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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification) – Outcome of the European Parliament's first reading (Strasbourg, 1 to 4 February 2016)

I. INTRODUCTION

The rapporteur, Mrs Heidi HAUTALA (Greens/EFA - FI), presented a report, on behalf of the Committee on Legal Affairs. One amendment in the form of an addendum to the report was presented to the plenary.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure[1], informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

[1] OJ C 145, 30.6.2007, p. 5

II. VOTE

When the plenary voted on 2 February 2016, the addendum to the report was adopted by means of a single vote.

The text adopted and the legislative resolution constitute the European Parliament's first reading position[1], it reflects what had been agreed during the informal contacts referred to above.

The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[1] The text adopted and the European Parliament's legislative resolution are set out in the Annex.

Rules governing the movement of persons across borders (Schengen Borders Code) ***I

European Parliament legislative resolution of 2 February 2016 on the proposal for a regulation of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codified text) (COM(2015)0008 – C8-0008/2015 – 2015/0006(COD))

(Ordinary legislative procedure – codification)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2015)0008),

– having regard to Article 294(2) and Article 77(2)(b) and (e) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0008/2015),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the Interinstitutional Agreement of 20 December 1994 - Accelerated working method for official codification of legislative texts[1],

– having regard to Rules 103 and 59 of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs (A8-0359/2015),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance;

1. Adopts its position at first reading hereinafter set out;

2. Instructs its President to forward its position to the Council, the Commission and the national parliaments

[1] OJ C 102, 4.4.1996, p. 2.

P8_TCI-COD(2015)0006
Position of the European Parliament adopted at first reading on 2 February 2016 with a view to the adoption of Regulation (EU) 2016/ … of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and (e) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure[1],

[1] Position of the European Parliament of 2 February 2016.

Whereas:

(1) Regulation (EC) No 562/2006 of the European Parliament and of the Council[1] has been substantially amended several times[2]. In the interests of clarity and rationality, that Regulation should be codified.

(2) The adoption of measures under Article 77(2)(e) of the Treaty on the Functioning of the European Union (TFEU), with a view to ensuring the absence of any controls on persons crossing internal borders, forms part of the Union's objective of establishing an area without internal frontiers in which the free movement of persons is ensured, as set out in Article 26(2) TFEU.

(3) In accordance with Article 67(2) TFEU, the creation of an area in which persons may move freely is to be flanked by other measures. The common policy on the crossing of external borders, as provided for by Article 77(1)(b) TFEU, is such a measure.

(4) Common measures on the crossing of internal borders by persons and border control at external borders should reflect the Schengen *acquis* incorporated in the Union framework, and in particular the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders[3] and the Common Manual[4].

(5) Common rules on the movement of persons across borders neither call into question nor affect the rights of free movement enjoyed by Union citizens and members of their families and by third-country nationals and members of their families who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens.

(6) Border control is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control. Border control should help to combat illegal immigration and trafficking in human beings and to

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1 Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

2 See Annex IX.

3 OJ L 239, 22.9.2000, p. 19.

4 OJ C 313, 16.12.2002, p. 97.

prevent any threat to the Member States' internal security, public policy, public health and international relations.

(7) Border checks should be carried out in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and be proportionate to the objectives pursued.

(8) Border control comprises not only checks on persons at border crossing points and surveillance between those border crossing points, but also an analysis of the risks for internal security and of the threats that may affect the security of external borders. It is therefore necessary to set out the conditions, criteria and detailed rules governing checks at border crossing points and surveillance at the border, including checks in the Schengen Information System (SIS).

(9) It is necessary to provide for rules dealing with the calculation of the authorised length of short-term stays in the Union. Clear, simple and harmonised rules in all legal acts dealing with this issue would benefit both travellers as well as border and visa authorities.

(10) Since only a verification of fingerprints can confirm with certainty that a person wishing to enter the Schengen area is the person to whom the visa has been issued, provision should be made for the use at external borders of the Visa Information System (VIS) provided for under Regulation (EC) No 767/2008 of the European Parliament and of the Council[1].

(11) In order to verify whether the entry conditions for third-country nationals laid down in this Regulation are fulfilled and to manage their tasks successfully, border guards should use all necessary information available, including data which may be consulted in the VIS.

(12) In order to prevent circumvention of border crossing points where the VIS may be used and to guarantee its full effectiveness, there is a particular need to use the VIS in a harmonised way when entry checks are carried out at the external borders.

(13) Since in cases of repeated visa applications it is appropriate for biometric data to be reused and copied from the first visa application in the VIS, use of the VIS for entry checks at the external borders should be compulsory.

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[1] 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).

(14) The use of the VIS should entail a systematic search in the VIS using the number of the visa sticker in combination with a verification of fingerprints. However, given the potential impact of such searches on waiting times at border crossing points, it should be possible, for a transitional period by way of derogation and in strictly defined circumstances, to consult the VIS without a systematic verification of fingerprints. Member States should ensure that this derogation is used only where the conditions therefor are fully met and that the duration and frequency of application of this derogation is kept to a strict minimum at the individual border crossing points.

(15) It should be possible to have checks at external borders relaxed in the event of exceptional and unforeseeable circumstances in order to avoid excessive waiting time at border crossing points. The systematic stamping of the documents of third-country nationals remains an obligation in the event of border checks being relaxed. Stamping makes it possible to establish, with certainty, the date on which, and where, the border was crossed, without establishing in all cases that all required travel document control measures have been carried out.

(16) In order to reduce the waiting times of persons enjoying the Union right of free movement, separate lanes, indicated by uniform signs in all Member States, should, where circumstances allow, be provided at border crossing points. Separate lanes should be provided in international airports. Where it is deemed appropriate and if local circumstances so allow, Member States should consider installing separate lanes at sea and land border crossing points.

(17) Member States should ensure that control procedures at external borders do not constitute a major barrier to trade and social and cultural interchange. To that end, they should deploy appropriate numbers of staff and resources.

(18) Member States should designate the national service or services responsible for border-control tasks in accordance with their national law. Where more than one service is responsible in the same Member State, there should be close and constant cooperation between them.

(19) Operational cooperation and assistance between Member States in relation to border control should be managed and coordinated by the European Agency for the Management of

Operational Cooperation at the External Borders of the Member States ('the Agency'), established by Council Regulation (EC) No 2007/2004[1].

(20) This Regulation is without prejudice to checks carried out under general police powers and security checks on persons identical to those carried out for domestic flights, to the possibilities for Member States to carry out exceptional checks on baggage in accordance with Council Regulation (EEC) No 3925/91[2], and to national law on carrying travel or identity documents or to the requirement that persons notify the authorities of their presence on the territory of the Member State in question.

(21) In an area where persons may move freely, the reintroduction of border control at internal borders should remain an exception. Border control should not be carried out or formalities imposed solely because such a border is crossed.

(22) The creation of an area in which the free movement of persons across internal borders is ensured is one of the main achievements of the Union. In an area without internal border control, it is necessary to have a common response to situations seriously affecting the public policy or internal security of that area, of parts thereof, or of one or more Member States, by allowing for the temporary reintroduction of internal border control in exceptional circumstances, but without jeopardising the principle of the free movement of persons. Given the impact that such measures of last resort may have on all persons having the right to move within the area without internal border control, the conditions and procedures for reintroducing such measures should be provided for, in order to ensure that they are exceptional and that the principle of proportionality is respected. The scope and duration of any temporary reintroduction of such measures should be restricted to the bare minimum needed to respond to a serious threat to public policy or internal security.

(23) As free movement of persons is affected by the temporary reintroduction of internal border control, any decision to reintroduce such control should be taken in accordance with commonly agreed criteria and should be duly notified to the Commission or be recommended by a Union institution. In any case, the reintroduction of internal border control should remain an exception and should only be effected as a measure of last resort,

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1 Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

2 Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing (OJ L 374, 31.12.1991, p. 4).

for a strictly limited scope and period of time, based on specific objective criteria and on an assessment of its necessity which should be monitored at Union level. Where a serious threat to public policy or internal security requires immediate action, a Member State should be able to reintroduce border control at its internal borders for a period not exceeding ten days. Any prolongation of that period needs to be monitored at Union level.

(24) The necessity and proportionality of reintroducing internal border control should be balanced against the threat to public policy or internal security triggering the need for such reintroduction, as should alternative measures which could be taken at national or Union level, or both, and the impact of such control on the free movement of persons within the area without internal border control.

(25) The reintroduction of internal border control might exceptionally be necessary in the case of a serious threat to public policy or to internal security at the level of the area without internal border control or at national level, in particular following terrorist incidents or threats, or because of threats posed by organised crime.

(26) Migration and the crossing of external borders by a large number of third-country nationals should not, per se, be considered to be a threat to public policy or internal security.

(27) In accordance with the case-law of the Court of Justice of the European Union, a derogation from the fundamental principle of free movement of persons must be interpreted strictly and the concept of public policy presupposes the existence of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

(28) Based on the experience gathered with respect to the functioning of the area without internal border control and in order to help ensure the consistent implementation of the Schengen *acquis*, the Commission may draw up guidelines on the reintroduction of internal border control in cases which require such a measure on a temporary basis and in cases where immediate action is needed. Those guidelines should provide clear indicators to facilitate the assessment of the circumstances that could constitute serious threats to public policy or internal security.

(29) Where serious deficiencies in the carrying out of external border control are identified in an evaluation report drawn up pursuant to Council Regulation (EU) No 1053/2013[1] and with a

[1] Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the

view to ensuring compliance with the recommendations adopted pursuant to that Regulation, implementing powers should be conferred on the Commission to recommend that the evaluated Member State take specific measures, such as deploying European border guard teams, submitting strategic plans or, as a last resort and taking into account the seriousness of the situation, closing a specific border crossing-point. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[1]. In the light of Article 2(2)(b)(iii) of that Regulation, the examination procedure is applicable.

(30) The temporary reintroduction of border control at certain internal borders under a specific Union-level procedure could also be justified in the case of exceptional circumstances and as a measure of last resort where the overall functioning of the area without internal border control is put at risk as a result of persistent serious deficiencies relating to external border control identified in the context of a rigorous evaluation process in accordance with Articles 14 and 15 of Regulation (EU) No 1053/2013, where those circumstances would constitute a serious threat to public policy or internal security in that area or in parts thereof. Such a specific procedure for the temporary reintroduction of border control at certain internal borders could also be triggered, under the same conditions, as a result of the serious negligence by the evaluated Member State of its obligations. In view of the politically sensitive nature of such measures which touch on national executive and enforcement powers regarding internal border control, implementing powers to adopt recommendations under that specific Union-level procedure should be conferred on the Council, acting on a proposal from the Commission.

(31) Before any recommendation on the temporary reintroduction of border control at certain internal borders is adopted, the possibility of resorting to measures aiming to address the underlying situation, including assistance by Union bodies, offices or agencies, such as the Agency or the European Police Office ('Europol'), established by Council Decision 2009/371/JHA[2], and technical or financial support measures at national level, Union level, or both, should be fully explored in a timely manner. Where a serious deficiency is detected,

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1 Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27). Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

2 Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

the Commission may provide financial support measures to help the Member State concerned. Moreover, any Commission and Council recommendation should be based on substantiated information.

(32) The Commission should have the possibility to adopt immediately applicable implementing acts where, in duly justified cases relating to the need to prolong border control at internal borders, imperative grounds of urgency so require.

(33) The evaluation reports and the recommendations referred to in Articles 14 and 15 of Regulation (EU) No 1053/2013 should form the basis for the triggering of the specific measures in the case of serious deficiencies relating to external border control and of the specific procedure in case of exceptional circumstances putting the overall functioning of the area without internal border control at risk provided for in this Regulation. The Member States and the Commission jointly conduct regular, objective and impartial evaluations in order to verify the correct application of this Regulation and the Commission coordinates the evaluations in close cooperation with the Member States. The evaluation mechanism consists of the following elements: multiannual and annual evaluation programmes, announced and unannounced on-site visits carried out by a small team of Commission representatives and of experts designated by Member States, reports on the outcome of the evaluations adopted by the Commission and recommendations for remedial action adopted by the Council on a proposal from the Commission, appropriate follow-up, monitoring and reporting.

(34) Since the objective of Regulation (EC) No 562/2006 and its successive amendments, namely the establishment of rules applicable to the movement of persons across borders, could not be sufficiently achieved by the Member States but could rather be better achieved at Union level, the Union was able to adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, that Regulation and its successive amendments did not go beyond what was necessary in order to achieve that objective.

(35) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adoption of additional measures governing surveillance as well as amendments to the Annexes to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure

a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(36) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. It should be applied in accordance with the Member States' obligations as regards international protection and *non-refoulement*.

(37) By way of derogation from Article 355 TFEU, the only territories of France and the Netherlands to which this Regulation applies are those in Europe. It does not affect the specific arrangements applied in Ceuta and Melilla, as defined in the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985[1].

(38) In accordance with Articles 1 and 2 of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

(39) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*[2] which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC[3].

(40) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's

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1 OJ L 239, 22.9.2000, p. 69.

2 OJ L 176, 10.7.1999, p. 36.

3 Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

association with the implementation, application and development of the Schengen *acquis*[1] which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[2].

(41) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[3] which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[4].

(42) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC[5]; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(43) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[6]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

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1 OJ L 53, 27.2.2008, p. 52

2 Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

3 OJ L 160, 18.6.2011, p. 21.

4 Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

5 Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

6 Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

(44) As regards Bulgaria, Croatia, Cyprus and Romania, the first paragraph of Article 1, Article 6(5)(a), Title III, and the provisions of Title II and the annexes thereto referring to the SIS and to the VIS constitute provisions building upon, or otherwise related to, the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter and principles

This Regulation provides for the absence of border control of persons crossing the internal borders between the Member States of the Union.

It lays down rules governing border control of persons crossing the external borders of the Member States of the Union.

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

1. 'internal borders' means:

   (a) the common land borders, including river and lake borders, of the Member States;

   (b) the airports of the Member States for internal flights;

   (c) sea, river and lake ports of the Member States for regular internal ferry connections;

2. 'external borders' means the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders;

3. 'internal flight' means any flight exclusively to or from the territories of the Member States and not landing in the territory of a third country;

4. ‘regular internal ferry connection’ means any ferry connection between the same two or more ports situated on the territory of the Member States, not calling at any ports situated outside the territory of the Member States, and consisting of the transport of passengers and vehicles according to a published timetable;

5. ‘persons enjoying the right of free movement under Union law’ means:

   (a) Union citizens within the meaning of Article 20(1) TFEU, and third-country nationals who are members of the family of a Union citizen exercising his or her right to free movement to whom Directive 2004/38/EC of the European Parliament and of the Council[1] applies;

   (b) third-country nationals and their family members, whatever their nationality, who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens;

6. ‘third-country national’ means any person who is not a Union citizen within the meaning of Article 20(1) TFEU and who is not covered by point 5 of this Article;

7. ‘persons for whom an alert has been issued for the purposes of refusing entry’ means any third-country national for whom an alert has been issued in the Schengen Information System (SIS) in accordance with and for the purposes laid down in Articles 24 and 26 of Regulation (EC) No 1987/2006 of the European Parliament and of the Council[2];

8. ‘border crossing point’ means any crossing-point authorised by the competent authorities for the crossing of external borders;

9. ‘shared border crossing point’ means any border crossing point situated either on the territory of a Member State or on the territory of a third country, at which Member State border guards and third-country border guards carry out exit and entry checks one after another in accordance with their national law and pursuant to a bilateral agreement;

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1 Directive 2004/38/EC of the European Parliament and of 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 amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

2 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) (OJ L 381, 28.12.2006, p. 4).

10. ‘border control’ means the activity carried out at a border, in accordance with and for the purposes of this Regulation, 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;

11. ‘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 the territory of the Member States or authorised to leave it;

12. ‘border surveillance’ means the surveillance of borders between border crossing points and the surveillance of border crossing points outside the fixed opening hours, in order to prevent persons from circumventing border checks;

13. ‘second line check’ means a further check which may be carried out in a special location away from the location at which all persons are checked (first line);

14. ‘border guard’ means 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, in accordance with this Regulation and national law, border control tasks;

15. ‘carrier’ means any natural or legal person whose profession it is to provide transport of persons;

16. ‘residence permit’ means:

    (a) all residence permits issued by the Member States according to the uniform format laid down by Council Regulation (EC) No 1030/2002[1] and residence cards issued in accordance with Directive 2004/38/EC;

    (b) all other documents issued by a Member State to third-country nationals authorising a stay on its territory that have been the subject of a notification and subsequent publication in accordance with Article 39, with the exception of:

        (i) temporary permits issued pending examination of a first application for a residence permit as referred to in point (a) or an application for asylum; and

[1] Council Regulation (EC) No 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).

(ii) visas issued by the Member States in the uniform format laid down by Council Regulation (EC) No 1683/95[1];

17. 'cruise ship' means a ship which follows a given itinerary in accordance with a predetermined programme, which includes a programme of tourist activities in the various ports, and which normally neither takes passengers on nor allows passengers to disembark during the voyage;

18. 'pleasure boating' means the use of pleasure boats for sporting or tourism purposes;

19. 'coastal fisheries' means fishing carried out with the aid of vessels which return every day or within 36 hours to a port situated in the territory of a Member State without calling at a port situated in a third country;

20. 'offshore worker' means a person working on an offshore installation located in the territorial waters or in an area of exclusive maritime economic exploitation of the Member States, as defined under the international law of the sea, and who returns regularly by sea or air to the territory of the Member States;

21. 'threat to public health' means any disease with epidemic potential as defined by the International Health Regulations of the World Health Organization and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the Member States.

Article 3

Scope

This Regulation shall apply to any person crossing the internal or external borders of Member States, without prejudice to:

(a) the rights of persons enjoying the right of free movement under Union law;

(b) the rights of refugees and persons requesting international protection, in particular as regards *non-refoulement*.

[1] Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1).

Article 4

Fundamental Rights

When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union ('the Charter), relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ('the Geneva Convention'), obligations related to access to international protection, in particular the principle of *non-refoulement*, and fundamental rights. In accordance with the general principles of Union law, decisions under this Regulation shall be taken on an individual basis.

TITLE II

EXTERNAL BORDERS

CHAPTER I

Crossing of external borders and conditions for entry

Article 5

Crossing of external borders

1. External borders may be crossed only at border crossing points and during the fixed opening hours. The opening hours shall be clearly indicated at border crossing points which are not open 24 hours a day.

Member States shall notify the list of their border crossing points to the Commission in accordance with Article 39.

2. By way of derogation from paragraph 1, exceptions to the obligation to cross external borders only at border crossing points and during fixed opening hours may be allowed:

(a) for individuals or groups of persons, where there is a requirement of a special nature for the occasional crossing of external borders outside border crossing points or outside fixed opening hours, provided that they are in possession of the permits required by national law and that there is no conflict with the interests of public policy and the internal security of the Member States. Member States may make specific arrangements in bilateral

agreements. General exceptions provided for by national law and bilateral agreements shall be notified to the Commission pursuant to Article 39;

(b) for individuals or groups of persons in the event of an unforeseen emergency situation;

(c) in accordance with the specific rules set out in Articles 19 and 20 in conjunction with Annexes VI and VII.

3. Without prejudice to the exceptions provided for in paragraph 2 or to their international protection obligations, Member States shall introduce penalties, in accordance with their national law, for the unauthorised crossing of external borders at places other than border crossing points or at times other than the fixed opening hours. Those penalties shall be effective, proportionate and dissuasive.

Article 6

Entry conditions for third-country nationals

1. For intended stays on the territory of the Member States of a duration of no more than 90 days in any 180-day period, which entails considering the 180-day period preceding each day of stay, the entry conditions for third-country nationals shall be the following:

(a) they are in possession of a valid travel document entitling the holder to cross the border satisfying the following criteria:

(i) its validity shall extend at least three months after the intended date of departure from the territory of the Member States. In a justified case of emergency, this obligation may be waived;

(ii) it shall have been issued within the previous 10 years;

(b) they are in possession of a valid visa, if required pursuant to Council Regulation (EC) No 539/2001[1], except where they hold a valid residence permit or a valid long-stay visa;

(c) they justify the purpose and conditions of the intended stay, and they have sufficient means of subsistence, both for the duration of the intended stay and for the return to their country

[1] Council Regulation (EC) No 539/2001 of 15 March 2001 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 81, 21.3.2001, p. 1).

of origin or transit to a third country into which they are certain to be admitted, or are in a position to acquire such means lawfully;

(d) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry;

(e) they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national data bases for the purposes of refusing entry on the same grounds.

2. For the purposes of implementing paragraph 1, the date of entry shall be considered as the first day of stay on the territory of the Member States and the date of exit shall be considered as the last day of stay on the territory of the Member States. 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 stay on the territory of the Member States.

3. A non-exhaustive list of supporting documents which the border guard may request from the third-country national in order to verify the fulfilment of the conditions set out in paragraph 1 (c) is included in Annex I.

4. Means of subsistence shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, multiplied by the number of days stayed.

Reference amounts set by the Member States shall be notified to the Commission in accordance with Article 39.

The assessment 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 sponsorship, where such declarations are provided for by national law and letters of guarantee from hosts, as defined by national law, where the third-country national is staying with a host, may also constitute evidence of sufficient means of subsistence.

5. By way of derogation from paragraph 1:

(a) third-country nationals who do not fulfil all the conditions laid down in paragraph 1 but who hold 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

Member State 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;

(b) third-country nationals who fulfil the conditions laid down in paragraph 1, except for that laid down in point (b), and who present themselves at the border may be authorised to enter the territory of the Member States, if a visa is issued at the border in accordance with Articles 35 and 36 of Regulation (EC) No 810/2009 of the European Parliament and of the Council[1].

Member States shall compile statistics on visas issued at the border in accordance with Article 46 of Regulation (EC) No 810/2009 and Annex XII thereto.

If it is not possible to affix a visa in the document, it shall, exceptionally, be affixed on a separate sheet inserted in the document. In such a case, the uniform format for forms for affixing the visa, laid down by Council Regulation (EC) No 333/2002[2], shall be used;

(c) third-country nationals who do not fulfil one or more of the conditions laid down in paragraph 1 may be authorised by a Member State to enter its territory on humanitarian grounds, on grounds of national interest or because of international obligations. Where the third-country national concerned is the subject of an alert as referred to in paragraph 1(d), the Member State authorising him or her to enter its territory shall inform the other Member States accordingly.

CHAPTER II

Control of external borders and refusal of entry

Article 7

Conduct of border checks

1. Border guards shall, in the performance of their duties, fully respect human dignity, in particular in cases involving vulnerable persons.

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1 Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

2 Council Regulation (EC) No 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).

Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by such measures.

2. While carrying out border checks, border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 8

Border checks on persons

1. Cross-border movement at external borders shall be subject to checks by border guards. Checks shall be carried out in accordance with this chapter.

The checks may also cover the means of transport and objects in the possession of the persons crossing the border. The law of the Member State concerned shall apply to any searches which are carried out.

2. All persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents. Such a minimum check shall consist of a rapid and straightforward verification, where appropriate by using technical devices and by consulting, in the relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents, of the validity of the document authorising the legitimate holder to cross the border and of the presence of signs of falsification or counterfeiting.

The minimum check referred to in the first subparagraph shall be the rule for persons enjoying the right of free movement under Union law.

However, on a non-systematic basis, when carrying out minimum checks on persons enjoying the right of free movement under Union law, border guards may consult national and European databases in order to ensure that such persons do not represent a genuine, present and sufficiently serious threat to the internal security, public policy, international relations of the Member States or a threat to the public health.

The consequences of such consultations shall not jeopardise the right of entry of persons enjoying the right of free movement under Union law into the territory of the Member State concerned as laid down in Directive 2004/38/EC.

3. On entry and exit, third-country nationals shall be subject to thorough checks as follows:

(a) thorough checks on entry shall comprise verification of the conditions governing entry laid down in Article 6(1) and, where applicable, of documents authorising residence and the pursuit of a professional activity. This shall include a detailed examination covering the following aspects:

(i) verification that the third-country national is in possession of a document which is valid for crossing the border and which has not expired, and that the document is accompanied, where applicable, by the requisite visa or residence permit;

(ii) thorough scrutiny of the travel document for signs of falsification or counterfeiting;

(iii) examination of the entry and exit stamps on 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 territory of the Member States;

(iv) verification regarding the point of departure and the destination of the third-country national concerned and the purpose of the intended stay, checking, if necessary, the corresponding supporting documents;

(v) verification that the third-country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his or her return to the country of origin or transit to a third country into which he or she is certain to be admitted, or that he or she is in a position to acquire such means lawfully;

(vi) verification that the third-country national concerned, his or her means of transport and the objects he or she is transporting are not likely to jeopardise the public policy, internal security, public health or international relations of any of the Member States. Such verification shall include direct consultation of the data and alerts on persons and, where necessary, objects included in the SIS and in national data files and the action to be performed, if any, as a result of an alert;

(b) if the third country national holds a visa referred to in Article 6(1)(b), the thorough checks on entry shall alsocomprise verification of the identity of the holder of the visa and of the authenticity of the visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No 767/2008;

(c) by way of derogation, the VIS may be consulted using the number of the visa sticker in all cases and, on a random basis, the number of the visa sticker in combination with the verification of fingerprints where:

(i) traffic of such intensity arises that the waiting time at the border crossing point becomes excessive;

(ii) all resources have already been exhausted as regards staff, facilities and organisation; and

(iii) on the basis of an assessment there is no risk related to internal security and illegal immigration.

However, in all cases where there is doubt as to the identity of the holder of the visa and/or the authenticity of the visa, the VIS shall be consulted systematically using the number of the visa sticker in combination with the verification of fingerprints.

This derogation may be applied only at the border crossing point concerned for as long as the conditions referred to in points (i), (ii) and (iii) are met;

(d) the decision to consult the VIS in accordance with point (c) shall be taken by the border guard in command at the border crossing point or at a higher level.

The Member State concerned shall immediately notify the other Member States and the Commission of any such decision;

(e) each Member State shall transmit once a year a report on the application of point (c) to the European Parliament and the Commission, which shall include the number of third-country nationals who were checked in the VIS using the number of the visa sticker only and the length of the waiting time referred to in point (c)(i);

(f) points (c) and (d) shall apply for a maximum period of three years, beginning three years after the VIS has started operations. The Commission shall, before the end of the second year of application of points (c) and (d), transmit to the European Parliament and to the Council an evaluation of their implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose appropriate amendments to this Regulation;

(g) thorough checks on exit shall comprise:

(i) verification that the third-country national is in possession of a document valid for crossing the border;

(ii) verification of the travel document for signs of falsification or counterfeiting;

(iii) whenever possible, verification 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 Member States;

(h) in addition to the checks referred to in point (g) thorough checks on exit may also comprise:

(i) verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No 539/2001, except where he or she holds a valid residence permit; such verification may comprise consultation of the VIS in accordance with Article 18 of Regulation (EC) No 767/2008;

(ii) verification that the person did not exceed the maximum duration of authorised stay in the territory of the Member States;

(iii) consultation of alerts on persons and objects included in the SIS and reports in national data files;

(i) for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008.

4. Where facilities exist and if requested by the third-country national, such thorough checks shall be carried out in a private area.

5. Without prejudice to the second subparagraph, third-country nationals subject to a thorough second line check shall be given written information in a language which they understand or may reasonably be presumed to understand, or in another effective way, on the purpose of, and the procedure for, such a check.

This information shall be available in all the official languages of the Union and in the language(s) of the country or countries bordering the Member State concerned and shall indicate that the third-country national may request the name or service identification number of the border guards carrying out the thorough second line check, the name of the border crossing point and the date on which the border was crossed.

6. Checks on a person enjoying the right of free movement under Union law shall be carried out in accordance with Directive 2004/38/EC.

7. Detailed rules governing the information to be registered are laid down in Annex II.

8. Where Article 5(2)(a) or (b) applies, Member States may also provide derogations from the rules set out in this Article.

Article 9

Relaxation of border checks

1. Border checks at external borders may be relaxed as a result of exceptional and unforeseen circumstances. Such exceptional and unforeseen circumstances shall be deemed to be those where unforeseeable events lead to traffic of such intensity that the waiting time at the border crossing point becomes excessive, and all resources have been exhausted as regards staff, facilities and organisation.

2. Where border checks are relaxed in accordance with paragraph 1, border checks on entry movements shall in principle take priority over border checks on exit movements.

The decision to relax checks shall be taken by the border guard in command at the border crossing point.

Such relaxation of checks shall be temporary, adapted to the circumstances justifying it and introduced gradually.

3. Even in the event that checks are relaxed, the border guard shall stamp the travel documents of third-country nationals both on entry and exit, in accordance with Article 11.

4. Each Member State shall transmit once a year a report on the application of this Article to the European Parliament and the Commission.

Article 10

Separate lanes and information on signs

1. Member States shall provide separate lanes, in particular at air border crossing points in order to carry out checks on persons, in accordance with Article 8. Such lanes shall be differentiated by means of the signs bearing the indications set out in Annex III.

Member States may provide separate lanes at their sea and land border crossing points and at borders between Member States which do not apply Article 22 at their common borders. The signs bearing the indications set out in Annex III shall be used if Member States provide separate lanes at those borders.

Member States shall ensure that such lanes are clearly signposted, including where the rules relating to the use of the different lanes are waived as provided for in paragraph 4, in order to ensure optimal flow levels of persons crossing the border.

2. Persons enjoying the right of free movement under Union law are entitled to use the lanes indicated by the sign shownin part A ('EU, EEA, CH') of Annex III. They may also use the lanes indicated by the sign shown in part B1 ('visa not required') and part B2 ('all passports') of Annex III.

Third-country nationals who are not obliged to possess a visa when crossing the external borders of the Member States in accordance with Regulation (EC) No 539/2001 and third-country nationals who hold a valid residence permit or long-stay visa may use the lanes indicated by the sign shown in part B1 ('visa not required') of Annex III to this Regulation. They may also use the lanes indicated by the sign shown in part B2 ('all passports') of Annex III to this Regulation.

All other persons shall use the lanes indicated by the sign shown in part B2 ('all passports') of Annex III.

The indications on the signs referred to in the first, second and third subparagraphs may be displayed in such language or languages as each Member State considers appropriate.

The provision of separate lanes indicated by the sign shown in part B1 ('visa not required') of Annex III is not obligatory. Member States shall decide whether to do so and at which border crossing points in accordance with practical needs.

3. At sea and land border crossing points, Member States may separate vehicle traffic into different lanes for light and heavy vehicles and buses by using signs as shown in part C of Annex III.

Member States may vary the indications on those signs where appropriate in the light of local circumstances.

4. In the event of a temporary imbalance in traffic flows at a particular border crossing point, the rules relating to the use of the different lanes may be waived by the competent authorities for the time necessary to eliminate such imbalance.

Article 11

Stamping of the travel documents

1. The travel documents of third-country nationals shall be systematically stamped on entry and exit. In particular an entry or exit stamp shall be affixed to:

(a) the documents, bearing a valid visa, enabling third-country nationals to cross the border;

(b) the documents enabling third-country nationals to whom a visa is issued at the border by a Member State to cross the border;

(c) the documents enabling third-country nationals not subject to a visa requirement to cross the border.

2. The travel documents of nationals of third countries who are members of the family of a Union citizen to whom Directive 2004/38/EC applies, but who do not present the residence card provided for in that Directive, shall be stamped on entry and exit.

The travel documents of nationals of third countries who are members of the family of nationals of third countries enjoying the right of free movement under Union law, but who do not present the residence card provided for in Directive 2004/38/EC, shall be stamped on entry and exit.

3. No entry or exit stamp shall be affixed:

(a) to the travel documents of Heads of State and dignitaries whose arrival has been officially announced in advance through diplomatic channels;

(b) to pilots' licences or the certificates of aircraft crew members;

(c) to the travel documents of seamen who are present within the territory of a Member State only when their ship puts in and in the area of the port of call;

(d) to the travel documents of crew and passengers of cruise ships who are not subject to border checks in accordance with point 3.2.3 of Annex VI;

(e) to documents enabling nationals of Andorra, Monaco and San Marino to cross the border;

(f) to the travel documents of crews of passengers and goods trains on international connections;

(g) to the travel documents of nationals of third countries who present a residence card provided for in Directive 2004/38/EC.

Exceptionally, at the request of a third-country national, insertion of an entry or exit stamp may be dispensed with if insertion might cause serious difficulties for that person. In that case, entry or exit shall be recorded on a separate sheet indicating that person's name and passport number. That sheet shall be given to the third-country national. The competent authorities of the Member States may keep statistics of such exceptional cases and may provide those statistics to the Commission.

4. The practical arrangements for stamping are set out in Annex IV.

5. Whenever possible, third-country nationals shall be informed of the border guard's obligation to stamp their travel document on entry and exit, even where checks are relaxed in accordance with Article 9.

Article 12

Presumption as regards fulfilment of conditions of duration of stay

1. If the travel document of a third-country national does not bear an entry stamp, the competent national authorities may presume that the holder does not fulfil, or no longer fulfils, the conditions of duration of stay applicable within the Member State concerned.

2. The presumption referred to in paragraph 1 may be rebutted where the third-country national provides, by any means, credible evidence, such as transport tickets or proof of his or her presence outside the territory of the Member States, that he or she has respected the conditions relating to the duration of a short stay.

In such a case:

(a) where the third-country national is found on the territory of a Member State applying the Schengen *acquis* in full, the competent authorities shall indicate, in accordance with national law and practice, in his or her travel document the date on which, and the place where, he or she crossed the external border of one of the Member States applying the Schengen *acquis* in full;

(b) where the third-country national is found on the territory of a Member State in respect of which the decision contemplated in Article 3(2) of the 2003 Act of Accession, in Article 4(2) of the 2005 Act of Accession and in Article 4(2) of the 2011 Act of Accession has not

been taken, the competent authorities shall indicate, in accordance with national law and practice, in his or her travel document the date on which, and the place where, he or she crossed the external border of such a Member State.

In addition to the indications referred to in points (a) and (b), a form as shown in Annex VIII may be given to the third-country national.

Member States shall inform each other and the Commission and the Council General Secretariat of their national practices with regard to the indications referred to in this Article.

3. Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be returned in accordance with Directive 2008/115/EC of the European Parliament and of the Council[1] and with national law respecting that Directive.

4. The relevant provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* in the absence of an exit stamp.

Article 13

Border surveillance

1. The main purpose of border surveillance shall be to prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally. A person who has crossed a border illegally and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC.

2. The border guards shall use stationary or mobile units to carry out border surveillance.

That surveillance shall be carried out in such a way as to prevent and discourage persons from circumventing the checks at border crossing points.

3. Surveillance between border crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats. It shall involve frequent and sudden changes to surveillance periods, so that unauthorised border crossings are always at risk of being detected.

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1 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to apprehend individuals crossing the border illegally. Surveillance may also be carried out by technical means, including electronic means.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning additional measures governing surveillance.

Article 14

Refusal of entry

1. A third-country national who does not fulfil all the entry conditions laid down in Article 6(1) and does not belong to the categories of persons referred to in Article 6(5) shall be refused entry to the territories of the Member States. This shall be without prejudice to the application of special provisions concerning the right of asylum and to international protection or the issue of long-stay visas.

2. Entry may only be refused by a substantiated decision stating the precise reasons for the refusal. The decision shall be taken by an authority empowered by national law. It shall take effect immediately.

The substantiated decision stating the precise reasons for the refusal shall be given by means of a standard form, as set out in Annex V, part B, filled in by the authority empowered by national law to refuse entry. The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the decision to refuse entry by means of that form.

3. Persons refused entry shall have the right to appeal. Appeals shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the third-country national in accordance with national law shall also be given to the third-country national.

Lodging such an appeal shall not have suspensive effect on a decision to refuse entry.

Without prejudice to any compensation granted in accordance with national law, the third-country national concerned shall, where the appeal concludes that the decision to refuse entry was ill-founded, be entitled to correction of the cancelled entry stamp, and any other cancellations or additions which have been made, by the Member State which refused entry.

4. The border guards shall ensure that a third-country national refused entry does not enter the territory of the Member State concerned.

5. Member States shall collect statistics on the number of persons refused entry, the grounds for refusal, the nationality of the persons who were refused entry and the type of border (land, air or sea) at which they were refused entry and submit them yearly to the Commission (Eurostat) in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council[1].

6. Detailed rules governing refusal of entry are given in part A of Annex V.

CHAPTER III

Staff and resources for border control and cooperation between Member States

Article 15

Staff and resources for border control

Member States shall deploy appropriate staff and resources in sufficient numbers to carry out border control at the external borders, in accordance with Articles 7 to 14, in such a way as to ensure an efficient, high and uniform level of control at their external borders.

Article 16

Implementation of control

1. The border control provided for by Articles 7 to 14 shall be carried out by border guards in accordance with the provisions of this Regulation and with national law.

[1] Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

When carrying out that border control, the powers to instigate criminal proceedings conferred on border guards by national law and falling outside the scope of this Regulation shall remain unaffected.

Member States shall ensure that the border guards are specialised and properly trained professionals, taking into account common core curricula for border guards established and developed by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States ('the Agency') established by Regulation (EC) No 2007/2004. Training curricula shall include specialised training for detecting and dealing with situations involving vulnerable persons, such as unaccompanied minors and victims of trafficking. Member States, with the support of the Agency, shall encourage border guards to learn the languages necessary for the carrying-out of their tasks.

2. Member States shall notify to the Commission the list of national services responsible for border control under their national law in accordance with Article 39.

3. To control borders effectively, each Member State shall ensure close and constant cooperation between its national services responsible for border control.

Article 17

Cooperation between Member States

1. The Member States shall assist each other and shall maintain close and constant cooperation with a view to the effective implementation of border control, in accordance with Articles 7 to 16. They shall exchange all relevant information.

2. Operational cooperation between Member States in the field of management of external borders shall be coordinated by the Agency.

3. Without prejudice to the competences of the Agency, Member States may continue operational cooperation with other Member States and/or third countries at external borders, including the exchange of liaison officers, where such cooperation complements the action of the Agency.

Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on the operational cooperation referred to in the first subparagraph.

4. Member States shall provide for training on the rules for border control and on fundamental rights. In that regard, account shall be taken of the common training standards as established and further developed by the Agency.

Article 18

Joint control

1. Member States which do not apply Article 22 at their common land borders may, up to the date of application of that Article, jointly control those common borders, in which case a person may be stopped only once for the purpose of carrying out entry and exit checks, without prejudice to the individual responsibility of Member States arising from Articles 7 to 14.

To that end, Member States may conclude bilateral arrangements between themselves.

2. Member States shall inform the Commission of any arrangements concluded in accordance with paragraph 1.

CHAPTER IV

Specific rules for border checks

Article 19

Specific rules for the various types of border and the various means of transport used for crossing the external borders

The specific rules set out in Annex VI shall apply to the checks carried out at the various types of border and on the various means of transport used for crossing border crossing points.

Those specific rules may contain derogations from Articles 5 and 6 and Articles 8 to 14.

Article 20

Specific rules for checks on certain categories of persons

1. The specific rules set out in Annex VII shall apply to checks on the following categories of persons:

(a) Heads of State and the members of their delegation(s);

(b) pilots of aircraft and other crew members;

(c) seamen;

(d) holders of diplomatic, official or service passports and members of international organisations;

(e) cross-border workers;

(f) minors;

(g) rescue services, police and fire brigades and border guards;

(h) offshore workers.

Those specific rules may contain derogations from Articles 5 and 6 and Articles 8 to 14.

2. Member States shall notify to the Commission the model cards issued by their Ministries of Foreign Affairs to accredited members of diplomatic missions and consular representations and members of their families in accordance with Article 39.

CHAPTER V

Specific measures in the case of serious deficiencies relating to external border control

Article 21

Measures at external borders and support by the Agency

1. Where serious deficiencies in the carrying out of external border control are identified in an evaluation report drawn up pursuant to Article 14 of Regulation (EU) No 1053/2013, and with a view to ensuring compliance with the recommendations referred to in Article 15 of that Regulation, the Commission may recommend, by means of an implementing act, that the evaluated Member State take certain specific measures, which may include one or both of the following:

(a) initiating the deployment of European border guard teams in accordance with Regulation (EC) No 2007/2004;

(b) submitting its strategic plans, based on a risk assessment, including information on the deployment of personnel and equipment, to the Agency for its opinion thereon.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).

2. The Commission shall inform the committee established pursuant to Article 38(1) on a regular basis of the progress in the implementation of the measures referred to in paragraph 1 of this Article and on its impact on the deficiencies identified.

It shall also inform the European Parliament and the Council.

3. Where an evaluation report as referred to in paragraph 1 has concluded that the evaluated Member State is seriously neglecting its obligations and must therefore report on the implementation of the relevant action plan within three months in accordance with Article 16(4) of Regulation (EU) No 1053/2013, and where, following that three-month period, the Commission finds that the situation persists, it may trigger the application of the procedure provided for in Article 29 of this Regulation where all the conditions for doing so are fulfilled.

TITLE III

INTERNAL BORDERS

CHAPTER I

Absence of border control at internal borders

Article 22

Crossing internal borders

Internal borders may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out.

Article 23

Checks within the territory

The absence of border control at internal borders shall not affect:

(a) the exercise of police powers by the competent authorities of the Member States under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks; that shall also apply in border areas. Within the meaning of the first sentence, the exercise of police powers may not, in particular, be considered equivalent to the exercise of border checks when the police measures:

(i) do not have border control as an objective;

(ii) are based on general police information and experience regarding possible threats to public security and aim, in particular, to combat cross-border crime;

(iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders;

(iv) are carried out on the basis of spot-checks;

(b) security checks on persons carried out at ports and airports by the competent authorities under the law of each Member State, by port or airport officials or carriers, provided that such checks are also carried out on persons travelling within a Member State;

(c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;

(d) the possibility for a Member State to provide by law for an obligation on third-country nationals to report their presence on its territory pursuant to the provisions of Article 22 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Schengen Convention').

Article 24

Removal of obstacles to traffic at road crossing-points at internal borders

Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not exclusively based on road-safety considerations.

At the same time, Member States shall be prepared to provide for facilities for checks in the event that internal border controls are reintroduced.

CHAPTER II

Temporary reintroduction of border control at internal borders

Article 25

General framework for the temporary reintroduction of border control at internal borders

1. Where, in the area without internal border control, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border control at all or specific parts of its internal borders for a limited period of up to 30 days or for the foreseeable duration of the serious threat if its duration exceeds 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.

2. Border control at internal borders shall only be reintroduced as a last resort, and in accordance with Articles 27, 28 and 29. The criteria referred to, respectively, in Articles 26 and 30 shall be taken into account in each case where a decision on the reintroduction of border control at internal borders is considered pursuant, respectively, to Article 27, 28 or 29.

3. If the serious threat to public policy or internal security in the Member State concerned persists beyond the period provided for in paragraph 1 of this Article, that Member State may prolong border control at its internal borders, taking account of the criteria referred to in Article 26 and in accordance with Article 27, on the same grounds as those referred to in paragraph 1 of this Article and, taking into account any new elements, for renewable periods of up to 30 days.

4. The total period during which border control is reintroduced at internal borders, including any prolongation provided for under paragraph 3 of this Article, shall not exceed six months. Where there are exceptional circumstances as referred to in Article 29, that total period may be extended to a maximum length of two years, in accordance with paragraph 1 of that Article.

Article 26

Criteria for the temporary reintroduction of border control at internal borders

Where a Member State decides, as a last resort, on the temporary reintroduction of border control at one or more of its internal borders or at parts thereof, or decides to prolong such reintroduction, in accordance with Article 25 or Article 28(1), it shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security, and shall assess the proportionality of the measure in relation to that threat. In making such an assessment, the Member State shall, in particular, take the following into account:

(a) the likely impact of any threats to its public policy or internal security, including following terrorist incidents or threats and including those posed by organised crime;

(b) the likely impact of such a measure on free movement of persons within the area without internal border control.

Article 27

Procedure for the temporary reintroduction of border control at internal borders under Article 25

1. Where a Member State plans to reintroduce border control at internal borders under Article 25, it shall notify the other Member States and the Commission at the latest four weeks before the planned reintroduction, or within a shorter period where the circumstances giving rise to the need to reintroduce border control at internal borders become known less than four weeks before the planned reintroduction. To that end, the Member State shall supply the following information:

(a) the reasons for the proposed reintroduction, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;

(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;

(c) the names of the authorised crossing-points;

(d) the date and duration of the planned reintroduction;

(e) where appropriate, the measures to be taken by the other Member States.

A notification under the first subparagraph may also be submitted jointly by two or more Member States.

If necessary, the Commission may request additional information from the Member State(s) concerned.

2. The information referred to in paragraph 1 shall be submitted to the European Parliament and to the Council at the same time as it is notified to the other Member States and to the Commission pursuant to that paragraph.

3. Member States making a notification under paragraph 1 may, where necessary and in accordance with national law, decide to classify parts of the information.

Such classification shall not preclude information from being made available by the Commission to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European Parliament and the Commission.

4. Following notification by a Member State under paragraph 1 and with a view to consultation provided for in paragraph 5, the Commission or any other Member State may, without prejudice to Article 72 TFEU, issue an opinion.

If, based on the information contained in the notification or on any additional information it has received, the Commission has concerns as regards the necessity or proportionality of the planned reintroduction of border control at internal borders, or if it considers that a consultation on some aspect of the notification would be appropriate, it shall issue an opinion to that effect.

5. The information referred to in paragraph 1 and any Commission or Member State opinion under paragraph 4 shall be the subject of consultation, including, where appropriate, joint meetings between the Member State planning to reintroduce border control at internal borders, the other Member States, especially those directly affected by such measures, and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the measures to the events giving rise to the reintroduction of border control and the threat to public policy or internal security.

6. The consultation referred to in paragraph 5 shall take place at least ten days before the date planned for the reintroduction of border control.

Article 28

Specific procedure for cases requiring immediate action

1. Where a serious threat to public policy or internal security in a Member State requires immediate action to be taken, the Member State concerned may, on an exceptional basis, immediately reintroduce border control at internal borders, for a limited period of up to ten days.

2. Where a Member State reintroduces border control at internal borders, it shall at the same time notify the other Member States and the Commission accordingly, and shall supply the information referred to in Article 27(1), including the reasons that justify the use of the procedure set out in this Article. The Commission may consult the other Member States immediately upon receipt of the notification.

3. If the serious threat to public policy or internal security persists beyond the period provided for in paragraph 1 of this Article, the Member State may decide to prolong the border control at internal borders for renewable periods of up to 20 days. In doing so, the Member State concerned shall take into account the criteria referred to in Article 26, including an updated assessment of the necessity and the proportionality of the measure, and shall take into account any new elements.

In the event of such a prolongation, the provisions of Article 27(4) and (5) shall apply *mutatis mutandis*, and the consultation shall take place without delay after the decision to prolong has been notified to the Commission and to the Member States.

4. Without prejudice to Article 25(4), the total period during which border control is reintroduced at internal borders, on the basis of the initial period under paragraph 1 of this Article and any prolongations under paragraph 3 of this Article, shall not exceed two months.

5. The Commission shall inform the European Parliament without delay of notifications made under this Article.

Article 29

Specific procedure where exceptional circumstances put the overall functioning of the area without internal border control at risk

1. In exceptional circumstances where the overall functioning of the area without internal border control is put at risk as a result of persistent serious deficiencies relating to external border control as referred to in Article 21, and insofar as those circumstances constitute a serious threat to public

policy or internal security within the area without internal border control or within parts thereof, border control at internal borders may be reintroduced in accordance with paragraph 2 of this Article for a period of up to six months. That period may be prolonged, no more than three times, for a further period of up to six months if the exceptional circumstances persist.

2. The Council may, as a last resort and as a measure to protect the common interests within the area without internal border control, where all other measures, in particular those referred to in Article 21(1), are ineffective in mitigating the serious threat identified, recommend that one or more Member States decide to reintroduce border control at all or at specific parts of their internal borders. The Council's recommendation shall be based on a proposal from the Commission. The Member States may request the Commission to submit such a proposal to the Council for a recommendation.

In its recommendation, the Council shall at least indicate the information referred to in Article 27(1)(a) to (e).

The Council may recommend a prolongation in accordance with the conditions and procedure set out in this Article.

Before a Member State reintroduces border control at all or at specific parts of its internal borders under this paragraph, it shall notify the other Member States, the European Parliament and the Commission accordingly.

3. In the event that the recommendation referred to in paragraph 2 is not implemented by a Member State, that Member State shall without delay inform the Commission in writing of its reasons.

In such a case, the Commission shall present a report to the European Parliament and to the Council assessing the reasons provided by the Member State concerned and the consequences for protecting the common interests of the area without internal border control.

4. On duly justified grounds of urgency relating to situations where the circumstances giving rise to the need to prolong border control at internal borders in accordance with paragraph 2 become known less than 10 days before the end of the preceding reintroduction period, the Commission may adopt any necessary recommendations by means of immediately applicable implementing acts in accordance with the procedure referred to in Article 38(3). Within 14 days of the adoption of such recommendations, the Commission shall submit to the Council a proposal for a recommendation in accordance with paragraph 2 of this Article.

5. This Article shall be without prejudice to measures that may be adopted by the Member States in the event of a serious threat to public policy or internal security under Articles 25, 27 and 28.

Article 30

Criteria for the temporary reintroduction of border control at internal borders where exceptional circumstances put the overall functioning of the area without internal border control at risk

1. Where, as a last resort, the Council recommends in accordance with Article 29(2) the temporary reintroduction of border control at one or more internal borders or at parts thereof, it shall assess the extent to which such a measure is likely to adequately remedy the threat to public policy or internal security within the area without internal border control, and shall assess the proportionality of the measure in relation to that threat. That assessment shall be based on the detailed information submitted by the Member State(s) concerned and by the Commission and any other relevant information, including any information obtained pursuant to paragraph 2 of this Article. In making such an assessment, the following considerations shall in particular be taken into account:

(a) the availability of technical or financial support measures which could be or have been resorted to at national or Union level, or both, including assistance by Union bodies, offices or agencies, such as the Agency, the European Asylum Support Office, established by Regulation (EU) No 439/2010 of the European Parliament and of the Council[1] or the European Police Office ('Europol'), established by Decision 2009/371/JHA, and the extent to which such measures are likely to adequately remedy the threat to public policy or internal security within the area without internal border control;

(b) the current and likely future impact of any serious deficiencies relating to external border control identified in the context of the evaluations carried out pursuant to Regulation (EU) No 1053/2013 and the extent to which such serious deficiencies constitute a serious threat to public policy or internal security within the area without internal border control;

(c) the likely impact of the reintroduction of border control on the free movement of persons within the area without internal border control.

[1] Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

2. Before adopting a proposal for a Council recommendation, in accordance with Article 29(2), the Commission may:

(a) request Member States, the Agency, Europol or other Union bodies, offices or agencies to provide it with further information;

(b) carry out on-site visits, with the support of experts from Member States and of the Agency, Europol or any other relevant Union body, office or agency, in order to obtain or verify information relevant for that recommendation.

Article 31

Informing the European Parliament and the Council

The Commission and the Member State(s) concerned shall inform the European Parliament and the Council as soon as possible of any reasons which might trigger the application of Article 21 and Articles 25 to 30.

Article 32

Provisions to be applied where border control is reintroduced at internal borders

Where border control at internal borders is reintroduced, the relevant provisions of Title II shall apply *mutatis mutandis*.

Article 33

Report on the reintroduction of border control at internal borders

Within four weeks of the lifting of border control at internal borders, the Member State which has carried out border control at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the initial assessment and the respect of the criteria referred to in Articles 26, 28 and 30, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the free movement of persons, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the proportionality of the reintroduction of border control.

The Commission may issue an opinion on that ex-post assessment of the temporary reintroduction of border control at one or more internal borders or at parts thereof.

The Commission shall present to the European Parliament and to the Council, at least annually, a report on the functioning of the area without internal border control. The report shall include a list of all decisions to reintroduce border control at internal borders taken during the relevant year.

Article 34

Informing the public

The Commission and the Member State concerned shall inform the public in a coordinated manner on a decision to reintroduce border control at internal borders and indicate in particular the start and end date of such a measure, unless there are overriding security reasons for not doing so.

Article 35

Confidentiality

At the request of the Member State concerned, the other Member States, the European Parliament and the Commission shall respect the confidentiality of information supplied in connection with the reintroduction and prolongation of border control and the report drawn up under Article 33.

TITLE IV

FINAL PROVISIONS

Article 36

Amendments to the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning amendments to Annexes III, IV and VIII.

Article 37

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 13(5) and Article 36 shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of powers referred to in Article 13(5) and Article 36 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 13(5) and Article 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 38

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 39

Notifications

1. Member States shall notify the Commission of:

(a) the list of residence permits, distinguishing between those covered by Article 2(16)(a) and those covered by Article 2(16)(b) and accompanied by a specimen for permits covered by Article 2(16)(b). Residence cards issued in accordance with Directive 2004/38/EC shall be specifically highlighted as such and specimens shall be provided for those residence cards which have not been issued in accordance with the uniform format laid down by Regulation (EC) No 1030/2002;

(b) the list of their border crossing points;

(c) the reference amounts required for the crossing of their external borders fixed annually by the national authorities;

(d) the list of national services responsible for border control;

(e) the specimen of model cards issued by Foreign Ministries;

(f) the exceptions to the rules regarding the crossing of the external borders referred to in Article 5(2)(a);

(g) the statistics referred to in Article 11(3).

2. The Commission shall make the information notified in conformity with paragraph 1 available to the Member States and the public through publication in the *Official Journal of the European Union*, C Series, and by any other appropriate means.

Article 40

Local border traffic

This Regulation shall be without prejudice to Union rules on local border traffic and to existing bilateral agreements on local border traffic.

Article 41

Ceuta and Melilla

The provisions of this Regulation shall not affect the special rules applying to the cities of Ceuta and Melilla, as defined in the Declaration by the Kingdom of Spain on the cities of Ceuta and

Melilla in the Final Act to the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985[1].

Article 42

Notification of information by the Member States

The Member States shall notify the Commission of national provisions relating to Article 23(c) and (d), the penalties as referred to in Article 5(3) and the bilateral agreements authorised by this Regulation. Subsequent changes to those provisions shall be notified within five working days.

The information notified by the Member States shall be published in the *Official Journal of the European Union*, C Series.

Article 43

Evaluation mechanism

1. In accordance with the Treaties and without prejudice to their provisions on infringement procedures, the implementation by each Member State of this Regulation shall be evaluated through an evaluation mechanism.

2. The rules on the evaluation mechanism are specified in Regulation (EU) No 1053/2013. In accordance with that evaluation mechanism, the Member States and the Commission are, jointly, to conduct regular, objective and impartial evaluations in order to verify the correct application of this Regulation and the Commission is to coordinate the evaluations in close cooperation with the Member States. Under that mechanism, every Member State is evaluated at least every five years by a small team consisting of Commission representatives and of experts designated by the Member States.

Evaluations may consist of announced or unannounced on-site visits at external or internal borders.

In accordance with that evaluation mechanism, the Commission is responsible for adopting the multiannual and annual evaluation programmes and the evaluation reports.

3. In the case of possible deficiencies recommendations for remedial action may be addressed to the Member States concerned.

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1 OJ L 239, 22.9.2000, p. 73.

Where serious deficiencies in the carrying out of external border control are identified in an evaluation report adopted by the Commission in accordance with Article 14 of Regulation (EU) No 1053/2013, Articles 21 and 29 of this Regulation shall apply.

4. The European Parliament and the Council shall be informed at all stages of the evaluation and be transmitted all the relevant documents, in accordance with the rules on classified documents.

5. The European Parliament shall be immediately and fully informed of any proposal to amend or to replace the rules laid down in Regulation (EU) No 1053/2013.

Article 44

Repeal

Regulation (EC) No 562/2006 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex X.

Article 45

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Supporting documents to verify the fulfilment of entry conditions

The documentary evidence referred to in Article 6(3) may include the following:

(a) for business trips:

(i) an invitation from a firm or an authority to attend meetings, conferences or events connected with trade, industry or work;

(ii) other documents which show the existence of trade relations or relations for work purposes;

(iii) entry tickets for fairs and congresses if attending one;

(b) for journeys undertaken for the purposes of study or other types of training:

(i) a certificate of enrolment at a teaching institute for the purposes of attending vocational or theoretical courses in the framework of basic and further training;

(ii) student cards or certificates for the courses attended;

(c) for journeys undertaken for the purposes of tourism or for private reasons:

(i) supporting documents as regards lodging:

– an invitation from the host if staying with one;

- a supporting document from the establishment providing lodging or any other appropriate document indicating the accommodation envisaged;

(ii) supporting documents as regards the itinerary:

- confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;

(iii) supporting documents as regards return:

- a return or round-trip ticket;

(d) for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons:

invitations, entry tickets, enrolments or programmes stating wherever possible the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the visit.

_____

ANNEX II

Registration of information

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

(a) the names of the border guard responsible locally for border checks and of the other officers in each team;

(b) relaxation of checks on persons applied in accordance with Article 9;

(c) the issuing, at the border, of documents in place of passports and of visas;

(d) persons apprehended and complaints (criminal offences and administrative breaches);

(e) persons refused entry in accordance with Article 14 (grounds for refusal and nationalities);

(f) the security codes of entry and exit stamps, the identity of border guards to whom a given stamp is assigned at any given time or shift and the information relating to lost and stolen stamps;

(g) complaints from persons subject to checks;

(h) other particularly important police or judicial measures;

(i) particular occurrences.

ANNEX III

Model signs indicating lanes at border crossing points

PART A



1

[1] No logo is required for Norway and Iceland.

PART B1: 'VISA NOT REQUIRED';



PART B2: 'ALL PASSPORTS'.



PART C

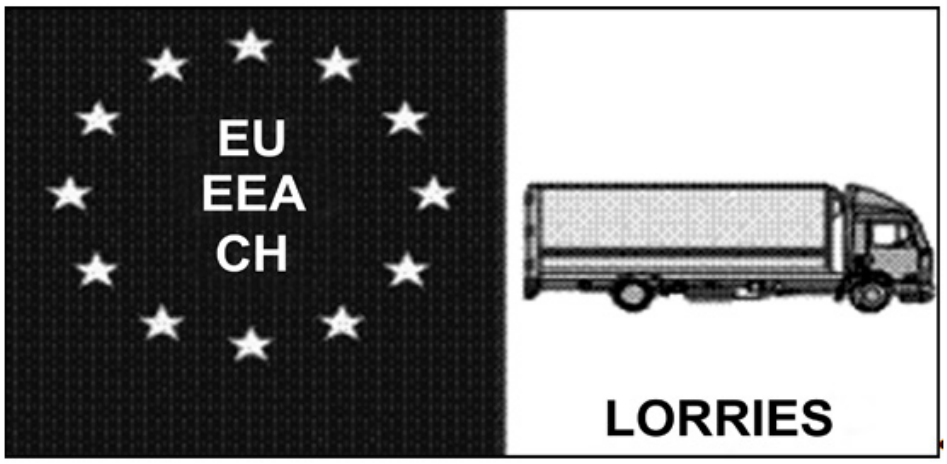


1



2

1 No logo is required for Norway and Iceland.
2 No logo is required for Norway and Iceland.



1





1 No logo is required for Norway and Iceland.

VISA
NOT REQUIRED



LORRIES

ALL
PASSPORTS



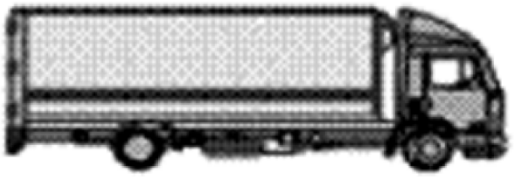
CARS

ALL
PASSPORTS



BUSES

ALL
PASSPORTS



LORRIES

ANNEX IV

Affixing stamps

1. The travel documents of third-country nationals shall be systematically stamped on entry and exit, in accordance with Article 11. The specifications of those stamps are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL).

2. The security codes on the stamps shall be changed at regular intervals not exceeding one month.

3. On the 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 that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped.

4. Member States shall designate national contact points responsible for exchanging information on the security codes of the entry and exit stamps used at border crossing points and shall inform the other Member States, the General Secretariat of the Council and the Commission thereof. Those contact points shall have access without delay to information regarding common entry and exit stamps used at the external border of the Member State concerned, and in particular to information on the following:

   (a) the border crossing point to which a given stamp is assigned;

   (b) the identity of the border guard to whom a given stamp is assigned at any given time;

   (c) the security code of a given stamp at any given time.

   Any inquiries regarding common entry and exit stamps shall be made through the abovementioned national contact points.

   The national contact points shall also forward immediately to the other contact points, the General Secretariat of the Council and the Commission information regarding a change in the contact points as well as lost and stolen stamps.

_____

ANNEX V

PART A

Procedures for refusing entry at the border

1. When refusing entry, the competent border guard shall:

   (a) fill in the standard form for refusing entry, as shown in Part B. The third-country national concerned shall sign the form and shall be given a copy of the signed form. Where the third-country national refuses to sign, the border guard shall indicate this refusal in the form under the section 'comments';

   (b) affix an entry stamp on the passport, cancelled by a cross in indelible 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, the list of which is given on the abovementioned standard form for refusing entry;

   (c) annul or revoke the visas, as appropriate, in accordance with the conditions laid down in Article 34 of Regulation (EC) No 810/2009;

   (d) record every refusal of entry in a register or on a list stating the identity and nationality of the third-country national concerned, the references of the document authorising the third-country national to cross the border and the reason for, and date of, refusal of entry.

2. If a third-country national who has been refused entry is brought to the border by a carrier, the authority responsible locally shall:

   (a) order the carrier to take charge of the third-country national and transport him or her without delay to the third country from which he or she was brought, to the third country which issued the document authorising him or her to cross the border, or to any other third country where he or she is guaranteed admittance, or to find means of onward transportation in accordance with Article 26 of the Schengen Convention and Council Directive 2001/51/EC[1];

[1] 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 (OJ L 187, 10.7.2001, p. 45).

(b) pending onward transportation, take appropriate measures, in compliance with national law and having regard to local circumstances, to prevent third-country nationals who have been refused entry from entering illegally.

3. If there are grounds both for refusing entry to a third-country national and arresting him or her, the border guard shall contact the authorities responsible to decide on the action to be taken in accordance with national law.

PART B

Standard form for refusal of entry at the border

Name of State

Logo of State (Name of Office)

_____

_____ (1)

REFUSAL OF ENTRY AT THE BORDER

On _____ at (time) _____ at the border crossing point _____

We, the undersigned, _____ have before us:

Surname _____ First name _____

Date of birth _____ Place of birth _____ Sex _____

Nationality _____ Resident in _____

Type of identity document _____ number _____

Issued in _____ on _____

Visa number _____type _____ issued by _____

valid from _____ until _____

For a period of _____ days on the following grounds: _____

Coming from _____ by means of _____ (indicate means of transport used, e.g. flight number), he/she is hereby informed that he/she is refused entry into the country pursuant to *(indicate references to the national law in force),* for the following reasons:

☐ (A) has no valid travel document(s)

☐ (B) has a false/counterfeit/forged travel document

☐ (C) has no valid visa or residence permit

☐ (D) has a false/counterfeit/forged visa or residence permit

☐ (E) has no appropriate documentation justifying the purpose and conditions of stay.

The following document(s) could not be provided: _____

▶(*) ☐ (F) has already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the European Union ◀

☐ (G) does not have 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) is a person for whom an alert has been issued for the purposes of refusing entry

☐ in the SIS

☐ in the national register

☐ (I) is considered to be a *threat to public policy, internal security, public health or the international relations* of one or more of the Member States of the European Union *(each State must indicate the references to national law relating to such cases of refusal of entry*).

Comments

The person concerned may appeal against the decision to refuse entry as provided for in national law. The person concerned receives a copy of this document *(each State must indicate the references to the national law and procedure relating to the right of appeal)*.

Person concerned	Officer responsible for checks

(1) No logo is required for Norway and Iceland.

➔1 ←

ANNEX VI

Specific rules for the various types of border and the various means of transport used for crossing the Member States' external borders

1. LAND BORDERS

1.1. Checks on road traffic

1.1.1. To ensure effective checks on persons, while ensuring the safety and smooth flow of road traffic, movements at border crossing points shall be regulated in an appropriate manner. Where necessary, Member States may conclude bilateral agreements to channel and block traffic. They shall inform the Commission thereof pursuant to Article 42.

1.1.2. At land borders, Member States may, where they deem appropriate and if circumstances allow, install or operate separate lanes at certain border crossing points, in accordance with Article 10.

Separate lanes may be dispensed with at any time by the Member States' competent authorities, in exceptional circumstances and where traffic and infrastructure conditions so require.

Member States may cooperate with neighbouring countries with a view to the installation of separate lanes at external border crossing points.

1.1.3. As a general rule, persons travelling in vehicles may remain inside them during checks. However, if circumstances so require, persons may be requested to alight from their vehicles. Thorough checks will be carried out, if local circumstances allow, in areas designated for that purpose. In the interests of staff safety, checks will be carried out, where possible, by two border guards.

1.1.4. Shared border crossing points

1.1.4.1. Member States may conclude or maintain bilateral agreements with neighbouring third countries concerning the establishment of shared border crossing points, at which Member State 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. Shared border crossing points may be located either on the territory of a Member State territory or on the territory of a third country.

1.1.4.2. Shared border crossing points located on Member State territory: bilateral agreements establishing shared border crossing points located on Member State territory shall contain an authorisation for third-country border guards to exercise their tasks in the Member State, respecting the following principles:

(a) International protection: a third-country national asking for international protection on Member State territory shall be given access to relevant Member State procedures in accordance with the Union asylum *acquis*.

(b) Arrest of a person or seizure of property: if third-country border guards become aware of facts justifying the arrest or placing under protection of a person or seizure of property, they shall inform Member State authorities of those facts and Member State authorities shall ensure an appropriate follow-up in accordance with national, Union and international law, independently of the nationality of the concerned person.

(c) Persons enjoying the right of free movement under Union law entering Union territory: third-country border guards shall not prevent persons enjoying the right of free movement under Union law from entering Union territory. If there are reasons justifying refusal of exit from the third country concerned, third-country border guards shall inform Member State authorities of those reasons and Member State authorities shall ensure an appropriate follow-up in accordance with national, Union and international law.

1.1.4.3. Shared border crossing points located on third-country territory: bilateral agreements establishing shared border crossing points located on third-country territory shall contain an authorisation for Member State border guards to perform their tasks in the third country. For the purpose of this Regulation, any check carried out by Member State border guards in a shared border crossing point located on the territory of a third country shall be deemed to be carried out on the territory of the Member State concerned. Member State border guards shall exercise their tasks in accordance with this Regulation and respecting the following principles:

(a) International protection: a third-country national who has passed exit control by third-country border guards and subsequently asks Member State border guards present in the third country for international protection, shall be given access to relevant Member State procedures in accordance with Union asylum *acquis*.

Third-country authorities shall accept the transfer of the person concerned into Member State territory.

(b) Arrest of a person or seizure of property: if Member State border guards become aware of facts justifying the arrest or placing under protection of a person or seizure of property, they shall act in accordance with national, Union and international law. Third-country authorities shall accept a transfer of the person or object concerned into Member State territory.

(c) Access to IT systems: Member State border guards shall be able to use information systems processing personal data in accordance with Article 8. Member States shall be allowed to establish the technical and organisational security measures required by Union law to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, including access by third-country authorities.

1.1.4.4. Before concluding or amending any bilateral agreement on shared border crossing points with a neighbouring third country, the Member State concerned shall consult the Commission as to the compatibility of the agreement with Union law. Pre-existing bilateral agreements shall be notified to the Commission by 20 January 2014.

If the Commission considers the agreement to be incompatible with Union law, it shall notify the Member State concerned. The Member State shall take all appropriate steps to amend the agreement within a reasonable period in such a way as to eliminate the incompatibilities established.

1.2. Checks on rail traffic

1.2.1. Checks shall be carried out both on train passengers and on railway staff on trains crossing external borders, including those on goods trains or empty trains. Member States may conclude bilateral or multilateral agreements on how to conduct those checks respecting the principles set out in point 1.1.4. Those checks shall be carried out in one of the following ways:

in the first station of arrival or last station of departure on the territory of a Member State;

on board the train, during transit between the last station of departure in a third country and the first station of arrival on the territory of a Member State or vice versa;

in the last station of departure or the first station of arrival on the territory of a third country.

1.2.2. In addition, in order to facilitate rail traffic flows of high-speed passenger trains, the Member States on the itinerary of these trains from third countries may also decide, by common agreement with third countries concerned respecting the principles set out in point 1.1.4., to carry out entry checks on persons on trains from third countries in either one of the following ways:

in the stations in a third country where persons board the train;

in the stations where persons disembark within the territory of the Member States;

on board the train during transit between stations on the territory of a third country and stations on the territory of the Member States, provided that the persons stay on board the train.

1.2.3. With respect to high-speed trains from third countries making several stops in the territory of the Member States, if the rail transport carrier is in a position to board passengers exclusively for the remaining part of the journey within the territory of the Member States, such passengers shall be subject to entry checks either on the train or at the station of destination except where checks have been carried out pursuant to points 1.2.1 or 1.2.2 first indent.

Persons who wish to take the train exclusively for the remaining part of the journey within the territory of the Member States shall 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.

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

1.2.5. The border guard may order the cavities of carriages to be inspected if necessary with the assistance of the train inspector, to ensure that persons or objects subject to border checks are not concealed in them.

1.2.6. Where there are reasons to believe that persons who have been reported or are suspected of having committed an offence, or third-country nationals intending to enter illegally, are hiding on a train, the border guard, if he or she cannot act in accordance with his national

provisions, shall notify the Member States towards or within whose territory the train is moving.

2. AIR BORDERS

2.1. Procedures for checks at international airports

2.1.1. The competent authorities of the Member States shall ensure that the airport operator takes the requisite measures to physically separate the flows of passengers on internal flights from the flows of passengers on other flights. Appropriate infrastructures shall be set in place at all international airports to that end.

2.1.2. The place where border checks are carried out shall be determined in accordance with the following procedure:

(a) passengers on a flight from a third country who board an internal flight shall be subject to an entry check at the airport of arrival of the flight from a third country. Passengers on an internal flight who board a flight for a third country (transfer passengers) shall be subject to an exit check at the airport of departure of the latter flight;

(b) for flights from or to third countries with no transfer passengers and flights making more than one stop-over at the airports of the Member States where there is no change of aircraft:

(i) passengers on flights from or to third countries where there is no prior or subsequent transfer within the territory of the Member States shall be subject to an entry check at the airport of entry and an exit check at the airport of exit;

(ii) passengers on flights from or to third countries with more than one stop-over on the territory of the Member States where there is no change of aircraft (transit passengers), and provided that passengers cannot board the aircraft for the leg situated within the territory of the Member States, shall be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

(iii) where an airline may, for flights from third countries with more than one stop-over within the territory of the Member States, board passengers only for the

remaining leg within that territory, passengers shall 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 those stop-overs, are already on board the aircraft and have not boarded in the territory of the Member States shall be carried out in accordance with point (ii). The reverse procedure shall apply to that category of flights where the country of destination is a third country.

2.1.3. Border checks will normally not be carried out on the aircraft or at the gate, unless it is justified on the basis of an assessment of the risks related to internal security and illegal immigration. In order to ensure that, at the airports designated as border crossing points, persons are checked in accordance with the rules set out in Articles 7 to 14, Member States shall ensure that the airport authorities take the requisite measures to channel passenger traffic to facilities reserved for checks.

Member States shall ensure that the airport operator takes the necessary measures to prevent unauthorised persons entering and leaving the reserved areas, for example the transit area. Checks will normally not be carried out in the transit area, unless it is justified on the basis of an assessment of the risks related to internal security and illegal immigration; in particular checks in this area may be carried out on persons subject to an airport transit visa in order to check that they are in possession of such a visa.

2.1.4. Where, in cases of *force majeure* or imminent danger or on the instructions of the authorities, an aircraft on a flight from a third country has to land on a landing ground which is not a border crossing point, that aircraft may continue its flight only after authorisation from the border guards and from customs. The same shall apply where an aircraft on a flight from a third country lands without permission. In any event, Articles 7 to 14 shall apply to checks on persons on those aircraft.

2.2. Procedures for checks in aerodromes

2.2.1. It shall be ensured that persons are also checked, in accordance with Articles 7 to 14, 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 third countries is authorised.

2.2.2. By way of derogation from point 2.1.1 it shall not be 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 300/2008 of the European Parliament and of the Council[1]. 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.

2.2.3. When the presence of the border guards is not assured at all times in the aerodrome, the manager of the aerodrome shall give adequate notice to the border guards about the arrival and the departure of aircrafts on flights from or to third countries.

2.3. Checks on persons on private flights

2.3.1. In the case of private flights from or to third countries the captain shall transmit to the border guards of the Member State of destination and, where appropriate, of the Member 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 and information concerning the passengers' identity.

2.3.2. Where private flights coming from a third country and bound for a Member State make stop-overs in the territory of other Member States, the competent authorities of the Member State of entry shall carry out border checks and affix an entry stamp to the general declaration referred to in point 2.3.1.

2.3.3. Where uncertainty exists whether a flight is exclusively coming from, or solely bound for, the territories of the Member States without stop-over on the territory of a third country, the competent authorities shall carry out checks on persons in airports and aerodromes in accordance with points 2.1 to 2.2.

2.3.4. The arrangements for the entry and exit of gliders, micro-light aircraft, helicopters, small-scale aircraft capable of flying short distances only and airships shall be laid down by national law and, where applicable, by bilateral agreements.

3. SEA BORDERS

3.1. General checking procedures on maritime traffic

[1] 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 (OJ L 97, 9.4.2008, p. 72).

3.1.1. 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. Member States may conclude agreements according to which checks may also be carried out during crossings or, upon the ship's arrival or departure, on the territory of a third country, respecting the principles set out in point 1.1.4.

3.1.2. The master, the ship's agent or some other person duly authorised by the master or authenticated in a manner acceptable to the public authority concerned (in both cases 'the master'), 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:

- 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.

The master shall communicate the list(s) to the border guards or, if national law so provides, to other relevant authorities which shall forward the list(s) without delay to the border guards.

3.1.3. A confirmation of receipt (signed copy of the list(s) or an electronic receipt confirmation) shall be returned to the master by the border guards or by the authorities referred to in point 3.1.2., who shall produce it on request when the ship is in port.

3.1.4. The master shall promptly report to the competent authority any changes to the composition of the crew or the number of passengers.

In addition, the master shall notify the competent authorities promptly, and within the time-limit set out in point 3.1.2., of the presence on board of stowaways. Stowaways, however, remain under the responsibility of the master.

By way of derogation from Articles 5 and 8, no systematic border checks shall be carried out on persons staying aboard. Nevertheless a search of the ship and checks on the persons

staying aboard shall be carried out by border guards only when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.

3.1.5. The master shall notify the competent authority of the ship's departure in due time and in accordance with the rules in force in the port concerned.

3.2. Specific check procedures for certain types of shipping

Cruise ships

3.2.1. The cruise ship's master shall transmit to the competent authority the itinerary and the programme of the cruise, as soon as they have been established and no later than within the time-limit set out in point 3.1.2.

3.2.2. If the itinerary of a cruise ship comprises exclusively ports situated in the territory of the Member States, by way of derogation from Articles 5 and 8, no border checks shall 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.

3.2.3. If the itinerary of a cruise ship comprises both ports situated in the territory of the Member States and ports situated in third countries, by way of derogation from Article 8, border checks shall be carried out as follows:

(a) where the cruise ship comes from a port situated in a third country and calls for the first time at a port situated in the territory of a Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers, as referred to in point 3.1.2.

Passengers going ashore shall be subject to entry checks in accordance with Article 8 unless an assessment of the risks related to internal security and illegal immigration shows that there is no need to carry out such checks;

(b) where the cruise ship comes from a port situated in a third country and calls again at a port situated in the territory of a Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers as

referred to in point 3.1.2. to the extent that those lists have been modified since the cruise ship called at the previous port situated in the territory of a Member State.

Passengers going ashore shall be subject to entry checks in accordance with Article 8 unless an assessment of the risks related to internal security and illegal immigration shows that there is no need to carry out such checks;

(c) where the cruise ship comes from a port situated in a Member State and calls at such a port, passengers going ashore shall be subject to entry checks in accordance with Article 8 if an assessment of the risks related to internal security and illegal immigration so requires;

(d) where a cruise ship departs from a port situated in a Member State to a port in a third country, crew and passengers shall be subject to exit checks on the basis of the nominal lists of crew and passengers.

If an assessment of the risks related to internal security and illegal immigration so requires, passengers going on board shall be subject to exit checks in accordance with Article 8;

(e) where a cruise ship departs from a port situated in a Member State to such a port, no exit checks shall 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.

Pleasure boating

3.2.4. By way of derogation from Articles 5 and 8, persons on board a pleasure boat coming from or departing to a port situated in a Member State shall not be subject to border checks and may enter a port which is not a border crossing point.

However, according to the assessment of the risks of illegal immigration, and in particular where the coastline of a third country is located in the immediate vicinity of the territory of the Member State concerned, checks on those persons and/or a physical search of the pleasure boat shall be carried out.

3.2.5. By way of derogation from Article 5, a pleasure boat coming from a third country may, exceptionally, enter a port which is not a border crossing point. In that case, the persons on board shall notify the port authorities in order to be authorised to enter that port. The port authorities shall contact the authorities in the nearest port designated as a border crossing point in order to report the vessel's arrival. The declaration regarding passengers shall be made by lodging the list of persons on board with the port authorities. That list shall be made available to the border guards, at the latest upon arrival.

Likewise, if for reasons of *force majeure* the pleasure boat coming from a third country has to dock in a port other than a border crossing point, the port authorities shall contact the authorities in the nearest port designated as a border crossing point in order to report the vessel's presence.

3.2.6. During those checks, a document containing all the technical characteristics of the vessel and the names of the persons on board shall be handed in. A copy of that document shall 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 Member States, a copy of that document shall be included amongst the ship's papers.

Coastal fishing

3.2.7. By way of derogation from Articles 5 and 8, the crews of coastal fisheries vessels which return every day or within 36 hours to the port of registration or to any other port situated in the territory of the Member States without docking in a port situated in the territory of a third country shall not be systematically checked. Nevertheless, the assessment of the risks of illegal immigration, in particular where the coastline of a third country is located in the immediate vicinity of the territory of the Member State concerned, shall be taken into account in order to determine the frequency of the checks to be carried out. According to those risks, checks on persons and/or a physical search of the vessel shall be carried out.

3.2.8. The crews of coastal fisheries vessels not registered in a port situated in the territory of a Member State shall be checked in accordance with the provisions relating to seamen.

Ferry connections

3.2.9. Checks shall be carried out on persons on board ferry connections with ports situated in third countries. The following rules shall apply:

(a) where possible, Member States shall provide separate lanes, in accordance with Article 10;

(b) checks on foot passengers shall be carried out individually;

(c) checks on vehicle occupants shall be carried out while they are at the vehicle;

(d) ferry passengers travelling by coach shall be considered as foot passengers. Those passengers shall alight from the coach for the checks;

(e) checks on drivers of heavy goods vehicles and any accompanying persons shall be conducted while the occupants are at the vehicle. Those checks will in principle be organised separately from checks on the other passengers;

(f) to ensure that checks are carried out quickly, there shall be an adequate number of gates;

(g) so as to detect illegal immigrants in particular, random searches shall 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 shall be dealt with in the same way as commercial ship crew members;

(i) point 3.1.2. (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[1], a copy of that list shall be transmitted not later than thirty minutes after departure from a third-country port by the master to the competent authority of the port of arrival on the territory of the Member States.

3.2.10. Where a ferry coming from a third country with more than one stop within the territory of the Member States 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.

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1 Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

Checks on persons who, during those stop-overs, are already on board the ferry and have not boarded in the territory of the Member States shall be carried out at the port of arrival. The reverse procedure shall apply where the country of destination is a third country.

Cargo connections between Member States

3.2.11. By way of derogation from Article 8, no border checks shall be carried out on cargo connections between the same two or more ports situated on the territory of the Member States, not calling at any ports outside the territory of the Member States 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.

4. INLAND WATERWAYS SHIPPING

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

4.2. 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 those persons who live on board shall be regarded as crew members or equivalent.

4.3. The relevant provisions of points 3.1 to 3.2 shall apply *mutatis mutandis* to checks on inland waterways shipping.

ANNEX VII

Special rules for certain categories of persons

1. HEADS OF STATE

By way of derogation from Article 6 and Articles 8 to 14, Heads of State and the members of their delegation, whose arrival and departure have been officially announced through diplomatic channels to the border guards, may not be subject to border checks.

2. PILOTS OF AIRCRAFT AND OTHER CREW MEMBERS

2.1. By way of derogation from Article 6 the holders of a pilot's licence or a crew member certificate as provided for in Annex 9 to the Civil Aviation Convention of 7 December 1944 may, in the course of their duties and on the basis of those documents:

(a) embark and disembark in the stop-over airport or the airport of arrival situated in the territory of a Member State;

(b) enter the territory of the municipality of the stop-over airport or the airport of arrival situated in the territory of a Member State;

(c) go, by any means of transport, to an airport situated in the territory of a Member State in order to embark on an aircraft departing from that same airport.

In all other cases, the requirements provided for by Article 6(1) shall be fulfilled.

2.2. Articles 7 to 14 shall apply to checks on aircraft crew members. Wherever possible, priority will be given to checks on aircraft crews. Specifically, they will be checked either before passengers or at special locations set aside for the purpose. By way of derogation from Article 8, crews known to staff responsible for border controls in the performance of their duties may be subject to random checks only.

3. SEAMEN

By way of derogation from Articles 5 and 8, Member States may authorise seamen holding a seafarer's identity document issued in accordance with the International Labour Organization (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 territory of the Member States by going ashore to stay in the area of the port where their

ships call or in the adjacent municipalities, or exit the territory of the Member States by returning to their ships, without presenting themselves at a border crossing point, on condition that they appear on the crew list, which has previously been submitted for checking by the competent authorities, of the ship to which they belong.

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.

4. HOLDERS OF DIPLOMATIC, OFFICIAL OR SERVICE PASSPORTS AND MEMBERS OF INTERNATIONAL ORGANISATIONS

4.1. In view of the special privileges or immunities they enjoy, the holders of diplomatic, official or service passports issued by third countries or their Governments recognised by the Member States, as well as the holders of documents issued by the international organisations listed in point 4.4 who are travelling in the course of their duties, may be given priority over other travellers at border crossing points even though they remain, where applicable, subject to the requirement for a visa.

By way of derogation from Article 6(1)(c), persons holding those documents shall not be required to prove that they have sufficient means of subsistence.

4.2. If a person presenting himself or herself at the external border invokes privileges, immunities and exemptions, the border guard may require him or her to provide evidence of his or her status by producing the appropriate documents, in particular certificates issued by the accrediting State or a diplomatic passport or other means. If he or she has doubts, the border guard may, in case of urgent need, apply direct to the Ministry of Foreign Affairs.

4.3. Accredited members of diplomatic missions and of consular representations and their families may enter the territory of the Member States on presentation of the card referred to in Article 20(2) and of the document authorising them to cross the border. Moreover, by way of derogation from Article 14 border guards may not refuse the holders of diplomatic, official or service passports entry to the territory of the Member States without first consulting the appropriate national authorities. This shall also apply where an alert has been entered in the SIS for such persons.4.4. The documents issued by the

international organisations for the purposes specified in point 4.1 are in particular the following:

- 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*,

- European Atomic Energy Community (Euratom) *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.

5. CROSS-BORDER WORKERS

5.1. The procedures for checking cross-border workers are governed by the general rules on border control, in particular Articles 8 and 14.

5.2. By way of derogation from Article 8, cross-border workers 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 shall 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. Thorough checks shall be carried out on those persons from time to time, without warning and at irregular intervals.

5.3. The provisions of point 5.2 may be extended to other categories of regular cross-border commuters.

6. MINORS

6.1. Border guards shall pay particular attention to minors, whether travelling accompanied or unaccompanied. Minors crossing an external border shall be subject to the same checks on entry and exit as adults, as provided for in this Regulation.

6.2. In the case of accompanied minors, the border guard shall check that the persons accompanying minors have parental care over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them. In the latter case, the border guard shall carry out a further investigation in order to detect any inconsistencies or contradictions in the information given.

6.3. In the case of minors travelling unaccompanied, border guards shall ensure, by means of thorough checks on travel documents and supporting documents, that the minors do not leave the territory against the wishes of the person(s) having parental care over them.

6.4. Member States shall nominate national contact points for consultation on minors and inform the Commission thereof. A list of these national contact points shall be made available to the Member States by the Commission.

6.5. Where there is doubt as to any of the circumstances set out in points 6.1., 6.2. and 6.3., border guards shall make use of the list of national contact points for consultation on minors.

7. 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. Member States may conclude bilateral agreements with third countries on the entry and exit of those categories of persons. These arrangements and bilateral agreements may provide for derogations from Articles 5, 6 and 8.

8. OFFSHORE WORKERS

By way of derogation from Articles 5 and 8, offshore workers who regularly return by sea or air to the territory of the Member 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, in particular where the coastline of a third country is located in the immediate vicinity of an offshore site, shall be taken into account in order to determine the frequency of the checks to be carried out.

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ANNEX VIII

Name of State

Logo of State ..... (Name of Office)



_____ (1)

APPROVAL OF THE EVIDENCE REGARDING THE RESPECT OF THE CONDITION OF THE DURATION OF A SHORT STAY IN CASES WHERE THE TRAVEL DOCUMENT DOES NOT BEAR AN ▶(2) ENTRY OR EXIT STAMP ◀

On _____ at (time) _____ at (place) _____

We, the undersigning authority, _____ have before us:

Surname _____ First name _____

Date of birth _____ Place of birth _____ Sex: _____

Nationality _____ Resident in _____

Travel document _____ number _____

Issued in _____ on _____

Visa number _____ (if applicable) issued by _____

for a period of _____ days on the following grounds: _____

Having regard to the evidence relating to the duration of his/her stay on the territory of the Member States that he/she) has provided, he/she) is considered to have ▶(2) entered or left ◀ the territory of the Member State _____ on _____ at _____ at the border crossing point _____

Contact details of the undersigning authority:

Tel _____

Fax:_____

e-mail:_____

The person concerned will receive a copy of this document.

Person concerned	Officer responsible + stamp

(1) No logo is required for Norway and Iceland.

ANNEX IX

Repealed Regulation with list of its successive amendments

Regulation (EC) No 562/2006 of the European Parliament and of the Council (OJ L 105, 13.4.2006, p. 1)	
Regulation (EC) No 296/2008 of the European Parliament and of the Council (OJ L 97, 9.4.2008, p. 60)	
Regulation (EC) No 81/2009 of the European Parliament and of the Council (OJ L 35, 4.2.2009, p. 56)	
Regulation (EC) No 810/2009 of the European Parliament and of the Council (OJ L 243, 15.9.2009, p. 1)	Only Article 55
Regulation (EU) No 265/2010 of the European Parliament and of the Council (OJ L 85, 31.3.2010, p. 1)	Only Article 2
Point 9 of Annex V to the 2011 Act of Accession	
Regulation (EU) No 610/2013 of the European Parliament and of the Council (OJ L 182, 29.6.2013, p. 1)	Only Article 1
Regulation (EU) No 1051/2013 of the European Parliament and of the Council (OJ L 295, 6.11.2013, p. 1)	

ANNEX X

CORRELATION TABLE

Regulation (EC) No 562/2006	This Regulation
Article 1	Article 1
Article 2, introductory wording	Article 2, introductory wording
Article 2, points (1) to (8)	Article 2, points (1) to (8)
Article 2, point (8a)	Article 2, point 9
Article 2, point 9	Article 2, point 10
Article 2, point 10	Article 2, point 11
Article 2, point 11	Article 2, point 12
Article 2, point 12	Article 2, point 13
Article 2, point 13	Article 2, point 14
Article 2, point 14	Article 2, point 15
Article 2, point 15	Article 2, point 16
Article 2, point 16	Article 2, point 17
Article 2, point 17	Article 2, point 18
Article 2, point 18	Article 2, point 19
Article 2, point 18a	Article 2, point 20
Article 2, point 19	Article 2, point 21
Article 3	Article 3
Article 3a	Article 4
Article 4	Article 5
Article 5(1)	Article 6(1)

Article 5(1a)	Article 6(2)
Article 5(2)	Article 6(3)
Article 5(3)	Article 6(4)
Article 5(4)	Article 6(5)
Article 6	Article 7
Article 7(1) and (2)	Article 8(1) and (2)
Article 7(3)(a)	Article 8(3)(a)
Article 7(3)(aa)	Article 8(3)(b)
Article 7(3)(ab)	Article 8(3)(c)
Article 7(3)(ac)	Article 8(3)(d)
Article 7(3)(ad)	Article 8(3)(e)
Article 7(3)(ae)	Article 8(3)(f)
Article 7(3)(b)	Article 8(3)(g)
Article 7(3)(c)	Article 8(3)(h)
Article 7(3)(d)	Article 8(3)(i)
Article 8	Article 9
Article 9(1)	Article 10(1)
Article 9(2), first subparagraph, point (a)	Article 10(2), first and second subparagraphs
Article 9(2), first subparagraph, point (b)	Article 10(2), third subparagraph
Article 9(2), second subparagraph	Article 10(2), fourth subparagraph
Article 9(2), third subparagraph	Article 10(2), fifth subparagraph
Article 9(3) and (4)	Article 10(3) and (4)
Article 10(1) to (5)	Article 11(1) to (5)

Article 10(6)	-
Article 11	Article 12
Article 12	Article 13
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16	Article 17
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