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►B REGULATION (EU) 2016/399 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 March 2016

on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

(codification)

(OJ L 77, 23.3.2016, p. 1)

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►M2	Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017	L 74	1	18.3.2017
►M3	Regulation (EU) 2017/2225 of the European Parliament and of the Council of 30 November 2017	L 327	1	9.12.2017
►M4	Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019	L 135	27	22.5.2019
►M5	Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021	L 248	11	13.7.2021
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▼B

REGULATION (EU) 2016/399 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 March 2016

on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

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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:

▼B

(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;

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;

▼M6

12. ‘border surveillance’ means the surveillance of borders between border crossing points and the surveillance of border crossing points outside fixed opening hours, including preventative measures, to prevent or detect unauthorised border crossings or the circumvention of border checks, to contribute to raising situational awareness, to counter cross-border criminality and to take measures against persons who have crossed the border illegally;

([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).

▼B

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

(ii) visas issued by the Member States in the uniform format laid down by Council Regulation (EC) No 1683/95 ([2]);

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;

([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).

([2]) 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).

▼B

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;

▼M3

22. ‘entry/exit System’ (EES) means the system established by Regulation (EU) 2017/2226 of the European Parliament and of the Council ([1]);

23. ‘self-service system’ means an automated system which performs all or some of the border checks that are applicable to a person and which may be used for pre-enrolling data in the EES;

24. ‘e-gate’ means an infrastructure operated by electronic means where an external border or an internal border where controls have not yet been lifted is actually crossed;

25. ‘automated border control system’ means a system which allows for an automated border crossing, and which is composed of a self-service system and an e-gate;

26. ‘confirmation of the authenticity and integrity of the chip data’ means the process by which it is verified, through the use of certificates, that the data on the electronic storage medium (chip) originate from the issuing authority and that they have not been changed;

▼M6

27. ‘large-scale public health emergency’ means a public health emergency, that is recognised at Union level by the Commission, taking into account information from competent national authorities, where a serious cross-border threat to health could have large-scale repercussions on the exercise of the right to free movement;

28. ‘essential travel’ means travel by a person who is exempted from restrictions on entry pursuant to Article 21a(4) or (5), in connection with an essential function or need, taking into account any applicable international obligations of the Union and of the Member States;

29. ‘non-essential travel’ means travel other than essential travel;

30. ‘transport hubs’ means airports, sea or river ports, train or bus stations and freight terminals.

([1]) Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

▼B

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*.

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

(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.

▼M6

Member States may, where a large number of migrants attempt to cross their external borders in an unauthorised manner, en masse and using force, take the necessary measures to preserve security, law and order.

4. Member States may, in particular in a situation of instrumentalisation of migrants as referred to in Article 1(4), point (b) first sentence of Regulation (EU) 2024/1359 of the European Parliament and of the Council ([1]), temporarily close, or limit the opening hours of, specific border crossing points as notified pursuant to paragraph 1, second subparagraph of this Article, where the circumstances so require.

Any measures pursuant to the first subparagraph of this paragraph and paragraph 3, second subparagraph of this Article, shall be implemented in a manner that is proportionate and that takes full account of the rights of:

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

(b) third-country nationals who are long-term residents under Council Directive 2003/109/EC ([2]), persons deriving their right to reside from other instruments of Union or national law or who hold national long-stay visas, as well as their respective family members; and

(c) third-country nationals seeking international protection.

([1]) Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and *force majeure* in the field of migration and asylum and amending Regulation (EU) 2021/1147 (OJ L, 2024/1359, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1359/oj).

([2]) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

▼B

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 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;

▼M3

(f) they provide biometric data, if required for:

(i) the creation of the individual file in the EES in accordance with Articles 16 and 17 of Regulation (EU) 2017/2226;

(ii) the carrying out of border checks in accordance with Article 8(3)(a)(i) and (g)(i) of this Regulation, Article 23(2) and (4) of Regulation (EU) 2017/2226 and, where applicable, Article 18 of Regulation (EC) No 767/2008 of the European Parliament and of the Council ([2]).

([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).

([2]) 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).

▼M3

1a. The period of 90 days in any 180-day period referred to in paragraph 1 of this Article shall be calculated as a single period for the Member States operating the EES on the basis of Regulation (EU) 2017/2226. That period shall be calculated separately for each of the Member States which do not operate the EES.

▼B

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].

[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).

▼B

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 ([1]), 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.

▼M3

Article 6a

Third-country nationals for whom data are to be entered in the EES

1. On entry and exit, data on the following categories of persons shall be entered in the EES in accordance with Articles 16, 17, 19 and 20 of Regulation (EU) 2017/2226:

(a) third-country nationals admitted for a short stay pursuant to Article 6(1) of this Regulation;

(b) third-country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who do not hold a residence card pursuant to that Directive;

(c) third-country nationals who:

(i) are members of the family of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other; and

(ii) do not hold a residence card pursuant to Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002.

2. Data on third-country nationals whose entry for a short stay has been refused in accordance with Article 14 of this Regulation shall be entered in the EES in accordance with Article 18 of Regulation (EU) 2017/2226.

3. Data on the following categories of persons shall not be entered in the EES:

(a) third-country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a residence card pursuant to that Directive, whether or not they accompany or join that Union citizen;

([1]) 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).

▼M3

(b) third-country nationals who are members of the family of a national of a third country, whether or not they accompany or join that national of a third country, where:

(i) that national of a third country enjoys the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other, and

(ii) those third-country nationals hold a residence card pursuant to Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002;

(c) holders of residence permits referred to in point 16 of Article 2 other than those covered by points (a) and (b) of this paragraph;

(d) holders of long-stay visas;

(e) third-country nationals exercising their right to mobility in accordance with Directive 2014/66/EU of the European Parliament and of the Council ([1]) or Directive (EU) 2016/801 of the European Parliament and of the Council ([2]);

(f) nationals of Andorra, Monaco and San Marino and ►C1 holders of a passport issued by the Vatican City State or the Holy See; ◄

(g) persons or categories of persons exempt from border checks or benefitting from specific rules in relation to border checks, namely:

(i) Heads of State, Heads of Government and members of national government with accompanying spouses, and members of their official delegation, and sovereigns and other senior members of a royal family, in accordance with point 1 of Annex VII;

(ii) pilots of aircraft and other crew members in accordance with point 2 of Annex VII;

(iii) seamen in accordance with point 3 of Annex VII, and 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;

(iv) cross-border workers in accordance with point 5 of Annex VII;

(v) rescue services, police, fire brigades acting in an emergency situation and border guards, in accordance with point 7 of Annex VII;

([1]) Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1).

([2]) Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

▼M3

(vi) offshore workers in accordance with point 8 of Annex VII;

(vii) crew members and passengers of cruise ships in accordance with points 3.2.1, 3.2.2 and 3.2.3 of Annex VI;

(viii) persons on board a pleasure boat who are not subject to border checks in accordance with points 3.2.4, 3.2.5 and 3.2.6 of Annex VI;

(h) persons who benefit from a derogation from the obligation to cross external borders only at border crossing points and during the fixed opening hours pursuant to Article 5(2);

(i) persons who present a valid local border traffic permit for their border crossing in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council [1];

(j) members of the crew of passenger and goods trains on international connections;

(k) persons who present for their border crossing:

(i) a valid Facilitated Rail Transit Document issued in accordance with Council Regulation (EC) No 693/2003 [2]; or

(ii) a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 provided that they transit by train and they do not disembark within the territory of a Member State.

▼B

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.

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.

[1] Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ L 405, 30.12.2006, p. 1).

[2] Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual (OJ L 99, 17.4.2003, p. 8).

▼B

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.

▼M2

2. On entry and on exit, persons enjoying the right of free movement under Union law shall be subject to the following checks:

(a) verification of the identity and the nationality of the person and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:

(1) the SIS;

(2) Interpol's Stolen and Lost Travel Documents (SLTD) database;

(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

▼M3

If the travel document contains an electronic storage medium (chip), the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain, unless this is technically impossible or, in the case of a travel document issued by a third country, impossible due to the unavailability of valid certificates.

▼M2

(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the public policy, internal security, public health or international relations of any of the Member States, including by consulting the SIS and other relevant Union databases. This is without prejudice to the consultation of national and Interpol databases.

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

▼M3

For persons whose entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of their identity in accordance with Article 23(2) of Regulation (EU) 2017/2226 and, where applicable, an identification in accordance with Article 23(4) of that Regulation shall be carried out.

▼M2

2a. Where the checks against the databases referred to in points (a) and (b) of paragraph 2 would have a disproportionate impact on the flow of traffic, a Member State may decide to carry out those checks on a targeted basis at specified border crossing points, following an assessment of the risks related to the public policy, internal security, public health or international relations of any of the Member States.

The scope and duration of the temporary reduction to targeted checks against the databases shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment carried out by the Member State concerned. The risk assessment shall state the reasons for the temporary reduction to targeted checks against the databases, take into account, inter alia, the disproportionate impact on the flow of traffic and provide statistics on passengers and incidents related to cross-border crime. It shall be updated regularly.

Persons who, in principle, are not subject to targeted checks against the databases, shall, as a minimum, be subject to a check with a view to establishing their identity on the basis of the production or presentation of travel documents. Such a check shall consist of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices, and, in cases where there are doubts about the travel document or where there are indications that such a person could represent a threat to the public policy, internal security, public health or international relations of the Member States, the border guard shall consult the databases referred to in points (a) and (b) of paragraph 2.

The Member State concerned shall transmit its risk assessment and updates thereto to the European Border and Coast Guard Agency ('the Agency'), established by Regulation (EU) 2016/1624 of the European Parliament and of the Council [1], without delay and shall report every six months to the Commission and to the Agency on the application of the checks against the databases carried out on a targeted basis. The Member State concerned may decide to classify the risk assessment or parts thereof.

2b. Where a Member State intends to carry out targeted checks against the databases pursuant to paragraph 2a, it shall notify the other Member States, the Agency and the Commission accordingly without delay. The Member State concerned may decide to classify the notification or parts thereof.

Where the Member States, the Agency or the Commission have concerns about the intention to carry out targeted checks against the databases, they shall notify the Member State in question of those concerns without delay. The Member State in question shall take those concerns into account.

2c. The Commission shall, by 8 April 2019, transmit to the European Parliament and the Council an evaluation of the implementation and consequences of paragraph 2.

[1] Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

▼M2

2d. With regard to air borders, paragraphs 2a and 2b shall apply for a maximum transitional period of six months from 7 April 2017.

In exceptional cases, where, at a particular airport, there are specific infrastructural difficulties requiring a longer period of time for adaptations in order to allow for the carrying-out of systematic checks against the databases without having a disproportionate impact on the flow of traffic, the six-month transitional period referred to in the first subparagraph may be prolonged for that particular airport by a maximum of 18 months in accordance with the procedure specified in the third subparagraph.

For that purpose, the Member State shall, at the latest three months before the expiry of the transitional period referred to in the first subparagraph, notify the Commission, the Agency and the other Member States of the specific infrastructural difficulties in the airport concerned, the envisaged measures to remedy them and the required period of time for their implementation.

Where specific infrastructural difficulties requiring a longer period for adaptations exist, the Commission, within one month of receipt of the notification referred to in the third subparagraph and after consulting the Agency, shall authorise the Member State concerned to prolong the transitional period for the airport concerned and, where relevant, shall set the length of such prolongation.

2e. The checks against the databases referred to in points (a) and (b) of paragraph 2 may be carried out in advance on the basis of passenger data received in accordance with Council Directive 2004/82/EC ([1]) or in accordance with other Union or national law.

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

2f. By way of derogation from paragraph 2, persons enjoying the right of free movement under Union law who cross the internal land borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to the relevant provisions of the relevant Acts of Accession has not yet been taken, may be subject to the checks on exit referred to in paragraph 2 only on a non-systematic basis, based on a risk assessment.

([1]) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJ L 261, 6.8.2004, p. 24).

▼B

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:

▼M2

(i) verification of the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:

(1) the SIS;

(2) Interpol's SLTD database;

(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

▼M3

For passports and travel documents containing an electronic storage medium (chip), the authenticity and integrity of the chip data shall be checked, subject to the availability of valid certificates.

With the exception of third-country nationals for whom an individual file is already registered in the EES, where the travel document contains a facial image recorded in the electronic storage medium (chip) and that facial image can be technically accessed, this verification shall include the verification of that facial image, by comparing electronically that facial image with the live facial image of the third-country national concerned. If technically and legally possible, this verification may be done by verifying the live fingerprints against the fingerprints recorded in the electronic storage medium (chip);

▼M2

(ii) verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit;

▼M3

(iii) for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of their identity in accordance with Article 23(2) of Regulation (EU) 2017/2226 and, where applicable, an identification in accordance with Article 23(4) of that Regulation;

▼M3

(iiia) for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third-country national has not reached or exceeded the maximum duration of authorised stay on the territory of the Member States and, for third-country nationals holding a visa issued for one or two entries, verification that they have respected the number of the maximum authorised entries, by consulting the EES in accordance with Article 23 of Regulation (EU) 2017/2226;

▼B

(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;

▼M2

(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 other relevant Union databases, and the action to be performed, if any, as a result of an alert. This is without prejudice to the consultation of national and Interpol databases;

▼B

(b) if the third country national holds a visa referred to in Article 6(1)(b), the thorough checks on entry shall also comprise 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;

▼M5

(bb) if the third-country national holds a long-stay visa or a residence permit, the thorough checks on entry shall comprise verification of the identity of the holder of the long-stay visa or residence permit and the authenticity and validity of the long-stay visa or residence permit by consulting the VIS in accordance with Article 22g of Regulation (EC) No 767/2008.

In circumstances where verification of the identity of the holder of the long-stay visa or residence permit or of the authenticity and validity of the long-stay visa or residence permit, fails or where there are doubts as to the identity of the holder, the authenticity of the long-stay visa or residence permit or the travel document, the duly authorised staff of those competent authorities shall proceed to a verification of the document chip;

▼M5

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▼B

(g) thorough checks on exit shall comprise:

▼M3

(i) verification of the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:

(1) the SIS;

(2) Interpol's SLTD database;

(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

For passports and travel documents containing an electronic storage medium (chip), the authenticity and integrity of the chip data shall be checked, subject to the availability of valid certificates.

With the exception of third-country nationals for whom an individual file is already registered in the EES, where the travel document contains a facial image recorded in the electronic storage medium (chip) and that facial image can be technically accessed, this verification shall include the verification of that facial image, by comparing electronically that facial image with the live facial image of the concerned third-country national. If technically and legally possible, this verification may be done by verifying the live fingerprints against the fingerprints recorded in the electronic storage medium (chip);

▼M2

(ii) verification that the third-country national concerned is not considered to be a threat to the public policy, internal security, public health or international relations of any of the Member States, including by consulting the SIS and other relevant Union databases. This is without prejudice to the consultation of national and Interpol databases;

▼M3

(iii) for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of their identity in accordance with Article 23(2) of Regulation (EU) 2017/2226 and, where applicable, an identification in accordance with Article 23(4) of that Regulation;

▼M3

(iv) for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third-country national has not exceeded the maximum duration of authorised stay on the territory of the Member States, by consulting the EES in accordance with Article 23(3) of Regulation (EU) 2017/2226;

▼B

(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;

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▼M3

(i) for the purpose of the identification of any person who does not fulfil, or who no longer fulfils, 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 and the EES may be consulted in accordance with Article 27 of Regulation (EU) 2017/2226;

▼M2

(ia) the checks against the databases referred to in point (a)(i) and (vi) and point (g) may be carried out in advance on the basis of passenger data received in accordance with Directive 2004/82/EC or with other Union or national law.

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

(ib) where there are doubts as to the authenticity of the travel document or the identity of the third-country national, the checks, where possible, shall include the verification of at least one of the biometric identifiers integrated into the travel documents.

▼B

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

▼M4

4a. Where on entry or exit, consultation of the relevant databases including the multiple-identity detector through the European search portal established by Article 25(1) and Article 6(1) of Regulation (EU) 2019/817 of the European Parliament and of the Council ([1]) respectively results in a yellow link or detects a red link, the border guard shall consult the common identity repository established by Article 17(1) of that Regulation or SIS or both to assess the differences in the linked identity data or travel document data. The border guard shall carry out any additional verification necessary to take a decision on the status and colour of the link.

In accordance with Article 69(1) of Regulation (EU) 2019/817, this paragraph shall apply as from the start of operations of the multiple-identity detector under Article 72(4) of that Regulation.

▼B

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.

▼M3

9. The third-country nationals shall be informed of the maximum number of days of authorised stay, which shall take into account the number of entries and the length of stay authorised by the visa. That information shall be provided either by the border guard at the moment of the border checks or by means of equipment installed at the border crossing point enabling the third-country national to consult the web service as referred to in Article 13(1) and (2) of Regulation (EU) 2017/2226.

([1]) Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

▼M3

Article 8a

Use of self-service systems for pre-enrolling data in the EES

1. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a may use self-service systems for the purpose of pre-enrolling in the EES the data referred in point (a) of paragraph 4 of this Article, provided that all of the following conditions are fulfilled:

(a) the travel document contains an electronic storage medium (chip) and the authenticity and integrity of the chip data are confirmed using the complete valid certificate chain;

(b) the travel document contains a facial image recorded in the electronic storage medium (chip) which can be technically accessed by the self-service system so as to verify the identity of the holder of the travel document by comparing the facial image recorded in the electronic storage medium (chip) with his or her live facial image; if technically and legally possible, this verification may be done by verifying the live fingerprints against the fingerprints recorded in the electronic storage medium (chip) of the travel document.

2. Pursuant to paragraph 1 of this Article, the self-service system shall verify whether the person has a previous registration in the EES and shall verify the identity of the third-country national in accordance with Article 23(2) of Regulation (EU) 2017/2226.

3. In accordance with Article 23(4) of Regulation (EU) 2017/2226, the self-service system shall carry out an identification in accordance with Article 27 of that Regulation.

In addition, in accordance with Articles 23(4) of the Regulation (EU) 2017/2226, where an identification in the EES is carried out:

(a) for third-country nationals who are subject to a visa requirement to cross the external borders, if the search in the VIS with the data referred to in Article 18(1) of Regulation (EC) No 767/2008 indicates that the person is recorded in the VIS, a verification of fingerprints against the VIS data shall be carried out in accordance with Article 18(6) of Regulation (EC) No 767/2008. Where a verification of the person pursuant to paragraph 2 of this Article has failed, the VIS data shall be accessed for identification in accordance with Article 20 of Regulation (EC) No 767/2008;

(b) for third-country nationals who are not subject to a visa requirement to cross the external borders and who are not found in the EES further to the identification run in accordance with Article 27 of Regulation (EU) 2017/2226, the VIS shall be consulted in accordance with Article 19a of Regulation (EC) No 767/2008.

▼M3

4. In the event that data concerning the person referred to in paragraph 1 of this Article are not recorded in the EES pursuant to paragraphs 2 and 3:

(a) third-country nationals who are subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Article 16(1) and Article 16(2)(c) to (f) of Regulation (EU) 2017/2226 and, where relevant, the data referred to under Article 16(6) of that Regulation, and third-country nationals who are not subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Articles 17(1)(a), (b) and (c) and 16(2)(c) of that Regulation and, where relevant, the data referred to in Article 17(1)(d) of that Regulation;

(b) subsequently, the person shall be referred to a border guard who shall:

(i) pre-enrol the data concerned, where it was not possible to collect all the required data through the self-service system;

(ii) verify:

— that the travel document used at the self service system corresponds to the one held by the person in front of the border guard,

— that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system, and

— for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the person concerned correspond to the fingerprints that were collected though the self-service system;

(iii) when the decision to authorise or refuse entry has been taken, confirm the data referred to in point (a) of this paragraph and enter in the EES the data referred to in Articles 16(2)(a) and (b) and 18(6)(a), (b), (c) and (d) of Regulation (EU) 2017/2226.

5. Where the operations provided for in paragraphs 2 and 3 indicate that data on the person referred to in paragraph 1 are recorded in the EES, the self-service system shall assess whether any of the data referred to in paragraph (4)(a) need to be updated.

6. Where the assessment referred to in paragraph 5 reveals that the person referred to in paragraph 1 has an individual file registered in the EES but that his or her data need to be updated, the person shall:

(a) update the data in the EES by pre-enrolling them through the self-service system;

▼M3

(b) be referred to a border guard who shall verify the correctness of the update under point (a) of this paragraph and, when the decision to authorise or refuse entry has been taken, update the individual file in accordance with Article 14(2) of Regulation (EU) 2017/2226.

7. Self-service systems shall be operated under the supervision of a border guard who shall be in charge of detecting any inappropriate, fraudulent or abnormal use of the self-service system.

Article 8b

Use of self-service systems and e-gates for the border crossing by persons whose border crossing is subject to a registration in the EES

1. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a may be permitted to use a self-service system for the carrying out of their border checks, where all of the following conditions are fulfilled:

(a) the travel document contains an electronic storage medium (chip) and the authenticity and integrity of the chip data are confirmed using the complete valid certificate chain;

(b) the travel document contains a facial image recorded in the electronic storage medium (chip) which can be technically accessed by the self-service system so as to verify the identity of the holder of the travel document, by comparing that facial image with his or her live facial image; and

(c) the person is already enrolled or pre-enrolled in the EES.

2. Where the conditions laid down in paragraph 1 of this Article are met, the border checks on entry provided for in Article 8(2) and Article 8(3)(a) and (b) and the border checks on exit provided for in Article 8(2) and Article 8(3)(g) and (h) may be carried out through a self-service system. When carried out through an automated border control system, the border checks on exit shall include the checks provided for in Article 8(3)(h).

Where a person is granted access to a national facilitation programme established by a Member State pursuant to Article 8d, the border checks carried out through a self-service system on entry may omit the examination of the aspects referred to in Article 8(3)(a)(iv) and (v) when that person crosses the external borders of that Member State or the external borders of a Member State which has concluded an agreement with the Member State which granted the access as referred to under Article 8d(9).

3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. That border guard shall monitor the results of border checks and, taking into account those results, authorise the entry or exit or, otherwise, refer the person to a border guard who shall proceed with further checks.

▼M3

4. The person in question shall be referred to a border guard pursuant to paragraph 3 in any of the following situations:

(a) where one or more of the conditions listed under paragraph 1 are not fulfilled;

(b) where the checks on entry or exit provided for in paragraph 2 reveal that one or several of the entry or exit conditions are not met;

(c) where the results of the checks on entry or exit provided for in paragraph 2 put into question the identity of the person or when they reveal that the person is considered to be a threat to the internal security, public policy or international relations of any Member State or to public health;

(d) in the case of doubt;

(e) where no e-gates are available.

5. In addition to the situations referred to in paragraph 4, the border guard supervising the border crossing may decide, based on other reasons, to refer the person using the self-service system to a border guard.

6. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a(1) and who used a self-service system for the carrying out of their border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the corresponding individual file pursuant to Article 14 of Regulation (EU) 2017/2226 shall be carried out when crossing the border through the e-gate. Where the e-gate and the self-service system are physically separated, a verification of the identity of the user shall take place at the e-gate in order to verify that the person using the e-gate corresponds to the person who used the self-service system. The verification shall be carried out by using at least one biometric identifier.

7. Where the conditions listed in point (a) or (b) of paragraph 1 of this Article, or in both, are not fulfilled, part of the border checks on entry pursuant to Article 8(3)(a) and (b) and part of the border checks on exit pursuant to Article 8(3)(g) and (h) may be carried out through a self-service system. The border guard may perform only those verifications pursuant to Article 8(3)(a) and (b) and Article 8(3)(g) and (h) that could not be carried out through the self-service system. In addition, the border guard shall verify that the travel document used at the self-service system corresponds to the one held by the person standing before that border guard.

8. Self-service systems and e-gates shall be operated under the supervision of a border guard who shall be in charge of detecting any inappropriate, fraudulent or abnormal use of the self-service system, e-gate, or both.

▼M3

9. This Article is without prejudice to the possibility for Member States to allow for the use of self-service systems, e-gates, or both, for border crossings by Union citizens, by citizens of a European Free Trade Association State of the European Economic Area, by citizens of Switzerland and by third-country nationals whose border crossing is not subject to a registration in the EES.

Article 8c

Standards for automated border control systems

Automated border control systems shall, to the extent possible, be designed in such a way that they can be used by all persons, with the exception of children under 12 years of age. They shall also be designed in a way that fully respects human dignity, in particular in cases involving vulnerable persons. Where Member States decide to use automated border control systems, they shall ensure the presence of a sufficient number of staff to assist persons with the use of such systems.

Article 8d

National facilitation programmes

1. Each Member State may establish a voluntary programme ('national facilitation programme') in order to allow third-country nationals, or nationals of a specific third country, who do not enjoy the right of free movement under Union law to benefit from the facilitations made pursuant to paragraph 2 when crossing the external border of a Member State.

2. By way of derogation from Article 8(3)(a), for third-country nationals referred to in paragraph 1 of this Article who are granted access to the national facilitation programme, the thorough checks on entry do not have to include an examination of the aspects referred to in Article 8(3)(a)(iv) and (v) when such third-country nationals cross the external border of a Member State.

3. The Member State shall pre-vet third-country nationals applying to the national facilitation programme in order to verify in particular that the conditions referred to in paragraph 4 are fulfilled.

Such third-country nationals shall be pre-vetted by border guards, by visa authorities as defined in point 3 of Article 4 of Regulation (EC) No 767/2008 or by immigration authorities as defined in point (4) of Article 3(1) of Regulation (EU) 2017/2226.

4. The authorities referred to in paragraph 3 shall only grant a person access to the national facilitation programme where all of the following conditions are fulfilled:

(a) the applicant fulfils the entry conditions set out in Article 6(1);

(b) the applicant's travel document and, where applicable, visa, long-stay visa or residence permit are valid and not false, counterfeit or forged;

▼M3

(c) the applicant proves the need for frequent or regular travel or justifies his or her intention to travel frequently or regularly;

(d) the applicant proves his or her integrity and reliability, in particular, where applicable, the lawful use of previous visas or visas with limited territorial validity, his or her economic situation in the country of origin and his or her genuine intention to leave the territory of the Member States before the end of the authorised period of stay. In accordance with Article 25 of Regulation (EU) 2017/2226, the authorities referred to in paragraph 3 of this Article shall have access to the EES to verify that the applicant has not previously exceeded the maximum duration of authorised stay on the territory of the Member States;

(e) the applicant justifies the purpose and conditions of the intended stays;

(f) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;

(g) the SIS is consulted.

5. First access to the national facilitation programme shall be granted for a maximum of one year. Access may be extended for a maximum of a further five years or until the end of the validity period of the travel document or any issued multiple-entry visas, long-stay visas and residence permits, whichever is shorter.

In the case of an extension the Member State shall reassess every year the situation of each third-country national who is granted access to the national facilitation programme in order to ensure that, based on updated information, that third-country national still meets the conditions laid down in paragraph 4. This reassessment may be performed when border checks are carried out.

6. The thorough checks on entry pursuant to Articles 8(3)(a) and (b) and the thorough checks on exit pursuant to Article 8(3)(g) shall also comprise verification that the third-country national has valid access to the national facilitation programme.

Border guards may carry out the verification of the third-country national benefiting from the national facilitation programme on entry pursuant to Articles 8(3)(a) and (b) and on exit pursuant to Article 8(3)(g) without comparing biometrics electronically but by comparing the facial image taken from the electronic storage medium (chip) and the facial image in the third-country national's individual EES file with that third-country national’s face. Full verification shall be carried out at random and on the basis of a risk analysis.

7. The authorities referred to in paragraph 3 shall immediately revoke the access granted to a third-country national to the national facilitation programme if it becomes evident that the conditions for granting access to that programme were not met or are no longer met.

▼M3

8. When verifying in accordance with paragraph 3 whether the applicant fulfils the conditions set out in paragraph 4, particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of any of the Member States and whether the applicant intends to leave the territory of the Member States during the authorised stay.

The means of subsistence for the intended stays shall be assessed according to the duration and the purpose of the envisaged stay or stays and by reference to average prices in the Member States concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). Proof of sponsorship, private accommodation, or both, may also constitute evidence of sufficient means of subsistence.

The examination of an application shall be based, in particular, on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.

9. Two or more Member States having established their own national facilitation programme pursuant to this Article may conclude among themselves an agreement in order to ensure that the beneficiaries of their national facilitation programmes may benefit from the facilitations recognised by another national facilitation programme. Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.

10. When establishing a national facilitation programme, Member States shall ensure that their system operating the programme meets the data security standards laid down in Article 43 of Regulation (EU) 2017/2226. Member States shall conduct a proper information security risk assessment and security responsibilities shall, for all steps of the process, be made clear.

11. The Commission shall, by the end of the third year of the application of this Article, transmit to the European Parliament and to the Council an evaluation of its implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose the establishment of a Union programme for frequent and pre-vetted third-country national travellers.

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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.

▼B

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.

▼M3

3. Even in the event that checks are relaxed, the border guard shall enter the data in the EES, in accordance with Article 6a. Where the data cannot be entered by electronic means, it shall be entered manually.

3a. Where it is technically impossible to enter data in the Central System of the EES or in the event of the failure of the Central System of the EES, all of the following provisions shall apply:

(i) by way of derogation from Article 6a of this Regulation, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be temporarily stored in the National Uniform Interface as defined in Article 7 of that Regulation. Where this is not possible, the data shall be temporarily stored locally in an electronic format. In both cases, the data shall be entered in the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage may be carried out at any time and for any of their border crossing points.

Without prejudice to the obligation to carry out border checks under this Regulation, in the exceptional situation that it is technically impossible to enter data in the Central System of the EES and in the National Uniform Interface, and it is technically impossible to temporarily store the data locally in an electronic format, the border guard shall manually store entry/exit data in accordance with Articles 16 to 20 of Regulation (EU) 2017/2226, with the exception of biometric data, and shall affix an entry or exit stamp in the travel document of the third-country national. That data shall be entered in the Central System of the EES as soon as technically possible.

Member States shall inform the Commission, in accordance with Article 21(2) of Regulation (EU) 2017/2226, of the stamping of travel documents in the event of the exceptional situations referred to in the second subparagraph of this point;

(ii) by way of derogation from Article 8(3)(a)(iii) and (g)(iv) of this Regulation, for nationals of third countries holding a visa as referred to in Article 6(1)(b), where technically possible, the verification of the identity of the holder of the visa shall be carried out by consulting directly the VIS in accordance with Article 18 of Regulation (EC) No 767/2008.

▼B

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

▼B

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 shown in 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.

▼M3

3a. Where Member States decide to use e-gates, self-service systems or automated border control systems, they shall use the signs provided for in part D of Annex III to identify the respective lanes.

3b. Where Member States decide to establish a national facilitation programme in accordance with Article 8d, they may decide to use specific lanes for the third-country nationals benefiting from such a national facilitation programme. They shall use the signs provided for in part E of Annex III to identify the respective lanes.

▼B

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.

▼M3

Article 11

Stamping of travel documents

1. Where provided expressly by its national law, a Member State may, on entry and exit, stamp the travel document of third-country nationals holding a residence permit or long-stay visa issued by that Member State.

2. The travel document of a third-country national who is a holder of a Facilitated Rail Transit Document issued in accordance with Regulation (EC) No 693/2003 shall be stamped on entry and exit. Furthermore, the travel document of a third-country national who is a holder of a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 and who transits by train and does not disembark within the territory of a Member State shall be stamped on entry and exit.

3. The travel documents of third-country nationals entering or exiting, on the basis of a national short-stay visa issued for one or two entries, the territory of a Member State not yet fully applying the Schengen *acquis* but operating the EES shall be stamped on entry and on exit.

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

Article 12

Presumption as regards fulfilment of conditions of duration of short stay

1. Without prejudice to Article 12a, if no individual file has been created in the EES for a third-country national present on the territory of a Member State or the entry/exit record of that third-country national does not contain an exit date following the date of expiry of the authorised length of stay, the competent authorities may presume that third-country national does not fulfil, or no longer fulfils, the conditions of duration of authorised stay within the territory of the Member States.

▼M3

2. The presumption referred to in paragraph 1 of this Article shall not apply to a third-country national who can provide, by any means, credible evidence that he or she enjoys the right of free movement under Union law or that he or she holds a residence permit or a long-stay visa. Where relevant, Article 35 of Regulation (EU) 2017/2226 shall apply.

3. 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 presence outside the territory of the Member States or of the date of expiry of a previous residence permit or long-stay visa, that he or she has respected the conditions relating to the duration of a short stay.

In the case of a rebuttal, the competent authorities shall create an individual file in the EES if necessary or indicate in the EES the date on which, and the place where, the third-country national crossed the external border of one of the Member States or the internal border of a Member State not yet fully applying the Schengen *acquis* but operating the EES in accordance with Article 20 of Regulation (EU) 2017/2226.

4. Where the presumption referred to in paragraph 1 is not rebutted, a third-country national present on the territory of the Member States may be returned in accordance with Directive 2008/115/EC of the European Parliament and of the Council ([1]).

A third-country national enjoying the right of free movement under Union law may only be returned in accordance with Directive 2004/38/EC.

Article 12a

Transitional period and transitional measures

1. For a period of 180 days after the EES has started operations, in order to verify on entry and exit, that persons admitted for a short stay have not exceeded the maximum duration of authorised stay and, where relevant, to verify on entry that persons have not exceeded the number of entries authorised by the short-stay visa issued for one or two entries, the border guards shall take into account the stays on the territory of the Member States during the 180 days preceding the entry or the exit by checking the stamps in the travel documents in addition to the entry/exit data recorded in the EES.

2. Where a person has entered the territory of the Member States before the EES has started operations and exits it after the EES has started operations, an individual file shall be created on exit in the EES and the date of that entry shall be entered in the entry/exit record in accordance with Article 16(2) of Regulation (EU) 2017/2226. The application of this paragraph shall not be limited to the 180-day period after the EES has started operations as referred to in paragraph 1. In the case of a discrepancy between the date of the entry stamp and the data recorded in the EES, the date of the entry stamp shall prevail.

([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).

▼M6

Article 13

Border surveillance

1. The main purpose of border surveillance shall be to prevent or detect unauthorised border crossings, to contribute to raising situational awareness, to counter cross-border criminality and to take measures against persons who have crossed the border illegally. It shall also involve the carrying out of risk analyses. Without prejudice to Articles 3 and 4, 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 all necessary resources, including stationary or mobile units, to carry out border surveillance. Border surveillance shall be carried out in such a way as to prevent and discourage persons from unauthorised border crossings between border crossing points or from circumventing the checks at border crossing points, and shall be carried out in full compliance with the obligations laid down in Article 4.

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 make use of situational pictures, to be better able to reduce the loss of lives of migrants at, along or in proximity of the external borders. It shall involve frequent and sudden changes to surveillance periods and other methods or techniques, in order to prevent or detect unauthorised border crossings effectively.

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 is to prevent unauthorised border crossings or to apprehend individuals in connection with an unauthorised crossing of the external border. Surveillance may also be carried out by using technical means, including electronic means, equipment, surveillance systems and, where appropriate, all types of stationary and mobile infrastructure.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 of this Regulation concerning additional measures governing surveillance, including the development of common minimum standards for border surveillance. Those common minimum standards shall take into account the type of borders, i.e. land, sea or air borders, the impact levels attributed to each external border section in accordance with Article 34 of Regulation (EU) 2019/1896 of the European Parliament and of the Council [1] and other relevant factors, such as geographical particularities.

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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

[1] Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

▼B

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.

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Data on third-country nationals whose entry for a short stay has been refused shall be registered in the EES in accordance with Article 6a(2) of this Regulation and Article 18 of Regulation (EU) 2017/2226.

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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.

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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 the correction of the data entered in the EES or of the cancelled entry stamp, or both, and any other cancellations or additions which have been made, by the Member State which refused entry.

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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.

([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).

▼B

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.

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.

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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:

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(a) Heads of State, Heads of Government and members of national government with accompanying spouses, and members of their official delegation, and sovereigns and other senior members of a royal family;

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(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

▼M6

Specific measures relating to the external borders

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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.

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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.

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Article 21a

Temporary restrictions on travel to the Union

1. This Article shall apply to large-scale public health emergencies.

2. The Council, on the basis of a proposal by the Commission, may adopt an implementing Regulation providing for temporary restrictions on travel to the Member States to be applied at the external borders.

Temporary restrictions on travel may include temporary restrictions on entry to the Member States and temporary health-related restrictions that are necessary for the protection of public health in the area without internal border control. Those temporary health-related restrictions may include testing, quarantine and self-isolation.

Temporary restrictions on travel to the Union shall be proportionate and non-discriminatory. Where a Member State adopts stricter restrictions than those laid down in the implementing act, those restrictions shall not have a negative impact on the functioning of the area without internal border control. Temporary health-related restrictions on persons enjoying the right of free movement under Union law shall comply with Directive 2004/38/EC at all times.

3. The following categories of persons shall be exempted from the restrictions on entry, independent of the purpose of their travel:

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

(b) third-country nationals who are long-term residents under Directive 2003/109/EC, persons deriving their right to reside from other instruments of Union law or national law, including beneficiaries of international protection or persons who hold national long-stay visas, as well as their respective family members.

4. Categories of persons listed in Annex XI, part A, shall be exempted from restrictions on entry.

5. Any category of persons listed in Annex XI, part B, shall be exempted from restrictions on entry where that category is included in the implementing regulation referred to in paragraph 2.

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6. The implementing Regulation referred to in paragraph 2 shall, where appropriate:

(a) identify, where required by the nature of the large-scale public health emergency, the categories of persons undertaking essential travel listed in Annex XI, part B, to be exempted from restrictions on entry;

(b) determine any geographical areas or third countries from which travel may be subject to restrictions or exemptions from restrictions, and establish a procedure for the periodic review of the situation of such areas or countries and of the restrictions on travel imposed on the basis of objective methodology and objective criteria, including, in particular, the epidemiological situation;

(c) lay down the conditions under which non-essential travel may be restricted or exempted from restrictions, including proof to be presented to support the exemption and the conditions relating to the duration and nature of stay in the areas or countries referred to in point (b);

(d) refer to minimum temporary health-related restrictions to which persons referred to in paragraph 3, points (a) and (b), may be subject;

(e) by way of derogation from paragraphs 4 and 5 lay down the conditions under which travel restrictions may be imposed on persons undertaking essential travel;

7. Restrictions on entry to the Member States for persons undertaking essential travel shall be imposed only exceptionally, for a strictly limited period of time, until sufficient information about the large-scale public health emergencies referred to in paragraph 1,, is available and until the Council, on a proposal by the Commission, identifies and adopts alternative health-related restrictions that are necessary to protect public health and that are to be applied to those persons.

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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.

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Article 23

Checks within the territory

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

(a) the exercise of police or other public powers by the competent authorities of the Member States in their territory, including in their internal border areas, as conferred on them by national law, insofar as the exercise of those powers does not have an effect equivalent to border checks. The exercise of such powers may include, where appropriate, the use of monitoring and surveillance technologies generally used in the territory for the purposes of addressing threats to public security or public policy. The exercise by competent authorities of their powers shall not, in particular, be considered equivalent to the exercise of border checks when the measures fulfil each of the following conditions:

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

(ii) are based on general police information or, where the aim is to contain the spread of an infectious disease, on public health information, and the experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:

— combat cross-border crime,

— reduce illegal immigration, or

— contain the spread of an infectious disease with epidemic potential as identified by the European Centre for Disease Control;

(iii) are devised and executed in a manner that is clearly distinct from systematic checks on persons at the external borders, including where they are conducted at transport hubs or directly on board of passenger transport services and provided that they are based on a risk assessment;

(b) the possibility for the competent authorities of a Member State or for carriers to carry out security checks on persons at transport hubs in accordance with national law, 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 for third-country nationals to report their presence on its territory and an obligation for managers of establishments providing accommodation to ensure that third-country nationals complete and sign registration forms, with the exception of accompanying spouses or accompanying minors or members of travel groups, pursuant to the provisions of Articles 22 and 45, respectively, 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’).

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Article 23a

Procedure for transferring persons apprehended in internal border areas

1. Without prejudice to Article 22, this Article lays down the procedure for the transfer of a third-country national apprehended in border areas as referred to in Article 23, in circumstances where the following conditions are fulfilled:

(a) the third-country national is apprehended during checks involving the competent authorities of both Member States within the framework of bilateral cooperation, which may include, in particular, joint police patrols, provided that the Member States have agreed to use such a procedure within that bilateral cooperation framework; and

(b) there are clear indications that the third-country national has arrived directly from the other Member State, and it is established that the third-country national has no right to stay on the territory of the Member State in which he or she has arrived, on the basis of information immediately available to the apprehending authorities, including statements from the person concerned, identity, travel or other documents found on that person or the results of searches carried out in relevant national and Union databases.

The procedure laid down in paragraphs 1 and 2 shall not apply to applicants, as defined in Article 3, point (13) of Regulation (EU) 2024/1348 of the European Parliament and of the Council ([1]) or to beneficiaries of international protection, as defined in Article 3, point (4) of Regulation (EU) 2024/1347 of the European Parliament and of the Council ([2]).

When transferring a third-country national who the transferring Member State presumes to be a minor, that transferring Member State shall inform the receiving Member State of that presumption and both Member States shall ensure that all measures are taken in the best interests of the child and in accordance with their respective national laws.

2. By way of derogation from Article 6(1) of Directive 2008/115/EC, the competent authorities of a Member State may, where the conditions laid down in paragraph 1 of this Article are met, decide to immediately transfer the third-country national concerned to the Member State from which the person arrived, in accordance with the procedure set out in Annex XII.

([1]) Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, 2024/1348, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1348/oj).

([2]) Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council (OJ L, 2024/1347, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1347/oj)

▼M6

3. Third-country nationals apprehended in border areas and transferred under the procedure in this Article shall have the right to appeal. Appeals against the transfer decision shall be conducted in accordance with national law of the transferring Member State. Those third-country nationals shall be provided with an effective remedy in accordance with Article 47 of the Charter. A written indication of contact points able to provide information on representatives competent to act on behalf of those third-country nationals in accordance with national law shall also be given to them by the transferring Member State in a language that they understand or are reasonably supposed to understand. Lodging such an appeal shall not have suspensive effect.

4. Where a transferring Member State applies the procedure referred to in paragraph 2, the receiving Member State shall be required to take all measures necessary to receive the third-country national concerned in accordance with the procedures set out in Annex XII. All relevant provisions of Directive 2008/115/EC shall apply in the receiving Member State.

5. Member States shall define practical arrangements under their bilateral cooperation frameworks, including with a view to, as a rule, avoiding the use of the procedure referred to in this Article, in particular on the sections of the internal borders where border control has been reintroduced or prolonged.

6. The procedure laid down in this Article is without prejudice to existing bilateral agreements or arrangements as referred to in Article 6(3) of Directive 2008/115/EC.

7. From 11 July 2025 and annually thereafter, Member States shall submit to the Commission the data recorded in accordance with Annex XII, part A, point 4.

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Article 24

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

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Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not based exclusively on road-safety considerations or required for the use of the technologies referred to in Article 23, point (a).

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

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CHAPTER II

Temporary reintroduction of border control at internal borders

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Article 25

General framework for the temporary reintroduction or prolongation 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.

A serious threat to public policy or internal security may, in particular, be considered to arise from:

(a) terrorist incidents or threats, and threats posed by serious organised crime;

(b) large-scale public health emergencies;

(c) an exceptional situation characterised by sudden large-scale unauthorised movements of third-country nationals between the Member States, putting a substantial strain on the overall resources and capacities of well-prepared competent authorities and which is likely to put at risk the overall functioning of the area without internal border control, as evidenced by information analysis and all available data, including from relevant Union agencies;

(d) large scale or high profile international events;

2. In all cases, border control at internal borders shall be reintroduced only as a measure of last resort. The scope and duration of the temporary reintroduction of border control shall not exceed what is strictly necessary to respond to the serious threat identified.

Border control may only be reintroduced or prolonged pursuant to Articles 25a and 28 where a Member State has established that such a measure is necessary and proportionate, taking into account the criteria referred to in Article 26(1), and, where such control is prolonged, also taking into account the risk assessment referred to in Article 26(2). Border control may also be reintroduced in accordance with Article 29, taking into account the criteria referred to in Article 30.

3. Where the same serious threat persists, border control at internal borders may be prolonged in accordance with Articles 25a or 29, or, where the threat relates to large-scale public health emergencies, Article 28.

The same serious threat shall be considered to persist where the justification put forward by the Member State for prolonging border control is based on the same grounds as those that justified the initial reintroduction of the border control.

▼M6

Article 25a

Procedure for cases requiring action due to unforeseeable or foreseeable events

1. Where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border control at internal borders.

2. At the same time as reintroducing border control at internal borders under paragraph 1 of this Article, the Member State shall notify the European Parliament, the Council, the Commission and the other Member States of the reintroduction of border control, in accordance with Article 27(1).

3. Where a Member State reintroduces border control at internal borders under paragraph 1, the border control shall remain in place no longer than 1 month. If the serious threat to public policy or internal security persists for longer than that period, the Member State may prolong border control at internal borders for further periods, up to a maximum duration not exceeding three months.

4. Where a serious threat to public policy or internal security is foreseeable in a Member State, the Member State shall notify the European Parliament, the Council, the Commission and the other Member States in accordance with Article 27(1), at the latest 4 weeks before the planned reintroduction of border control, or as soon as possible where the circumstances giving rise to the need to reintroduce border control at internal borders become known to the Member State less than 4 weeks before the planned reintroduction.

5. Where paragraph 4 of this Article applies, and without prejudice to paragraph 6, border control at internal borders may be reintroduced for a period of up to six months. Where the serious threat to public policy or internal security persists beyond that period, the Member State may prolong the border control at internal borders for renewable periods of up to 6 months. Any prolongation shall be notified to the European Parliament, the Council and the Commission and the other Member States in accordance with Article 27 and within the time limits referred to in paragraph 4 of this Article. Subject to paragraph 6 of this Article, the maximum duration of border control at internal borders shall not exceed 2 years.

6. Where a Member State considers that there is a major exceptional situation with regard to a persisting serious threat justifying the continued need for border control at internal borders in excess of the maximum period referred to in paragraph 5 of this Article it shall notify the European Parliament, the Council and the Commission and the other Member States of its intention to prolong internal border control for an additional period of up to 6 months. That notification shall be made at the latest 4 weeks before the planned prolongation and, taking into account the opinion of the Commission issued pursuant to Article 27a(3), shall include a risk assessment in accordance with Article 26(2):

(a) substantiating the continued threat to public policy or internal security;

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(b) substantiating that alternative measures to remedy the threat are deemed or have been found to be ineffective at the time of the notification;

(c) presenting the mitigating measures considered to accompany the border control at internal borders;

(d) including, where appropriate, a presentation of the means, actions, conditions and timeline considered with a view to lifting the border control at internal borders.

Within 3 months after the notification referred to in the first subparagraph, the Commission shall issue a new opinion on the necessity and proportionality of the prolongation of border control at internal borders. Following the receipt of that notification, the Commission may, on its own initiative, or shall, at the request of the Member State directly affected, start a consultation process, in accordance with Article 27a(1).

Where, in a major exceptional situation, the continued need for border control at internal borders is confirmed as a result of the procedure referred to in this paragraph, but the additional period of 6 months referred in the first subparagraph is not sufficient to ensure the availability of effective alternative measures to address the persisting threat, a Member State may decide to prolong border control at internal borders for a further and final additional period of up to 6 months, in line with the risk assessment as referred to in the second subparagraph. Where a Member State decides to do so, it shall notify the Commission without delay of its intention to prolong its border control at internal borders. The Commission shall adopt without delay a recommendation on the compatibility of such a final prolongation with the Treaties, in particular with the principles of necessity and proportionality. That recommendation shall also identify, where appropriate with other Member States, the effective compensatory measures to be implemented.

Article 26

Criteria for the temporary reintroduction and prolongation of border control at internal borders

1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article 25(2), a Member State shall in particular assess:

(a) the appropriateness of the measure of reintroducing border control at internal border, having regard to the nature of the serious threat identified and in particular, whether the reintroduction of border control at internal borders is likely to adequately remedy the threat to public policy or internal security and whether the objectives pursued by such reintroduction could be attained by:

(i) the use of alternative measures such as proportionate checks carried out in the context of checks within the territory as referred to in Article 23, point (a);

(ii) the use of the procedure laid down in Article 23a;

(iii) other forms of police cooperation provided for under Union law;

▼M6

(iv) common measures regarding temporary restrictions on travel to the Member States as referred to in Article 21a(2);

(b) the likely impact of such a measure on:

(i) the movement of persons within the area without internal border control; and

(ii) the functioning of the cross-border regions, taking into account the strong social and economic ties between them.

2. Where border control at internal borders has been in place for 6 months in accordance with Article 25a(5), the Member State concerned shall carry out a risk assessment, which, in addition to the elements contained in Article 27, paragraphs 2 and 3, shall also include a reassessment of the criteria laid down in paragraph 1 of this Article.

3. Where border control at internal borders has been reintroduced or prolonged, the Member States concerned shall ensure that it is accompanied by appropriate measures that mitigate the impact resulting from the reintroduction of border control on persons and the transport of goods, giving particular consideration to the strong social and economic ties between cross-border regions, and to persons undertaking essential travel.

Article 27

Notification of temporary reintroduction or prolongation of border control at internal borders and risk assessment

1. Notifications by Member States of the reintroduction or prolongation of border control at internal borders shall contain the following information:

(a) the reasons for the reintroduction or prolongation, 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 or prolongation, specifying at which part or parts of the internal borders border control is to be reintroduced or prolonged;

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

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

(e) the assessment of the necessity and proportionality referred to in Article 26(1) and, in the case of a prolongation, in Article 26(2);

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

A notification may be submitted jointly by two or more Member States.

▼M6

Member States shall submit the notification using the template to be established by the Commission pursuant to paragraph 6.

2. Where border control has been in place for 6 months in accordance with Article 25a(5), any subsequent notification for the prolongation of such control shall include a risk assessment. The risk assessment shall present the scale and anticipated evolution of the serious threat, in particular how long the serious threat is expected to persist and which sections of the internal borders may be affected, as well as information regarding coordination measures with the other Member States impacted or likely to be impacted by the border control at internal borders.

3. Where Member States reintroduce or prolong border control because of a situation referred to in Article 25(1) point (c), the assessment required by paragraph 1, point (e), of this Article shall also include a risk assessment and information on the sudden large-scale unauthorised movements, including any information obtained from the relevant Union agencies in line with their respective mandates and data analysis from relevant information systems.

4. The Member State concerned shall upon request, provide the Commission any further information, including on the coordination measures with the Member States affected by the planned prolongation of border control at internal borders as well as further information needed to assess the possible use of measures referred to in Articles 23 and 23a.

5. Member States shall not be required to provide all the information referred to in paragraphs 1 to 4 of this Article in cases justified on public security grounds, taking into account the confidentiality of ongoing investigations. Member States submitting a notification under paragraph 1 or 2 may, where necessary and in accordance with national law, decide to classify all or parts of the notified information, in particular the risk assessments. Such classification shall not preclude access to information, through appropriate and secure channels, by the other Member States affected by the temporary reintroduction of border control at internal borders. Such classification shall not preclude information from being made available by the Member States to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament under this Article shall not include the risk assessments referred to in paragraph 2 and shall comply with rules concerning the forwarding and handling of classified information.

6. The Commission shall adopt an implementing act to establish the template referred to in the third subparagraph of paragraph 1 of this Article and shall make the template available online. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).

▼M6

Article 27a

Consultation with the Member States and opinion of the Commission

1. Following receipt of notifications, submitted under Article 27(1), the Commission may, on its own initiative, or shall, at the request of a Member State directly affected by border control at internal borders, establish a consultation process including joint meetings between the Member State that is planning to reintroduce or prolong border control at internal borders, and the other Member States, especially those directly affected by such measures and the relevant Union agencies.

The objective of the consultation shall be to examine in particular the threat to public policy or internal security, the necessity and proportionality of the intended reintroduction of border control, at the internal borders taking into account the appropriateness of alternative measures, and, if border control has already been reintroduced, the impact thereof, as well as the ways of ensuring implementation of the mutual cooperation between the Member States in relation to the reintroduction of border control at internal borders.

The Member State planning to reintroduce or prolong border control at internal borders shall take into account the results of such consultation when deciding whether to reintroduce or prolong border control at internal borders and when carrying out border control at the internal border.

2. Following the receipt of notifications submitted in relation to the reintroduction or prolongation of border control at internal borders, the Commission shall, or any Member State may, without prejudice to Article 72 TFEU, issue an opinion, if, based on the information contained in the notification and risk assessment, where appropriate, or any additional information, they have concerns as regards the necessity or proportionality of the planned reintroduction or prolongation of border control at internal borders.

3. Following receipt of notifications submitted in relation to a prolongation of border control at the internal border under Article 25a(4) which leads to the continuation of border control at internal borders for 12 months in total, the Commission shall issue an opinion on the necessity and proportionality of such border control.

The opinion of the Commission shall include at least:

(a) an assessment of whether the reintroduction or prolongation of border control at internal borders complies with the principles of necessity and proportionality;

(b) an assessment of whether alternative measures to remedy the serious threat were sufficiently explored;

Where the reintroduction of border control at internal borders is assessed and is considered to respect the principles of necessity and proportionality, the opinion shall contain recommendations, where appropriate, on the improvement of the cooperation between Member States in order to limit the impact of border control at internal borders and contribute to the reduction of the persisting threat.

▼M6

4. Where an opinion referred to in paragraphs 2 or 3 is issued, the Commission shall establish a consultation process, in accordance with paragraph 1, in order to discuss the opinion with the Member States.

Article 28

Specific mechanism where a large-scale public health emergency puts at risk the overall functioning of the area without internal border control

1. Where the Commission establishes that there is a large-scale public health emergency that affects several Member States, putting at risk the overall functioning of the area without internal border control, it may make a proposal to the Council to adopt an implementing decision authorising the reintroduction of border control by Member States, including any appropriate mitigating measures to be established at national and Union level, where the available measures referred to in Articles 21a and 23 are not sufficient to address the large-scale public health emergency. The Member States may request the Commission to submit such a proposal to the Council.

2. The Council implementing decision referred to in paragraph 1 shall cover a period of up to 6 months and may be renewed, upon proposal from the Commission, for further periods of up to 6 months as long as the large-scale public health emergency persists, taking into account the review referred to in paragraph 4.

3. Where Member States reintroduce or prolong border control because of the large-scale public health emergency referred to in paragraph 1, that border control shall, as of the entry into force of the Council implementing decision referred to in paragraph 1, be based on that decision.

4. The Commission shall regularly review the evolution of the large-scale public health emergency as referred to in paragraph 1, as well as the impact of the measures adopted in accordance with the Council implementing decision referred to in that paragraph, with a view to assessing whether those measures remain justified and if not, to proposing the lifting of border control at internal borders as soon as possible.

5. Member States shall immediately notify the European Parliament, the Council, the Commission and the other Member States of a reintroduction of border control in accordance with the decision referred to in paragraph 1.

6. Member States may take other measures, as referred to in Article 23, in order to limit the scope of border control at internal borders. The Commission shall take those measures into account in the review referred to in paragraph 4 of this Article.

▼B

Article 29

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

▼M1

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 of this Regulation or as a result of the non-compliance of a Member State with a Council decision referred to in Article 19(1) of Regulation (EU) 2016/1624 of the European Parliament and of the Council ([1]), 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.

▼B

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.

([1]) Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

▼B

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;

([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).

▼B

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

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*.

▼M6

Article 33

Report on the reintroduction of border control at internal borders

1. Within 4 weeks of the lifting of border control at internal borders, Member States which have carried out border control at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders.

2. Without prejudice to the paragraph 1, where border control are prolonged as referred to in Article 25a(5), the Member State concerned shall submit a report at the expiry of 12 months and 12 months thereafter if border control is exceptionally maintained.

3. The report shall outline, in particular, the initial and follow-up assessment of the necessity and proportionality of border control, the fulfilment of the criteria referred to in Articles 26, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the free movement of persons in particular in the cross-border regions, the effectiveness of the reintroduction of border control at internal borders, including an *ex post* assessment of the necessity and proportionality of the reintroduction of border control.

▼M6

4. The Commission shall adopt an implementing act to establish a uniform format for such report and shall make it available online. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).

5. 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.

6. At least once per year, the Commission shall report to the European Parliament and to the Council jointly on the functioning of the area without internal border control (the 'State of Schengen report'). The Commission may also discuss the State of Schengen report separately with the European Parliament and the Council. The report shall include a list of all decisions to reintroduce border control at internal borders taken during the relevant year, as well as the actions taken by the Commission with regard to the reintroduction of border control at internal borders. The report shall pay particular attention to border control that has been in place for longer than 12 months. It shall also include an assessment of the necessity and proportionality of the reintroduction and prolongations of border control in the period covered by that report as well as information on the trends within the area without internal border control as regards the unauthorised movements of third-country nationals, taking into account available information from the relevant Union agencies and data analysis from relevant information systems.

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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

▼M6

Article 36

Amendments to the Annexes

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

▼M6

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 37 to supplement this Regulation by adding in Annex XI, part B, categories of persons undertaking essential travel.

3. Where, in duly justified cases, regarding the nature of the large-scale public health emergency, imperative grounds of urgency so require, the procedure provided for in Article 37a shall apply to delegated acts adopted pursuant to paragraph 2 of this Article.

▼B

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.

▼M6

Article 37a

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply for as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 37(5). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

▼B

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);

▼M6

(h) the areas considered as cross-border regions and any relevant changes thereto.

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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.

▼B

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.

▼M3

Article 42a

Transitional measures for the Member States not yet operating the EES

1. The travel documents of third-country nationals crossing the borders of the Member States referred to in Article 66(3) of Regulation (EU) 2017/2226 shall be systematically stamped on entry and exit.

The travel documents of third-country nationals referred to in Article 6a(1)(b) and (c) of this Regulation crossing the borders of the Member States referred to in Article 66(3) of Regulation (EU) 2017/2226 shall be stamped on entry and exit.

These stamping obligations shall also apply when border checks are relaxed in accordance with Article 9 of this Regulation.

2. By way of derogation from paragraph 1 of this Article, no stamp shall be affixed to the travel documents of third-country nationals referred to in Article 6a(3)(a), (b) and (f), Article 6a(3)(g)(i), (ii), (iii) and (vii) and Article 6a(3)(j).

3. The provisions of this Regulation that relate to the entry/exit data recorded in the EES and to the absence of such data in the EES, in particular Article 8(3)(a)(iiia) and (g)(iv), Article 8d(4)(d) and Article 12, shall apply *mutatis mutandis* to entry and exit stamps.

([1]) OJ L 239, 22.9.2000, p. 73.

▼M3

4. When a presumption as regards the fulfilment of conditions of duration of stay is rebutted in accordance with Article 12(2), the third-country national present on the territory of a Member State not yet operating the EES shall be entitled to have an indication inserted in his or her travel document of the date on which, and the place where, he or she crossed the external border or internal border of that Member State. A form as shown in Annex VIII may also be given to the third-country national.

5. The provisions on stamping set out in Annex IV shall apply.

6. The Member States referred to in Article 66(3) of Regulation (EU) 2017/2226 shall stamp the travel documents of third-country nationals whose entry for a short stay is refused at their border. The stamping shall be carried out in accordance with the specifications laid down in Annex V, part A, point 1(d).

7. The stamping obligations under paragraphs 1 to 6 shall apply until the date of start of operations of the EES in the Member State concerned.

▼M6

Article 42b

Notification of cross-border regions

By 11 January 2025, all Member States with common internal borders shall, in close cooperation, determine the areas of their territory considered as cross-border regions, taking into account the strong social and economic ties between them, and notify the Commission thereof.

Member States shall also inform the Commission of any relevant changes thereto.

▼B

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.

▼B

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

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.

▼B

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.

▼B

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.

▼B

ANNEX III

Model signs indicating lanes at border crossing points

PART A



([1])

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

▼B

PART B1: ‘visa not required’;



PART B2: ‘all passports’.

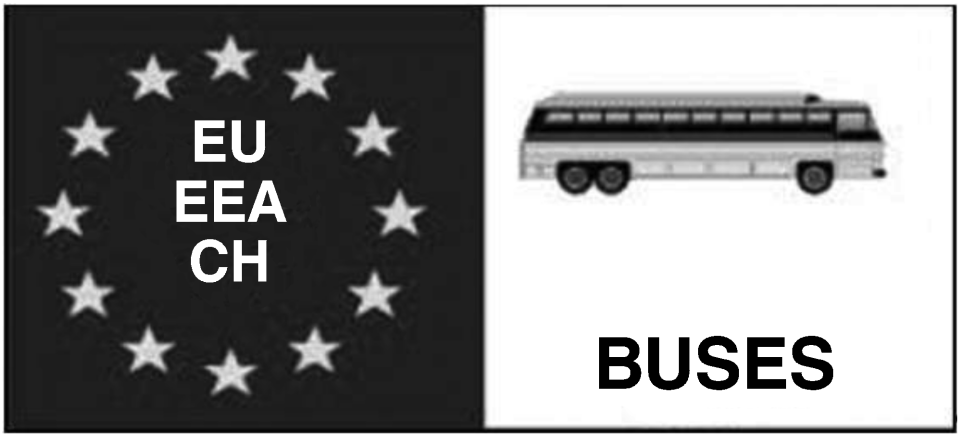


▼B

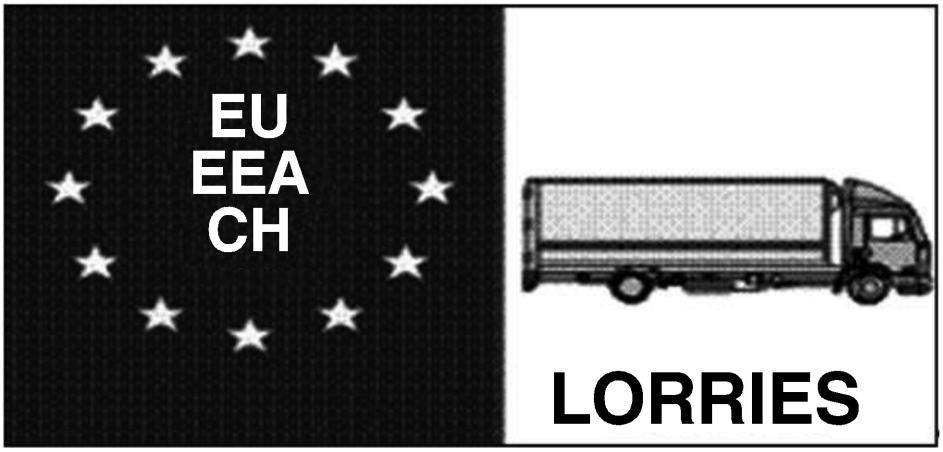
PART C



([1])



([1])



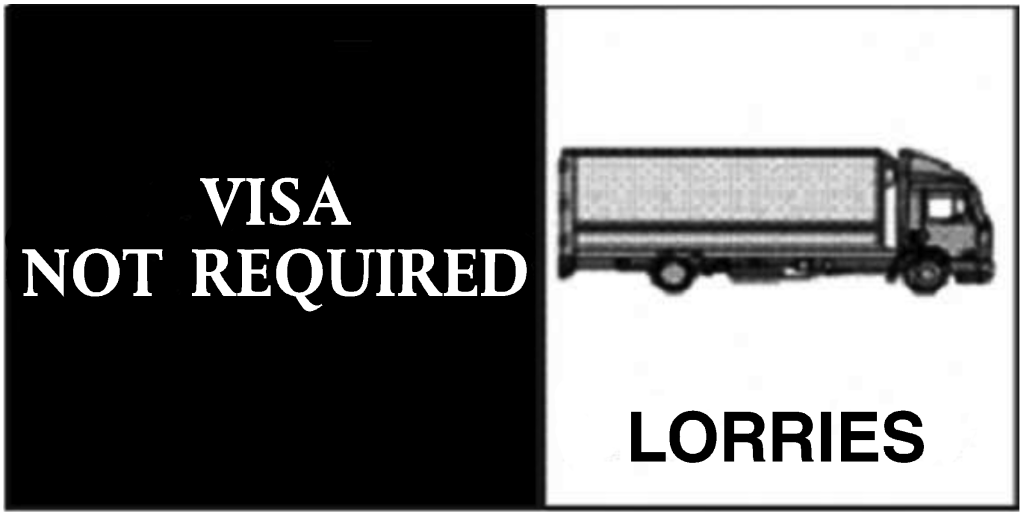
([1])

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

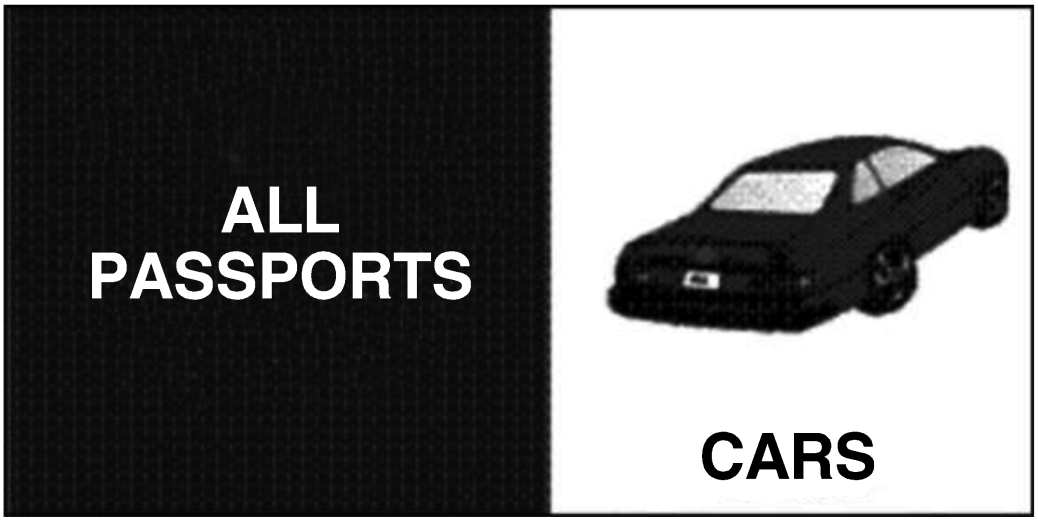
▼B


VISA
NOT REQUIRED
CARS

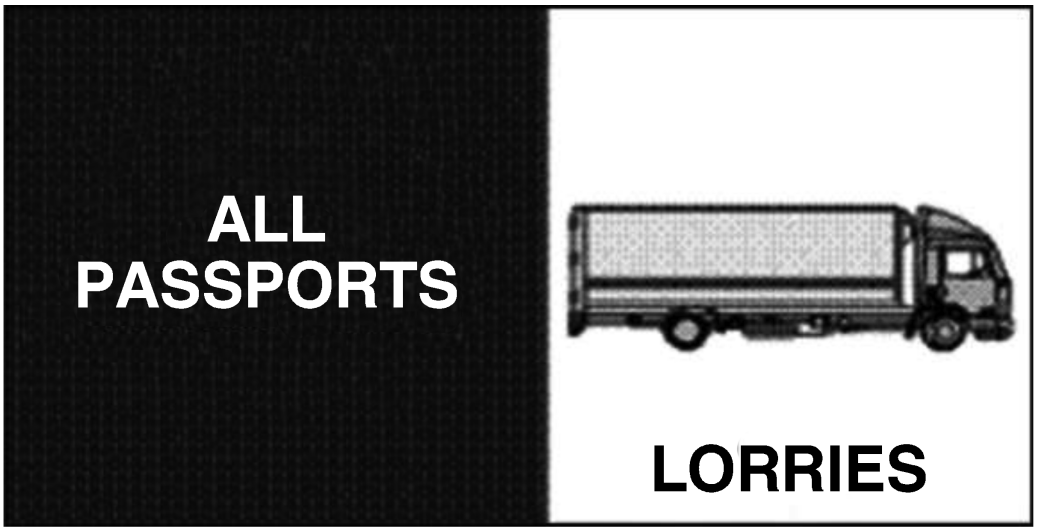

VISA
NOT REQUIRED
BUSES


VISA
NOT REQUIRED
LORRIES

▼B


ALL
PASSPORTS
CARS

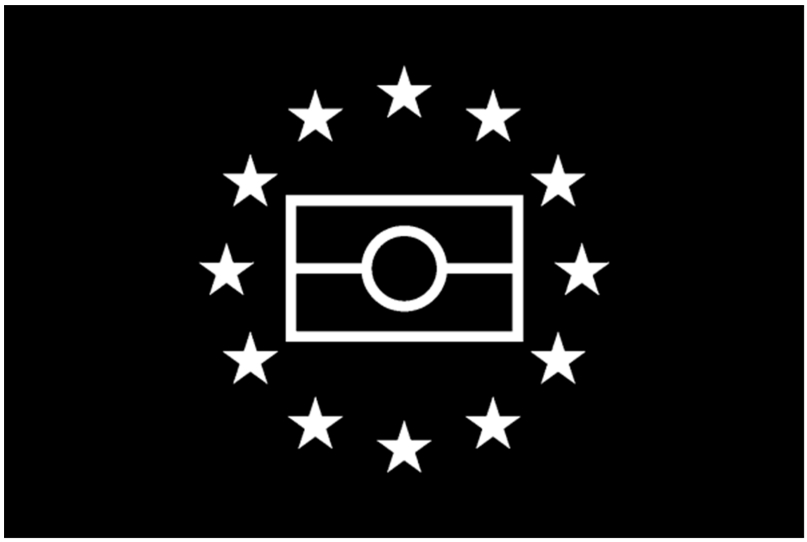

ALL
PASSPORTS
BUSES


ALL
PASSPORTS
LORRIES

▼M3

PART D

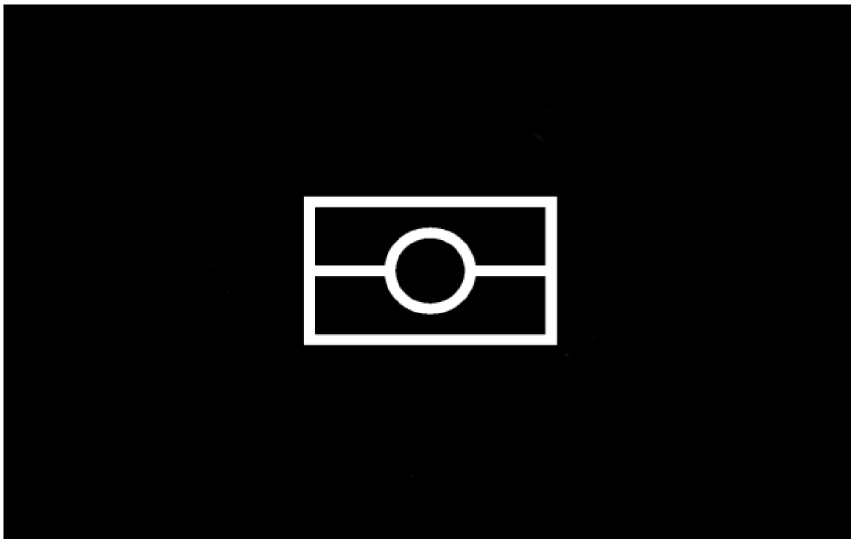
Part D1: Automated border control lanes for EU/EEA/CH citizens





Stars are not required for Switzerland, Liechtenstein, Norway and Iceland

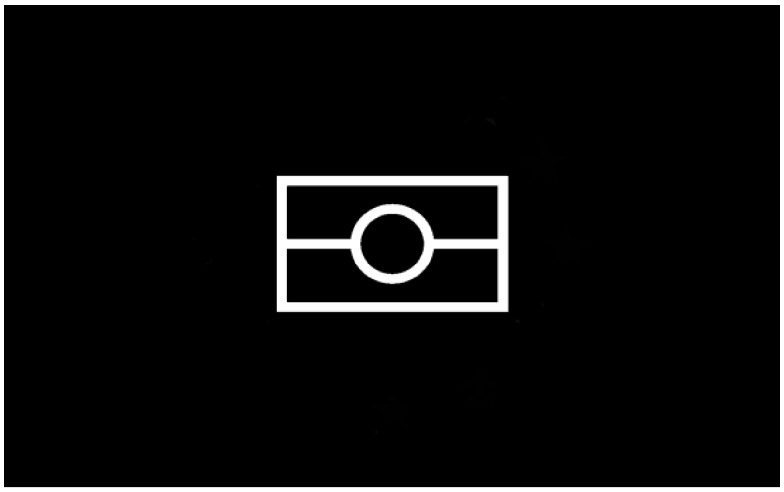
Part D2: Automated border control lanes for third-country nationals



▼M3



Part D3: Automated border control lanes for all passports





Part E: Lanes for Registered Travelers



▼B

ANNEX IV

Affixing stamps

▼M3

1. The travel document of a third-country national who is a holder of a Facilitated Rail Transit Document issued in accordance with Regulation (EC) No 693/2003 shall be stamped on entry and exit. The travel document of a third-country national who is a holder of a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 and who performs his or her transit by train and does not disembark within the territory of a Member State shall also be stamped on entry and exit. Moreover, where provided expressly by its national law, a Member State may stamp on entry and exit the travel document of a third-country national holding a residence permit or a long-stay visa issued by that same Member State in accordance with Article 11 of this Regulation.

   The travel documents of a third-country national entering or exiting, on the basis of a national short-stay visa issued for one or two entries, the territory of a Member State not yet fully applying the Schengen *acquis* but operating the EES shall be stamped on entry and on exit.

1a. 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).

▼B

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

▼M3

2a. On the entry and exit of third-country nationals subject to the visa obligation and to the stamping obligation, the stamp shall be affixed on the page facing the one on which the visa is affixed. However, if that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped.

———————

▼B

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.

▼B

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';

▼M3

   (b) for third-country nationals whose entry for a short stay has been refused, register in the EES the data on refusal of entry in accordance with Article 6a(2) of this Regulation and Article 18 of Regulation (EU) 2017/2226;

▼B

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

▼M3

   (d) for third-country nationals whose refusals of entry are not to be registered into the EES, 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 standard form for refusing entry as shown in Part B of this Annex. In addition, for these categories of persons, the border guard shall 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.

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

▼B

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]);

   (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.

([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

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 documentaion justifying the purpose and conditions of stay.

The following document(s) colud 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)*.

▶(1) ☐ (J) has refused to provide biometric data, if required

☐ for the creation of the individual file in the Entry/Exit System

☐ to carry out the border checks. ◀

Comments

▶(2) ☐ (to be marked by the border guard if data is stored in the Entry/Exit System)

The person concerned is hereby informed that her/his personal data and information on this refusal of entry are entered in the Entry/Exit System in accordance with Article 18 of Regulation (EU) 2017/2226.

In accordance with Article 52 of Regulation (EU) 2017/2226, the person concerned has the right to obtain the data relating to her/him which are recorded in the Entry/Exit System and may request that data relating to her/him which are inaccurate be rectified and that data recorded unlawfully be erased. ◀

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) (2) M3

▼B

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

(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.

▼B

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.

▼B

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.

▼B

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.

[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).

▼B

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*

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.

▼B

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;

▼B

(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.

▼B

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.

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.

([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).

▼B

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.

▼B

ANNEX VII

Special rules for certain categories of persons

▼M3

1. **Heads of State**

Heads of Government and members of national government with accompanying spouses, and members of their official delegation, and sovereigns and other senior members of a royal family.

By way of derogation from Article 6 and Articles 8 to 14, Heads of State, Heads of Government and members of national government with accompanying spouses, and members of their official delegation, and sovereigns and other senior members of a royal family, invited by Member States' governments or by international organisations for an official purpose and whose arrival and departure have been officially announced through diplomatic channels, shall not be subject to border checks.

▼B

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.

▼B

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.

▼B

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.

▼M5

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 or legal guardianship 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 persons legally exercising parental care or legal guardianship 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 persons having parental care or legal guardianship over them.

6.4. Member States shall nominate national contact points for consultation on minors and inform the Commission thereof. A list of those 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.

6.6. Member States shall ensure that border guards verifying biometrics of children or using them to identify a child are specifically trained to do so in a child-friendly and child-sensitive manner and in full respect of the best interests of the child and the safeguards laid down in the United Nations Convention on the Rights of the Child. When accompanied by a parent or a legal guardian that person shall accompany the child when the biometrics are verified or used for identification. No force shall be used. Member States shall ensure, where necessary, that the infrastructure at border crossing points is adapted for the use of biometrics of children.

▼B

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.

▼B

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 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 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.

▼B

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)	

▼B

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)

▼B

Regulation (EC) No 562/2006	This Regulation
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
Article 17	Article 18
Article 18	Article 19
Article 19	Article 20
Article 19a (Chapter IV)	—
Article 19a (Chapter IVa)	Article 21

▼B

Regulation (EC) No 562/2006	This Regulation
Article 20	Article 22
Article 21	Article 23
Article 22	Article 24
Article 23	Article 25
Article 23a	Article 26
Article 24	Article 27
Article 25	Article 28
Article 26	Article 29
Article 26a	Article 30
Article 27	Article 31
Article 28	Article 32
Article 29	Article 33
Article 30	Article 34
Article 31	Article 35
Article 32	Article 36
Article 33	Article 37
Article 33a	Article 38
Article 34	Article 39
Article 35	Article 40
Article 36	Article 41
Article 37	Article 42
Article 37a	Article 43
Article 38	—
Article 39	Article 44
Article 40	Article 45
Annexes I to VIII	Annexes I to VIII
—	Annex IX
—	Annex X

▼**M6**

ANNEX XI

ESSENTIAL TRAVEL

Part A

Categories of persons referred to in Article 21a(4):

1. healthcare professionals, health researchers and elderly care professionals;

2. frontier workers;

3. transport personnel;

4. diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions;

5. passengers in transit;

6. passengers travelling for imperative family reasons;

7. seafarers;

8. persons in need of international protection or needing to enter for other humanitarian reasons.

Part B

Categories of persons referred to in Article 21a(5):

1. children in early childhood education and care and pupils in education in a neighbouring country and their guardians who accompany them, who cross the border for the purpose of receiving such education, as well as students or persons travelling for educational purposes;

2. seasonal workers, including food-producing workers;

3. persons travelling for compelling reasons of animal care or for measures necessary for agriculture and forestry in individual cases;

4. highly qualified workers as well as key and scientific staff whose employment is necessary from an economic, societal and security perspective and whose work cannot be postponed or performed abroad;

5. personnel of the public authorities for defence, public policy, public health and national security, i.e. police staff, border police, immigration, public health, civil protection departments, etc. or representatives of law enforcement authorities, if the travel is related to the performance of official duties, including personnel responsible for operating and maintaining critical infrastructure;

6. fishermen and persons performing work or providing services on ships or offshore mining and drilling platforms, based on an employment relationship other than a maritime employment contract;

7. persons entering the Member State for the purpose of receiving essential medical services, including occupants of emergency vehicles;

8. spouses (married, civil partner, cohabiting partner) and children of an essential traveller, including third-country nationals travelling for family reunification;

▼**M6**

9. third-country nationals travelling to respond to a summons by a judicial authority;

10. persons in possession of an International Press Card issued by the International Federation for Journalists;

11. care-dependent persons travelling to their care-takers.

▼M6

ANNEX XII

Part A

Procedure for transferring persons apprehended in internal border areas

1. Transfer decisions pursuant to Article 23a(2) shall be issued by means of a standard form, as set out in Part B of this Annex, completed by the competent national authority. They shall take effect immediately.

2. The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the transfer decision by signing the form and shall be given a copy of the signed form.

   Where the third-country national refuses to sign the standard form, the competent authority shall indicate this refusal in the form under the section ‘comments’.

3. The national authorities issuing a transfer decision shall record the data on the standard form set out in Part B of this Annex.

4. The national authorities issuing a transfer decision shall inform the Commission yearly on the number of persons transferred to other Member States, indicating the Member State(s) to which the persons were transferred, grounds for finding that those persons had no right to stay in the Member State and, where available, the nationality of the third-country nationals apprehended.

5. Third-country nationals apprehended in border areas and transferred under this procedure shall have the right to appeal. Appeals against the transfer decision shall be conducted in accordance with national law. The third-country nationals shall be provided with an effective remedy in accordance with Article 47 of the Charter. 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 in a language that they understand or are reasonably supposed to understand. Lodging such an appeal shall not have suspensive effect.

6. The competent national authorities shall ensure that the third-country national subject to a transfer decision is transferred, in the framework of bilateral cooperation as referred to in Article 23a, paragraph 1(a), to the competent authorities of the receiving Member State. The transfer shall take place immediately and within 24 hours at the latest. After that, the transfer procedure cannot take place and the relevant provisions of the Directive 2008/115/EC shall apply where appropriate. The competent national authorities of the receiving Member State shall cooperate with the competent national authorities of the transferring Member State to that end.

▼M6

Part B

Standard form for transferring persons apprehended in internal border areas

 Name of State

Logo of State (Name of Office)

_____

TRANSFER PROCEDURE IN INTERNAL BORDER AREAS

On _____ at (time) _____ at the location (indicate type of the internal border nearby or other relevant information related to the apprehension in accordance with Article 23a of the Schengen Borders Code)_____

We, the undersigned, _____have before us

Personal data (subject to availability)

Surname_____ First name _____

Date of birth_____ Place of birth _____ Sex _____

Nationality _____ Resident in _____

Type of identity document _____ number _____

Issued in _____ on _____

Visa number, if any _____ type _____ issued by _____

Valid from _____ until _____

For a period of _____ days: _____

Coming from _____ by means of _____ (indicate means of transport used, e.g. flight number), he/she is hereby informed that he/she will be transferred to _____ pursuant to Article 23a of the Schengen Borders Code:

Grounds for finding that a person has no right to stay in the Member State:

Comments

□ The person concerned declined to sign the form.

Person Concerned _____ Responsible authorities _____

The person concerned may appeal against the transfer in accordance with 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 as well as contact points able to provide information on representatives competent to act on behalf of the third-country national).