement under Union law’** are, irrespective of their nationality:
- the spouse (independently of the sex of the spouse¹³) and, if this is contracted on the basis of the legislation of an EU or Schengen State and recognised by the legislation of the host EU or Schengen State as equivalent to marriage, the partner with whom the EU/EEA/CH citizen has contracted a registered partnership;
 - the direct descendants under the age of 21 or dependants, including those of the spouse or registered partner;
 - the dependent direct relatives in the ascending line, including those of the spouse or registered partner.
8. **‘EU citizen’** refers to any person holding the nationality of a Member State of the European Union.
9. **‘Third-country national’** refers to any person who is not a person enjoying the right of free movement under Union law.
10. **‘Border guard’** refers to any public official assigned, in accordance with national law, to a border crossing point or along the border or the immediate vicinity of that border who carries out border control tasks, in accordance with Union and national law.
11. **‘Border control’** means the activity carried out at a border in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of border checks and border surveillance.
12. **‘Border checks’** means the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter or leave the territory of Schengen States or authorised to leave it.
13. **‘Systematic checks of relevant databases’** are the checks against relevant databases carried out by border guards with regard to all persons (persons enjoying the right of

¹³ Judgement of the CJEU of 5 June 2018, Case C-673/16, Coman.

free movement under Union law and third-country nationals) crossing the external borders, upon entry or exit.

14. **'Relevant databases'** are the databases the border guards must consult when carrying out systematic checks on all persons crossing the external borders. They include:
- the Schengen Information System 'SIS' (part on documents and part relevant for assessing if the persons in question may represent a threat to the public policy, internal security, public health or international relations of the Schengen States);
 - Interpol's Stolen and Lost Travel Documents ('SLTD') database;
 - national databases containing information on stolen, misappropriated, lost and invalidated travel documents;

The border guards may also consult other national and Interpol databases.

15. **'Targeted checks of relevant databases'** are the checks of relevant databases based on a risk analysis carried out exclusively on some persons enjoying the right of free movement under Union law at certain border crossing points where a derogation to the principle of systematic checks applies.
16. **'Other checks on persons enjoying the right of free movement under Union law'** are checks on persons enjoying the right of free movement under Union law who are not subject to targeted checks of relevant databases, when a temporary derogation to the systematic checks, is applied; namely the verification of the identity of the holder and of the validity and authenticity of the holder's travel document.
17. **'Thorough checks'** are the checks to be carried out on third-country nationals.
18. **'Second-line checks'** are further checks which may be carried out in a special location away from the place where all persons are checked ("first line").
19. **'Advance Passenger Information (API)'** refer to data collected in accordance with Council Directive 2004/82/EC.

20. **'Border surveillance'** means the surveillance of borders between border crossing points and the surveillance of border crossing points outside their fixed opening hours, in order to prevent persons from circumventing border checks.
21. **'Asylum seeker' or 'Asylum applicant'** means a third-country national or a stateless person who has made an application for asylum in respect of which a final decision has not yet been taken.
22. **'Application for international protection'** means a request made by a third-country national or a stateless person for protection from a Schengen State, who can be understood as seeking refugee status or subsidiary protection status.
23. **'Refugee'** means a third-country national or a stateless person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above is unable or, owing to such fear, unwilling to return to it.
24. **'Person eligible for subsidiary protection'** means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his/her country of origin, or in case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.
25. **'Stateless person'** refers to a person who is not considered as a national by any State under the operation of its law.
26. **'Threat to public health'** refers to any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are subject of protection

provisions applying to nationals of the Member States. For more details see the guidelines on public health threats.¹⁴

27. **'Visa'** means an authorisation issued by a Schengen State fully applying the Schengen *acquis* with a view to:
 - (a) transit through or an intended stay in the territory of the area without internal border controls of duration of no more than 90 days in any 180-day period preceding each day of stay in the territory of the area without internal border controls;
 - (b) transit through the international transit areas of airports of the Schengen States fully applying the Schengen *acquis*.
28. **'National short-stay visa'** means an authorisation issued by a Schengen State not yet applying the Schengen *acquis* in full with a view to an intended stay on the territory of that Schengen State of a duration of no more than 90 days in any 180-day period.
29. **'Visa with limited territorial validity'** means a visa valid for the territory of one or more of the Schengen States fully applying the Schengen *acquis* but not all these States.
30. **'Airport transit visa'** means a visa valid for transit through the international transit areas of one or more airports of the Schengen States fully applying the Schengen *acquis*.
31. **'National airport transit visa'** means a visa valid for transit through the international transit areas of one or more airports of a Schengen State not yet fully applying the *acquis*.
32. **'Long-stay visa'** means a national visa issued by one of the Schengen States fully applying the Schengen *acquis* for stays exceeding three months in accordance with Regulation (EU) No 265/2010 or in accordance with other Union law or its national law.

¹⁴ For more details, see the guidelines on public health threats, Part II, section I point 3.6.

PART TWO - BORDER CHECKS

SECTION I: Border check procedures

1. CHECKS AT BORDER CROSSING POINTS

1.1. The main purpose of border checks at border crossing points is to verify that all persons crossing the border fulfil the entry conditions in the territory of the Schengen States. In case of third-country nationals the entry conditions are checked ([see point 3, Section I](#)). With regard to EU citizens and members of their family the controls aim in particular at verifying the eligibility of the persons concerned to the right to free movement under Union law resulting from Directive 2004/38. Specific rules apply also for certain categories of persons ([see point 3.2, Section I](#)).

1.2. All persons, both EU/EEA/CH citizens and third-country nationals, must undergo systematic checks against relevant databases upon crossing the external borders¹⁵. Those databases are:

- SIS (part on documents and part relevant for assessing if the persons in question may represent a threat to the public policy, internal security, public health or international relations of the Schengen States)
- SLTD;
- national databases containing information on stolen, misappropriated, lost and invalidated travel documents;

The border guards may also consult other national and Interpol databases.

Derogations from this rule of systematic checks of relevant databases are possible at land and sea borders subject to certain conditions ([see point 2.3, Section I](#)) following a specific procedure for notification of such derogation ([see Annex I](#)) and risk assessment ([see Annex II](#)).

At air borders, derogations were possible only during a general transition period of 6 months (i.e. until 7 October 2017). After 7 October 2017, only at airports facing specific infrastructural problems in implementing the new rules, an additional transitional period could have been requested (until 7 April 2019 at the latest),

¹⁵ OJ L 74, 18.3.2017, p. 1.

subject to an authorisation by the Commission. After 7 April 2019, no derogation were possible at any air borders anymore.

1.3. Fundamental Rights enshrined in the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union must be guaranteed to any person seeking to cross borders. Border control must fully comply with the prohibition on inhuman and degrading treatment and the prohibition on discrimination enshrined, respectively, in Articles 3 and 14 of the European Convention on Human Rights and in Articles 4 and 21 of the Charter of Fundamental Right of the European Union.

In particular, border guards must, in the performance of their duties, fully respect human dignity and any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth disability, age or sexual orientation shall be prohibited. Any measures taken in the performance of their duties must be proportionate to the objectives pursued by such measures.

All travellers have the right to be informed about the nature of the control and have the right to professional, friendly and courteous treatment, in accordance with applicable international, Union and national law.

All travellers must be informed about the data subject rights concerning the processing of their personal data in the context of border controls including checks of databases (e.g. SIS and VIS databases). EU rules on the protection of personal data are applicable, in particular the General Data Protection Regulation and the Law Enforcement Directive¹⁶, as well as data protection rules of the SIS and VIS *acquis*.¹⁷

¹⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p.1; Directive (EU)2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89.

¹⁷ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II); Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation).

- 1.4. Upon request from the person subject to a check, the border guard conducting the check should show him/her his/her service badge, must provide him/her with the service identification number and, if circumstances allow for it, give her/his name. The provision of the name can be refused if there is any reason to assume that the border guard might be severely disadvantaged (for example, if he/she is threatened with retaliation). In this latter case, only the number of the badge and the name and address of his/her authority must be provided.
- 1.5. The border guard in command of the crossing point must deploy the appropriate staff in sufficient numbers to carry out effective border control. Border guards must always strike a balance between the need, on the one hand, to ensure the smooth crossing of the border by persons who fulfil the entry conditions, and who represent the great majority of travellers (e.g. tourists, business persons, students etc) and the need, on the other hand, of always being vigilant in order to detect persons posing a risk to public policy and internal security as well as potential illegal immigrants. The need of vigilance concerns in particular the situation when the derogation from the principle of the systematic checks against relevant databases is applied. At the border crossing points not benefiting from derogations, the systematic checks against relevant databases need to be carried out by the border guards on all persons crossing the external borders upon entry and exit.

*** Advice for border guards when conducting border checks:**

- when you take the travel document always have a look at the face of the traveller at first (try to remember as much as possible of the noticeable features of the traveller's face);
- compare the features of the traveller with the photo and description included in the travel document, match them also with the visa when this is required (this could help to eliminate impostors);
- check the travel document thoroughly in order to rule out the possibility that it is counterfeit or forged (the numbering, printing and stitching of pages, seals and stamps inserted, the inclusion of other persons; all corrections made in the document especially at the personal data page should be

clarified by the traveller); systematically check relevant databases; while doing this keeping contact and observing the behaviour and reaction of the traveller (e.g., nervousness, an aggressive attitude, excessive willingness to co-operate); when checking the Visa Information System use the number of the visa sticker in combination with verification of fingerprints of the visa holder, and having a VIS-0 marking shall be checked using the number of the visa sticker only;

- All travellers must be informed about the data subject rights concerning the processing of their personal data in the context of border controls including checks of databases (e.g. SIS and VIS databases). EU rules on the protection of personal data are applicable¹⁸. The border guard should provide the traveller with information on the rights of access to the data, rectification of inaccurate data and erasure of unlawfully stored data. The border guard should provide the traveller with the contact details of the competent national authorities, including data protection authorities, in order to enable him/her exercise his/her rights.¹⁹
- before you put the border's stamp when required make sure that the person did not overstay the allowed period (i.e. 90 days within any 180 days) during his/her last stay within the area without internal border controls or on the territory of Bulgaria, Croatia, Cyprus or Romania taken separately; For third-country nationals who are family members of EU, EEA and CH citizens, please note that specific provisions apply to them (see point 2.1.2,

¹⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p.1; Directive (EU)2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89 and Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II); Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation).

¹⁹ This information may take the form of a poster or of a leaflet. The leaflet or the poster must be available in all the official languages of the Union and in the language(s) of the countries bordering the Schengen States concerned.

Section II).

- do not interrogate the traveller as a potential criminal or illegal immigrant. All questions should be well balanced and asked in a friendly way;
- questions posed by the traveller should not be considered as intrusive and should be answered in a factual and polite manner.

2. CHECKS ON PERSONS ENJOYING THE RIGHT OF FREE MOVEMENT UNDER UNION LAW

2.1. Persons enjoying the right of free movement under Union law shall be subject to the systematic checks of relevant databases on entry and exit, namely:

- SIS (part on documents and part relevant for assessing if the persons in question may represent a threat to the public policy, internal security, public health or international relations of the Schengen States)
- SLTD;
- national databases containing information on stolen, misappropriated, lost and invalidated travel documents;

The border guards may also consult other national and Interpol databases.

For passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation (EC) No 2252/2004, the authenticity of the chip data shall be checked.

2.1.1. Where there are doubts as to the authenticity of the travel document or the identity of its holder, at least one of the biometric identifiers integrated into the passport and travel documents issued in accordance with Regulation (EC) No 2252/2004 shall be verified. Where possible, such verification shall also be carried out in relation to travel documents not covered by that Regulation.

2.1.2. In the case of third-country nationals who are family members of EU, EEA and CH citizens, they have the right of residence in a Member State for a period of up to

three months if they are in possession of a valid passport and are accompanying or joining the EU, EEA or CH citizen, without any limitation to 90 days in a 180-day period.

To be noted that, third-country nationals who are family members of EU, EEA and CH citizens are entitled to accompany or join the EU, EEA or CH citizen for consecutive periods of up to three months per Schengen States without any conditions or formalities (except the need to have a visa for third-country nationals from a country subject to a visa requirement).

When the family member travels on his/her own, the normal regime concerning the length of the short stay will (re)start to apply, as the conditions for benefiting from the facilitations concerning the free movement of the EU, EEA and CH citizens and their families are not met anymore.

The previous stays performed in the area without internal border controls accompanying or joining the EU, EEA or CH citizen should not be taken into account for the sake of the calculation of the compliance with the 90/180-day rule which is applicable to the short stay only.

***Examples**

An Indian national married to a French citizen may accompany his French spouse to Germany for three months, Spain for two months and Italy for three months, thus staying in the area without internal border controls for a total consecutive period of eight months.

A Japanese citizen is married with an Estonian citizen and has never come to the EU before. The Japanese citizen accompanies his Estonian spouse to Italy for one month. Just after that month, the Estonian spouse leaves Italy and returns to Japan to work. The Japanese citizen can remain alone for another 90 days (the limit of 90 days in any 180-day applies).

A Chinese citizen married to a Swedish citizen spends alone, for business purposes, 15 days in Austria. The Swedish citizen then joins him and they spend one month in Portugal. Just after that month, the Swedish spouse leaves the EU. The Chinese citizen can remain alone for the remaining 75 days in the 180-day period (the limit of 90 days in any 180-day

period applies, but the stay performed together with the EU citizen should not be counted (in this example, the one month period) when assessing the respect of the limit of 90 days in any 180-day period.).

- 2.2. A hit in the SIS or in other relevant databases is not in itself a sufficient ground to deny entry to any persons enjoying the right of free movement under Union law ([see point 8.3., Section I](#), on the rules applying to the refusal of entry of beneficiaries of the right of free movement under Union law).
- 2.3. Targeted checks of relevant databases are only possible when the systematic checks would have a disproportionate impact on the flow of traffic at certain land and sea border crossing points, and following an assessment of the risks related to the public policy, internal security, public health or international relations of any of the Schengen States. (For further information about the notification procedure, [see Annex I](#)).

In such a situation the common risk indicators relevant for foreign terrorist fighters established by the Commission together with Schengen States and relevant agencies should be used to define which persons should be submitted to a targeted check.

From 7 October 2017 to 7 April 2019, only at certain airports facing specific infrastructural problems in implementing the new rules and for which the Commission has authorised derogation, could targeted checks be carried out (however, whenever the volume of the traffic and the waiting time did not disrupt the traffic flow at the airports concerned, the systematic checks against relevant databases had to be carried out). After 7 April 2019, no derogations for air borders were possible anymore.

- 2.4. When such targeted checks are in place, persons enjoying the right of free movement under Union law on whom targeted checks of relevant databases are not carried out, shall undergo “other checks on persons enjoying the right of free movement under Union law” with a view to establishing the person's identity on the basis of the production or presentation of a travel document. Such “other checks” shall comprise of a rapid and straightforward verification of the validity of the travel document for

crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices. In cases where there are doubts about the travel document or where there are indications that such a person could represent a threat to the public policy, internal security, public health or international relations of the Schengen States, the border guard shall consult the relevant databases referred to in Article 8(2)(a) and (b) of the Schengen Borders Code.

- 2.5. The checks against the relevant databases may be carried out in advance on the basis of passenger data received in accordance with Council Directive 2004/82/EC or in accordance with other Union or national law. Where those checks are carried out in advance on the basis of such passenger information data, the data received in advance shall be checked at the border crossing point against the data in the travel document. The identity and the nationality of the person concerned, as well as the authenticity and the validity of the travel document for crossing the border, shall also be verified.
- 2.6. To ensure efficient border checks, where there are doubts as to the authenticity of the travel documents or the identity of its holder, at least one of the biometric identifiers integrated into the travel documents issued in line with Regulation (EC) No 2252/2004 shall be verified. Where possible such verification shall also be carried out in relation to travel documents not covered by that Regulation (EU passports and travel documents issued by the EU Member States which opted out from its application: Ireland and UK, and passports and travel documents issued by third countries). On verification of the authenticity of the data stored in a biometric passport [see point 16, Section I](#).
- 2.7. In order to avoid subjecting persons enjoying the right of free movement under Union law to those systematic checks twice at the land border crossing points with Romania, Bulgaria and Croatia, border authorities may decide based on a risk assessment that checks against relevant databases will be carried out upon exit on a non-systematic basis only. For the time being this arrangement may apply to the following land borders:
- Bulgaria-Greece
 - Romania-Hungary

- Bulgaria-Romania
- Croatia-Slovenia
- Croatia-Hungary

2.8. Persons enjoying the right of free movement under Union law are authorised to cross the border of a Schengen State on the basis of the following documents, as a general rule:

- EU, EEA, CH citizens: identity card or passport;
- Members of the family of EU, EEA and CH citizens who are nationals of a third-country: passport. They may also be required to have a visa, if they are nationals of a third-country subject to the [visa obligation](#), unless they are in possession of:
 - a valid [residence permit](#) issued by a Schengen State fully applying the Schengen *acquis*;
 - or a valid residence card issued under Article 10 and Article 20 of Directive 2004/38/EC by a Schengen State fully applying the Schengen *acquis*, independently of whether they accompany or join the EU or EEA citizen²⁰;
 - or, when accompanying or joining the EU and EEA citizen who has exercised the right to move and reside freely by virtue of Directive 2004/38/EC²¹, a valid [residence](#) card issued under Article 10 and Article 20 of Directive 2004/38/EC, by Ireland or the United Kingdom or by a Schengen State not yet fully applying the Schengen *acquis*;

***Examples**

A Slovak citizen resides with her Chinese spouse in Germany. They travel to France. As the Chinese spouse has a German residence card issued under Article 10 of the Directive, there is no need for an entry visa, both under the Directive or the Schengen Borders Code.

A German citizen resides with his Chinese spouse in Germany. They travel to Spain. As the Chinese spouse holds a German residence permit issued under national law by a

²⁰ Article 6 (1)(b) read in conjunction with Article 2(16)(a) of the Schengen Borders Code.

²¹ To be noted that this interpretation according to which residence card holders are only exempted from the visa requirement where they accompany or join the EU citizen is currently being assessed by the Commission services.

Schengen Member State, there is no need for an entry visa under the Schengen Borders Code.

A Slovak citizen resides with her Chinese spouse in Romania. They travel to France. As the Chinese spouse has a Romanian residence card issued under Article 10 of the Directive, he is exempted from the visa requirement under the Directive.

A Slovak citizen resides with his Chinese spouse in Ireland. The Chinese spouse holding a residence card, issued by Ireland under Article 20 of the Directive, travels alone to France. As she travels alone, she needs to apply for a visa to enter France.

Family member subject to the visa obligation might also present two passports, i.e. a valid passport (without visa) and an invalidated passport containing a valid visa.

For further information on the specific rules relating to family members of EU, EEA and CH citizens, see [Part III of the Handbook for the processing of visa applications and the modification of issued visas](#), hereinafter referred to as the "Visa Code Handbook".

N.B. On the basis of the Agreement between the European Community and its Member States, of one part, and the **Swiss Confederation**, of the other, on the free movement of persons, the above also covers the employees, irrespective of their nationality, of persons providing services, who are integrated in the labour market of Switzerland or one of the EU Member States and posted for the provision of a service in the territory of one of those EU Member States (Article 17 of Annex I to the Agreement).

On the basis of the European Free Trade Association Agreement, the same rules apply to the employees, irrespective of their nationality of persons providing services, who are integrated in the labour market of Switzerland or one of the EEA States and posted for the provisions of a service in the territory of one of those EEA States.

- 2.9. However, if a person enjoying the right of free movement under Union law does not have the necessary travel documents or, if required, the necessary visas, the Schengen State concerned must, before turning him/her back, give such person every reasonable opportunity to obtain the necessary documents or have them brought to him/her within a reasonable period of time or corroborate or prove by other means that he/she is covered by the right of free movement under Union law.

In case the traveller presents a travel document without a machine readable zone and there is a doubt about his/her identity, a second line check should be carried out.

** Legal basis – Case law:*

- [Directive 2004/38/EC \(Articles 4, 5 and 27\)](#)

- [Schengen Borders Code \(Article 8\)](#)

- [Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, 21 June 1999](#)

- [Judgement of the ECJ of 25 July 2002, Case C-459/99, MRAX vs. Belgium](#)

- [Judgement of the ECJ of 17 February 2005, Case C-215/03, Salah Oulane vs. Minister voor Vreemdelingenzaken en Integratie](#)

- [Judgement of the ECJ of 31 January 2006, Case C-503/03, Commission vs. Spain](#)

3. CHECKS ON THIRD-COUNTRY NATIONALS UPON ENTRY

3.1. The entry conditions to be fulfilled by third-country nationals when entering the territory of a Schengen State are the following:

- a) the possession of a valid travel document or documents authorising them to cross the border, whereby its validity shall extend at least three months after the intended date of departure from the Schengen States (although in a justified case of emergency, this obligation may be waived) and it shall have been issued within the previous 10 years;
- b) the possession of a valid visa, when this is required, except where a third-country national holds a valid residence permit issued by a Schengen State fully applying the

Schengen *acquis* which is deemed to be equivalent to a visa or a valid long-stay visa. This equivalence does not apply to temporary permits issued pending examination of a first application for a residence permit or an application for asylum;

- c) the justification of the purpose and of the conditions of stay in the Schengen State(s) to be visited, including the possession of sufficient means of subsistence for the duration of the intended stay and for the return to their country of origin (or for transit to a third country into which they are certain to be admitted, for instance because they have a residence permit issued by that country), or the possibility to acquire such means lawfully;
- d) not being a person for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;
- e) not being a person considered as a threat to public policy, internal security, public health or the international relations of any of the Schengen States. This may particularly be the case where no alert exists in a national database entailing a refusal of entry towards the person concerned.

* *Legal basis:*

- [Schengen Borders Code \(Article 6\)](#)

- [Regulation \(EU\) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation \(EC\) No 562/2006 as regards movement of persons with a long-stay visa](#)

- [Regulation \(EU\) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement](#)

- [Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their](#)

[territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC](#)

Link:

[-List of third countries whose nationals must be in possession of visas when crossing the external borders and of those whose nationals are exempt from that requirement.](#)

[-Information on national derogations from the visa requirements](#)

[-Common list of third countries whose nationals are required to be in possession of an airport transit visa when passing through the international transit area of airports situated on the territory of the Member States](#)

[-List of third countries whose nationals are required to be in possession of an airport transit visa, when passing through the international transit area of airports situated on the territory of one Member State](#)

[-List of residence permits entitling their holders to transit through the airports of Member States without being required to hold an airport transit visa](#)

- 3.2. Third-country nationals must be subject to a thorough check, which must be carried out as described below. However, special rules apply to the following categories of persons:
- a) Heads of State and members of their delegations ([point 5.1, Section I](#));
 - b) Pilots of aircraft and other crew members ([point 5.2, Section I](#));
 - c) Seamen ([point 5.3, Section I](#));
 - d) Holders of diplomatic, official or service passports and members of international organisations ([point 5.4, Section I](#));
 - e) Border residents benefiting from a local border traffic regime ([point 5.5, section I](#));
 - f) Minors ([point 5.6, section I](#));
 - g) School pupils from third countries resident in an EU State or in a third country not subject to the visa obligation ([point 5.7, Section I](#));
 - h) Cross border workers ([point 5.8, Section I](#));
 - i) ADS tourists ([point 5.9, section I](#));
 - j) Rescue services, police, fire brigades and border guards ([point 5.10, Section I](#));

k) Offshore workers ([point 5.11, Section I](#)).

Checks on **stateless persons** and **refugees** are carried out in the same way as for third-country nationals in general (see point 12, Section I on asylum seekers).

The border guard shall promptly take and transmit the fingerprint data of every third-country national or stateless person who is apprehended in connection with the irregular crossing of an external border of a Schengen State, if they are at least 14 years of age and if they have not been turned back.

N.B. For checks of third-country nationals who are members of the family of EU, EEA or CH citizens (persons enjoying the right of free movement under Union law) see [point 2.8, Section I](#).

** Legal basis:*

- [Regulation \(EU\) No 603/2013 of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints \(Article 14\)](#)

** Link:*

- [Documents issued to stateless persons and refugees by the Schengen States](#)

- [Information on national derogations from the visa requirements](#)

3.3. Border guards must **systematically check** third-country nationals against the following databases:

- SIS (part on documents and part relevant for assessing if the persons in question may represent a threat to the public policy, internal security, public health or international relations of the Schengen States)
- SLTD;
- national databases containing information on stolen, misappropriated, lost and invalidated travel documents;

The border guards may also consult other national and Interpol databases.

3.4. The checks against the relevant databases may be carried out in advance on the basis of passenger data received in accordance with Council Directive 2004/82/EC or in

accordance with other Union or national law. Where those checks are carried out in advance on the basis of such passenger information data, the data received in advance, shall be checked at the border crossing point against the data in the travel document. The identity and the nationality of the person concerned, as well as the authenticity and the validity of the travel document for crossing the border, shall also be verified.

3.5. For passports and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates. The authenticity and integrity of the data stored in the microchip should be verified when checking biometric passports. In order to verify that the data on the chip have been entered by an authorised authority and have not been tampered with, the content of the chip should be authenticated by Passive Authentication. The Document Signer certificate of the document should be verified against the respective trusted CSCA certificate of the issuing country. If supported, chip authentication should be used to verify that the chip is genuine.

3.6. Third-country nationals must be subject to a thorough check.

At entry, the thorough check consists of the verification of the fulfilment of all entry conditions, i.e.:

- the verification that the third-country national is in possession of a [document or documents valid for crossing the border](#) and which has not expired, and that it is accompanied, where applicable, by the requisite [visa](#), [residence permit](#) or long-stay visa.

A third-country national subject to the visa obligation may travel with two passports, i.e. with a valid passport (without visa) and with an invalidated passport containing a valid visa;

- systematically check relevant databases, ([see point 1.5 fourth indent, Section I](#)), and if his/her means of transport and the objects he/she is transporting are not likely to jeopardise the public policy, internal security, public health or international relations of any of the Schengen States. Such verification must include direct consultation of the data and alerts on persons and objects contained in the Schengen

Information System (SIS) and in national data files, and the action to be performed, if any, as a result of an alert;

- the examination of the entry and exit stamps in the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the area without internal border controls or the territory of Bulgaria, Croatia, Cyprus or Romania taken separately- i.e. 90 days in any 180-day period preceding each day of stay;
- the verification regarding the points of departure and destination of the third-country national concerned and the purpose of the intended stay and, where necessary, checking the corresponding supporting documents;
- the verification that the third-country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his/her return to the country of origin or transit to a third country, or that he/she can obtain these means legally. In order to assess the means of subsistence, the reference amounts set by each Schengen State must be taken into account;
- the verification of sufficient means of subsistence may be based on the cash, travellers' cheques and credit cards in the third-country national's possession. Declarations of sponsorships, where such declarations are provided for by national legislation [and letters of guarantee/invitation from hosts](#) as defined by national legislation, in case the third-country national is staying with a host, may also constitute evidence of sufficient means of subsistence;
- the validity of a credit card can be verified by contacting the issuing company or by using other facilities available at the border crossing point (e.g. exchange offices);
- Invitation from hosts can be verified by contacting the host directly or by verifying the host's good faith through the national contact points of the Schengen State of residence of the host;

*** Guidelines on the notion of 'threat to public health' for the purpose of refusing entry:**

This notion covers "any disease with epidemic potential as defined by the International Health Regulations (IHR) of the World Health Organisation (WHO) and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of Schengen States".

For the purpose of this Handbook, any threat to the health of the European citizens, as well as decisions on effective measures to be taken, will be assessed and decided through the Community Network set up under Decision 1082/2013/EU and its Early Warning and Response System (EWRS) and the ECDC, set up by Regulation (EC) No 851/2004 establishing a European centre for disease prevention and control. The EWRS authorities comprise the EU Member States' public health authorities and they work at national level together with national recognised surveillance institutes. The ECDC performs the risk assessment of the threat (ecdc.europa.eu).

Therefore, the authorities of each EU Member State which are competent for implementing health measures should always be associated, in accordance with national and Union public health legislation and with the procedures established by each Schengen State, with the assessment of the public health risk for the purposes of allowing or refusing entry at the border.

*** Guidelines on calculation of the length of stay:**

For the 90 days within a 180-days period, the day of entry shall be calculated as the first day of stay in the area without internal border controls and the day of exit shall be calculated as the last day of stay in this area. For Bulgaria, Croatia, Cyprus and Romania, it corresponds to the day of entry in and exit from the territory of each one of these Schengen States. The notion of "any" implies the application of a "moving" 180-day reference period, looking backwards, at each day of the stay, into the last 180-day period, in order to verify if the 90 days/180 day requirement continues to be fulfilled. This means that an absence for an uninterrupted period of 90 days allows for a new stay of up to 90 days. See: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/docs/short_stay_schengen_calculator_user_manual_en.pdf

The “short-stay calculator” on the European Commission's/DG HOME's website (https://ec.europa.eu/home-affairs/content/visa-calculator_en or as downloaded from CIRCA) can be used for calculating the period of stay allowed under the new rules. The user's guide contains information on the new rules, the use of the calculator and practical examples. See: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/index_en.htm

This way of calculating short stays, which applies as of 18 October 2013, does not apply to the visa waiver agreements concluded between the EU and Antigua and Barbuda, the Bahamas, Barbados, Brazil, Saint Kitts and Nevis, Mauritius, and Seychelles with respect to which the definition ("3 months during a 6 months period following the date of first entry") applies. The length of stay of non-EU citizens traveling with a visa issued in accordance with the visa facilitation agreements concluded by the EU and certain third countries is to be calculated according to the new calculation method since in these agreements there is a reference to "90 days per period of 180 days".

The periods of stay authorised under a residence permit or a long-stay visa shall not be taken into account in the calculation of the duration of short stay (when assessing the compliance with the 90 days in any 180-day rule). This provision thus allows visa-free third-country nationals to legally remain in the territory of Schengen States fully applying the *acquis* and visit *other* Schengen States than the one that issued the long-stay visa/residence permit. However, it is out of the scope of the Schengen *acquis* to regulate situations of continuous, uninterrupted stay in the Schengen State that go beyond 90 days in one Schengen State. This falls under national law or bilateral agreements and in such cases the Schengen State concerned should follow its national rules on prolongation/extension of stay.

3.6.1. Thorough checks at exit consist of:

- the verification that the third-country national is in possession of a document valid for crossing the border;
- the verification of the travel document for signs of falsification or counterfeiting;

- the verification by means of mandatory systematic checks against relevant databases that the third-country national is not considered to be a threat to public policy, internal security or the international relations of any of the Schengen States.
- For passports and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates. The authenticity and integrity of the data stored in the microchip should be verified when checking biometric passports. In order to verify that the data on the chip have been entered by an authorised authority and have not been tampered with, the content of the chip should be authenticated by Passive Authentication. The Document Signer certificate of the document should be verified against the respective trusted CSCA certificate of the issuing country. If supported, chip authentication should be used to verify that the chip is genuine.

3.6.2. Further checks on exit may comprise:

- the verification that the person is in possession of a valid visa, if required, except when he/she is holding a valid residence permit issued by a Schengen State or a valid long-stay visa or other documents authorising a stay or a re-entry into their territory.
- the verification that the person did not exceed the maximum duration of authorised stay.

3.7. Third-country nationals holding a valid residence permit should, as a general rule, not be asked to prove the purpose of the intended stay nor the possession of means of subsistence. The other checks – and in particular the examination of travel and residence documents, the searches in the SIS and in national databases – must, however, be carried out as explained in [points 1.2.](#) and point [3.6.2, Section I.](#)

3.8. In order not to slow down the checking procedures at the entry/exit booths in the first line, and where there is a need for making additional verifications, the thorough checks referred to above may be carried out in a location separate from the booths ('second-line checks').

If requested by the third-country national, and where appropriate facilities exist, such thorough checks must be carried out in a non-public area designated for that purpose. In

case of second-line checks, the third-country national concerned must be given written information about the purpose of such checks as well as about the procedure. This information may take the form of a poster or of a leaflet to be handed over to the person. The leaflet or the poster must be available in all the official languages of the Union and in the language(s) of the countries bordering the Schengen States concerned.

** Legal basis:*

- [Schengen Borders Code \(Article 7 and 8, annexes I and IV\)](#)
- [Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC Text with EEA relevance](#)
- Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control
- Council Regulation No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States)
- International Health Regulations (WHO)

4. **SEARCHES IN THE SCHENGEN INFORMATION SYSTEM (SIS) AND STOLEN AND LOST TRAVEL DOCUMENTS (SLTD)**

4.1. All persons and their travel documents need to be cross-checked against the SIS during border checks. The national border control applications usually offer an integrated check of persons and their travel documents against relevant databases. The SIS contains alerts on persons and objects falling under one of the following alert categories:

- Refusal of entry or stay (Article 24 of Regulation (EC) No 1987/2006), this alert category covers third-country nationals who are not entitled to enter into or stay in the territory of the area without internal border controls, Romania or Bulgaria²²;

²² An alert concerning a third-country national who is a family member of an EU citizen should be dealt with pursuant to Article 25 of Regulation (EC) No 1987/2006 (see point 8.3 Section VIII).

- Persons wanted for arrest (Article 26 of Council Decision 2007/533/JHA), this alert category covers persons for whom a European Arrest Warrant or Extradition Request (Associated Countries) has been issued;
- Missing persons (Article 32 of Council Decision 2007/533/JHA), the purpose of this alert category is to find missing persons, including children and unaccompanied minors, and to place them under protection if lawful and necessary;
- Persons sought to assist with a judicial procedure (Article 34 of Council Decision 2007/533/JHA), the purpose of this alert category is to find out the place of residence or domicile of persons sought to assist with criminal judicial procedures (for example witnesses);
- Persons and objects for discreet or specific checks (Article 36 of Council Decision 2007/533/JHA), the purpose of this alert is to obtain information about persons or related objects for the purposes of prosecuting criminal offences and for the prevention of threats to public or national security;
- Objects for seizure or use as evidence in criminal procedures (Article 38 of Council Decision 2007/533/JHA), this alert covers objects (for example vehicles, travel documents, credit cards, number plates and industrial equipment) being sought for the purposes of seizure or use as evidence in criminal proceedings.

It is possible to encounter during a check in SIS multiple alerts on the same person. This is due to the fact that several Schengen States may issue an alert on the same person. In case of such a hit, all requests for action will be displayed on the screen. As long as the requests for action are compatible, all actions will need to be taken in respect of the person. In case of incompatible requests for action (e.g. to arrest a person but also to refuse his entry) the SIRENE Bureau needs to be contacted for further instructions. It should be noted that alerts on persons wanted for arrest have the highest priority in SIS.

If there is a hit on an SIS alert and an Interpol “alert” at the same time, the SIS procedure must be followed as SIS alerts take precedence. The hit reports must be sent to the SIRENE Bureau and not to the Interpol National Central Bureau.

4.2. Actions to be taken in case of a hit in the SIS

In case of a hit in the SIS on a person or an object, the action to be taken will be displayed on the screen of the border guard.

4.2.1. The individuals wanted for arrest must be apprehended and turned over to the authorities competent to take a decision on temporary custody with the intention of extradition or surrender to the requesting EU or Schengen State.

4.2.2. Third-country nationals to whom entry is refused must be refused entry and returned to the place they came from or to their country of origin as quickly as possible, if the circumstances allow it. Such persons must remain under supervision by border guards until their departure from the territory of the Schengen State. In the event of a hit on an alert for refusal of entry and stay concerning a third-country national who is the holder of a residence permit, special attention should be paid to check the authenticity and the validity of the residence permit. In addition, the national SIRENE Bureau should be immediately contacted in order to launch the consultation procedure laid down in point 4.5.1 of the SIRENE Manual.

For third-country nationals who are family members of EU citizens see the specific provisions that apply to them ([see point 8.3, Section VIII](#)).

4.2.3. An adult person must be asked for prior consent before informing the party who reported him/her as missing.

4.2.4. Special attention must be paid to minors (whether or not unaccompanied). Further steps can only be taken following consultation with relevant authorities.

4.2.5. Data included for the purposes of discreet or specific checks should allow the obtaining of information such as:

- the place, time or reason for the check;
- the route and destination of the journey;
- the persons accompanying the person concerned or the occupants of the vehicle, boat or aircraft;
- the vehicle, boat, aircraft or container used;
- objects carried;

- the circumstances under which the person or the vehicle boat, aircraft or container was found.

During the collection of this information the discreet nature of the check should be maintained.

During specific checks, persons, vehicles, boats, aircraft, containers and objects carried may be searched in order to obtain the information referred to above.

Where it is indicated in the alert that "immediate action" is required the information referred to above shall be communicated without delay to the national SIRENE Bureau.

*** Request for information about an SIS alert**

If a person requests information about the processing of his/her personal data in the SIS and about his/her access rights, the border guard should provide the person with the coordinates of the [competent national authorities](#), [including data protection authorities](#), where he/she can exercise his/her rights.

4.2.6. Objects for seizure or use as evidence in criminal proceedings include:

- (a) motor vehicles with a cylinder capacity exceeding 50cc, boats and aircraft which have been stolen, misappropriated or lost;
- (b) trailers with an unladen weight exceeding 750 kg, caravans, industrial equipment, outboard engines and containers which have been stolen, misappropriated or lost;
- (c) firearms which have been stolen, misappropriated or lost;
- (d) blank official documents which have been stolen, misappropriated or lost;
- (e) issued identity papers such as passports, identity cards, driving licenses, residence permits and travel documents which have been stolen, misappropriated, lost or invalidated;
- (f) vehicle registration certificates and vehicle number plates which have been stolen, misappropriated, lost or invalidated;
- (g) banknotes (registered notes);
- (h) securities and means of payment such as cheques, credit cards, bonds, stocks and shares which have been stolen, misappropriated, lost or invalidated.

*** Best practice – seizure of travel documents**

Border guards should seize all travel documents that are registered in SIS as stolen, misappropriated, lost or invalidated, in particular when it concerns a document that has been invalidated for travelling purposes.

It may occur that the holder of a document registered in SIS for seizure can prove that he or she is the rightful owner of this document, that the document was registered in SIS because it was reported as lost or stolen, but that the person found the document again and forgot to report this to the competent authorities. In such a case, the identity of the holder of the travel document and his or her right to use the document for travelling purposes should always be verified with the competent authorities, where necessary in cooperation with the national SIRENE Bureau.

For further information on the action to be taken in case of a SIS alert, border guards should contact the national SIRENE Bureau and consult the national procedures on follow-up actions in case of a SIS hit.

** Legal basis:*

- [Regulation 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System \(SIS II\), Art.24-26](#)

- [Council Decision 2007/533 of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System \(SIS II\), Chapter V-IX](#)

- [SIRENE Manual: Commission Implementing Decision \(EU\) 2017/1528 of 31 August 2017 replacing the Annex to Implementing Decision 2013/115/EU on the SIRENE Manual and other implementing measures for the second generation Schengen Information System \(SIS II\) \(notified under document C\(2017\) 5893\)](#)

- 4.3. Travel documents of all persons need to be cross-checked against the Interpol's SLTD during border checks. The SLTD contains details of stolen and lost passports as submitted to the STLD database by the country which issued a document. In case of a hit in the SLTD the border guard should take the action required/recommended under national law.

5. SPECIAL RULES FOR CHECKS ON CERTAIN CATEGORIES OF PERSONS

5.1. Heads of State

Heads of State and members of their delegations, whose arrival and departure have been officially announced through diplomatic channels to the border guards, may not be subject to border checks.

** Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)

5.2. Pilots of aircraft

5.2.1. Pilots of aircraft and other crew members may cross the border in the course of their duties on the basis of their pilot's licence or crewmember certificate as provided for in Annex 9 to the Convention of 7 December 1944 on International Civil Aviation (ICAO Convention), when they:

- (a) embark and disembark in a stop-over airport or airport of arrival situated in the territory of a Schengen State;
- (b) enter the territory of a municipality of a stop-over airport or airport of arrival situated in the territory of a Schengen State;
- (c) travel, by any means of transport, to an airport situated in the territory of a Schengen State in order to embark on an aircraft departing from that same airport.

In all other cases, the general entry conditions for third-country nationals must be fulfilled.

5.2.2. Wherever possible, during the checks at airports, priority should be given to checks on aircraft crews, i.e. they should be checked either before passengers or at special dedicated locations. Crews known to staff responsible for border controls in the performance of their duties may be subject to random checks only.

** Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)

- [ICAO Convention](#)

5.3. Seamen

5.3.1. Schengen States may authorise seamen holding a seafarer's identity document issued in accordance with the International Labour Organisation (ILO) Seafarers' Identity Documents Convention No 108 (1958) or No 185 (2003), the Convention on Facilitation of International Maritime Traffic (FAL Convention) and the relevant national law, to enter the Schengen States by going ashore to stay in the area of the port where their ships call or in the adjacent municipalities, or exit the Schengen States by returning to their ships, without presenting themselves at a border crossing point, on condition that they appear on their ship's crew list, which has previously been submitted for checking by the competent authorities.

However, on the basis of an assessment of the risks of internal security and illegal immigration, seamen shall be subject to a check in accordance with Article 8 by the border guards before they go ashore.

5.3.2. Seamen who intend to stay outside the municipalities situated in the vicinity of ports must comply with the general conditions for entry into the territory of the Schengen States.

However, holders of a valid seaman's book or a seafarer's identity document may be authorised to enter the territory of a Schengen State, even if they are not in possession of a valid visa and/or they cannot demonstrate the possession of sufficient means of subsistence in the circumstances set out below:

- boarding a ship which has already anchored or is about to arrive in a port of a Schengen State;
- transit to a third country or return to the country of origin;
- emergency cases or cases of necessity (illness, dismissal, end of contract etc).

In such cases, holders of a seaman's book or a seafarer's identity document who are required to hold a visa on account of their nationality and are not in possession of one when entering the territory of a Schengen State may be issued with a visa at the border ([see point 9, Section I](#)).

* *Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)
- [ILO Convention No 185](#)
- [FAL Convention](#)

5.4. Holders of diplomatic, official or service passports and members of international organisations

5.4.1. In view of the special privileges or immunities they enjoy, the holders of diplomatic, official or service passports issued by third States and their Governments recognised by the Schengen States, who are travelling in the course of their duties, may be given priority over other travellers at border checks even though they remain, where applicable, subject to the requirement for a visa. Persons holding these documents must not be required to prove that they have sufficient means of subsistence.

5.4.2. If a person presenting himself/herself at the external border invokes privileges, immunities and exemptions, the border guard may require him/her to provide evidence of his/her status by producing the appropriate documents, in particular certificates issued by the accrediting State or a diplomatic passport or other means. Where there are doubts, the border guard may, in urgent cases, apply directly to the Ministry of Foreign Affairs.

Moreover, border guards may not refuse the holders of diplomatic, official or service passports entry to the territory of the Schengen States without first consulting the appropriate national authorities. This also applies where an alert on the person has been entered in the SIS.

5.4.3. Accredited members of diplomatic missions and of consular representations and their families may enter the territory of the Schengen States on presentation of a card issued by the Schengen States' Ministries of Foreign Affairs and of the document authorising them to cross the border.

The check of the entry conditions is not necessary when the diplomat enters the territory of the Schengen State where he/she is accredited, and where he/she has a right of long-term stay.

- 5.4.4. Diplomats who are accredited outside the territory of the Schengen States must satisfy the general entry requirements when travelling for private purposes.
- 5.4.5. When there is a risk and justified suspicion of wrongdoing or criminal activity by diplomats, the Foreign Ministry of the country concerned must be informed immediately.
- 5.4.6. In accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961, diplomats only enjoy inviolability and other immunities in the country in which they are accredited and in those countries they transit through to take up or to return to their post or when returning to their own country. This does not apply if they are travelling for private purposes.
- 5.4.7. Members of international organisations holding documents issued by the international organisations listed below and carrying out their duties may, where possible, be granted preferential treatment during border checks.

The following documents, in particular, must be taken into consideration:

- United Nations laissez-passer issued to staff of the United Nations and subordinate agencies under the Convention on Privileges and Immunities of Specialised Agencies adopted by the United Nations General Assembly on 21 November 1947 in New York;
- European Union (EU) laissez-passer;
- legitimacy certificate issued by the Secretary-General of the Council of Europe;
- documents issued pursuant to paragraph 2 of Article III of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Force (military ID cards accompanied by a travel order, travel warrant, or an individual or collective movement order) as well as documents issued in the framework of the Partnership for Peace.

As general rule, holders of these documents are not required to prove that they have sufficient means of subsistence.

** Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)
- [Vienna Convention on Diplomatic Relations of 18 April 1961](#)

Link:

- [Information on national derogations from the visa requirements](#)

5.5. **Border residents benefiting from a local border traffic regime**

5.5.1. Border residents of a neighbouring third country who are in possession of a local border traffic ('LBT') permit issued in the framework of a local border traffic regime, based on a bilateral agreement between a Schengen State and the third country concerned, benefit from a special treatment when crossing the border, i.e.:

- they are not required to be in possession of a visa, if they hold a LBT permit issued by the Schengen State which border they want to cross. They may be required to be in possession of a passport, together with the LBT permit, if this is foreseen in the bilateral agreements with the third country concerned;
- after ascertaining the validity and authenticity of the LBT permit which proves the status of border resident of the person, no further checks on the purpose of the journey, or on the possession of means of subsistence, should be carried out;
- neither the LBT permit, nor the passport, when it is required, should be stamped at entry or exit.

5.5.2. Border crossing for these permit holders may be further facilitated, in the framework of the bilateral agreements between a Schengen State and a third country, in accordance with [point 3 of Section II](#).

** Legal basis:*

- [Regulation \(EC\) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention;](#)
- [Bilateral agreements concluded by Schengen States on local border traffic](#)

5.6. **Minors**

- 5.6.1. Minors deserve the particular attention of border guards, whether they are travelling accompanied or not. All minors should be treated in accordance with the principle of the 'best interest of the child' during border procedures. Minors should be prioritised during border procedures, and a child-friendly treatment and atmosphere should always be ensured. Border guards have the duty to provide information and explain the border procedures in a child-friendly way (e.g. use interpreters or draw pictures) and make sure that the minors understand. This includes an initial determination of the possible need of international protection in the case of migrant minors who arrive to the EU irregularly and their prompt referral to the national child protection authorities in accordance with their age and needs.

In cases there is doubt about the real age of the person, the person should be treated as a child until age assessment procedure concludes otherwise. In such cases, and in particular where it appears possible that the person is a minor, the person should be referred as soon as possible to the authorities competent for taking in charge minors, including for performing an age assessment. If there are serious grounds for suspecting that they may have been unlawfully removed from the care of the person legally exercising parental custody over them, or in case of any suspicion of abuse or mistreatment, the national child protection authorities should be contacted as soon as possible.

- 5.6.2. During border checks, in the case of accompanied minors, the border guard must check that the persons accompanying minors have parental custody over them, especially where minors are accompanied by only one adult. If so, the border guard will have to make all necessary investigations in order to prevent the abduction or in any case unlawful removal of the minor.

In order to avoid that children go missing, registration needs to be ensured as speedily as possible, especially in cases of undocumented children.

- 5.6.3. Unaccompanied minors must be scrutinised, by means of a thorough check of their travel and supporting documents, in order to ensure that they do not enter or leave the territory against the wishes of the person(s) having parental custody. Child-friendly language adapted to the minor's age maturity should be used in all contacts with the

minors and may include the assistance of an interpreter or cultural mediator, if necessary.

- 5.6.4. If there is doubt whether a minor who is a citizen of the EU or a third-country national legally residing in the EU is authorised to cross the border on exit, the national point of contact on minors of the EU or Schengen State of the minor's nationality or residence should be contacted.

If information is received indicating the possibility of abduction or suspicion of a unauthorised exit of a minor who is a citizen of the EU or a third-country national legally resident in the EU, the border guard should:

- refuse the exit of the minor, or
- in circumstances where there are insufficient grounds to refuse the exit of a minor but there are concerns on the right of parental care, collect information about the person accompanying the minor and their destination. That information should, in accordance with the applicable national legislation, be forwarded immediately to the national point of contact on minors of the EU or Schengen State of nationality or residence of the minor.

In the context of the above-mentioned procedure, the tasks for the national contact points on minors should include:

- providing, where possible, information on the identity (name, nationality and date of birth) of the minor and of the person accompanying the minor and on the relationship between them;
- alerting other national agencies concerned with minors who give cause for concern and informing them about any precautionary measures concerning the minors;
- providing advice and assistance to other EU or Schengen States on national procedures and document requirements.

* *Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)

* *Link:*

- [List of national contact points for consultation purposes on minors](#)
- [List of contact points in Member States for border management issues](#)
- [VEGA Handbook: Children at airports: children at risk on the move: Guidelines for border guards](#)

5.7. School pupils from third countries resident in an EU Member State or in a third country not subject to the visa obligation²³

5.7.1. School pupils who are nationals of a third country subject to the visa obligation but who are legally residents in an EU Member State and who travel in the framework of a school excursion are not required to be in possession of a visa for a transit or for a short stay on the territory of another EU Member State, provided the following conditions are fulfilled:

- (a) they are accompanied by a teacher from the school in question, who is in possession of a valid travel document and of a visa if required;
- (b) the teacher is able to produce a [form](#), issued by the school, and which allows to identify all the school pupils participating to the excursion, and where the purpose and circumstances of the intended stay or transit are clearly specified;
- (c) the school pupils are in possession of a document valid for crossing the border.

However, this latter requirement – the possession of a valid travel document – is waived if:

- the above-mentioned form contains a current photo of those pupils who are not able to identify themselves with an ID card bearing a photograph;
- the competent authority of the EU Member State where the school pupils reside confirms their residence status as well as their right to re-entry on its territory and ensures that the form is authenticated accordingly (i.e., with the stamp of the national competent authority);

²³ This section does not apply to Norway, Iceland, Switzerland and Liechtenstein.

- the EU Member State where the school pupils reside has notified other EU Member States that it wishes its lists to be recognised as a valid travel document.

5.7.2. The above provisions do not exempt school pupils, nor the teacher(s) accompanying them from being subject to border checks in accordance with the general rules (point 1, Section I).

Entry or transit may be refused to them if there are grounds for doing so, in accordance with [point 8, Section I](#).

5.7.3. The visa exemption may also be extended to school pupils on a school excursion who are nationals of third countries subject to the visa obligation but who reside in a third country which is exempted from that obligation (for example, school pupils of Turkish nationality legally residing in Montenegro).

** Legal basis:*

- [94/795/JHA: Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State](#)

- [Regulation \(EU\) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement](#)

5.8. **Cross-border workers**

Cross-border workers and other categories of regular cross-border commuters who are well known to the border guards owing to their frequent crossing of the border at the same border crossing point and who have not been revealed by an initial check to be the subject of an alert in the SIS or in a national data file must be subject only to random checks to ensure that they hold a valid document authorising them to cross the border and fulfil the necessary entry conditions. The random checks have to be carried out in accordance with the procedures applicable, respectively, to third-country nationals in general and to persons enjoying the right of free movement under Union law.

Thorough checks must be carried out on those persons from time to time, without warning and at irregular intervals.

** Legal basis:*

- [Schengen Borders Code \(Annex VII\)](#)

5.9. **ADS tourists**

The Memorandum of Understanding between the European Community and the National Tourism Administration of the Peoples' Republic of China on visa and related issues concerning tourist groups from the Peoples' Republic of China (Approved Destination Status) specifically regulates the travel of tourist groups of Chinese citizens from China to the territory of the Union.

Participants in such Chinese travel groups ("ADS tourists"), which should be composed of at least 5 persons, must enter and leave the territory of the Union as a group. They must as well travel within the territory of the Union as a group according to the pre-established travel programme.

As a rule, ADS tourists must be accompanied by a tour leader, who must ensure that they enter and leave the Union as a group.

The normal checking procedures (see point 1.2, [Section I](#)) must be carried out on groups of ADS tourists. Checks may also include the verification of the ADS status, which should, in any case, be indicated in the visa sticker. Visas carrying the reference "ADS" are always individual visas. Also the tour leader must be submitted to the normal checking procedures which include the verification of its status of tour leader.

Supporting documents, proving the ADS and tour leader status, may also be requested by the border guard.

** Legal basis:*

- [Council Decision of 8 March 2004 concerning the conclusion of the Memorandum of Understanding between the European Community and the National Tourism Administration of the Peoples' Republic of China on visa and related issues concerning tourist groups from the Peoples' Republic of China \(ADS\).](#)

5.10. **Rescue services, police, fire brigades and border guards**

The arrangements for the entry and exit of members of rescue services, police, fire brigades acting in emergency situations as well as border guards crossing the border in exercise of their professional tasks shall be laid down by national law.

5.11. **Offshore workers**

Offshore workers, who regularly return to the Schengen States without having stayed on the territory of a third country shall not be systematically checked. Nevertheless, an assessment of the risks of illegal immigration shall be taken into account in order to determine the frequency of the checks to be carried out.

5.12. **Intra-corporate transferees**

The intra-EU mobility scheme established by Directive 2014/66/EU lays down autonomous rules which allow holders of an intra-corporate transferee (ICT)- including holders of an ICT permit issued by a Schengen State not yet fully applying the Schengen *acquis* to exercise mobility and to enter, stay and work in one or several second EU Member States bound by the provisions of that Directive (i.e. all EU Member States except Denmark, Ireland and the United Kingdom).

Short-term mobility (up to 90 days in any 180-day period per EU Member State bound by the Directive): Holders of an ICT permit are not required to be in possession of a valid visa, if they provide evidence that they are moving to a second EU Member State bound by the Directive in the context of intra-EU mobility authorised under that Directive. Such evidence shall be provided by means of:

- (a) a copy of the notification sent by the host entity in the first EU Member State bound by the Directive in accordance with Article 21(2) of the Directive; *or*
- (b) a letter from the host entity in the second EU Member State bound by the Directive that specifies at least the details of the duration of the intra-EU mobility and the location of the host entity or entities in the second EU Member State bound by the Directive.

The allowed maximum period of cumulated short-term stays in second EU Member States bound by the Directive under ICT mobility rules may exceed 90 days in any 180-day period: Subsequent short-term stays of up to 90 days in any 180-day period per EU Member State_bound by the Directive in different EU Member States bound by the

Directive are authorised and may add up to a significant part of the overall maximum duration of residence of intra-corporate transferees (three years for managers and specialists; one year for trainee employees) depending on the circumstances of each individual case. The rules on short-term mobility are directly applicable as of 29 November 2016.

*** Example:**

An Indian manager holding a Croatian ICT permit may stay 170 days (90 days of short-term mobility in Italy followed by 80 days of short-term mobility in Germany) during a 180-day period without infringing Schengen rules.

Long-term mobility (more than 90 days per EU Member State bound by the Directive):
The rules on long-term mobility depend on the choice made by the relevant second EU Member State bound by the Directive when transposing the Directive (see table below). The second EU Member States bound by the Directive may either require a residence permit "mobile ICT" (application procedure) to be issued by that second EU Member State bound by the Directive or opt for applying the rules on short-term mobility. In the first case, the residence permit "mobile ICT" shall be required; in the latter case, the rules described above apply.

Summary- procedures chosen for short-term and long-term mobility

(no procedure / notification / application) (last update received 26.06.2018; information in brackets indicates Member States which have not yet notified full transposition)

	Short-term mobility	Long-term mobility
BE	(notification)	(application)
BG	no procedure	application
CZ	no procedure	application
DE	notification	application
EE	notification	notification

EL	notification	notification
ES	notification	notification
FR	notification	application
HR	no procedure	application
IT	no procedure	application
CY	notification	application
LV	no procedure	application
LT	no procedure	application
LU	notification	application
HU	notification	application
MT	notification	application
NL	notification	application
AT	no procedure	application
PL	notification	application
PT	no procedure	application
RO	notification	application
SI	notification	application
SK	notification	notification
FI	notification	application
SE	no procedure	application

* *Legal basis:*

- [Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer \(Articles 20-23\)](#)

5.13. **Researchers and their family members**

The intra-EU mobility scheme established by Directive (EU) 2016/801 lays down autonomous rules which allow researchers and their family members holding a residence

permit or long-stay visa issued by an EU Member State bound by the provisions of that Directive- including those holding a residence permit or long-stay visa issued by a Schengen State not yet fully applying the Schengen *acquis* to exercise mobility and to enter and stay in one or several second EU Member States bound by the provisions of that Directive (i.e. all EU Member States except Denmark, Ireland and the United Kingdom).

Short-term mobility (up to 180 days in any 360-day period per EU Member State bound by the Directive)

Holders of a researcher permit or long-stay visa are not required to be in possession of a valid visa or residence permit of the EU Member State they are entering, if they provide evidence that they are moving to a second EU Member State bound by the Directive in the context of intra-EU mobility authorised under that Directive. Such evidence shall be provided by means of:

- (a) a copy of the notification sent to the competent authorities of the first and second EU Member States bound by the Directive in accordance with Article 28(2) of the Directive; or
- (b) a copy of the hosting agreement specifying the details of the mobility of the researcher or, where the details of the mobility are not specified in the hosting agreement, a letter from the research organisation in the second Member State bound by the Directive that specifies at least the duration of the intra-EU mobility and the location of the research organisation in that second Member State.

The researcher's family members who hold a residence permit are equally not required to be in possession of a valid visa or residence permit of the EU Member State they are entering, if they provide evidence that they are accompanying the researcher who is moving to a second EU Member State bound by the Directive in the context of intra-EU mobility authorised under the Directive. Such evidence shall be provided by means of the valid residence permit issued by the first EU Member State bound by that Directive and either

- (a) a copy of the notification sent to the competent authorities of the first and second EU Member States bound by the Directive in accordance with Article 30(2) of the Directive or
- (b) evidence that they are accompanying the researcher.

Researchers and their family members are allowed to stay in one second EU Member State bound by the Directive for up to 180 days in any 360-day period. Subsequent short-term

stays of up to 180 days in any 360-day period per EU Member State bound by the Directive in different EU Member States bound by the Directive are authorised and may add up to a significant part of the overall duration of residence of the researcher and their family members depending on the circumstances of each individual case. The rules on short-term mobility are directly applicable as of 24 May 2018.

*** Example:**

A Nigerian researcher holding a Bulgarian residence permit or long-stay visa may stay 250 days (150 days of short-term mobility in Italy followed by 100 days of short-term mobility in Germany) without infringing Schengen rules.

Long-term mobility (more than 180 days per EU Member State bound by the Directive): The rules on long-term mobility depend on the choice made by the relevant second EU Member State bound by the Directive when transposing the Directive (see below table.) The second EU Member States bound by the Directive may either require a residence permit or a long-stay visa with the mention "researcher-mobility" (application procedure) to be issued by that second EU Member State bound by the Directive or opt for applying the rules on short-term mobility. In the first case, the residence permit or long-stay visa "researcher-mobility" shall be required: in the latter case, the rules described above apply. The procedure for family members is identical to that applied to the researcher.

Summary - procedures chosen for short-term and long-term mobility

(no procedure / notification / application) (last update received 04.07.2019 - information between brackets relates to Member States which have not yet notified full transposition)

	Short-term mobility	Long-term mobility
BE	(notification)	(application)
BG		
CZ	(no procedure)	(no procedure)
DE	notification	application
EE	notification	notification
EL	(notification)	(notification)
ES	notification	notification
FR	(notification)	(notification)
HR	notification	application
IT	notification	application
CY	notification	application
LV	no procedure	application
LT	no procedure	application
LU	notification	application
HU	notification	application
MT	notification	application
NL	notification	application
AT	no procedure	application
PL	notification	application
PT	no procedure	application
RO	notification	application

SI	(notification)	(application)
SK	notification	notification
FI	notification	notification
SE		

* *Legal basis:*

- [Directive \(EU\) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing \(recast\)](#) (Articles 27, 28, 29, 30 and 32)

5.14. **Students**

The intra-EU mobility scheme established by Directive (EU) 2016/801 lays down autonomous rules which allow holders of a student's residence permit or long-stay visa issued by an EU Member State bound by the provisions of that Directive- including those holding a residence permit or long-stay visa issued by a Schengen State not yet fully applying the Schengen *acquis* and who are covered by a Union or multilateral programme that comprises mobility measures or by an agreement between two or more higher education institutions to exercise mobility and to enter, stay and study in one or several second EU Member States bound by the provisions of that Directive (i.e. all EU Member States except Denmark, Ireland and the United Kingdom) for up to 360 days per EU Member State bound by the Directive.

Holders of a student's residence permit or long-stay visa referring to a specific programme or agreement are not required to be in possession of a valid visa or residence permit of the EU Member State they are entering, if they provide evidence that they are moving to a second EU Member State bound by the Directive in the context of intra-EU mobility authorised under that Directive. Such evidence shall be provided by means of:

- (a) a copy of the notification sent to the competent authorities of the first and second EU Member States bound by the Directive in accordance with Article 31(2) of the Directive; or
- (b) evidence that the student carries out part of the studies in the second Member State bound by the Directive in the framework of a Union or multilateral programme that comprises mobility measures or an agreement between two or more higher education institutions.

Subsequent stays of up to 360 days per EU Member State bound by the Directive in different EU Member States bound by the Directive are authorised and may add up to a significant part of the overall maximum duration of residence of students depending on the circumstances of each individual case. The rules on student mobility are directly applicable as of 24 May 2018.

*** Example:**

An American student holding a Romanian student residence permit and taking part in the Erasmus + programme in a German university may stay for up to 360 days in Germany without infringing Schengen rules.

Summary - procedure chosen for student's mobility

(no procedure / notification) (last update received 04.07.2019 - information between brackets relates to Member States which have not yet notified full transposition)

	Student's mobility
BE	(notification)
BG	
CZ	(no procedure)
DE	notification
EE	no procedure
EL	(notification)
ES	notification
FR	(notification)

HR	notification
IT	notification
CY	notification
LV	no procedure
LT	no procedure
LU	notification
HU	notification
MT	notification
NL	notification
AT	no procedure
PL	notification
PT	notification
RO	notification
SI	(notification)
SK	notification
FI	notification
SE	

* *Legal basis:*

- [Directive \(EU\) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing \(recast\)](#) (Article 27, 31 and 32).

6. STAMPING OF TRAVEL DOCUMENTS

6.1. The travel documents of all third-country nationals must be stamped systematically on entry and exit. The stamp does not constitute proof that a thorough check has been carried out; it only makes it possible to establish, with certainty, the date and place of

the crossing of the border. Stamping is also intended to ensure that it is possible to verify, during checks on entry and exit whether the allowed maximum duration of a third-country national's stay in the area without internal border controls or in the territory of Bulgaria, Croatia, Cyprus and Romania taken separately– 90 days in any 180 days period – has been respected.

6.2. **No entry or exit stamp must be affixed in the following cases:**

- a) to the travel documents of nationals of the EU Member States, Norway, Iceland, Liechtenstein and Switzerland;
- b) to the travel documents of Heads of State and dignitaries whose arrival has been officially announced in advance through diplomatic channels;
- c) to pilots' licences or the certificates of aircraft crew members;
- d) to the travel documents of seamen who are present within the territory of a Schengen State only when their ship calls in and in the area of the port of call;
- e) to the travel documents of crew and passengers of cruise ships who are not subject to border checks, in those cases provided for in [point 2, Section IV](#);
- f) to documents enabling nationals of Andorra, Monaco and San Marino to cross the border;
- g) to documents of border residents enjoying a local border traffic regime ([point 3, Section II](#)).
- h) to the travel documents of crews of passengers and goods trains on international connections;
- i) to the travel documents of nationals of third countries who present a residence card provided for in Directive 2004/38/EC.

The travel document of family members of EU, EEA and CH citizens who are third-country nationals must also be stamped, unless they present a residence card issued in accordance with Directive 2004/38/EC as submitted in line with Article 39 of the Schengen Border Code or otherwise clearly indicating a family member of an EU citizen or a family member of an EEA or CH citizen.

*** Examples:**

1) A Ukrainian national, spouse of a German citizen, holder of a Dutch residence card (indicating her quality of a family member of an EU citizen) and who is accompanied by the German citizen or who subsequently joins the spouse, thus exercising the right to freedom of movement: the travel document of this person **must not** be stamped.

2) A Moldovan spouse of an Italian national, who is in possession of an Irish residence card (indicating the status of family member of a EU citizen) and who is accompanied by the EU citizen.: the travel document of this person **must not** be stamped.

3) An Indian national, spouse of a French citizen, holder of a Schengen visa but not (yet) of a residence card, joining the French citizen in Germany: in this case, the travel document of this person **must be** stamped²⁴.

6.3. Exceptionally, at the request of a third-country national, and if the insertion of the entry/exit stamp might cause serious difficulties to the person, it can be affixed on a separate sheet. The sheet must be given to the third-country national.

6.4. It may also happen that, in practice, the document enabling a third-country national to cross the border is no longer suitable for affixing a stamp, as there are no longer available pages. In such a case, the third-country national should be recommended to apply for a new passport, so that stamps can continue to be affixed there in the future.

However, as an exception- and particularly in the case of regular cross-border commuters- a separate sheet can be used, to which further stamps can be affixed. The sheet must be given to the third-country national.

In any case, **the lack of empty pages in a passport is not, in itself, a valid and sufficient ground to refuse the entry of a person** (see [point 8, Section I](#), on the grounds for refusal).

*** Recommended practice:**

The sheet referred to in point 6.4 and 6.5 should contain the following details, as a minimum requirement:

²⁴ To be noted that the interpretation concerning this precise obligation of stamping is being assessed by the Commission services.

- Name and location of the border posts;
- Date of issue;
- Name of the holder of the travel document;
- Number of the travel document;
- Stamp and official seal of the border crossing point;
- Name and signature of the border guard.

6.5. In the case of entry and exit of third-country nationals subject to the visa obligation, the stamp shall, as a general rule, be affixed on the page facing the one on which the visa is affixed. If several stamps have to be affixed (for example in the case of a multiple-entry visa), this must be done on the page facing the one on which the visa is affixed. If that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped, and the stamps cannot be affixed on the personal data and other pages where original formal notes are made.

*** Recommended practices:**

- stamps should be affixed, if possible, in chronological order to make it easier to find the date at which the person has crossed the border for the last time;
- the exit stamp should be affixed in the proximity of the entry stamp;
- the stamp should be affixed in a horizontal position so that it can be easily read;
- no stamp should be affixed over already existing stamps, including those affixed by other countries.

6.6. Different types of stamps are used to furnish proof of entry and exit (a rectangular stamp for entry, a rectangular stamp with rounded corners for exit). These stamps contain the letter(s) designating the country as well as indicating the border post, date, check number and a pictogram indicating the mode of travel used upon entry and exit (overland, by air or by sea).

Queries about entry and exit stamps, as well as documentation relating to forged, counterfeit, lost or incorrectly affixed stamps, can be asked to the [contact point](#) established by each Schengen State for this purpose.

- 6.7. Each border crossing point must keep a record of the entry and exit stamps handed over to and returned by each border guard carrying out the checks. This will also include the reference of each respective stamp, which may need to be used for comparative purposes at a later date.

When the stamps are not used, they must be locked and access to them must be limited to the authorised border guards.

- 6.8. The security codes on the stamps must be changed at regular intervals not exceeding one month.
- 6.9. If, at exit, it appears that the travel document of a third-country national does not bear an entry stamp, the border guard may presume that the holder has entered illegally the area without internal borders or the territory of a Schengen State not yet fully applying the *acquis* and/or has exceeded the maximum duration of stay. If so, a penalty provided by national law may be imposed.

** Legal basis:*

- [Schengen Borders Code \(Article 11 and Annex IV\)](#)
- [Directive 2004/38/EC \(Article 5\)](#) read in conjunction with [Commission Communication COM \(2009\) 313 final](#);
- [Schengen Convention \(Article 21\)](#).
- [List of contact points for exchanging information on security codes on entry and exit stamps](#)

7. RELAXATION OF CHECKS

- 7.1. Border checks at external borders or internal borders where controls have not yet been lifted may be relaxed as a result of exceptional and unforeseen circumstances. Such exceptional and unforeseen circumstances are met where unforeseeable events lead to such intensity of traffic that the waiting time at the border crossing point becomes excessive, and all resources have been exhausted as regards staff, facilities and organisation. This could be the case if, for example, there is a flood or another serious natural disaster which prevents the crossing of the border at other border crossing

points, so that the traffic flows of several border crossing points are diverted to only one.

- 7.2. Where border checks are relaxed, border checks on entry movements must in principle take priority over border checks on exit movements. The decision to relax checks must be taken by the border guard in command at the border crossing point. Such relaxation of checks must be temporary, must be adapted to the circumstances justifying it and must be introduced gradually.
- 7.3. Even in the event of border checks being relaxed, the border guard must stamp the travel documents of third-country nationals both on entry and exit, in accordance with [point 6, Section I](#), and must carry out at least a check that consists of establishing the third-country national's identity.

** Legal basis:*

- [Schengen Borders Code \(Article 9\)](#)

8. REFUSAL OF ENTRY

- 8.1. Third-country nationals must be refused entry in the following cases:
- a) they have no valid travel documents;
 - b) they have false (counterfeit/forged) travel document;
 - c) they have no valid visa, when this is required, residence permit or a long-stay visa issued by a Schengen State²⁵;
 - d) they are in possession of false (counterfeit/forged) visas or residence permits;
 - e) they do not have appropriate documentation justifying the purpose and conditions of stay;
 - f) they have already stayed for 90 days during any 180-day period (which entails considering the 180-day period preceding each day of stay) in the area without internal border controls or in the territory of Bulgaria, Croatia, Cyprus or Romania:

²⁵ Residence permit and long-stay visa issued by Bulgaria, Croatia, Cyprus or Romania are not valid for entry on the territory of the area without internal border controls.

- g) they lack sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit;
- h) they are persons for whom an alert for the purpose of refusing entry has been issued in the SIS²⁶ or in national databases;
- i) they are a threat to public policy, internal security, public health or the international relations of one or more Schengen States.

*** Examples:**

1) A team of cyclists from Nigeria is going to Ukraine, claiming they are going to take part in a cycling race organised there. They arrive in Warsaw-Airport (PL), stating that they will reach Ukraine by bus. During the first-line check it is found that, though they have a valid visa to transit through Poland, they are not in possession of a visa valid for entering Ukraine. A more in-depth interrogation is done in the second line, where they present a document confirming the participation to the race and they claim that there will be no problem with obtaining visas at the Ukrainian border. However, the cyclists do not even possess the bicycles needed for the race nor can explain convincingly where and how they will get them once in Ukraine. After consultations with the Ukrainian border guards about the question, and taking account of their negative opinion about the possibility of issuing a visa at the border in such a case, a decision of refusal of entry is taken.

2) A Moldovan citizen arrives at the Hungarian/Ukrainian border by car, claiming to travel to Germany for tourist purposes. At the first line check it is ascertained that the traveller is not able to show any document (hotel booking, letter of invitation etc), proving where he is going to stay in Germany, nor can he prove that he has enough means of subsistence to cover the stay and the return. In such a case, a decision of refusal is taken.

3) A Tunisian citizen arrives at Schiphol (NL) airport. His purpose of travel is to see his relatives (brothers and sisters) residing in Brussels (BE). He

²⁶ Bulgarian, Croatian and Romanian border guards are not obliged to refuse entry to third-country nationals for whom an alert refusal of entry has been inserted in the SIS.

has a valid Schengen visa, a return ticket and a letter of invitation/guarantee by his hosts residing in Belgium. However, this letter is not authenticated by the competent Belgian authorities (as the Belgian law requires). In such a case, before taking a decision about allowing entry or not, further verifications should be made such as: examining the passport to see if the person has been issued Schengen visas before and used them lawfully; comparing previous entry/exit stamps to see whether the person has overstayed in the area without internal border controls in the past; taking contact with the competent Belgian authorities asking them to make the necessary verifications about the hosts. These verifications aim to check the good faith of the person; a decision will be taken only on the basis of the result of such verifications.

4) A plane from Shanghai lands at Helsinki-Vantaa Airport (FI). The WHO has declared a public health emergency of international concern (on the basis of the risk of SARS), which requires strict precautions to be taken on all passengers arriving from China. All passengers are requested to fill in a locator card, including plane seat number and contact details in case they subsequently need to be traced. In the terminal all passengers go through a special designated corridor where medical equipment is installed. Some Chinese and EU nationals present symptoms of SARS and are still infective. After consultations with doctors a decision is taken to refuse entry to the Chinese nationals and to hospitalise the EU nationals immediately because of the serious threat of spread of disease. Other passengers on the plane are contacted using the details on the locator cards and asked to report to a doctor. This does not exclude the possibility of taking alternative measures, such as quarantine, where appropriate and justified on public health grounds.

5) A group of football fans from Ukraine arrive at the Polish-Ukrainian border. They travel by coach. During the border checks it is found that they possess some dangerous tools like baseball sticks, nunchaku, knives and other objects which could be used against other people. In this case, entry must be refused on grounds of public policy, unless the travellers accept to surrender the dangerous equipment before crossing the Polish border.

6) A group of young Moroccan tourists travelling by ferry from Tanger arrive at Alicante harbour (ES). The itinerary of the group is said to include two cities in Spain (Barcelona and Madrid) and several cities of France. They are going back to Morocco by plane, from Paris-Charles de Gaulle airport; they have valid tickets for the return journey. During the border check one of them does not have a valid Schengen visa, stating that this was due to lack of time. The purpose of the journey is ascertained and the travellers have enough means of subsistence. However, the person cannot prove in any way that he could not apply for a visa in advance nor that there are unforeseeable or imperative reasons to allow him to enter. In such a case, and in the absence of any humanitarian grounds and/or international obligations, the person without the visa is to be refused entry.

7) A Russian family is crossing the Estonian border by car. However, the vehicle appears to have a serious mechanical problem (i.e., the brakes not functioning), which could put other people in danger. In such conditions, the persons cannot be allowed entry with that car until the problem is fixed. However, if all other entry conditions are fulfilled, they must be allowed to enter the territory on foot or by other means.

8) A Somalian citizen, who has a Somalian ordinary passport and holds a residence permit issued by another Schengen State fully applying the Schengen *acquis*, wants to enter the territory of the Czech Republic for transit purposes to reach this other Schengen State. The person is not included in the national databases for the purpose of refusing entry. The Czech Republic does not recognise the ordinary Somalian passports. The entry conditions laid down in Article 6 (1) of the Schengen Borders Code include holding a valid travel document entitling the holder to cross the external border). However, there is no formal hierarchy of such entry conditions; the exceptions set out in Article 6(5) of the Schengen Borders Code apply to any of the conditions set out in para 1. of Article 6 of the Schengen Borders Code. This means that any third-country national who does not fulfil all the conditions laid down in Article 6 (1) of the Schengen Borders Code, but who holds a residence permit or a long-

stay visa shall be authorised to enter the territory of the other Member States for transit purposes so that they may reach the territory of the Schengen State fully applying the Schengen *acquis*, which issued the residence permit or the long-stay visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit. In the case of the Somalian citizen, the Czech Republic shall authorise the person to enter the Czech Republic for transit purposes so that he/she can reach the territory of the Schengen State fully applying the Schengen *acquis* which issued the residence permit.

8.2. A Schengen State shall not refuse entry and let the third-country national enter into its territory in the following cases:

- a) on humanitarian grounds, on grounds of national interest or because of international obligations;
- b) if a person not in possession of a visa fulfils the criteria for being issued a visa at the border ([point 9, Section I](#));
- c) solely because the person holds a multiple entry visa issued by another Member State;
- d) solely because the person holds a multiple entry visa but travels for a purpose other than that might be indicated in the ‘comments’ section of the visa sticker. The national comments used by some Member States may be linked to the (main) purpose for which the visa was applied for. Such an entry on the visa sticker does not prevent the holder from using a valid multiple entry visa to travel for other purposes (see also point 8.6. Section I);
- e) if the person holds a valid residence permit or a long-stay visa issued by a Schengen State fully applying the Schengen *acquis*, but does not fulfil all the entry conditions laid down in Article 6 (1) of the Schengen Borders Code, the person shall be authorised to enter the territory of the other Schengen States for transit purposes so that the person concerned may reach the territory of the

Schengen State fully applying the *acquis* which issued the residence permit or the long-stay visa. Transit can, however, be refused in case there is an alert concerning this person in national databases of a Schengen State whose external borders the person is seeking to cross and the alert is accompanied by instructions to refuse entry or transit. In case the holder of the residence permit is subject to an alert on refusal of entry or stay, the national SIRENE Bureau should be immediately contacted in order to launch the consultation procedure laid down in point 4.5.1 of the SIRENE Manual.

*** Legal basis:**

- [Schengen Borders Code \(Article 1, 4, 6, 8, 14 and Annex V\)](#)
- [Visa Code \(Article 32, 35 and Annex VI\)](#)
- [Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC](#)
- [National entries in the 'comments' section of the visa sticker](#)

- 8.3. Persons enjoying the right of free movement under Union law may only be refused entry on grounds of public policy or public security as referred to under Directive 2004/38/EC, i.e. when their personal conduct represents a genuine, present, and sufficiently serious threat affecting one of the fundamental interests of society.

8.3.1. Consequently, even an alert in the SIS cannot be considered, in itself, as a sufficient ground for automatically refusing the entry of these persons; in such a case, the border guard must always make a thorough assessment of the situation and assess it in the light of the above principles.

If the alert has been entered by another Schengen State, the border guard must take immediate contact, via the SIRENE Bureau network or by any other available means, with the responsible authorities of the Schengen State that has entered the alert. The latter must check, in particular, the reason(s) why the alert was inserted and whether these reasons are still valid. This information must be transmitted without any delay to the authorities of the requesting Schengen State.

On the basis of the information received, the competent authorities will make an assessment based on the criteria explained above. On that basis, the border guard will admit or refuse entry to the person in question.

If it is not possible to obtain the information within a reasonable delay, the person in question must be allowed to enter the territory. In this case, the border guards, as well as the other competent national authorities, can make the necessary verifications after the person entered the territory and take, where necessary, the appropriate measures afterwards.

The above is without prejudice to other actions to be performed as a consequence of a SIS alert, such as the arrest of the person, the adoption of protection measures, information on lost and stolen documents etc. In case such consultation reveals a SIS alert on the need to seize a document, it has to be seized immediately and the SIRENE Bureau must be contacted for further information without any delay.

** Legal basis/Case-law:*

- [Directive 2004/38/EC \(Articles 27-33\)](#)

- [Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC Text with EEA relevance](#)

- [Regulation \(EC\) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control](#)

- [Judgement of the ECJ of 3 July 1980, Case C 157/79, Regina vs. Stanislaus Pieck.](#)
- [Judgement of the ECJ of 31 January 2006, Case C 503/03, Commission vs. Spain.](#)

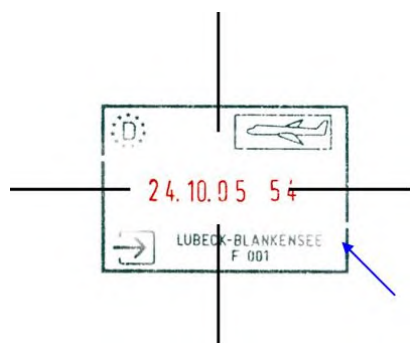
8.3.2. If a person enjoying the right of free movement under Union law does not have the necessary travel documents or, if required, the necessary visas, the Schengen State concerned must, before turning him/her back, give such person every reasonable opportunity to obtain the necessary documents or have them brought to him/her within a reasonable period of time or corroborate or prove by other means that he/she is covered by the right of free movement under Union law.

*** Legal basis/Case-law:**

- [Directive 2004/38/EC \(Articles 5 and 27-33\)](#) read in conjunction with [Commission Communication COM \(2009\) 313 final](#)
- [Judgement of the ECJ of 25 July 2002, Case C 459/99, MRAX vs. Belgium.](#)
- [Judgement of the ECJ of 17 February 2005, Case C 215/03, Salah Oulane vs. Minister voor Vreemdelingenzaken en Integratie.](#)

- 8.4. When refusing the entry to third-country nationals, the checking officer must:
- a) fill in the [standard form](#) for refusing entry substantiating the reason(s) for refusal, and give it to the third-country national concerned, who must sign the form and must be given a copy of the signed form. In case the third-country national refuses to sign, the border guard will indicate this refusal in the form under the section "comments";
 - b) affix an entry stamp on the passport, cancelled by an indelible cross in black ink and write opposite it on the right-hand side, also in indelible ink, the letter(s) corresponding to the reason(s) for refusing entry, as listed in the form for refusing entry (see below).

Example of a refusal of entry stamp:



Letter indicating the reason for refusal of entry in accordance with uniform form

- 8.5. Where the officer responsible for checks finds that the holder of a visa has been the subject of an alert in the SIS for the purposes of being refused entry, he/she must revoke the visa by applying a stamp stating ‘REVOKED’. For further details, [see point 10, Section I](#). When a visa has been revoked, the relevant data shall be entered into the VIS. Regarding the actions to be carried out in VIS, see [Annex 32](#).

When a Member State has revoked a visa issued by another Member State it is recommended to forward the information by means of the form set out in [Annex 31](#).

- 8.6. The visa must not be annulled or revoked solely because the third-country national was not able to produce the [supporting document\(s\)](#) requested to justify the purpose of the journey. In the latter case, a further enquiry must be made by the border guard in order to assess whether the person obtained the visa in a fraudulent way and represents a risk in terms of illegal immigration. If necessary, contacts with the competent authorities of the Schengen State having issued the visa will be taken. Only if it is ascertained that the visa was obtained in a fraudulent way, must such a visa be annulled by the border guard by applying a stamp stating ‘ANNULLED’. For further details, [see point 10, Section I](#). When a visa has been annulled, the relevant data shall be entered into the VIS. Regarding the actions to be carried out in VIS, see [Annex 32](#).

When a Member State has annulled a visa issued by another Member State, it is recommended to forward the information by means of the form set out in [Annex 30](#).

Best practice: annulment of an entry or exit stamp in cases other than refusal of entry:

There can be cases where a stamp that has already been affixed on a passport has to be annulled (for example, if the wrong stamp was affixed by mistake by the border guard). In

such cases, the traveller bears no responsibility for it and therefore the stamp cannot be cancelled in the same ways as when a person is refused entry. It is therefore recommended to annul the stamp by running two parallel lines through the top left-hand corner of it like in the example below:



- 8.7. All persons to whom entry has been refused, or a visa holder whose visa has been annulled or revoked, shall have the right to appeal in accordance with national law. A written indication on procedures for appeal and on contact points able to provide information on representatives competent to act on behalf of the third-country national must be given to the latter.

When a visa has been annulled or revoked, as appropriate, the border guard must fill in the standard form for notifying and motivating annulment of a visa, substantiating the reason(s) for the annulment or revocation, and submit it to the third-country national concerned. (see [Annex 25](#)).

- 8.8. If a person enjoying the right of free movement under Union law is refused entry, the border guard must always provide the person with a written decision. The decision must be drafted in such a way that the person concerned is able to comprehend its content and the implications. The decision must also include precise and full indication of the public policy or public security grounds on which the decision taken is based, unless this is contrary to the interests of State security. The decision must also specify the court or administrative authority with which the person concerned may lodge an appeal and the time limit for the appeal.
- 8.9. The decision to refuse entry must be performed immediately.
- 8.10. If the refused third-country national has been brought by a carrier by air, sea or land the carrier must be obliged immediately to assume responsibility for him/her again. The carrier must, in particular, be obliged to return the third-country national to the third

State from which they were transported or to the third State which issued the travel document on which they travelled or to any other third State to which they are certain to be admitted. When the refused third-country national cannot be taken back immediately, the carrier must be made responsible to bear all necessary costs related to return travel. If the carrier is not able to return the third-country national, it must be obliged to ensure his/her return by any other means (e.g., by contacting another carrier).

- 8.11. Penalties must be imposed on the carrier in accordance with Directive 2001/51/EC and with national law.
- 8.12. The border guards must take all appropriate measures, based on local circumstances, in order to prevent third-country nationals refused entry from entering illegally (for instance, by ensuring that they remain in the transit area of an airport, or by prohibiting them from going ashore at a seaport).

*** Legal basis:**

- [Directive 2004/38/EC \(Articles 5, and 27-33\)](#) read in conjunction with [Commission Communication COM \(2009\) 313 final](#)
- [Schengen Borders Code \(Article 14 and Annex V\)](#)
- [Schengen Convention \(Article 26\)](#);
- [Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985](#);
- [Visa Code \(Article 34 and Annex VI\)](#)

9. **VISAS APPLIED FOR AT THE BORDER, INCLUDING TO SEAFARERS IN TRANSIT, AND REFUSAL OF SUCH VISAS**

The common visa policy is not yet applied by Bulgaria, Croatia, Cyprus and Romania. National visas issued by these four countries are therefore not valid for circulating in the area without internal border controls. Bulgaria, Croatia, Cyprus and Romania may however allow entry to, or transit through, their territory for holders of uniform visas issued by the Schengen States.

9.1. Types of visas:

[See points 27-32 of Part One- Definitions](#)

For further information on the different types of visas, see [point 8 of Part II of the Visa Code Handbook](#)

For further information on the issuance of visas at the border, see [part IV of the Visa Code Handbook](#)

For further information on specific rules for issuing visas at border to members of the family of EU/EEA citizens and CH citizens, see [Part III of the Visa Code Handbook](#)

*** Legal basis:**

[- Regulation \(EU\) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement](#)

[- Visa Code \(Article 2\)](#)

*** Links:**

[- Filling in the visa sticker](#)

[- Examples of filled in visa stickers](#)

10. ANNULMENT AND REVOCATION OF VISAS

See [points 2 and 3 of Part V of the Visa Code Handbook](#)

*** Legal basis:**

[- Visa Code \(Article 34 and Annex VI\)](#)

11. SPECIAL TRANSIT SCHEMES

11.1. Facilitated Transit Document (FTD) and Facilitated Railway Transit Document (FRTD)

- 11.1.1. On 1 July 2003, a new travel regime for transit between Kaliningrad and mainland Russia entered into force. It introduced two types of documents- a Facilitated Transit Document (FTD) and a Facilitated Railway Transit Document (FRTD)- needed for crossing the territory of Lithuania in order to enable and facilitate the travel of third-country nationals who travel between two parts of their own country which are not geographically contiguous.
- 11.1.2. The FTD serves for multiple- entry direct transit by any kind of transport by land through the territory of Lithuania. It is issued by Lithuanian authorities and is valid for a maximum period of up to three years. A transit based on FTD cannot exceed 24 hours.
- 11.1.3. The FRTD serves for single return trips by train and is valid for up to three months. A transit based on a FRTD cannot exceed six hours.
- 11.1.4. FTD/FRTD have the same value as a visa and must be issued in a uniform format by consular authorities in accordance with Council Regulation (EC) No 693/2003 and Council Regulation (EC) No 694/2003. They cannot be issued at the border.

*** Legal basis:**

- [Council Regulation \(EC\) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document \(FTD\), a Facilitated Rail Transit Document \(FRTD\) and amending the Common Consular Instructions and the Common Manual;](#)

- [Council Regulation \(EC\) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents \(FTD\) and Facilitated Rail Transit Documents \(FRTD\) provided for in Regulation \(EC\) No 693/2003.](#)

11.2. Transit through the territory of Schengen States not yet fully implementing the Schengen *acquis*²⁷

²⁷ This paragraph only applies to Bulgaria, Croatia, Cyprus and Romania.

- 11.2.1. Until Bulgaria, Croatia, Cyprus and Romania join the area without internal border controls, they may recognise: visas valid for two or multiple entries; long-term visas; and residence permits issued by a Schengen State;
as equivalent to their national visas for the purpose of transit through their territory or intended stays on their territory not exceeding 90 days in any 180 days period.
- 11.2.2. The holders of the above-mentioned documents must be subject to normal checking procedures (point 1, Section I).

*** Legal basis:**

- [Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC](#)

12. **ASYLUM-SEEKERS/APPLICANTS FOR INTERNATIONAL PROTECTION²⁸**

*** General principles:**

All applications for international protection, including those made at the border, must be examined by EU Member States so as to determine whether they are admissible and/or whether the applicant qualifies either for refugee status, in accordance with the Geneva Convention relating to the Status of Refugees of 28 July 1951 as supplemented by the New York Protocol of 31 January 1967, or for subsidiary protection status, on the basis of the criteria laid down in Directive 2011/95/EU of 13 December 2011.

The EU Member State responsible for examining the application is determined in accordance with Regulation (EU) No 604/2013 of 26 June 2013 (Dublin III Regulation).

²⁸ This section applies to Denmark, Ireland, the United Kingdom, Norway, Iceland, Liechtenstein and Switzerland as far as the determination of the Member State responsible for examining an asylum application and Eurodac are concerned.

This section applies to Ireland and the United Kingdom insofar as they apply Directive 2005/85/EC.

- 12.1. A third-country national must be considered as an applicant for asylum/international protection if he/she expresses – in any way – fear of persecution or of suffering serious harm if he/she is returned to his/her country of origin or former habitual residence.

The wish for international protection does not need to be expressed in any particular form. The word “asylum” does not need to be used expressly; the defining element is the expression of fear of what might happen upon return. In case of doubt about whether a certain declaration can be construed as a wish to apply for asylum or for another form of international protection, the border guards must consult the national authority(-ies) responsible for the examination of applications for international protection.

- 12.2. All third-country nationals who express a wish to apply for asylum/international protection at the border (including the territorial sea, airport and seaport transit zones) must be given the opportunity to lodge the application as soon as possible. To this end, border authorities must inform the applicants, in a language they may reasonably be expected to understand, of the procedure to be followed (how and where to lodge the application), as well as of their rights and obligations, including of the possible consequences of not complying with their obligations and not cooperating with the authorities.

In order to avoid misunderstandings, and to be sure that applicants are adequately informed of their rights and obligations, as well as of the procedure, if an applicant for international protection does not have sufficient knowledge of the language spoken in the EU Member State concerned, the services of an interpreter must be called upon.

- 12.3. The competent national authorities designated by each EU Member State for the purpose of examining applications for international protection must be informed that an application for international protection has been made.

No decision to return the applicant must be taken by the border guard without prior consultation with the competent national authority responsible for the examination of applications for international protection.

- 12.4. Fingerprints of all fingers of every applicant for asylum of at least 14 years of age must be taken, in accordance with the national legislation of the EU Member State, and sent to the Eurodac Central System to make checks in the EURODAC system possible.

** Legal basis:*

- [Geneva Convention 28 July 1951](#) and [New York Protocol](#);
- [Regulation \(EU\) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation \(EU\) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation \(EU\) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice](#);
- [Regulation \(EU\) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person](#);
- [Commission Implementing Regulation \(EU\) No 118/2014 of 30 January 2014 amending Regulation \(EC\) No 1560/2003 laying down detailed rules for the application of Council Regulation \(EC\) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national](#);
- [Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted](#);
- [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection](#);

- [Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection;](#)
- [Charter of Fundamental Rights of the European Union, in particular Article 4 \(prohibition of torture and inhuman or degrading treatment or punishment\) and Article 18 \(right to asylum\) and Article 19 \(protection in the event of removal, expulsion or extradition\).](#)

13. **REGISTRATION OF INFORMATION AT THE BORDER**

At all border crossing points, all service information and any other particularly important information must be registered manually or electronically. The information to be registered must include, in particular:

- the names of the border guard responsible locally for border checks and of the other officers in each team;
- any relaxation of checks on persons;
- the issuing, at the border, of visas and of documents in place of passports and of visas;
- persons apprehended and complaints (criminal offences and administrative breaches);
- persons refused entry (grounds for refusal and nationality);
- the security codes of entry and exit stamps, the identity of border guards using the stamps at any given date or shift, as well as the information related to lost and stolen stamps;
- complaints from persons subject to checks;
- other particularly important police or judicial measures;
- particular occurrences.

*** Legal basis:**

- [Schengen Borders Code \(Annex II\)](#)

14. **COOPERATION WITH OTHER SERVICES**

Border guards must cooperate closely with all state authorities deployed at the border- e.g. customs authorities or other services competent for goods-related security matters, or services responsible for transport security.

15. **MARKING OF FRAUDULENT DOCUMENTS**

In cases where a border guard, while performing border checks detects a document which is fraudulent he/she shall refuse entry to the third-country national, and mark the document according to the Schengen Borders Code (Annex V, Part A and B).

The border guard should take all the necessary measures to prevent the further use of the fraudulent document. In order to achieve this objective he/she should, as a general rule, seize the document.

Where it is necessary to hand over the document to the competent authorities (border control or others) of the third country/country of origin concerned (directly, through the carrier companies or through diplomatic channels), the border guard should:

invalidate the document - by hole-punching or cutting the document, where possible in the machine readable zone (MRZ),

or, if this is not possible:

mark the document as follows (only in cases when the document is not marked as described above):

1) Paper

Marking the lower left corner of a passport's last page and, if possible, marking as well the page on which the signs of falsification or counterfeiting can be found, by building in a small triangle around letter "F", with a red hard-nibbed pen (unless that page is full, in which case the adjoining pages should be used);

2) Polymer

Marking a void area on a polymer based stand-alone document, by building in a small triangle around letter "F", using an UV ink pen, preferably red;

Or (only for completely counterfeit documents)

Marking a void area on a polymer based stand-alone counterfeit document by punching or cutting the document in the area where personal data and security features imitations are not affected.

In the particular case of fraud concerning documents which appear to have been issued by another Schengen State, the seized document should be returned to that State, once the national proceedings linked to the seizure of the document are completed.

16. **VERIFICATION OF THE AUTHENTICITY OF THE DATA STORED IN A BIOMETRIC PASSPORT**

To ensure efficient border checks, the authenticity and integrity of the data stored in the microchip should be verified when checking biometric passports. In order to verify that the data on the chip have been entered by an authorised authority and have not been tampered with, the content of the chip should be authenticated by Passive Authentication. The Document Signer certificate of the document should be verified against the respective trusted CSCA certificate of the issuing country. If supported, chip authentication should be used to verify that the chip is genuine.

17. **VALIDITY OF CHILDREN ENTRIES IN PARENTS' PASSPORTS**

Regulation (EC) No 2252/2004²⁹ as amended by Regulation (EC) No 444/2009³⁰ provides that, since 26 June 2012, the following regime applies to holders of passports issued by Schengen States:

1. Children regardless of their age need their own passport;
2. Children are not allowed to travel only on the basis of inscription in their parents' passports;
3. Passports of parents remain valid for the parents after 26 June 2012 even if they contain inscription of their children's names

The above does not apply to the UK and Ireland. It also does not apply to passports issued by third-countries other than the Schengen Associated Countries.

²⁹ OJ L 385, 29.12.2004, p.1.

³⁰ OJ L 142, 6.6.2009, p.1.

The provisions of Directive 2004/38/EC³¹ on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States apply when EU/EEA families travel from one EU/EEA Member State to another, when they leave to a third country or when they return from a third country to a EU/EEA Member State.

In accordance with Article 5(4) of this Directive³², the absence of an individual passport for children who are entered in the passport of their parents should not automatically lead to a refusal to leave or to enter the territory of a Schengen State. Unless there are reasonable doubts as to the identity and nationality of the children entered in the passports of their parents, the presentation of the parent's passport should in principle be considered as proof that the children concerned are, as EU citizens, covered by the right of free movement under Union law under the Directive.

However, the right of EU citizens, regardless of their age, to move and reside freely should not be used to circumvent Regulation (EC) No 2252/2004, in particular where there are serious grounds for suspecting that a child may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them.

SECTION II: Land borders

1. CHECKS ON ROAD TRAFFIC

- 1.1. The border guard in command of a crossing point must ensure that effective checks on persons and documents are carried out, while at the same time ensuring the safety and flow of road traffic. To that end technical improvements should be introduced, where necessary, to reduce the response times of consulting the relevant databases. Where relevant, the technical infrastructure of border crossings should be improved, including the increased use of passport readers and mobile terminals.

³¹ OJ L 158, 30.4.2004, p.77.

³² Article 5 (4) of Directive 2004/38/EC: 4. Where a Union citizen, or a family member who is not a national of a Member State, does not have the necessary travel documents or, if required, the necessary visas, the Member State concerned shall, before turning them back, give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within a reasonable period of time or to corroborate or prove by other means that they are covered by the right of free movement and residence.

- 1.2. If possible, there should be separate lanes installed for persons enjoying the right of free movement under Union law and other third-country nationals, in accordance with general rules on the separation of lanes.
- 1.3. Checks should be carried out, wherever possible, by two border guard officers.

*** Legal basis:**

- [Schengen Borders Code \(Article 8, Article 10 and Annex VI\)](#)

*** Best practices:**

● The means of transportation should be searched when:

- a) there is a justified suspicion that people, drugs, explosive materials and/or weapons are hidden inside a vehicle,
- b) there is a justified suspicion that the driver or passengers of the vehicle committed a crime or an administrative breach,
- c) the presented vehicle documents are incomplete or false.

In any case, the national law of the Schengen State concerned will apply to such searches.

● Sniffer dogs should be used for random checks in order to detect explosive materials, drugs and hidden people.

Checks on private vehicles:

● Checks on persons travelling in private vehicles should be carried out as follows, wherever possible:

- a) the driver and passengers may remain inside the vehicle during checks;
- b) the border guard officer checks documents and compares them with the persons crossing the border;
- c) a second border guard officer watches at the same time the persons inside the car and secures the checking officer.

● When there is a suspicion that a travel document, driving licence, insurance or

registration document has been forged all travellers should leave the car. The car should be searched thoroughly. These activities should be performed at the second line of control.

Checks on buses:

- Checks on persons travelling by bus can be performed in a passenger terminal or inside the bus, depending on the circumstances. When the check is performed inside the bus the following measures should be taken, wherever possible:

- a) the checking of documents should start with a check on the driver of the bus and the group leader, if it is a case of organised travel;
- b) in case of doubts about the travel document or the purpose of the journey, or where there are indications that a person may be a threat to public policy, internal security or public health of the Schengen States, he/she should be asked to leave the bus and be subjected to an in-depth check at the second line, a second border guard officer watches at the same time the persons inside the bus and secures the checking officer.

- In the event of heavy traffic, bus passengers on regular local lines should be checked first if local circumstances allow for it.

While checking travel documents inside the bus, officers should use portable electronic devices, particularly for the searches in the SIS.

Checks on lorries:

Checks on lorries should be carried out as follows, in close cooperation with the competent customs authorities

- a) Wherever possible there should be a special lane for lorries where:
 - the lorry and its contents can be searched in a convenient way;
 - sniffer dogs can be used without any disturbance;
 - technical equipment for searching can be used (i.e. x-ray devices and carbon dioxide detectors).
- b) During checks on lorries the border guard officer should pay special attention to lorries with containers where stolen cars, trafficked people or dangerous materials may be hidden. All documentation of the contents should be carefully checked.

- c) All lorries should be searched thoroughly where:
- customs seals were broken;
 - tarpaulin was destroyed or sewn;
 - there is a suspicion that persons, drugs, dangerous or explosive materials may be hidden inside.
- The following additional checks may also be performed:
- a) road traffic control, including compliance with social provisions (e.g., roadworthiness of the car, the driver's working hours, the driver's insurance);
 - b) road transportation control (the agreement of the transport of goods with documents);
 - c) control of the presence of radioactive and hazardous goods.
- All these additional controls are conducted according to relevant Union law and to the national regulations of each Schengen State.

1.4. Schengen States may conclude or maintain bilateral agreements with neighbouring third countries concerning the establishment of shared border crossing points, where their border guards and third-country border guards carry out exit and entry checks one after another in accordance with their national law on the territory of the other party. Such shared border crossing points may be located either on the territory of a Schengen State or on the territory of a third country.

2. CHECKS ON RAIL TRAFFIC

2.1. The commanding border guard officer on duty at the rail border crossing point should gather information about rail schedules and the foreseeable number of rail passengers in order to ensure efficient border checks.

2.2. Checks at borders where the provisions on external borders apply can be carried out in one of the following three ways:

- a) in the first station of arrival or the last station of departure,

b) on board the train, during transit between the last station of departure and the first station of arrival, regardless of direction.

2.3. The border check comprises a check on:

- a) the crew of the train,
- b) passengers going abroad,
- c) passengers coming from abroad who were not checked previously,
- d) the train's exterior.

2.4. The border control of passengers of high-speed trains may be performed in either one of the following ways:

- a) in the stations where persons board the train,
- b) in the stations where persons disembark within the territory of the Schengen States,
- c) on board the train during transit between stations provided that the persons stay on board the train.

2.5. With respect to high-speed trains from outside the area without internal border controls making several stops in the territory of the Schengen States, if the rail transport carrier is in a position to board passengers exclusively for the remaining part of the journey within the area without internal border controls, such passengers must be subject to entry checks either on the train or at the station of destination, except where checks have been carried out in the station where they boarded the train.

In such a case, persons who wish to take the train exclusively for the remaining part of the journey must receive clear notification prior to the train's departure that they will be subject to entry checks during the journey or at the station of destination.

When travelling in the opposite direction, the persons on board the train must be subject to exit checks under similar arrangements.

- 2.6. The border guard may inspect the cavities of carriages in order to ensure that persons or objects subject to border checks are not concealed in them. Border guard officers will always search the train thoroughly when there is a suspicion of hidden explosive materials or drugs.
- 2.7. Where there are reasons to believe that persons who have been reported or suspected of having committed an offence, or third-country nationals intending to enter illegally, are hiding on a train, the border guard, if he/she cannot act in accordance with his/her national provisions, must notify the authorities **of the Schengen State towards or within whose territory the train is moving.**

***Legal basis:**

- [Schengen Borders Code \(Article 8, Annex VI\)](#)

***Best practices:**

- While performing the check on the platform in the first station of arrival or the last station before departure, the train should be guarded in order to prevent individuals from avoiding the border check. The checking officers and the officers guarding the train should be in contact at all times.
- During the checks on passengers on board the train, passengers should not be allowed to move along the train.
- The check of a goods train should consist of checking documents of the train crew and examining the carriages of the train.
- During the border control of passenger and goods trains the border guard should pay special attention to passengers and objects where there is a risk of transporting of explosive materials. To perform this duty correctly sniffer dogs should be used.
- The border check on board a train should be completed before the agreed railway station.
- Control measures should, in principle, not lead to delays in the scheduled departure of trains. If a delay is nevertheless caused, the station master should be notified as soon as possible.

3. LOCAL BORDER TRAFFIC

- 3.1. Schengen States may conclude bilateral agreements with neighbouring third countries in order to establish a facilitated regime of “local border traffic” for border residents. This regime applies to third-country nationals residing in the border area (50 km maximum) of a third country neighbouring a Schengen State, who, as a general rule, reside for at least one year in that area (exceptions can be provided for in the [bilateral agreements](#)) and have legitimate reasons (family links, economic, social or cultural motives) to cross the border very frequently. Under this regime, border residents are only allowed to cross the border to stay in the border area of a Schengen State for a maximum uninterrupted stay of three months.
- 3.2. The bilateral agreements may provide the following:
 - a) the setting up of specific border crossing points reserved for border residents;
 - b) the definition of specific lanes at border crossing points reserved for border residents;
 - c) in exceptional cases justified by the local circumstances, the authorisation for border residents to cross the border outside border crossing points and fixed hours. This applies, for example, to situations where a farmer needs to cross the border frequently to work on his/her field, or where a town is cut across by the border. In such cases, the place where the border may be crossed should be specified in their LBT permit (see point 5.5, Section I).
- 3.3. Border residents who cross the border in accordance with points a) and b) above, and who are well known to the border guards due to their frequent crossing of the border, can usually be subject only to random checks. However, thorough checks must be carried out on them from time to time, without warning and at irregular intervals.
- 3.4. When the facilitation under point 3.2, letter c), is foreseen in the bilateral agreement with a third country (i.e., to allow the crossing of the border outside authorised border crossing points), the Schengen State concerned must carry out random checks and maintain regular surveillance along the border in order to prevent unauthorised border crossing.

- 3.5. Further details on the checks to be carried out on border residents benefiting from the local border traffic regime are specified in [point 5.5 of Section I](#).

*** Legal basis:**

- [Regulation \(EC\) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention](#)
- [Bilateral agreements on local border traffic](#)

SECTION III: Air borders

1. CHECKS AT THE AIRPORT

- 1.1. To ensure efficient border checks at the airport, border guards must gather all necessary information about the air traffic schedule in order to deploy sufficient staff in accordance with the flow of passengers, taking into account that priority should be given to arriving passengers.

The technical infrastructure of border crossings should be improved, including the increased use of passport readers, e-gates and mobile terminals.

Technical improvements should be introduced, where necessary, to reduce the response times of consultation with the relevant databases.

- 1.2. Appropriate infrastructure must be put in place in order to separate internal flights (flights between airports located in the area without internal border controls) from external flights and prevent unauthorised circulation of persons and/or documents between these two areas.
- 1.3. Border checks will usually be carried out at the authorised border crossing point within the airport; however, when there is a risk related to internal security and illegal immigration, the border check may be carried out on the aircraft or at the gate.
- 1.4. Access to the international transit area must be controlled; checks will normally not be carried out in the transit area, unless the assessment of the risks related to illegal migration or internal security justifies it.

*** Best practices:**

- Checks on crew members should be performed prior to those on passengers and in a separate location.
- Wherever possible, a separate place for the second line of border checks should be created.
- Wherever possible, there should be a separate line for diplomats and passengers with reduced mobility.
- All parts of the airport should be under strict surveillance through monitoring and patrolling, especially of the area where passengers go through check-in, the passport control zone and the transit area. For security reasons any luggage abandoned by its owner or other suspicious objects should be immediately reported to the security authorities.

- 1.5. The place where border checks are carried out must be determined in accordance with the following procedure:
 - a) Passengers on a flight from an airport located outside the area without internal border controls to a Schengen State must be subject to an entry check at the airport of arrival of this flight. Passengers from a flight operating within the area without internal border controls who board a flight for outside this area (transfer passengers) must be subject to an exit check at the airport of departure of the latter flight.

*** Examples:**

- Flight from Brasilia to Lisbon with a connection in Lisbon to Paris, the entry check is in Lisbon.
- Flight from Paris to Lisbon with a transfer to Brasilia, the exit check is in Lisbon.

b) For flights from or to an airport located outside the area without internal border controls with no transfer passengers and flights making more than one stopover at the airports within the area without internal border controls where there is no change of plane:

- (i) passengers on flights from or to an airport located outside the area without internal border controls where there is no prior or subsequent transfer within the territory of the area without internal border controls must be subject to an entry check at the airport of entry and an exit check at the airport of exit;

*** Examples:**

- Flight from New York to Berlin, the entry check is in Berlin.
- Flight from Berlin to New York, the exit check is in Berlin.

- (ii) passengers on flights from or to an airport located outside the area without internal border controls with more than one stopover on the territory of the area without internal border controls where there is no change of plane (transit passengers), and provided that passengers cannot board the aircraft for the leg situated within the area without internal border controls, must be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

*** Examples:**

- Flight from Beijing-Helsinki-Frankfurt-Paris, with stops in Helsinki, Frankfurt only for disembarking passengers (boarding for the remaining leg is prohibited), the entry checks are performed for passengers disembarking in Helsinki, Frankfurt and Paris respectively

- Flight from Paris-Frankfurt-Helsinki-Beijing, stopovers in Frankfurt and Helsinki only for boarding passengers (disembarking is prohibited). The exit checks are in Paris, Frankfurt and Helsinki.
- Flight from Sofia-Helsinki-Frankfurt-Paris, with stops in Helsinki, Frankfurt only for disembarking passengers (boarding for the remaining leg is prohibited), the entry checks are performed for passengers disembarking in Helsinki, Frankfurt and Paris respectively
- Flight from Paris-Frankfurt-Helsinki-Sofia, stopovers in Frankfurt and Helsinki only for boarding passengers (disembarking is prohibited). The exit checks are in Paris, Frankfurt and Helsinki.

(iii) where an airline may, for flights from an airport located outside the area without internal border controls with more than one stopover within the area without internal border controls, board passengers only for the remaining leg within this territory, passengers must be subject to an exit check at the airport of departure and an entry check at the airport of arrival. Checks on passengers who, during these stopovers, are already on board the aircraft and have not boarded in the area without internal border controls must be carried out in accordance with point (b)(ii). The reverse procedure must apply to this category of flights where the country of destination is outside the area without internal border control.

*** Examples:**

1. Flight from New York-Paris-Frankfurt-Rome, boarding being authorised at the Paris and Frankfurt stopovers. Entry checks for passengers landing in Paris, Frankfurt (including those who boarded in Paris) and Rome (including those who boarded in Paris and Frankfurt).
2. Flight from Hamburg-Brussels-Paris-Cairo, boarding being authorised at the stopovers in Brussels and in Paris. Exit checks take place in Hamburg, Brussels and Paris.

- 1.6. When a plane has to land at the nearest landing field which is not a border crossing point, the plane can continue its flight after authorisation of border guards and, as far as customs checks are concerned, of customs administrations.

*** Best practices:**

- After the landing of a plane a border guard officer should come to the parking place of the plane before the disembarking of passengers when:
 - a crime or an offence was committed on board,
 - there is a threat to internal security,
 - there is a risk of illegal migration,
 - there are expelled persons from other countries,
 - to gather all necessary information from the crew when there is a need.
- All passengers to whom entry was refused should be separated from others. When they cannot immediately be brought to the place of embarking, they should stay until their departure in separated areas under the control of border guards.
- Persons who committed a crime or an offence should be transported directly from the aircraft to the specially designated places and handed over to the relevant authorities.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

- 1.7. Where relevant, the technical infrastructure of border crossings should be improved, including the increased use of passport readers, e-gates and mobile terminals.

Technical improvements should be introduced, where necessary, to reduce the response times of consultation with the relevant databases.

- 1.8. Advance passenger information (API) data, collected and transmitted by air carriers in accordance with Council Directive 2004/82/EC which enables more targeted checks on all passengers (including EU citizens) on incoming flights crossing the external borders,

should be used on a more regular basis. It is for the national authorities to determine on which flights from outside the Schengen area, API data must be transmitted, according to the current and up-dated risk assessment. Schengen States may use API data also for law enforcement purposes.

On the basis of national law, Schengen States may request air carriers to transmit API data also for flights between Schengen States fully applying and not yet fully applying the Schengen *acquis*.

2. CHECK IN AERODROMES

- 2.1. It must be ensured that persons are also checked, in accordance with the general rules, in airports which do not hold the status of international airport under the relevant national law (“aerodromes”) but through which the routing of flights from or to an airport located outside the area without internal border controls is authorised.
- 2.2. It is not necessary to make appropriate arrangements in aerodromes to ensure that inflows of passengers from internal and other flights are physically separated, without prejudice to Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation security. In addition, when the volume of traffic is low, the border guards need not be present at all times, provided that there is a guarantee that the necessary personnel can be deployed in good time.
- 2.3. When the presence of border guards is not assured at all times in the aerodrome, the manager of the aerodrome must give adequate notice to the border guards about the arrival or departure of aircraft from or to an airport located outside the area without internal border controls.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)
- [Regulation \(EC\) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation \(EC\) No 2320/2002 \(Text with EEA relevance\)](#)

3. CHECKS ON PERSONS ON PRIVATE FLIGHTS

- 3.1. The captain of a private plane flying from or to an airport located outside the area without internal border controls must transmit to the border guards of the Schengen State of destination and, where appropriate, of the Schengen State of first entry, prior to take-off, a general declaration comprising *inter alia* a flight plan in accordance with Annex 2 to the Convention on International Civil Aviation, as well as information concerning passengers' identity.
- 3.2. Where private flights coming from outside the area without internal border controls and bound for a State within this area make stop-overs in the territory of other States of the area without internal border controls, the competent authorities of the State of entry into this area must carry out border checks and apply an entry stamp to the general declaration.
- 3.3. Where uncertainty exists whether a flight is exclusively coming from, or solely bound for, the area without internal border controls without landing outside this area, the competent authorities must carry out checks on persons in airports and aerodromes in accordance with the general rules.
- 3.4. The arrangements for the entry and exit of gliders, micro-light aircraft, helicopters, small-scale aircraft capable of flying short distances only and airships are laid down by national law and, where applicable, by bilateral agreements.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)
- [ICAO Convention](#)

SECTION IV: Sea borders

1. GENERAL CHECKING PROCEDURES ON MARITIME TRAFFIC

- 1.1. The border guard in command of a crossing point must ensure that effective checks are carried out on passengers and crew of the vessels. The checks will be based upon risk analysis consisting of constant and comprehensive surveillance of the sea area.

- 1.2. Checks on ships shall be carried out at the port of arrival or departure, or in an area set aside for that purpose, located in the immediate vicinity of the vessel or on board ship in the territorial waters as defined by the United Nations Convention on the Law of the Sea. However, in accordance with the agreements reached on the matter, checks may also be carried out during crossings or upon the ship's arrival in or departure, from the area without internal border controls.

No systematic border checks shall be carried out on persons staying aboard. However, a search of the ship and checks on the persons staying aboard shall be carried out when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.

- 1.3. The master, the ship's agent, or some other person duly authorised, shall draw up a list of the crew and any passengers containing the information required in the forms 5 (crew list) and 6 (passenger list) of the Convention on Facilitation of International Maritime Traffic (FAL Convention) as well as, where applicable, the visa or residence permit numbers.

Crew members include all persons actually employed for duties on board during a voyage in the working or service of a ship and included in the crew list.

- 1.4. The above list(s) must be handed over to the border guards or to other authorities without delay at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or is changed during the voyage, as soon as this information is available.
- 1.5. A confirmation of receipt (signed copy of the list(s) or an electronic receipt confirmation) shall be returned to the master, who shall produce it on request when the ship is in port.
- 1.6. Any changes in the crew or passenger lists must be notified immediately to the border guards by the captain or the ship owner's agent.
- 1.7. The master of the ship is obliged to inform border guards about the presence of stowaways on his/her ship at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than

twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available. Stowaways remain under the responsibility of the master.

- 1.8. The captain must notify the border guards of the ship's departure. When it is impossible he must advise the appropriate shipping authority and give them the second copy of the previously completed and signed list.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

2. CHECKS ON CRUISE SHIPS

- 2.1. Cruise ships are ships which follow a given itinerary in accordance with a predetermined programme, which includes a programme of tourist activities in the various ports, and which normally neither take passengers on nor allow passengers to disembark during the voyage.
- 2.2. The cruise ship's master shall transmit to the border guards the itinerary and the programme of the cruise, as soon as they have been established and no later than twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available.
- 2.3. If the itinerary of a cruise ship comprises exclusively ports situated in the territory of the area without internal border controls, no border checks must be carried out and the cruise ship may dock at ports which are not border crossing points. Nevertheless, checks shall be carried out on the crew and passengers of those ships only when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.
- 2.4. If the itinerary of a cruise ship comprises both ports situated in the territory of the area without internal border controls and ports situated outside that area the border checks must be carried out as follows:
 - a) where the cruise ship comes from a port situated outside the area without internal border controls and calls for the first time at a port situated in a Schengen State, crew and passengers must be subject to entry checks on the basis of the nominal lists of crew and passengers.

*** Example:**

- a cruise ship sailing from Saint Petersburg to Stockholm.

Passengers going ashore must be subject to entry checks according to the general rules unless an assessment of the risks related to security and illegal immigration shows that there is no need to carry out the checks.

- b) where the cruise ship comes from a port situated outside the area without internal border controls and calls again at a port situated in this area, crew and passengers must be subject to entry checks on the basis of the nominal lists of crew and passengers referred to above, to the extent that these lists have been modified since the cruise ship called in the previous port situated in the territory of a Schengen State.

*** Example:**

- a cruise ship's route is: from Istanbul to Athens, then to Tunis and on to Barcelona.

Passengers going ashore must be subject to entry checks according to the general rules unless an assessment of the risks related to security and illegal immigration shows that there is no need to carry out the checks. If there are no changes in the nominal list, there is no need to identify each passenger with the travel document. Nevertheless, the disembarking passengers must have their travel documents with them all the time and show them to the border guard officers upon request.

- c) where the cruise ship comes from a port situated inside the territory of the area without internal border controls and calls at such a port, passengers going ashore must be subject to entry checks in accordance with the general rules if an assessment of the risks related to security and illegal immigration so requires.

*** Example:**

- a cruise ship coming originally from Saint Petersburg and then docking, successively at the ports of Helsinki, Stockholm and Copenhagen. In this case, the checks carried out in Stockholm and Copenhagen should take into account the fact that the cruise ship has already been checked in Helsinki.

- d) where a cruise ship departs from a port situated in a Schengen State to a port situated outside the area without internal border control, crew and passengers must be subject to exit checks on the basis of the nominal lists of crew and passengers. If an assessment of the risks related to security and illegal immigration so requires,

passengers going on board must be subject to exit checks in accordance with general rules.

*** Example:**

- a cruise ship sailing from Helsinki to Saint Petersburg.

- e) where a cruise ship departs from one port situated in the area without internal border controls to another, no exit checks must be carried out. Nevertheless, checks shall be carried out on the crew and passengers of those ships only when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.

*** Example:**

- a cruise ship sailing from Stockholm to Helsinki and then continuing outside the area without internal border controls (e.g., Saint Petersburg). In this case, normally no exit checks must be carried out in Stockholm, since such checks are to be carried out in Helsinki before the ship exits the area without internal border controls.

- 2.5. The crews and passengers lists must be transmitted to the respective border guards by the cruise ship's captain or, failing that, the ship owner's agent at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available. A confirmation of receipt (signed copy of the list(s) or an electronic receipt confirmation) shall be returned to the master, who shall produce it on request when the ship is in port.
- 2.6. In those cases where, on the basis of the assessment of the risks related to internal security and illegal migration, border guards decide that it is not necessary to carry out checks on cruise passengers in accordance with the general rules on border checks, there is no requirement to stamp travel documents.
- 2.7. In the assessment of the security and migratory risks, border guards should take into account *inter alia* the following elements: the nationality of the travellers, any available information on the shipping company and its reliability, any situation report and

relevant information in their possession, including information obtained from other Schengen States or neighbouring third countries.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

3. CHECKS ON PLEASURE BOATING

- 3.1. Pleasure boating is the use of pleasure boats for sporting or tourism purposes.
- 3.2. Persons on board pleasure boats coming from or departing to a port situated in a Schengen State must not be subject to border checks and may enter a port which is not a border crossing point.

However, when according to the assessment of the risks of illegal immigration, and in particular where the coastline of a State not part of the area without internal border controls is located in the immediate vicinity of the territory of the Schengen State concerned, checks on these persons and/or a physical search of the pleasure boats must be carried out.

- 3.3. A pleasure boat coming from outside the area without internal border controls may, exceptionally, enter a port which is not a border crossing point. In these cases, the persons on board must notify the port authorities in order to be authorised to enter this port. The port authorities must contact the authorities in the nearest port designated as border crossing point in order to report the vessel's arrival. The declaration regarding passengers must be made by lodging the list of persons on board with the port authorities. This list must be made available to the border guards, at the latest upon arrival. Likewise, if for reasons of force majeure the pleasure boat coming from outside the area without internal border controls has to dock in a port other than a border crossing point, the port authorities must contact the authorities in the nearest port designated as a border crossing point in order to report the vessel's presence.
- 3.4. During these checks, a document containing all the technical characteristics of the vessel and the names of the persons on board must be handed in. A copy of this document must be given to the authorities in the ports of entry and departure. As long as

the vessel remains in the territorial waters of one of the Schengen States applying the Schengen *acquis* in full, a copy of this list must be included amongst the ship's papers.

- 3.5. Random checks on pleasure boats must be carried out irrespective of the assessment of the risks of illegal immigration.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

4. CHECKS ON COASTAL FISHING

- 4.1. Coastal fishing is fishing carried out with the aid of vessels which return every day or within 36 hours to a port situated in the area without internal border controls without calling at a port situated outside this area.
- 4.2. The crews of coastal fisheries' vessels who return every day or within 36 hours to the port of registration or to any other port situated in the territory of the area without internal border controls, without docking in a port situated outside this area must not be systematically checked.
- 4.3. When there is a risk of illegal immigration, in particular where the coastline of a third State is located in the immediate vicinity of the territory of the Schengen State concerned, checks on persons and/or a physical search of the vessel must be carried out.
- 4.4. The crews of coastal fisheries' vessels not registered in a port situated within the area without internal border controls must be checked in accordance with the provisions relating to seamen ([point 5.3, Section I](#)). The ship's captain must notify the competent authorities of any alteration to the crew list and of the presence of any passengers.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

5. CHECKS ON FERRY CONNECTIONS

5.1. Checks must be carried out on persons on board ferry connections with ports situated outside the area without control at internal border. The following rules must apply:

- a) where possible, separate lanes for citizens of EU Member States, EEA and Switzerland and their family members must be provided;
- b) checks on foot passengers must be carried out individually;
- c) checks on vehicle occupants must be carried out while they are at the vehicle;
- d) ferry passengers travelling by coach must be considered as foot passengers. These passengers must alight from the coach for the checks;
- e) checks on heavy goods vehicle drivers and any accompanying persons must be conducted while the occupants are at the vehicle; this check will in principle be organised separately from checks on the other passengers;
- f) to ensure that checks are carried out quickly, there must be an adequate number of gates;
- g) so as to detect illegal immigrants in particular, random searches must be made on the means of transport used by the passengers, and where applicable on the loads and other goods stowed in the means of transport;
- h) ferry crew members must be dealt with in the same way as commercial ship crew members;
- i) [Point 1.3, Section IV](#) (the obligation to submit passenger and crew lists) does not apply. If a list of the persons on board has to be drawn up in accordance with Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community, a copy of that list shall be transmitted not later than thirty minutes after departure from a port situated outside the area without internal border controls by the master to the competent authority of the first port of arrival in the Schengen States.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

5.2. Where a ferry coming from outside the area without internal border controls with more than one stop within this area takes passengers on board only for the remaining leg within that territory, those passengers shall be subject to an exit check at the port of departure and an entry check at the port of arrival. Checks on persons who, during those stop-overs, are already on board the ferry and have not boarded in the area without internal border controls shall be carried out at the port of arrival. The reverse procedure shall apply where the country of destination is not part of the area without internal border controls.

6. CARGO CONNECTIONS BETWEEN PORTS LOCATED IN THE TERRITORY OF THE AREA WITHOUT INTERNAL BORDER CONTROLS

6.1. No border checks shall be carried out on cargo connections between the same two or more ports situated inside the area without internal border controls not calling at any ports outside this area and consisting of the transport of goods.

Nevertheless, checks shall be carried out on the crew and passengers of those ships only when they are justified on the basis of an assessment of the risks relating to internal security and illegal immigration.

SECTION V: Checks on inland waterways shipping

1. INLAND WATERWAYS SHIPPING

1.1. Inland waterways shipping involving the crossing of an external border covers the use, for business or leisure purposes, of all types of boat and floating vessels on rivers, canals and lakes.

1.2. The checks to be carried out on inland waterways shipping are the same as those to be carried out on maritime traffic in general.

- 1.3. As regards boats used for business purposes, the captain and the persons employed on board who appear on the crew list and members of the families of these persons who live on board must be regarded as crew members or equivalent.

*** Legal basis:**

- [Schengen Borders Code \(Annex VI\)](#)

PART THREE: BORDER SURVEILLANCE

1. PURPOSE OF SURVEILLANCE

1.1. The main purposes of the surveillance of external borders at places other than border crossing points and surveillance of these crossing points outside opening hours are:

- a) to prevent and discourage unauthorised border crossings;
- b) to counter cross-border criminality;
- c) to apply or to take measures against persons who have crossed the border illegally;
- d) to maintain reliable situational awareness and reaction capability;
- e) to support identification and registration of persons crossing borders illegally.

1.2. The officer in command must take all necessary measures to prevent the unauthorised crossing of the border and deploy the staff and other resources based upon the assessment of the risk of illegal immigration and of cross-border criminality.

The resources used should be selected in accordance with the type and nature of the border (land, inland waterway or sea).

2. THE METHODS OF SURVEILLANCE

2.1. The surveillance may be carried out by using either stationary or mobile units which perform their duties by:

- a) patrolling;
- b) stationing at places known or perceived to be sensitive.

2.2. Frequent and sudden changes to the periods and methods of surveillance should be made so as to detect effectively unauthorised border crossings.

2.3. The main tasks of patrolling are:

- a) to monitor the terrain they operate in;

- b) to ensure that there is no risk to public policy and internal security in the patrolling area;
- c) to check documents of persons present in the area who are not known to the patrol team;
- d) to stop all suspect persons who do not carry any documents and ask them to explain in detail their reasons for being present in that area;
- e) to stop and bring persons who crossed or tried to cross the border illegally to the nearest border guard's station to identify, register and fingerprint for purposes related to the EUODAC Regulation irregular border crossers and asylum seekers who are at least 14 years old;
- f) to secure all evidence related to unauthorised border crossings or other border incidents.

Special service dogs for tracking should be used during patrolling. Helicopters, patrol boats and terrain vehicles should also be used in order to enhance the patrolling and monitoring of the border.

2.4. The main tasks of stationing are:

- a) to observe the places which are perceived to be sensitive to illegal border crossing or smuggling;
- b) to stop and bring to the border guard station people who crossed the border illegally or who tried to do so.

2.5. According to the information obtained, special operations should be organised in order to catch trafficked people and traffickers.

2.6. Surveillance should be supported by integrated, mobile and portable technical surveillance systems and equipment (i.e radars, drones, CCTV, different sensors, and infrared vision or thermal cameras to guarantee night vision capability).

*** Legal basis:**

- [Schengen Borders Code \(Article 13\)](#)

PART FOUR: LIST OF RELEVANT LEGAL INSTRUMENTS

- **Union law:**

- [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, signed at Schengen on 19 June 1990 ([OJ L 239, 22.9.2000, p. 19](#));
- [94/795/JHA: Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State](#) ([OJ L 327, 19.12.1994, p. 1](#));
- [Council Regulation \(EC\) N° 1683/95 of 29 May 1995](#) laying down a uniform format for visas ([OJ L 164, 14.7.1995, p.1](#)) as amended by Council Regulation (EC) N° 334/2002 of 18 February 2002 amending Council Regulation (EC) N° 1683/95 of 29 May 1995 laying down a uniform format for visas ([OJ L 53, 23.2.2002, p. 7](#));
- [Charter of Fundamental Rights of the European Union \(OJ C 364, 18.12.2000, p.1\)](#) ;
- [Council Directive N° 2001/51 of 28 June 2001](#) supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 ([OJ L 187 7. 7.2001, p. 45](#));
- [Council Regulation \(EC\) N° 333/2002 of 18 February 2002](#) on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form ([OJ L 53, 23.2.2002, p.4](#));
- [Council Regulation N° 1030/2002 of 13 June 2002](#) laying down a uniform format for residence permits for third-country nationals ([OJ L 157, 15.6.2002, p. 1](#));
- [Council Regulation \(EC\) N° 693/2003 of 14 April 2003](#) establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual ([OJ L 099, 17.4.2003, p. 8](#));
- [Council Regulation \(EC\) N° 694/2003 of 14 April 2003](#) on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) N° 693/2003 ([OJ L 099, 17.4.2003, p. 15](#));
- [Council Decision of 8 March 2004](#) concerning the conclusion of a Memorandum of Understanding between the European Community and the National Tourism Administration of the Peoples' Republic of China on visa and related issues concerning tourist groups from the Peoples' Republic of China (ADS) ([OJ L 83, 20.3.2004, p. 12](#));

- [Regulation \(EC\) N° 851/2004](#) of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control ([OJ L 142, 30.4.2004, p. 1](#));
- [Council Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004](#) on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States ([OJ L 229, 29.6.2004, p. 35](#));
- [Council Regulation No 2252/2004 of 13 December 2004](#) on standards for security features and biometrics in passports and travel documents issued by Member States ([OJ L 385, 29.12.2004, p. 1](#));
- [Decision N° 896/2006 of the European Parliament and of the Council of 14 June 2006](#) establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory ([OJ L 167, 20.6.2006, p.8](#));
- [Regulation \(EC\) No 1931/2006 of the European Parliament and of the Council of 20 December 2006](#) laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention ([OJ L 405, 30.12.2006](#); corrigendum [OJ L 29, 3.2.2007, p. 3](#));
- [Regulation 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System \(SIS II\)](#) ([OJ L 381, 28.12.2006,p. 4](#));
- [Council Decision 2007/533 of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System \(SIS II\), Chapter V-IX](#) ([OJ L 2015,7.8.2007, p. 63](#));
- [Council Decision No 2007/801/EC of 6 December 2007](#) on the full application of the provisions of the Schengen *acquis* in the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Republic of Poland, the Republic of Slovenia and the Slovak Republic ([OJ L 323, 8.12.2007, p. 34](#))
- [Regulation \(EC\) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation \(EC\) No 2320/2002 \(Text with EEA relevance\)](#) ([OJ L 97, 9.4.2008, p.72](#));
- Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) ([OJ L 218, 13.8.2008, p. 60–81](#));
- Council Decision No 2008/903/EC of the European Parliament and of the Council of 27 November 2008 on the full application of the provisions of the Schengen *acquis* in the Swiss Confederation ([OJ L 327, 5.12.2008, p. 15](#))

- [Regulation \(EC\) No 810/2009 of 13 July 2009](#) establishing a Community Code on Visas (Visa Code) ([OJ L 243, 15.9.2009, p. 1](#))
- [Regulation \(EU\) No 265/2010 of 25 March 2010](#) amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa ([OJ L 85, 31.3.2010, p. 1](#))
- [Commission Decision of 19 March 2010 \(C\(2010\)1620 final\)](#) establishing the Handbook for the processing of visa applications and the modifications of issued visas.
- [Council Decision 2011/842/EU of 13 December 2011](#) on the full application of the provisions of the Schengen *acquis* in the Principality of Liechtenstein ([OJ L 334, 16.12.2011, p. 27](#))
- [Directive 2011/95/EU of 13 December 2011](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L337, 20.12.2011, p.9).
- [Directive 2013/32/EU of 26 June 2013](#) on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p.60).
- [Directive 2013/33/EU of 26 June 2013](#) on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 96).
- [Regulation \(EU\) No 604/2013 of 26 June 2013](#) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin Regulation) (OJ L 180 of 26.6.2013, p. 31);
- [Regulation \(EU\) No 603/2013 of 26 June 2013](#) on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p.1).
- [Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC Text with EEA relevance](#) (OJ L 293, 5.11.2013, p.1)
- [Commission implementing Regulation \(EU\) No 118/2014 of 30 January 2014](#) amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining

an asylum application lodged in one of the Member States by a third-country national (OJ L 39, 8.2.2014, p.1).

- [Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC \(OJ L157, 27.5.2014, p.23\)](#)
- [Directive 2014/66/EU of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer \(OJ L 157, 27.5.2014, p.1\)](#)
- [Regulation \(EU\) 2016/399 of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders \(Schengen Borders Code\) \(OJ L 77, 23.3.2016, p. 1\);](#)
- [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\), OJ L 119, 4.5.2016, p.1;](#)
- [Directive \(EU\)2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89;](#)
- [Directive \(EU\) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing \(recast\) \(OJ L 132, 21.5.2016, p. 21\);](#)
- [Regulation \(EU\) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement \(OJ L 303, 28.11.2018, p. 39–58\).](#)

• **International law:**

- [Convention of 7 December 1944 on International Civil Aviation \(ICAO Convention, Annex 2 and 9\);](#)
- [European Convention for the protection of Human Rights of 4 November 1950 and its Protocols;](#)
- [Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967;](#)

- [Vienna Convention on Diplomatic Relations of 18 April 1961](#)
- [Convention on Facilitation of International Maritime Traffic \(FAL\) of 9 April 1965;](#)
- [Agreement between the European Community and its Member States, of one part, and the Swiss Confederation, of the other, on the free movement of persons \(OJ L 114, 30.4.2002, p. 6\);](#)
- [ILO Convention on Seafarers' Identity Documents \(No 185\) of 19 June 2003;](#)
- [Bilateral agreements on local border traffic.](#)

APPENDIX A

NOTIFICATION PROCEDURE

When a Member State³³ intends to carry out targeted checks on persons enjoying the right of free movement under Union law, in accordance with Article 8(2a) of the Schengen Borders Code, it shall notify without delay the intended application of those targeted checks to:

- 1- the other Member States,
- 2- the EBCG Agency and
- 3- the Commission.

The Member State concerned may decide to classify the notification or parts thereof.

In the notification, the grounds, scope and duration for the derogation shall be explained as follows in order to ensure the *effet utile* of the notification and, in particular, to allow the other Member States, the Commission and the Agency to express possible concerns.

The grounds shall be supported by objective elements pertinent to the derogation from the systematic checks at specific border crossing points.

In particular the Member State concerned should present:

- the main characteristics of the flow at the concerned border crossing point(s) such as the categories of persons crossing,
- the estimated share of third-country nationals and share of persons enjoying the right of free movement under Union law crossing that border.
- indication that the alleged increase of the waiting time is due to the systematic checks (and not, for instance, to road works in the area adjacent to the border crossing point). A general reference to the upcoming holidays period is not sufficient in this regard. There is no universal indicator of the disproportionate impact on the traffic flow applicable to all Member States or border crossing points. The assessment of the disproportionate effect on the waiting time cannot ignore the average waiting time or previously experienced delays.
- how the derogation will remedy the disproportionate impact on the flow of traffic faced at the border crossing point(s) concerned.

The border crossing point(s) concerned shall be specified.

³³ In this text, "Member State" is to be understood as including the four Schengen Associated Countries.

The planned duration of the derogation shall be proportionate and shall not exceed what is necessary. The final foreseen date of derogation must be indicated for each border crossing point. Open-ended derogations are not acceptable. In line with Article 15 of the Schengen Borders Code Member States are committed to deploy appropriate staff and resources in sufficient numbers to ensure the implementation of the systematic checks against relevant databases.

The Member State should indicate in the notification the date of transmission of the risk assessment to the Agency as required by Article 8(2a) of the Schengen Borders Code, and explain the main elements from the risk assessment allowing the addressees of such notification to take informed position.

Where other Member States, the Agency or the Commission have concerns about the intention to derogate from the rule of the systematic checks against databases, they shall notify the Member State concerned of these concerns within two weeks after receiving the notification. The Member State shall take those concerns into account.

The Member States should establish their internal channels of communication and shall notify other Member States and the Commission via their Permanent Representation sending the notification to the point of contact within the Permanent Representation and the functional mailbox (HOME-BORDERS@ec.europa.eu) respectively.

APPENDIX B

PROCEDURE WITH REGARD TO THE IMPLEMENTATION OF A DEROGATION FROM THE PRINCIPLE OF THE SYSTEMATIC CHECKS AGAINST RELEVANT DATABASES UNDER ART.8 OF THE SCHENGEN BORDERS CODE (AS AMENDED BY REGULATION 2017/458) INCLUDING THE RISK ASSESSMENT

Article 8(2a) of Regulation 2017/458 allows Member States to derogate from the principle of the systematic checks against relevant databases with regard to persons enjoying the right of free movement under Union law who cross the external borders provided that two cumulative conditions are fulfilled:

1. The Member State concerned must demonstrate a disproportionate impact on the flow of traffic in relation to carrying out of systematic checks on persons enjoying the right of free movement under Union law ("*Where the checks against the databases referred to in points (a) and (b) of paragraph 2 would have a **disproportionate impact on the flow of traffic** [...]*").
2. Before taking a decision on the derogation, the Member State concerned must prepare a risk assessment demonstrating that applying checks on a targeted basis on persons enjoying the right of free movement under Union law would not lead to a security risk ("*[...] **following an assessment of the risks** related to the public policy, internal security, public health or international relations of any of the Member States.*")

In order to ensure the *effet utile* of the provisions concerning the temporary derogation, the following aspects related to assessing the risk of carrying out checks on a targeted basis and to the follow-up of a notification of the intention to derogate should be clarified as follows:

A. The risk assessment

1. The Member State that wants to derogate prepares a risk assessment according to the CIRAM methodology.

The European Border and Coast Guard Agency, in close cooperation with the Member States, will develop a standardised reporting template which will exploit synergies with other already existing risk assessments and vulnerability assessments, and provide access to it on-line.

2. The risk assessment concluding that there is low [or medium] threat is submitted to the Agency before effective implementation of the derogation, using standardised reporting template. In exceptional circumstances (e.g. an exceptional and unforeseen influx of EU/EEA/CH passengers at a certain border crossing point) the risk assessment can be submitted simultaneously with the implementation of the derogation only if the notification alone has already provided extensive information to demonstrate immediate disproportionate impact on the flow of traffic for the specific border crossing point.

According to Art.8(2a) 2nd paragraph "*The risk assessment shall state the reasons for the temporary reduction to targeted checks against the databases, taking into account, inter alia, the disproportionate impact on the flow of traffic and provide statistics on passengers and incidents related to cross-border crime.*" As derogations can apply to persons enjoying the right of free movement under Union law only, the risk assessment should focus on assessing the risks caused by the persons enjoying the right of free movement under Union law at the specific border crossing points.

In concrete terms, the risk assessment of the Member State as set out in Article 8(2a) SBC prepared in line with the CIRAM methodology and a template shall include:

- I. Description of the reason for the temporary reduction to targeted checks against the databases and, provision of quantitative data (e.g. projected passenger flow, processing time per passenger or similar) that demonstrates a disproportionate impact on the flow of traffic at the chosen border crossing point/s after options for increasing capacities have been exhausted.
- II. Estimated share of the total number and the dominant profiles of travellers enjoying the right of free movement under Union law that could pose a threat related to public policy, internal security, public health or international relations of any of the Member States during the period of time when a derogation of systematic checks will be performed.
- III. Assessment of the possible impact of the derogation on the security, i.e. public policy, internal security, etc of the Member States, including the assessment of possible impact of the derogation on travel connections to other Member States.

A risk assessment concluding that the risks related to the public policy, internal security, public health or international relations of any of the Member States are high will not lead to a derogation.

On the basis of a risk assessment concluding that the risks related to the public policy, internal security, public health or international relations of any of the Member States are low [or medium], the Member State concerned should establish that the identified risks for each border crossing point concerned are mitigated with adequate strategies and means. These strategies and means will be described in the risk assessment to be submitted to the Agency.

3. The Agency evaluates the transmitted risk assessment within a timeframe agreed with the Member State in question. The Agency may use its own resources and information, especially information collected via vulnerability assessments, for evaluating risk assessments submitted by the Member States. It may seek for advice of Europol or other EU agencies.

- A. In case the risk assessment is incomplete or the information provided is not relevant, the Agency shall contact the Member State concerned as soon as possible to seek for additional information/justification.
In case the completed risk assessment is not submitted within the deadline agreed with the Agency, the Agency should alert the other Member States and the Commission about the situation after one final request made to the concerned Member State.
- B. In case of a disagreement between the Member State concerned and the Agency over the completeness and relevancy of the risk assessment provided, a common understanding will be sought on a bilateral basis within a reasonable period of time (maximum within two weeks).

If the divergences persist, the Agency shall alert the Commission and the other Member States. A meeting involving the Agency, the Member State concerned, the Commission and, where appropriate, other Member States can be conveyed. In such case, the Commission organises the meeting and invites relevant stakeholders to participate.

The views of the Agency shall be first communicated for comments to the Member State who submitted the risk assessment. The Agency shall inform the Commission and other Member States about its views.

4. The Member State concerned shall update the risk assessment regularly. When doing so, point A.1 to A.3 should also be followed, where applicable.

B. Notification of the intention to derogate and follow-up to such notification:

1. The Member State concerned notifies the intention to derogate to other Member States, Commission and the Agency. The notification should meet the minimum requirements set out in Annex A to this Practical Handbook for Border Guards,
2. The Member States, the Agency or the Commission having concerns about the intention to carry out targeted checks against the databases, shall notify the Member State in question of those concerns without delay. The other Member States or the Commission can ask the Agency to verify if the grounds for their concerns are justified.

The Member States having concerns can also inform the Agency, the Commission and other Member States of their concerns. While the concerns should be clarified in principle on a bilateral basis with the Member State notifying the intention of derogation, given the number or character of the concerns (e.g. related to the same aspect) a meeting for all the parties who raised concerns can be conveyed, while informing about this fact other parties entitled to submit concerns but who have not done so. Such meeting can be conveyed at the initiative of any of the entitled parties. The Commission is responsible for arranging and for chairing such meeting.

3. The Member State intending to derogate from the systematic checks against databases on persons enjoying the right of free movement under Union law shall take those concerns into account.

4. The Member State concerned shall report every six months to the Commission and to the Agency on the application of the checks against the databases carried out on a targeted basis on persons enjoying the right of free movement under Union law. The reports should provide detailed information on the actual use of targeted checks at specific border crossing points, data concerning the flow of traffic at these border crossing points benefiting from the derogation and about their impact on the evolution of the risk assessment related to the public policy, internal security, public health or international relations in the Member State concerned.

For each BCP and for each timeslot when derogations have been used, at least the following information shall be included by the Member State in its report:

- Exact time where derogations have been used (Started at: hours and minutes in UTC. Ended at: hours and minutes in UTC.)
- Number of passengers that were crossing the border, broken down by nationality and direction of travel (entry/exit);
- Number of persons enjoying the right of free movement under Union law that were not checked against databases on entry, broken down by citizenship and direction of travel (entry/exit) ;
- Number of persons enjoying the right of free movement under Union law that were checked against databases, broken down by citizenship and direction of travel (entry/exit);
- Number of hits against the relevant data bases passengers that were subject to targeted checks, broken down by direction of travel (entry/exit), citizenship and databases

In addition, where appropriate, Member States shall endeavour to provide the following contextual information by BCP and by months covering the reporting period³⁴:

- Number of passengers crossing the border, broken down by nationality and direction of travel (entry/exit)
- Number of hits in relevant databases during systematic checks, broken down by direction of travel (entry/exit) and citizenship

³⁴ This reporting obligation may be reviewed after the first reporting.