



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMISSION RECOMMENDATION**

**establishing a common "Practical Handbook for Border Guards (Schengen Handbook)"  
to be used by Member States' competent authorities when carrying out the border  
control of persons**

## COMMISSION RECOMMENDATION

### **establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)<sup>1</sup> lays down Community rules for carrying out the border control of persons, covering both border checks and surveillance.
- (2) There is a need to ensure that Community rules on border control are implemented in a uniform way by all national authorities competent for carrying out border control tasks. For this purpose, a "Practical Handbook for Border Guards (Schengen Handbook)" containing common guidelines, best practices and recommendations on border control needs to be established.
- (3) In order to ensure its optimal use by all relevant Member States' authorities, the Commission will make the Practical Handbook available to Member States in electronic form, together with any other available factual information needed to perform border guard duties, such as lists of border crossing points, specimen of travel documents and similar.
- (4) The Commission will ensure the regular update of the Practical Handbook and of any other factual information necessary to effectively perform border guard duties.
- (5) In order to enhance the uniform implementation of Community rules on border control, Member States should instruct their national authorities competent for carrying out border control on persons to use the annexed Practical Handbook as the main tool when performing their border control tasks.
- (6) Member States are also encouraged to use the practical handbook for the purpose of training the personnel to be affected to border control duties.

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

HEREBY RECOMMENDS:

1. In order to ensure an effective and harmonised implementation of the common rules on border control, as laid down in Regulation (EC) No 562/2006, Member States should:

- transmit the annexed Practical Handbook for Border Guards (hereinafter "Practical Handbook") to their national authorities competent for carrying out border control on persons;
- instruct the above authorities to use the Practical Handbook as the main tool when performing their border control tasks.

2. Member States should also use the Practical Handbook for the purpose of training all the personnel to be affected to border control tasks.

Done at Brussels, 06/XI/2006.

*For the Commission*  
*Franco FRATTINI*  
*Vice-President of the Commission*

ANNEX

# **Practical Handbook for Border Guards (Schengen Handbook)**

PART ONE - DEFINITIONS .....	7
PART TWO - BORDER CHECKS .....	12
SECTION I: Border check procedures .....	12
<b>1. Checks at border crossing points .....</b>	<b>12</b>
<b>2. Searches in the Schengen Information System .....</b>	<b>20</b>
<b>3. Special rules for checks on certain categories of persons.....</b>	<b>23</b>
<b>3.1 Persons enjoying the Community right of free movement .....</b>	<b>23</b>
<b>3.2 Heads of State.....</b>	<b>25</b>
<b>3.3 Pilots of aircraft .....</b>	<b>25</b>
<b>3.4 Seamen .....</b>	<b>26</b>
<b>3.5 Holders of diplomatic, official or service passports and members of international organisations.....</b>	<b>27</b>
<b>3.6 Border residents benefiting from a local border traffic regime .....</b>	<b>29</b>
<b>3.7 Minors .....</b>	<b>29</b>
<b>3.8 School pupils from third countries resident in a Member State or in a third country not subject to the visa obligation .....</b>	<b>30</b>
<b>3.9 Cross border workers .....</b>	<b>31</b>
<b>3.10 ADS tourists.....</b>	<b>32</b>
<b>4. Stamping of travel documents. ....</b>	<b>33</b>
<b>5. Relaxation of checks .....</b>	<b>37</b>
<b>6. Refusal of entry .....</b>	<b>38</b>
<b>7. Issuing of visas at the border, including to seamen in transit.....</b>	<b>45</b>
<b>8. Cancellation, revocation and shortening of the period of validity of Schengen uniform visas .....</b>	<b>52</b>
<b>9. Special transit schemes .....</b>	<b>54</b>
<b>9.1 Facilitated Transit Document (FTD) and Facilitated Railway Transit Document (FRTD).....</b>	<b>54</b>
<b>9.2. Transit through the territory of Member States not fully implementing the Schengen acquis.....</b>	<b>55</b>
<b>10. Asylum-seekers/applicants for international protection .....</b>	<b>56</b>
<b>11. Registration of information at the border .....</b>	<b>58</b>

12.	<b>Cooperation with other services</b> .....	59
SECTION II: Land borders .....		59
1.	<b>Checks on road traffic</b> .....	59
2.	<b>Checks on rail traffic</b> .....	62
3.	<b>Local border traffic</b> .....	64
SECTION III: Air borders .....		65
1.	<b>Checks at the airport</b> .....	65
2.	<b>Check in aerodromes</b> .....	69
3.	<b>Checks on persons on private flights</b> .....	69
SECTION IV: Sea borders .....		70
1.	<b>General checking procedures on maritime traffic</b> .....	70
2.	<b>Checks on cruise ships</b> .....	72
3.	<b>Checks on pleasure boating</b> .....	75
4.	<b>Checks on coastal fishing</b> .....	76
5.	<b>Checks on ferry connections</b> .....	76
SECTION V: Checks on inland waterways shipping .....		77
1.	<b>Inland waterways shipping</b> .....	77
PART THREE: BORDER SURVEILLANCE .....		78
1.	<b>Purpose of surveillance</b> .....	78
2.	<b>The methods of surveillance</b> .....	78
2.3	The main tasks of patrolling are: .....	78
PART IV: LIST OF RELEVANT LEGAL INSTRUMENTS .....		80

## FOREWORD

The objective of this Practical Handbook for Border Guards is to lay down guidelines, best practices and recommendations relating to the performance of border guard duties in the Schengen States. The handbook is intended to be as well a user guide for border guards in respect of the measures and decisions to be taken along the external borders.

The content of this handbook deals essentially with the control of persons at the border and is based on Community instruments regulating the crossing of external borders (and in particular the Schengen Borders Code<sup>2</sup>) the issuance of visas, the Community right of free movement and the application for asylum. A list of acts regulating the areas covered by this handbook is contained in Part IV.

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

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

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<sup>2</sup> [Regulation No 562/2006 of 15 March 2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders \(Schengen Borders Code\), OJ L 105, 13.4.2006, p.1](#)

## PART ONE - DEFINITIONS

1. **SCHENGEN STATES** (States fully implementing the Schengen acquis and having abolished border control at their internal borders)<sup>3</sup>:

- |            |                     |
|------------|---------------------|
| 1. Austria | 9. Italy            |
| 2. Belgium | 10. Luxembourg      |
| 3. Denmark | 11. The Netherlands |
| 4. Finland | 12. Norway          |
| 5. France  | 13. Portugal        |
| 6. Germany | 14. Spain           |
| 7. Greece  | 15. Sweden          |
| 8. Iceland |                     |

**N.B** The EU/EC and the **Swiss Confederation** signed an agreement on 26.10.2004, which has not yet entered into force, concerning the latter's association with the implementation, application and development of the Schengen acquis. The implementation of the Schengen acquis by Switzerland is expected to take place in 2008 at the earliest, following the appropriate Schengen evaluation procedures.

2. **EU MEMBER STATES:**

- |                   |                |                    |
|-------------------|----------------|--------------------|
| 1. Austria        | 11. Hungary    | 21. Slovakia       |
| 2. Belgium        | 12. Ireland    | 22. Slovenia       |
| 3. Czech Republic | 13. Italy      | 23. Spain          |
| 4. Cyprus         | 14. Latvia     | 24. Sweden         |
| 5. Denmark        | 15. Lithuania  | 25. United Kingdom |
| 6. Estonia        | 16. Luxembourg |                    |
| 7. Finland        | 17. Malta      |                    |

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<sup>3</sup> The Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia are not yet full Schengen States but apply the common rules on external border control.



8. France  
9. Germany  
10. Greece
18. The Netherlands  
19. Poland  
20. Portugal

3. **EEA Countries:** Norway (NO), Iceland (IS) and Liechtenstein (LI).

4. **'Internal borders'** are:

- a) the common land borders, including river and lake borders, of the Schengen States;
- b) the airports of the Schengen States for internal flights;
- c) sea, river and lake ports of the Schengen States for regular ferry connections.

5. **'External borders'** are the Schengen 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.

6. **'Persons enjoying the Community right of free movement'** are nationals of EU Member States, EEA countries and Switzerland, as well as members of their family, regardless of their nationality, accompanying or joining them.

7. **'Members of the family of citizens of EU/EEA/CH countries'** are, irrespective of their nationality:

- the spouse and, if this is contracted on the basis of the legislation of a Member State and recognised by the legislation of the host Member State as equivalent to marriage, the partner with whom the EU/EEA/CH citizen has contracted a registered partnership;
- the direct descendants under the age of 21 or dependants, including those of the spouse or registered partner;
- the dependent direct relatives in the ascending line, including those of the spouse or registered partner.

8. **'EU citizen'** refers to any person holding the nationality of a Member State of the European Union.

9. **'Third-country national'** refers to any person who is not a person enjoying the Community right of free movement.
10. **'Border guard'** refers to any public official assigned, in accordance with national law, to a border crossing point or along the border or the immediate vicinity of that border who carries out border control tasks, in accordance with Community and national law.
11. **'Border control'** is the activity carried out at a border in response exclusively to an intention to cross or the act of crossing the border, regardless of any other consideration, consisting of border checks and border surveillance.
12. **'Border checks'** are the checks carried out at border crossing points, to ensure that persons, their means of transport and the objects in their possession may be authorised to enter or leave the territory of Schengen States.
13. **'Border surveillance'** is the surveillance of borders between border crossing points and the surveillance of border crossing points outside their fixed opening hours, in order to prevent persons from circumventing border checks.
14. **'Minimum check'** is the check to be carried out, as a rule, on persons enjoying the Community right of free movement, in order to verify their identity and nationality for EU/EEA/CH citizens or their identity and family ties with an EU/EEA/CH citizen for their family members who are not EU/EEA/CH citizens themselves. It consists of a rapid and straightforward verification of the travel document, with the aim of checking the validity of it and of detecting the presence of signs of falsification or counterfeiting. This check may involve the consultation, in the relevant databases, of information concerning stolen, misappropriated, lost and invalidated documents.
15. **'Thorough check'** is the check to be carried out on third-country nationals, as opposed to the minimum check to be carried out on persons enjoying the Community right on free movement. It consist of the verification by the border guard that a third-country national fulfils all the conditions to enter (and exit) the territory of a Schengen State.
16. **'Second-line checks'** are further checks which may be carried out in a special location away from the place at which all persons are checked ("first line").

17. **'Asylum seeker'** or **'Asylum applicant'** refers to a third-country national or a stateless person who has made an application for asylum in respect of which no final decision has yet been taken.
18. **'Application for international protection'** refers to a request made by a third-country national or a stateless person for protection from a Member State, who can be understood as seeking refugee status or subsidiary protection status.
19. **'Refugee'** refers to a third-country national or a stateless person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above is unable or, owing to such fear, unwilling to return to it.
20. **'Person eligible for subsidiary protection'** refers to a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his/her country of origin, or in case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15 of Council Directive 2004/83/EC, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.
21. **'Stateless person'** refers to a person who is not considered as a national by any State under the operation of its law.
22. **'Threat to public health'** refers to any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are subject of protection provisions applying to nationals of the Member States. For more details see the [guidelines on public health threats](#), , Section I point 1.6.
23. **'Visa'** means an authorisation issued by a Member State or a decision taken by such State which is required with a view to entry for an intended stay in that Member State or in

several Member States, or for transit through the territory of that Member State or several Member States. For more details on the different types of visas see Section I point 7

## PART TWO - BORDER CHECKS

### SECTION I: Border check procedures

#### 1. *Checks at border crossing points*

1.1 The main purpose of border checks at border crossing points is to verify that all persons crossing the border fulfil the entry conditions in the territory of the Schengen States.

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

- a) the possession of a [valid travel document or documents](#) authorising them to cross the border;
- b) the possession of a [valid visa](#), where this is required. However, if a third-country national holds a [residence permit](#) issued by a Schengen State, this residence permit is deemed to be equivalent to a Schengen visa. This equivalence does not apply to temporary permits issued pending examination of a first application for a residence permit or an application for asylum;
- c) the justification of the purpose and of the conditions of stay in the Schengen State(s) to be visited, including the possession of sufficient means of subsistence for the duration of the intended stay and for the return to their country of origin (or for transit to a third country into which they are certain to be admitted, for instance because they have a residence permit issued by that country), or the possibility to acquire such means lawfully;
- d) not being a person for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;
- e) not being a person considered as a threat to public policy, internal security, public health or the international relation of any of the Schengen States. This may particularly be the case where no alert exists in a national database entailing a refusal of entry towards the person concerned.

The main **condition** to be verified at **exit** consists in the verification of the validity of the document authorising the holder to cross the border and, where possible, that the third-country national does not represent a threat to public policy, internal security or the international relations of any of the Schengen States.

*\* Legal basis:*

- [Schengen Borders Code \(Article 5\)](#);
- [Council Regulation \(EC\) No 539/2001](#), as amended by:
- [Council Regulation \(EC\) No 2414/2001](#)
- [Council Regulation \(EC\) No 453/2003](#)
- [Council Regulation \(EC\) No 851/2005](#)

**N. B.** The above conditions **do not apply to EU citizens and other beneficiaries of the Community right to free movement**, who are entitled, as a general rule, to enter the territory of any Member State on simple presentation of an identity card or a passport. For further details, see [point 3.1 below](#).

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

In particular, border guards must, in the performance of their duties, fully respect human dignity and must not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Any measures taken in the performance of their duties must be proportionate to the objectives pursued by such measures.

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

- 1.3 The border guard in command of the crossing point must deploy the appropriate staff in sufficient numbers to carry out effective border control. Border guards must always try to strike a balance between the need, on the one hand, to ensure the smooth crossing of the border by persons who fulfil the entry conditions, and who represent the great majority of travellers (e.g., tourists, businessmen, students etc.) and the need, on the other hand, of always being vigilant in order to detect persons posing a risk to public policy and internal security as well as potential illegal immigrants.

**\* Advice for border guards when conducting the border check:**

- when you take the travel document always have a look at the face of the traveller at first (try to remember as much as possible of the noticeable features of the traveller's face);
- compare the features of the traveller with the photo and description included in the travel document, match them also with the visa when this is required (this could help to eliminate impostors);
- check the travel document through in order to rule out the possibility that it is counterfeit or forged (the numbering, printing and stitching of pages, seals and stamps inserted, the inclusion of other persons; all corrections made in the document especially at the personal data page should be clarified by the traveller);
- check the data in the file system; while doing this keep always verbal contact and observe the behaviour and reaction of the traveller (e.g., nervousness, an aggressive attitude, excessive willingness to co-operate);
- before you put the border's stamp make sure that the person did not overstay the allowed period during his/her last stay within the Schengen States territory (i.e. 3 months within six months);
- do not interrogate the traveller as a potential criminal or illegal immigrant. All the questions should be well balanced and asked in a friendly way.
- questions posed by the traveller should not be considered as intrusive and should be answered in a factual and polite manner.

1.4 All persons must undergo a **minimum check** upon entry and exit, involving the matching of the identity of the person with the documents enabling them to cross the border. The minimum check usually consists of a rapid and straightforward verification of the travel document, with the aim of checking the validity of it and of detecting the presence of signs of falsification or counterfeiting. This check may also involve the consultation, in the relevant databases, of information concerning stolen, misappropriated, lost and invalidated documents.

The minimum check must be the rule for **persons enjoying the Community right of free movement** (see point 3.1 below).

1.5 Third-country nationals must be subject to a **thorough check**, which must be carried out as described below. However, **special rules** apply to the following categories of persons:

- a) Heads of State and members of their delegations (point 3.2);
- b) Pilots of aircraft and other crew members (point 3.3);
- c) Seamen (point 3.4);
- d) Holders of diplomatic, official or service passports and members of international organisations (point 3.5);
- e) Border residents benefiting from a local border traffic regime (point 3.6);
- f) Minors (point 3.7);
- g) School pupils from third countries resident in a Member State or in a third country not subject to the visa obligation (point 3.8);
- h) Cross border workers (point 3.9)
- i) ADS tourists (point 3.10)

Checks on **stateless persons** and **refugees** are carried out in the same way than for third-country nationals in general (see point 10, Section I on asylum seekers).

N.B. For checks of third-country nationals who are members of the family of EU, EEA or CH citizens (persons enjoying the community right of free movement) see point 3.1

\* *Link:*

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

- [Visa exemptions for refugees and stateless persons](#)



1.6 The **thorough check at entry** consists of the verification of the fulfilment of all entry conditions, i.e.:

- the verification that the third-country national is in possession of a [document or documents valid for crossing the border](#) and which has not expired, and that it is accompanied, where applicable, by the requisite [visa](#) or [residence permit](#);
- the thorough scrutiny of the travel document for signs of falsification or counterfeiting. Where appropriate, the examination of travel documents, visas and residence permits should be carried out through comparison with specimen of current documents which entitle to cross the border and with specimens of visa stickers, and by using equipment such as UV lamps, magnifying glasses, retrieval lamps, microscopes, document boxes and, where necessary, more advanced equipment such as video spectrum etc.;
- the examination of the entry and exit stamps in the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the territory of the Schengen States i.e. three months within a six-month period. The period of three months must be counted starting from the date of first entry;
- the verification regarding the points of departure and destination of the third-country national concerned and the purpose of the intended stay and, where necessary, checking the corresponding [supporting documents](#);
- the verification that the third-country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his/her return to the country of origin or transit to a third country, or that he/she can obtain these means legally. In order to assess the means of subsistence, the [reference amounts](#) set by each Schengen State must be taken into account;
- The verification of sufficient means of subsistence may be based on the cash, travellers' cheques and credit cards in the third-country national's possession. Declarations of sponsorships, where such declarations are provided for by national legislation [and letters of guarantee/invitation from hosts](#), as defined by national legislation, in case the third-country national is staying with a host, may also constitute evidence of sufficient means of subsistence;

- The validity of a credit card can be verified by contacting the issuing company or by using other facilities available at the border crossing point (e.g. exchange offices).
- Invitation from hosts can be verified by contacting the host directly or by verifying the host's good faith through the national contact points of the MS of residence of the host.

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

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

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

For the purpose of this Handbook, any threat to the health of the European citizens, as well as decisions on effective measures to be taken, will be assessed and decided through the Community Network set up under Decision 2119/98/EC and its Early Warning and Response System (EWRS) and the ECDC, set up by Regulation (EC) No 851/2004 establishing a European centre for disease prevention and control. The EWRS-authorities comprise the Member States' public health authorities and they work at national level together with national recognised surveillance institutes. The ECDC performs the risk assessment of the threat ([www.ecdc.eu.int](http://www.ecdc.eu.int)).

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

1.7 The **thorough check on exit** consists of:

- the verification that the third-country national is in possession of a [document valid](#) for crossing the border;
- the verification of the travel document for signs of falsification or counterfeiting;
- wherever possible, the verification that the third-country national is not considered to be a threat to public policy, internal security or the international relations of any of the Schengen States.

**Further checks on exit** may comprise:

- the verification that the person is in possession of a valid [visa](#), if required, except when he/she is holding a valid [residence permit](#) issued by the Schengen States or other documents authorising a stay or a re-entry into their territory;
- the verification that the person did not exceed the maximum duration of authorised stay in the territory of the Schengen States;
- consultation of alerts on persons and objects included in the SIS and reports in national data files.

1.8 Third-country nationals holding a [residence permit](#) issued by a Schengen State should, as a general rule, not be asked to prove the purpose of the intended stay nor the possession of means of subsistence. The other checks – and in particular the examination of travel and residence documents, the searches in the SIS and in national databases – must, however, be carried out as explained in points 1.4, 1.5, 1.6 and 1.7 above.

1.9 Upon request from the person subject to a thorough check, the border guard conducting the check should show him/her his/her service badge, must provide him/her with the service identification number and, if circumstances allow for it, give her/his name. The provision of the name can be refused if there is any reason to assume that the border guard might be severely disadvantaged (for example, if he/she is threatened with retaliation). In this latter case, only the number of the badge and the name and address of his/her authority must be provided.

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

If requested by the third-country national, and where appropriate facilities exist, such thorough checks must be carried out in a non-public area designated for that purpose. In this case, the third-country national concerned must be given information, about the purpose of such checks, as well as about the procedure. This information may take the form of a poster or of a leaflet to be handed over to the person. The leaflet or the poster must be available in all the official languages of the Union and in the language(s) of the countries bordering the Member States concerned.

\* *Legal basis:*

- [Schengen Borders Code \(Articles 6 and 7; annexes I and IV\)](#)

- [Decision 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community \(OJ L 268, 3.10.1998, p.1\)](#)

- [Regulation \(EC\) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control \(OJ L 142, 30 04.2004, p.1\)](#)

- [Council Regulation No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States \(OJ L 385, 29.12.2004, p. 1\)](#)

- [International Health Regulations \(WHO\)](#)

- [Judgment of the ECJ of 3 October 2006, Case C-241/05 Bot vs. Préfet du Val-de-Marne](#)

## 2. *Searches in the Schengen Information System*

2.1 The SIS must be used to search for information on persons and objects, and in particular on:

- persons wanted for arrest and surrender on the basis of a European Arrest Warrant or persons wanted for provisional arrest with a view to extradition;
- third-country nationals who must be refused entry to the territory of the Schengen States;
- missing persons or persons who, for their own protection or in order to prevent threats, need to be placed under temporary police protection;

- persons wanted for judicial procedure;
- persons and objects to be subject to discreet surveillance or specific checks;
- objects included for seizure or use as evidence in criminal proceedings.

2.2. Conduct to be followed in case of a hit in the SIS:

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

2.2.2 Third-country nationals to whom entry is refused must be returned to the place they came from or to their country of origin as quickly as possible, if the circumstances allow it. Such persons must remain under supervision by border guards until their departure from the territory of the Schengen State.

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

2.2.4 Special attention must be paid to minors or persons who on the basis of a decision of the state authorities (court, administrative authorities) must be put under protection. Further steps can only be taken following consultation with these authorities.

2.2.5 Data included for the purposes of discreet surveillance should allow the obtaining of information such as:

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

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

**\* Best practice - Request of information about an SIS alert:**

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

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

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

For further information on the conduct to be followed in case of a SIS alert, border guards should consult the SIRENE Manual.

*\* Legal basis:*

- [Schengen Convention \(Articles 93-118\)](#)

### 3. *Special rules for checks on certain categories of persons*

#### 3.1 **Persons enjoying the Community right of free movement**

3.1.1 Persons enjoying the Community right of free movement are authorised to cross the border of a Member State on the basis of the following documents, as a general rule:

- EU, EEA, CH citizens: identity card or passport;
- members of the family of EU, EEA, CH citizens who are nationals of a third country: passport. They may also be required to have an entry visa, if they are nationals of a third country subject to the [visa obligation](#), unless they are in possession of a valid [residence permit or card](#), issued by a Member State (or by EEA countries or CH).

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

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

3.1.3 As a consequence, checks on persons enjoying the Community right of free movement should be limited, as a general rule, to the verification of their identity and nationality /family ties (so-called “**minimum check**”, [see above point 1.4](#)). No questions concerning the purpose of travel, travel plans, employment certificate, pay slips, bank statements, accommodation, means of subsistence or other personal data should therefore be asked to them.

3.1.4 However, on a non-systematic basis, and in order to ensure that the presence of these persons does not represent a genuine, present and sufficiently serious danger to the internal

security or public policy or international relations of Member States or a threat to public health, border guards may carry out a further check on these persons by consulting national and European databases.

A hit in the SIS or in other databases is not in itself a sufficient ground to deny entry to any persons enjoying the Community right of free movement (see point 6.3, Section I, on the rules applying to the **refusal of entry** of beneficiaries of the Community right of free movement).

Previous criminal convictions shall not in themselves constitute grounds for refusing entry.

*\* Legal basis – Case law:*

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

- [Schengen Borders Code \(Article 7\)](#)

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

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

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

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

## 3.2 Heads of State

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

*\* Legal basis:*

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

## 3.3 Pilots of aircraft

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



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

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

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

*\* Legal basis:*

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

### **3.4 Seamen**

- 3.4.1 Seamen may go ashore, i.e. stay in the area of the port where their ship calls or in the adjacent municipalities, using their seafarer's identity document issued in accordance with the Geneva Convention of 19 June 2003 (No 185), the London Convention of 9 April 1965 (FAL Convention) and the relevant national provisions, provided that such a document is recognised by the Schengen State concerned. In such a case they do not need to present themselves at a border crossing point, on condition that they appear on their ship's crew list, which has previously been submitted for checking by the competent authorities.

However, if the assessment of the risks related to internal security and illegal immigration justifies so, they must be subject to the normal thorough check to be carried out on third-country nationals.

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

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

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

In such cases, holders of a seaman's book or a seafarer's identity document who are required to hold a visa on account of their nationality and are not in possession of one when entering the territory of a Schengen State may be issued with a visa at the border (see point 7, Section I below).

*\* Legal basis:*

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

### **3.5 Holders of diplomatic, official or service passports and members of international organisations**

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

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

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

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

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

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

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

- United Nations laissez-passer issued to staff of the United Nations and subordinate agencies under the Convention on Privileges and Immunities of Specialised Agencies adopted by the United Nations General Assembly on 21 November 1947 in New York;
- European Community (EC) 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.

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

*\* Legal basis:*

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

### **3.6 Border residents benefiting from a local border traffic regime**

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

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

- 3.6.2 Border crossing for these people may be further facilitated, in the framework of the bilateral agreements between a Member State and a third country, in accordance with point 3 of Section II.

*\* Legal basis:*

- Regulation (EC) No .../2006 on local border traffic
- Bilateral agreements concluded by Schengen States on local border traffic

### **3.7 Minors**

- 3.7.1 Minors deserve the particular attention of border guards, whether they are travelling accompanied or not.
- 3.7.2 In the case of accompanied minors, the border guard must check that the persons accompanying minors have parental custody over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the care of the person legally exercising parental custody over them. If so, the border guard will have to make all necessary investigations in order to prevent the abduction or in any case unlawful removal of the minor.
- 3.7.3 Unaccompanied minors must be scrutinised, by means of a thorough check of their travel and supporting documents, in order to ensure that they do not leave the territory against the wishes of the person(s) having parental custody.

*\* Legal basis:*

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

### **3.8 School pupils from third countries resident in a Member State or in a third country not subject to the visa obligation<sup>4</sup>**

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

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<sup>4</sup> This section does not apply to Norway, Iceland and Switzerland.

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

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

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

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

Entry or transit may be refused to them if there are grounds for doing so, in accordance with [point 6, Section I](#).

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

In such a case, the same requirements provided for school pupils resident in a Member State must be fulfilled.

*\* Legal basis:*

- [Council Decision 94/795/JHA of 30 November 1994](#)

- [Regulation \(EC\) No 539/2001 \(Article 4\)](#)

### **3.9 Cross border workers**

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

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

*\* Legal basis:*

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

### **3.10 ADS tourists**

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

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

- 3.12 As a rule, ADS tourists must be accompanied by a tour leader, who must ensure that they enter and leave the Community as a group.
- 3.13 The normal checking procedures (point 1, Section I) must be carried out on groups of ADS tourists. Checks may also include the verification of the ADS status, which should, in any case, be indicated in the visa sticker. Visas carrying the reference "ADS" are always individual visas. Also the tour leader must be submitted to the normal checking procedures which include the verification of its status of tour leader.

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

\* *Legal basis:*

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

#### 4. *Stamping of travel documents.*

- 4.1 As a general rule, the travel documents of all third-country nationals must be stamped systematically on entry and exit. The stamp does not constitute proof that a thorough check has been carried out; it only makes it possible to establish, with certainty, the date and place of the crossing of the border. Stamping is also intended to ensure that it is possible to verify, during checks on entry to and exit from the Schengen territory, whether the allowed maximum duration of a third-country national's stay in the Schengen territory –three months per six-month period – has been respected.

Border guards must therefore always stamp the documents enabling third-country nationals to cross the border, even in extraordinary and unforeseen circumstances, including when checks are relaxed.

A stamp must also be affixed on the travel document of a person who is issued a visa at the border (point 7, Section I).

- 4.2 No **entry or exit stamp** must be affixed in the following cases:



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

4.3 The travel document of **family members of EU, EEA and CH citizens** who are third-country nationals must also be stamped, unless they present a [residence permit or card](#) with the indication “family member of an EU citizen” or “family member of an EEA or CH citizen”.

**\* Examples:**

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

2) A Croatian husband of a British national, who is in possession of a British residence permit/card (indicating his status of family member of a EU citizen) and who is accompanied by his wife. The travel document of this man **must not** be stamped;

3) An Indian national, wife of French citizen, holder of a Schengen visa but not (yet) of a French residence permit/card, joining her husband. In this case, the travel document of this woman **must be** stamped.

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

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

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

In any case, **the lack of empty pages in a passport is not, in itself, a valid and sufficient ground to refuse the entry of a person** (see point 6, Section I, on the grounds for refusal).

**\* Recommended practice:**

The sheet referred to in point 4.4 and 4.5 should contain the following details, as a minimum requirement:

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

4.6 In the case of entry and exit of third-country nationals submitted to the visa obligation, the stamp will, if possible, be affixed so that it covers the edge of the visa without affecting the

legibility of the indications on the visa or the security features of the visa sticker. If several stamps have to be affixed (for example in the case of a multiple-entry visa), this must be done on the page facing the one on which the visa is affixed. If that page cannot be used, the stamp must be entered on the following page. The machine readable zone must not be stamped, and the stamps cannot be affixed on the personal data and other pages where original formal notes are made.

**\* Recommended practices:**

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

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

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

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

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

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

4.10 If, at exit, it appears that the travel document of a third-country national does not bear an entry stamp, the border guard may presume that the holder has entered illegally the territory of the Schengen States and/or has exceeded the maximum duration of stay. If so, a penalty according to the national law may be imposed.

4.11 However, if the third-country national provides by any means credible evidence, such as transport tickets or proof of his/her presence outside the territory of the Members States, no penalty must be imposed and the border guard must give such a person either [a special confirmation on a form](#) or, where foreseen by [national legislation](#), indicate directly in the travel document the date and place where the person has crossed the external border.

\* *Legal basis:*

- [Schengen Borders Code \(Article 10 and Annex IV\)](#);

- [Directive 2004/38/EC \(Article 5\)](#);

- [Schengen Convention \(Article 21\)](#).

## 5. ***Relaxation of checks***

5.1 Border checks at external borders may be relaxed as a result of exceptional and unforeseen circumstances. Such exceptional and unforeseen circumstances are met where unforeseeable events lead to such intensity of traffic that the waiting time at the border crossing point becomes excessive, and all resources have been exhausted as regards staff, facilities and organisation. This could be the case if, for example, there is a flood or another serious natural disaster which prevents the crossing of the border at other border crossing points, so that the traffic flows of several border crossing points are diverted to only one.

5.2 Where border checks are relaxed, border checks on entry movements must in principle take priority over border checks on exit movements. The decision to relax checks must be taken by the border guard in command at the border crossing point. Such relaxation of checks must be temporary, must be adapted to the circumstances justifying it and must be introduced gradually.

- 5.3 Even in the event of border checks being relaxed, the border guard must stamp the travel documents of third-country nationals both on entry and exit, in accordance with [point 4, Section I](#), and must carry out at least a minimum check.

*\* Legal basis:*

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

## 6. ***Refusal of entry***

6.1 Third-country nationals must be refused entry in the following cases:

- a) they have no valid travel documents;
- b) they have false (counterfeit/forged) travel document;
- c) they have no valid visa, when this is required, or residence permit issued by a Schengen State;
- d) they are in possession of false (counterfeit/forged) visas or residence permits;
- e) they do not have appropriate documentation justifying the purpose and conditions of stay;
- f) they have already stayed for three months during a 6-month period on the territory of the Schengen States;
- g) they lack sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit;
- h) they are persons for whom an alert has been issued in the SIS or in national databases call for the purpose of refusing entry;
- i) they are a threat to public policy, internal security, public health or the international relations of one or more Schengen States.

**\* Examples:**

1) A team of cyclists from Nigeria is going to Ukraine, claiming they are going to take part in a cycling race organised there. They arrive in Warsaw-Airport (PL), stating that they

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

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

3) A Tunisian citizen arrives at Schiphol (NL) airport. His purpose of travel is to see his relatives (brothers and sisters) residing in Brussels (BE). He has a valid Schengen visa, a return ticket and a letter of invitation/guarantee by his hosts residing in Belgium. However, this letter is not authenticated by the competent Belgian authorities (as the Belgian law requires). In such a case, before taking a decision about allowing entry or not, further verifications should be made such as: examining the passport to see if the person has been issued previous Schengen visas; comparing previous entry/exit stamps to see whether the person has overstayed in the Schengen territory in the past; taking contacts with the competent Belgian authorities asking them to make the necessary verifications about the hosts. These verifications aim to check the good faith of the person; a decision will be taken only on the basis of the result of such verifications.

4) A plane from Shanghai lands at Helsinki-Vantaa Airport (FI). The WHO has declared a public health emergency of international concern (on the basis of the risk of SARS), which requires strict precautions to be taken on all passengers arriving from China. All passengers are requested to fill in a locator card, including plane seat number and contact details in case they subsequently need to be traced. In the terminal all passengers go through a special designated corridor where medical equipment is installed. Some Chinese and EU nationals present symptoms of SARS and are still infective. After

consultations with doctors a decision is taken to refuse entry to the Chinese nationals and to hospitalise the EU nationals immediately because of the serious threat of spread of disease. Other passengers on the plane are contacted using the details on the locator cards and asked to report to a doctor. This does not exclude the possibility of taking alternative measures, such as quarantine, where appropriate and justified on public health grounds.

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

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

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

6.2 A Member State may exceptionally decide not to refuse entry and let the third-country national enter into its territory in the following cases:

- a) on humanitarian grounds, on grounds of national interests or because of international obligations (for example, if a person asks for asylum or is otherwise in need of international protection);

- b) if a person not in possession of a visa fulfils the criteria for being issued a visa at the border ([point 7, Section I](#)) ;
- c) if the person holds a residence permit or a re-entry visa issued by a Schengen State, in order to allow the person to transit and reach the territory of such a State. Transit can, however, be refused in case there is an alert in national databases concerning this person.

*\* Legal basis:*

- [Schengen Borders Code \(Article 1, 3, 5\)](#)

6.3 **Persons enjoying the Community right of free movement** may only be refused entry on grounds of public policy or public security, i.e. when their personal conduct represents a genuine, immediate, and sufficiently serious threat affecting one of the fundamental interests of society.

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

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

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

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



person entered the territory and take afterwards, where necessary, the appropriate measures.

The above is without prejudice to other actions to be performed as a consequence of a SIS alert, such as the arrest of the person, the adoption of protection measures etc.

*\* Legal basis/Case-law:*

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

- [Decision 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community \(OJ L268, 3.10.1998, p.1\)](#)

- [Regulation \(EC\) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control \(OJ L 142, 30.4.2004, p.1\)](#)

- [Judgement of the ECJ of 3 July 1980, Case C 157/79, Regina vs. Stanislaus Pieck.](#)

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

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

In case a third-country national, member of the family of an EU/EEA/CH citizen, is not in possession of the required visa but can prove his/her identity as well as the family tie with the EU/EEA/CH citizen, and if there is no evidence to establish that he/she represents a risk to the requirements of public policy, public security or public health of the Member States, a visa must be issued to him/her at the border. Such a visa must be issued for free (see also [point 7.10, Section I](#)).

*\* Legal basis/Case-law:*

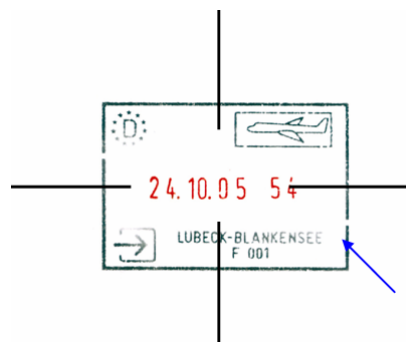
- [Directive 2004/38/EC \(Articles 5, and 27-33\)](#)

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

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

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

Example of a cancelled stamp:



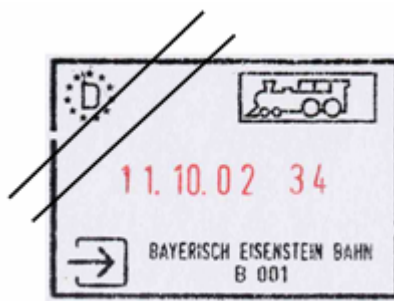
Letter indicating the reason for refusal of entry in accordance with uniform form

- 6.5 Where the officer responsible for checks finds that the holder of a Schengen visa has been the subject of an alert in the SIS for the purposes of being refused entry, he/she must cancel the visa by applying a stamp stating 'CANCELLED'.
- 6.6 The uniform visa must not be cancelled solely because the third-country national was not able to produce the [supporting document\(s\)](#) requested to justify the purpose of the journey. In this latter case, a further enquiry must be made by the border guard in order to assess whether the person obtained the visa in a fraudulent way and represents a risk in terms of illegal immigration. If necessary, contacts with the competent authorities of the Schengen State having issued the visa will be taken. Only if it is ascertained that the visa was

obtained in a fraudulent way, such visa must be cancelled by the border guard. For further details, see point 8.1, Section I.

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

There can be cases where a stamp that has already been affixed on a passport has to be annulled (for example, if the wrong stamp was affixed by mistake by the border guard). In such cases, the traveller bears no responsibility for it and therefore the stamp cannot be cancelled in the same ways as when a person is refused entry. It is therefore recommended to annul the stamp by running two parallel lines through the top left-hand corner of it like in the example below:



- 6.7 All persons to whom entry has been refused have the right to appeal in accordance with national law. A written indication on procedures for appeal and on contact points able to provide information on representatives competent to act on behalf of the third-country national must be given to the third-country national concerned.
- 6.8 If a **person enjoying the Community right of free movement** is refused entry, the border guard must always provide the person with a written decision. The decision must be drafted in such a way that the person concerned is able to comprehend its content and the implications. The decision must also include precise and full indication of the public policy or public security grounds on which the decision taken is based, unless this is contrary to the interests of State security. The decision must also specify the court or administrative authority with which the person concerned may lodge an appeal and the time limit for the appeal.
- 6.9 The decision to refuse entry must be performed immediately.

- 6.10 If the refused third-country national has been brought by a carrier by air, sea or land the carrier must be obliged immediately to assume responsibility for him/her again. The carrier must, in particular, be obliged to return the third-country nationals to the third State from which they were transported or to the third State which issued the travel document on which they travelled or to any other third State to which they are certain to be admitted. When the refused third-country national cannot be taken back immediately, the carrier must be made to bear all necessary costs of lodging, maintenance and return travel. If the carrier is not able to return the third-country national, it must be obliged to ensure his/her return by any other means (e.g., by contacting another carrier).
- 6.11 Penalties must be imposed on the carrier in accordance with Directive 2001/51/EC and with national law.
- 6.12 The border guards must take all appropriate measures, based on local circumstances, in order to prevent third-country nationals refused entry from entering illegally (for instance, by ensuring that they remain in the transit area of an airport, or by prohibiting them from going ashore in a seaport).

\* *Legal basis:*

- [Directive 2004/38/EC \(Articles 5, and 27-33\);](#)
- [Schengen Borders Code \(Article 13 and Annex V\);](#)
- [Schengen Convention \(Article 26\);](#)
- [Directive 2001/51/EC.](#)

## 7. *Issuing of visas at the border, including to seamen in transit*

- 7.1 Types of Schengen uniform visas (valid for the territory of all Schengen States)<sup>5</sup>:
- "airport transit visa" (**type "A" visa**) : this is a visa which may be required with a view to pass through the international transit areas of the airports of Schengen States by nationals from certain third countries, as an exception to the principle of free transit laid down in annex 9 to the Chicago Convention on International Civil Aviation;

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<sup>5</sup> These visas are only issued by States who are fully implementing the Schengen acquis.

- "transit visa" (**type "B" visa**): this entitles the holder, travelling from one third country to another, to pass through the territory of the Schengen States once, twice or exceptionally several times. Each transit cannot exceed the duration of five days (example: a journey from Turkey to Albania, transiting via Greece);
- "short-stay visa" (**type "C" visa**): this entitles the holder to stay for a period not exceeding three months in the territories of the Schengen States. The duration of the stay cannot exceed three months in any half-year from the date of first entry;
- "national visa" (**type "D" visa**): this is a visa issued by a Schengen State for a long-stay (for purposes of study, work etc) and is issued in accordance with the procedures foreseen by national legislation. The territorial validity of such visa is limited to the territory of the State of issuance (except in the case of "D + C" visas mentioned below). However, holders of such visa have the right to transit through the territory of the other Schengen States in order to reach and enter, for the first time, the State of issuance on condition that they possess a valid travel document and that they are not on the national list of alerts for refusing entry of the country whose territory they intend to transit;
- "national visa valid concurrently as a short-stay visa" (**type "D + C" visa**): this is a national visa issued by a Schengen State (for a long-stay) but which is at the same time valid to travel to other Schengen States for a period of not more than three months from their initial date of validity. Such a visa is issued in accordance with the common conditions and criteria foreseen for issuing uniform short-stay visas. Example: a "D + C" visa issued by France allows not only a stay on the French territory for the whole duration of the visa, but it also allows travelling to all other Schengen States for a maximum period of three months starting from the date of validity indicated on the visa sticker;
- "group visa": this is either a transit visa or a short-term visa limited to a maximum of 30 days, which may be affixed to a group passport – except when national legislation provides otherwise – issued to a group of aliens formed prior to the decision to travel, provided that the members of the group enter the territory, stay there and leave it as a group. This type of visa may be issued to groups of between 5 and 50 people. The person in charge of the group must possess an individual passport and, where necessary,

an individual visa. This is without prejudice to the specific provisions on issuing visas at the borders to groups of seamen ([point 7.9, Section I](#));

- "visa with limited territorial validity" (type "LTV B" or "LTV C" visa): this is a short-stay visa entitling the holder only to stay in or transit through the territory of the issuing Schengen State or several Schengen States. In this case, the territorial validity (one or more Schengen States) is indicated in the visa sticker itself. The issuance of such a visa is of exceptional nature. Border guards must always notify their central authorities within 72 hours when LTV visas are issued, specifying the data of the person to whom the LTV is issued and the grounds for such issuance;

*\* Legal basis:*

- [Council Regulation 539/2001](#);
- [Schengen Convention \(Articles 9-17\)](#).
- [Common Consular Instructions](#)

*\* Links:*

- [How to fill in visa sticker](#);
- [Specimen](#) of filled in visa stickers (further guidelines);
- [Examples](#) of visa stickers issued by Member States (with photographs).

7.2 Visas may be issued at the border provided that the third-country national:

- holds a valid document entitling him/her to cross the border;
- can justify the purpose of the journey and has sufficient means of subsistence;
- is not the object of an alert in the SIS for the purpose of refusing entry and does not represent a threat to public order, internal security, public health or the international relations of the Schengen States;

- (d) can prove that he/she was not in the position of applying for a visa in advance, namely due to time constraints;
- (e) submits documentary evidence of the existence of unforeseeable and imperative reasons for entry.

In addition, the border guard must be able to verify that the return of the person to the country of origin or to a third country is ensured.

The issuance of a visa at the border (instead that at a consulate/embassy, which is the rule), must remain exceptional. The burden of the proof in relation to the reasons why a visa could not be applied for at a consulate, and must therefore be issued at the border, lay with the third-country national concerned.

### 7.3 The visa may be issued:

- a) without restrictions on territorial validity (Schengen uniform visa, valid for all Schengen States). In this case, the visa can be:
  - a short stay visa (type C);
  - a transit visa (type B). This type of visa may be issued to the applicant at the border only if he/she is in possession of a valid visa for all the other country/countries of transit and of destination outside the Schengen area. Such visa should allow for direct transit through the territory or territories of the Schengen State(s) concerned.
- b) with restricted territorial validity ("LTV C" or "LTV B").

In both cases the visa issued must not be valid for more than **one entry**. The validity of the short-stay visa must not exceed 15 days; the validity of the transit visa must not exceed 5 days.

### 7.4 A visa cannot be affixed on a travel document which is not valid. When a document is not recognised as valid by some Schengen States, the issued visa must be territorially restricted. If the travel document is not recognised by the country which issues the visa, the visa sticker must be affixed on a [separate uniform sheet](#).

7.5 A third-country national falling within a category of persons for which it is obligatory to consult one or more of the central authorities of other Schengen States cannot, in principle, be issued with a visa at the border. Nevertheless, a visa may be issued at the border for such persons in exceptional cases, namely on **humanitarian grounds**, on **grounds of national interest** or on account of international obligations.

**\* Examples:**

**a) Visa issued at the border on humanitarian grounds:**

- Sudden serious illness of a close relative or of other close persons;
- Death of a close relative or of other close persons;
- Entry required so that initial medical and/or psychological care and, by way of exception, follow-up treatment can be provided in the Schengen State concerned, in particular following an accident such as a shipwreck in waters close to a Schengen State, or other rescue and disaster situations.

**b) Visa issued at the border on grounds of national interest:**

- Entry of members of a Government (Head of government, ministers) of a country with which the Member State concerned has diplomatic relations, if official reasons are provided as grounds and if the persons have furnished proof of their claimed position;
- Entry to attend talks with representatives of the Member State concerned provided that a letter of invitation can be presented. If possible, a call should be made to the person or organisation having sent the invitation to verify the authenticity of the latter;
- Entry of persons who are well-known in public life (e.g., internationally known political, business, scientific or cultural figures);
- Major foreign policy interests of a Schengen State.

**N.B.** As a rule, the exceptional grounds listed above should also be extended to accompanying persons. If they relate to a delegation group, the competent national authority may, in case of doubt, be requested to make a decision.

7.6 Visas issued at the border must be recorded on a list.



7.7 The fees to be charged for processing of the visa application at the border are equivalent to [those charged by a consulate](#). However, visas at the border may be issued free of charge.

*Specific rules concerning seamen:*

7.8 Special rules for issuing transit visas at the border apply to **seamen**. A seaman who is required to be in possession of a visa when crossing the external borders may be issued with a transit visa at the border where:

- he/she fulfils the conditions referred to in point 7.2, Section I;
- he/she is in possession of a valid visa for all the other country/countries of transit and of destination outside the Schengen area;
- the reason for crossing the border is to embark on, re-embark on or disembark from a ship on which he/she will work or has worked as a seaman.

7.9 Seamen who are of the same nationality and who are travelling in a group of between five and 50 individuals may be issued with a group transit visa at the border which should be affixed to a separate sheet. The sheet must include surname and forename, date of birth, nationality, and travel document number.

This group visa may only be issued if each of the seamen fulfils the conditions for being issued a visa at the border.

Before issuing a visa at the border to a seaman or seamen in transit the competent national authorities must exchange information in compliance with the specific [operational instructions referred to in the Annex to Regulation \(EC\) No 415/2003](#).

*Specific rules for issuing visas at the border to members of the family of citizens of EU/EEA/CH countries who are third-country national subject to the visa requirement:*

7.10 When a member of the family of an EU/EEA/CH citizen, accompanying or joining the EU/EEA/CH citizen in question, arrives at the border without being in possession of the necessary visa, the Member State concerned must, before turning him/her back, give such a person every reasonable opportunity to corroborate or prove by other means that he/she is covered by the right of free movement. If he/she succeeds in doing so and if there is no evidence to establish that he/she represents a risk to the requirements of public policy,

public security or public health, the visa must be issued to him/her without delay at the border. The visa has to be issued for free.

*\* Legal basis:*

- [Directive 2004/38/EC \(Article 5\)](#);

- [Council Regulation \(EC\) No 415/2003](#);

- [Council Regulation \(EC\) No 1683/95](#); as amended by [Council Regulation \(EC\) No 334/2002](#);

- [Regulation \(EC\) N° 333/2002](#);

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

## **8. *Cancellation, revocation and shortening of the period of validity of Schengen uniform visas***

*Cancellation:*

8.1 The cancellation of a Schengen uniform visa at the border aims to prevent the entry to the Schengen area of persons who do not meet the conditions for entering the territory of Schengen States.

A uniform visa must always be cancelled in the following cases:

- the holder of the visa is the subject of an alert in the Schengen Information System (SIS), indicating that the person is to be refused entry or that the visa has been forged or falsified;
- if there are serious grounds to believe that the visa was obtained in a fraudulent way (for example, if it appears evident that a person has falsified/forged the supporting documents for obtaining the visa).

However, the visa must not be automatically cancelled each time a person is refused entry. If for example, the person cannot prove, when crossing the border, the possession of sufficient means of subsistence, entry must be refused but this does not lead to the automatic cancellation of the visa, especially if it is a Schengen visa issued by another Schengen State (see also point 6.5 and point 6.6, Section I).

8.2. If the visa is cancelled, the following procedure must be followed:

- a stamp stating “CANCELLED” must be affixed to the visa sticker and the word “visa” is to be crossed out using indelible ink;
- the border guard must render the optical variable feature of the visa unusable by using a sharp instrument (for example, a biro or the like). The aim is to prevent the optical variable feature from being removed from the visa and from being misused.

8.3 The border guard must always notify to its central authorities that the visa has been cancelled, which – in case the visa has been issued by another Schengen States – will inform within 72 hours the competent authorities of the State having issued the cancelled visa. The following data are to be transmitted:

- Surname, first name and date of birth of the visa holder;
- Nationality of the visa holder;
- Type and number of the travel document;
- Number of the visa sticker;
- Visa category;
- Date and place of issue of the visa;
- Date and reasons for the cancellation.

*Revocation:*

8.4 The revocation of a visa enables the remaining period of validity of the visa to be cancelled even after the person has entered the country. The visa must be revoked if the holder does no longer fulfil the conditions for staying lawfully on the territory of the Schengen States.

Any revocation/rescission of the visa must be notified to the central authorities – which, in turn, will notify the central authorities of the Schengen State of issuance, where applicable - in accordance with the procedure foreseen in case of cancellation of a visa.

*Shortening of the period of validity of the visa:*

8.5. The shortening of the period of validity of the visa may take place when it is established that the holder does not have adequate means of subsistence for the initially intended duration of the stay. It can also take place prior to the expulsion of a third-country national

(the last day of validity of the visa corresponds to the date set for the third-country national's expulsion).

The shortening of the visa must be notified in the same way than in case of cancellation and revocation.

*\* Legal basis:*

- [Common Consular Instructions \(annex 14\)](#);

- [Decision SCH/Com-ex\(93\)24](#).

## **9. Special transit schemes**

### **9.1 Facilitated Transit Document (FTD) and Facilitated Railway Transit Document (FRTD)**

9.1.1 On 1 July 2003, a new travel regime for transit between Kaliningrad and mainland Russia entered into force. It introduced two types of documents – a Facilitated Transit Document (FTD) and a Facilitated Railway Transit Document (FRTD) - needed for crossing the territory of Lithuania in order to enable and facilitate the travel of third-country nationals who travel between two parts of their own country which are not geographically contiguous.

9.1.2 The FTD serves for multiple entry direct transit by any kind of transport by land through the territory of Lithuania. It is issued by Lithuanian authorities and is valid for a maximum period of up to three years. A transit based on FTD cannot exceed 24 hours.

9.1.3 The FRTD serves for single return trips by train and is valid for up to three months. A transit based on a FRTD cannot exceed six hours.

9.1.4 FTD/FRTD have the same value as a visa and must be issued in a [uniform format](#) by consular authorities in accordance with Council Regulation (EC) No 693/2003 and Council Regulation (EC) No 694/2003. They cannot be issued at the border.

*\* Legal basis:*

- [Council Regulation \(EC\) No 693/2003](#);

- [Council Regulation \(EC\) No 694/2003](#).

## **9.2. Transit through the territory of Member States not fully implementing the Schengen acquis<sup>6</sup>**

9.2.1 Until they join the Schengen area, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia ("new Member States") may recognise

- Schengen uniform visas;
- long term visas and residence permits issued by a Schengen State;
- national visas (short and long term) issued by a new Member State;
- residence permits issued by a new Member State;

[as equivalent to their national visas for the purpose of transit](#) through their territory (each transit not exceeding five days).

9.2.2 The holders of the above documents must be subject to normal checking procedures (point 1, Section I).

*\* Legal basis:*

- [Decision of the European Parliament and of the Council No. 895/2006/EC of 14 June 2006](#)

## **9.3 Transit through the territory of Member States by holders of residence permits issued by Switzerland and Liechtenstein**

9.3.1 [Residence permits issued by Switzerland and Liechtenstein](#) must be recognised by the Schengen States as equivalent to a uniform Schengen visa or to their national visa for the purposes of transit through their territory. Each transit cannot exceed five days.

9.3.2 For the same purpose, the above residence permits may also be [recognised as equivalent to a national visa](#) by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia.

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<sup>6</sup> This paragraph only applies to the following Member States: the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

- 9.3.3 The holders of the above documents must be subject to normal checking procedures (point 1, Section I).

\* *Legal basis:*

- [Decision of the European Parliament and of the Council No 896/2006 of 14 June 2006](#)

## 10. *Asylum-seekers/applicants for international protection*<sup>7</sup>

\* **General principles:**

All applications for international protection (including asylum) lodged at the border must be examined by Member States in order to assess, on the basis of the criteria laid down in [Council Directive 2004/83/EC of 29 April 2004](#), whether the applicant qualifies either for refugee status, in accordance with the Geneva Convention relating to the Status of Refugees of 28 July 1951 as supplemented by the New York Protocol of 31 January 1967, or for subsidiary protection status, as defined in the same Directive.

The Member State actually responsible for examining the application is to be determined in accordance with [Council Regulation \(EC\) No 343/2003 of 18 February 2003](#) (Dublin Regulation).

The nature of the examination must be determined in accordance with [Council Directive 2005/85/EC](#) (Directive on asylum procedures).

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

The wish to apply for protection does not need to be expressed in any particular form. The word “asylum” does not need to be used expressly; the defining element is the expression of fear of what might happen upon return. In case of doubt on whether a certain declaration can be construed as a wish to apply for asylum or for another form of international

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<sup>7</sup> This section does not apply to Norway, Iceland and Switzerland.  
This section applies to Denmark as far as the determination of the Member State responsible for examining an asylum application is concerned.

protection, the border guards must consult the national authority(-ies) responsible for the examination of applications for international protection.

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

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

- 10.3 Any application for international protection must be transmitted either to the competent national authority designated by each Member State for the purpose of its examination/processing or to the authority which is responsible for deciding whether to permit the applicant entry to the territory so that his/her application can be examined by the competent authority.

No decision to return the applicant must be taken by the border guard without prior consultation with the competent national authority or authorities.

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

*\* Legal basis:*

- [Geneva Convention 28 July 1951](#) and [New York Protocol](#);

- [Council Regulation 2725/2000](#);

- [Council Regulation \(EC\) No 407/2002](#);

- [Council Regulation \(EC\) No 343/2003](#);

- [Council Directive 2004/83/EC](#);
- [Council Directive 2005/85/EC](#).

## **11. Registration of information at the border**

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

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

\* *Legal basis:*

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

## **12. Cooperation with other services**

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



## SECTION II: Land borders

### 1. *Checks on road traffic*

- 1.1 The border guard in command of a crossing point must ensure that effective checks on persons are carried out, while at the same time ensuring the safety and flow of road traffic.
- 1.2 If possible, there should be separate lanes installed for persons enjoying the Community right of free movement and other third-country nationals, in accordance with general rules on the separation of lanes.
- 1.3 Checks should be carried out, wherever possible, by two border guard officers.

\* *Legal basis:*

- [Schengen Borders Code \(Article 7, Annex VI\)](#)

\* **Best practices:**

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

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

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

*Checks on private vehicles:*

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

- the driver and passengers may remain inside the vehicle during checks;
  - the border guard officer checks documents and compares them with the persons crossing the border;
  - a second border guard officer watches at the same time the persons inside the car and secures the checking officer.
- When there is a suspicion that a travel document, driving licence, insurance or registration document has been forged all travellers should leave the car. The car should be searched thoroughly. These activities should be performed at the second line of control.

*Checks on buses:*

- Checks on persons travelling by bus can be performed in a passenger terminal or inside the bus, depending on the circumstances. When the check is performed inside the bus the following measures should be taken, wherever possible:
  - the checking of documents should start with a check on the driver of the bus and the group leader, if it is a case of organised travel;
  - in case of doubts about the travel document or the purpose of the journey, or where there are indications that a person may be a threat to public policy, internal security or public health of the Schengen States, he/she should be asked to leave the bus and be subjected to an in-depth check at the second line, a second border guard officer watches at the same time the persons inside the bus and secures the checking officer.
- In the event of heavy traffic, bus passengers on regular local lines should be checked first if local circumstances allow for it.

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

*Checks on lorries:*

Checks on lorries should be carried out as follows; in such cases, the competent customs administrations should always be involved:

- a) Wherever possible there should be a special lane for lorries where:
  - the lorry and its contents can be searched in a convenient way;
  - sniffer dogs can be used without any disturbance;

- technical equipment for searching can be used (i.e. x-ray devices and carbon dioxide detectors).

b) During checks on lorries the border guard officer should pay special attention to lorries with containers where stolen cars, trafficked people or dangerous materials may be hidden. All documentation of the contents should be carefully checked.

c) All lorries should be searched thoroughly where:

- customs seals were broken;
- tarpaulin was destroyed or sewn;
- there is a suspicion that some people, drugs, dangerous or explosive materials may be hidden inside.

● The following additional checks may also be performed:

a) road traffic control, including compliance with social provisions (e.g., roadworthiness of the car, the driver's working hours, the driver's insurance);

b) road transportation control (the accordance of the transport of goods with documents);

c) control of the presence of radioactive and hazardous goods.

All these additional controls are conducted according to relevant Community law and to the national regulations of each Schengen State.

## 2. *Checks on rail traffic*

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

2.2 Check can be carried out in either one of the following two ways:

a) on the platform in the first station of arrival or the last one before departure on the territory of a Schengen State,

b) on board the train, during transit.

2.3 The border check comprises a check on:

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

2.4 The border control of passengers of high-speed trains coming from a third State may be performed in either one of the following ways:

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

2.5 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 Schengen States, such passengers must be subject to entry checks either on the train or at the station of destination except where checks have been carried out in the station where the person boarded the train.

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

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

2.6 The border guard may inspect the cavities of carriages in order to ensure that persons or objects subject to border checks are not concealed in them. Border guard officers will always search the train thoroughly when there is a suspicion of hidden explosive materials or drugs.

2.7 Where there are reasons to believe that persons who have been reported or suspected of having committed an offence, or third-country nationals intending to enter illegally, are hiding on a train, the border guard, if he/she cannot act in accordance with his/her national provisions, must notify the authorities of the Schengen State towards or within whose territory the train is moving.

*\* Legal basis:*

- [Schengen Borders Code \(Article 7, Annex VI\)](#)

**\* Best practices:**

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

### 3. *Local border traffic*

- 3.1 Member States may conclude bilateral agreements with neighbouring third countries in order to establish a facilitated regime of “local border traffic” for border residents. This regime applies to third-country nationals residing in the border area (50 km maximum) of a third country neighbouring a Member State, who, as a general rule, reside since at least one year in that area (exceptions can be provided for in the [bilateral agreements](#)) and have legitimate reasons (family links, economic, social or cultural motives) to cross the border very frequently. Under this regime, border residents are only allowed to cross the border to stay in the border area of a Member State for a maximum uninterrupted stay of three months.
- 3.2 The bilateral agreements may provide the following:
- a) the setting up of specific border crossing points reserved for border residents;
  - b) the definition of specific lanes at border crossing points reserved for border residents;
  - c) in exceptional cases justified by the local circumstances, the authorisation for border residents to cross the border outside border crossing points and fixed hours. This applies, for example, to situations where a farmer needs to cross the border frequently to work on his/her field, or where a town is cut across by the border. In such cases, the place where the border may be crossed should be specified in their local border traffic permit (LBTP) (see point 3.6, Section I).
- 3.3 Border residents who cross the border in accordance with points a) and b) above, and who are well known to the border guards due to their frequent crossing of the border, can usually be subject only to random checks. However, thorough checks must be carried out on them from time to time, without warning and at irregular intervals.
- 3.4 When the facilitation under point 3.2, letter c), is foreseen in the bilateral agreement with a third country (i.e., to allow the crossing of the border outside authorised border crossing points), the Member State concerned must carry out random checks and maintain regular surveillance along the border in order to prevent unauthorised border crossing.

- 3.5 Further details on the checks to be carried out on border residents benefiting from the local border traffic regime are specified in point 3.6 of Section I.

*\* Legal basis:*

- Regulation (EC) No .../2006 on local border traffic
- Bilateral agreements on local border traffic

### **SECTION III: Air borders**

#### **1. Checks at the airport**

- 1.1 To ensure efficient border checks at the airport, border guards must gather all necessary information about the air traffic schedule in order to deploy sufficient staff in accordance with the flow of passengers and taking into account that priority should be given to arriving passengers.
- 1.2 Appropriate infrastructures must be put in place in order to separate intra-Schengen flights from extra-Schengen flights and prevent unauthorised circulation of persons and/or documents between these two areas.
- 1.3 Border checks will usually be carried out at the authorised border crossing point within the airport; however, when there is a risk related to internal security and illegal immigration, the border check may be carried out on the aircraft or at the gate.
- 1.4 Access to the transit area must be controlled; checks will normally not be carried out in the transit area, unless the assessment of the risks related to illegal migration or internal security justifies it.

**\* Best practices:**

- Checks on crew members should be performed prior to those on passengers and in a separate location.
- Wherever possible, a separate place for the second line of border check should be created.

- Wherever possible, there should be a separate line for diplomats and passengers with disabilities.
- All parts of the airport should be under strict surveillance through monitoring and patrolling especially of the area where passengers go through check-in, the passport control zone and the transit area. For security reasons any luggage abandoned by its owner or other suspicious objects left should be immediately reported to the security authorities.

1.5 The place where border checks are carried out must be determined in accordance with the following procedure:

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

**Examples:**

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

- b) For flights from or to third States with no transfer passengers and flights making more than one stopover at the airports of the Schengen States where there is no change of plane:

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

**Examples:**

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

- (ii) passengers on flights from or to third States with more than one stopover on the territory of the Member States where there is no change of plane (transit



passengers), and provided that passengers cannot board the aircraft for the leg situated within the territory of the Schengen States, must be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

**Examples:**

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

(iii) where an airline may, for flights from third States with more than one stopover within the territory of the Schengen States, board passengers only for the remaining leg within this territory, passengers must be subject to an exit check at the airport of departure and an entry check at the airport of arrival. Checks on passengers who, during these stopovers, are already on board the aircraft and have not boarded in the territory of the Schengen States must be carried out in accordance with point (b)(ii). The reverse procedure must apply to this category of flights where the country of destination is a third State.

**Examples :** 1. Flight from New York-Paris-Frankfurt-Rome, boarding being authorised at the Paris and Frankfurt stopovers. Entry checks for passengers landing in Paris, Frankfurt (including those who boarded in Paris) and Rome (including those who boarded in Paris and Frankfurt).

2. Flight from Hamburg-Brussels-Paris-Cairo, landings being authorised at the stopovers in Brussels and in Paris. Exit checks take place in Hamburg, Brussels and Paris

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

**\* Best practices:**

- After the landing of a plane a border guard officer should come to the parking place of the plane before the disembarking of passengers when:

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

\* *Legal basis:*

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

## 2. *Check in aerodromes*

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

\* *Legal basis*

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

- [Regulation \(EC\) No 2320/2002](#)

### 3. *Checks on persons on private flights*

- 3.1 The captain of a private plane flying from or to a third State must 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, as well as information concerning passengers' identity.
- 3.2 Where private flights coming from a third State and bound for a Schengen State make stop-overs in the territory of other Schengen States, the competent authorities of the Schengen State of entry must carry out border checks and apply an entry stamp to the general declaration.
- 3.3 Where uncertainty exists whether a flight is exclusively coming from, or solely bound for, the territories of the Schengen States without landing on the territory of a third State, the competent authorities must carry out checks on persons in airports and aerodromes in accordance with the general rules.
- 3.4 The arrangements for the entry and exit of gliders, micro-light aircraft, helicopters, small-scale aircraft capable of flying short distances only and airships are laid down by national law and, where applicable, by bilateral agreements.

\* *Legal basis:*

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

- [ICAO Convention](#)

## SECTION IV: Sea borders

### 1. *General checking procedures on maritime traffic*

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

1.2 Checks on ships must be carried out at the port of arrival or departure, on board ship or in an area set aside for the purpose, located in the immediate vicinity of the vessel. However, in accordance with the agreements reached on the matter, checks may also be carried out during crossings or, upon the ship's arrival or departure, in the territory of a third country.

1.3 The ship's captain or the shipowner's agent (i.e., the individual or corporation representing the shipowner in all matters related to the shipowner's duties in fitting out the vessel) must draw up a list (nominal list), in duplicate, of the crew and of any passengers. In the list the following information must be included:

- name and surname,
- date of birth,
- nationality,
- number and type of travel document and, where applicable, visa number.

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

1.4 At the latest upon arriving in the port the above list(s) must be handed over to the border guards. If, for reasons of *force majeure*, the list or lists cannot be sent to the border guards, a copy must be sent to the appropriate border post or shipping authority, which will forward it without delay to the border guards.

1.5 One copy of the two lists duly signed by the border guard must be returned to the ship's captain, who must produce it on request when in port.

1.6 Any changes in the crew or passenger lists must be notified immediately to the border guards by the captain or the ship owner's agent.

- 1.7 The captain is obliged to inform border guards about the presence of stowaways on his/her ship before the ship enters a port. As long as they remain on board of the ship, stowaways will remain under the responsibility of the ship's captain.

In case a Member State authorises the disembarkation of a stowaway on its territory, normal checking procedures must be carried out prior to his/her entry.

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

\* *Legal basis:*

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

## 2. *Checks on cruise ships*

- 2.1 Cruise ships are ships which follow a given itinerary in accordance with a predetermined programme, which includes a programme of tourist activities in the various ports, and which normally neither take passengers on nor allow passengers to disembark during the voyage.

- 2.2 The cruise ship's captain or the ship owner's agent must transmit to the respective border guards the itinerary and the programme of the cruise, at least 24 hours before leaving the port of departure and before the arrival at each port in the territory of the Schengen States.

- 2.3 If the itinerary of a cruise ship comprises **exclusively ports situated in the territory of Schengen States**, no border checks must be carried out and the cruise ship may dock at ports which are not border crossing points. Nevertheless, on the basis of an assessment of the risks related to security and illegal immigration, checks may be carried out on crew and passengers of these ships.

**Example:**

- a cruise ship sailing from Greece to different ports in Italy and then back to Greece.

2.4 If the itinerary of a cruise ship comprises **both ports situated in the territory of the Schengen States and ports situated in other States** the border checks must be carried out as follows:

- a) where the cruise ship comes from a port situated in a third State and calls for the first time at a port situated in the territory of a Schengen State, crew and passengers must be subject to entry checks on the basis of the nominal lists of crew and passengers.

**Example:**

- a cruise ship sailing from Saint Petersburg to Stockholm.

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

- b) where the cruise ship comes from a port situated in a third State and calls again at a port situated in the territory of a Schengen State, crew and passengers must be subject to entry checks on the basis of the nominal lists of crew and passengers referred to above to the extent that these lists have been modified since the cruise ship called in the previous port situated in the territory of a Schengen State.

**Example:**

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

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

- c) where the cruise ship comes from a port situated in a Schengen State and calls at such a port, passengers going ashore must be subject to entry checks in accordance with the general rules if an assessment of the risks related to security and illegal immigration so requires.

**Example:**

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

- d) where a cruise ship departs from a port situated in a Schengen State to a port in a third State, crew and passengers must be subject to exit checks on the basis of the nominal lists of crew and passengers. If an assessment of the risks related to security and illegal immigration so requires, passengers going on board must be subject to exit checks in accordance with general rules.

**Example:**

- a cruise ship sailing from Helsinki to Saint Petersburg.

- e) where a cruise ship departs from one port situated in a Schengen State to another, no exit checks must be carried out. Nevertheless, on the basis of an assessment of the risks related to security and illegal immigration, checks may be carried out on the crew and passengers of these ships.

**Example:**

- a cruise ship sailing from Stockholm to Helsinki and then continuing outside the Schengen area (e.g., Saint Petersburg). In this case, normally no exit checks must be carried out in Stockholm, since such checks are to be carried out in Helsinki before the ship exits the Schengen area.

2.5 The nominal lists must be transmitted to the respective border guards by the cruise ship's captain or, failing that, the ship owner's agent at least 24 hours before the arrival at each port or in case the journey to this port lasts less than 24 hours immediately after boarding is completed in the previous port. The nominal lists must be stamped at the first port of entry into the territory of the Schengen States and in all cases if it is modified.

2.6 In those cases where, on the basis of the assessment of the risks related to internal security and illegal migration, border guards decide that it is not necessary to carry out checks on

cruise passengers in accordance with the general rules on border checks, there is no requirement to stamp travel documents.

- 2.7 In the assessment of the security and migratory risks, border guards should take into account *inter alia* the following elements: the nationality of the travellers, any available information on the shipping company and its reliability, any situation report and relevant information in their possession, including information obtained from other Schengen States or neighbouring third countries.

\* *Legal basis:*

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

### 3. ***Checks on pleasure boating***

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

However, when according to the assessment of the risks of illegal immigration, and in particular where the coastline of a third State is located in the immediate vicinity of the territory of the concerned Schengen State, checks on these persons and/or a physical search of the pleasure boats must be carried out.

- 3.3 A pleasure boat coming from a third State may, exceptionally, enter a port which is not a border crossing-point. In these cases, the persons on board must notify the port authorities in order to be authorised to enter this port. The port authorities must contact the authorities in the nearest port designated as border crossing point in order to report the vessel's arrival. The declaration regarding passengers must be made by lodging the list of persons on board with the port authorities. This list must be made available to the border guards, at the latest upon arrival. Likewise, if for reasons of force majeure the pleasure boat coming from a third State has to dock in a port other than a border crossing-point, the port authorities must contact the authorities in the nearest port designated as a border crossing-point in order to report the vessel's presence.



- 3.4 During these checks, a document containing all the technical characteristics of the vessel and the names of the persons on board must be handed in. A copy of this document must be given to the authorities in the ports of entry and departure. As long as the vessel remains in the territorial waters of one of the Schengen States, a copy of this list must be included amongst the ship's papers.
- 3.5 Random checks on pleasure boats must be carried out irrespective of the assessment of the risks of illegal immigration.

*\* Legal basis:*

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

#### **4. *Checks on coastal fishing***

- 4.1 Coastal fishing is fishing carried out with the aid of vessels which return every day or within 36 hours to a port situated in the territory of a Schengen State without calling at a port situated in a third State.
- 4.2 The crews of coastal fisheries' vessels who return every day or within 36 hours to the port of registration or to any other port situated in the territory of the Schengen States without docking in a port situated in the territory of a third State must not be systematically checked.
- 4.3 When there is a risk of illegal immigration, in particular where the coastline of a third State is located in the immediate vicinity of the territory of the concerned Schengen State, checks on persons and/or a physical search of the vessel must be carried out.
- 4.4 The crews of coastal fisheries' vessels not registered in a port situated in the territory of a Schengen State must be checked in accordance with the provisions relating to seamen (point 3.4, Section I) . The ship's captain must notify the competent authorities of any alteration to the crew list and of the presence of any passengers.

*\* Legal basis:*

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

## 5. *Checks on ferry connections*

5.1 Checks must be carried out on persons on board ferry connections with ports situated in non-Schengen States. The following rules must apply:

- a) where possible, separate lanes for EU Member States, EEA and Switzerland must be provided,
- b) checks on foot passengers must be carried out individually;
- c) checks on vehicle occupants must be carried out while they are at the vehicle;
- d) ferry passengers travelling by coach must be considered as foot passengers. These passengers must alight from the coach for the checks;
- e) checks on heavy goods vehicle drivers and any accompanying persons must be conducted while the occupants are at the vehicle. This check will in principle be organised separately from checks on the other passengers;
- f) to ensure that checks are carried out quickly, there must be an adequate number of gates;
- g) so as to detect illegal immigrants in particular, random searches must be made on the means of transport used by the passengers, and where applicable on the loads and other goods stowed in the means of transport;
- h) ferry crew members must be dealt with in the same way as commercial ship crew members.

\* *Legal basis:*

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

## SECTION V: Checks on inland waterways shipping

### 1. *Inland waterways shipping*

- 1.1 Inland waterways shipping involving the crossing of an external border covers the use, for business or leisure purposes, of all types of boat and floating vessels on rivers, canals and lakes.
- 1.2 The checks to be carried out on inland waterways shipping are the same as those to be carried out on maritime traffic in general.
- 1.3 As regards boats used for business purposes, the captain and the persons employed on board who appear on the crew list and members of the families of these persons who live on board must be regarded as crew members or equivalent.

\* *Legal basis:*

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

## **PART THREE: BORDER SURVEILLANCE**

### **1. *Purpose of surveillance***

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

- a) to prevent and discourage unauthorised border crossings;
- b) to counter cross-border criminality;
- c) to apply or to take measures against persons who have crossed the border illegally.

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

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

### **2. *The methods of surveillance***

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

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

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

2.3 The main tasks of patrolling are:

- a) to monitor the terrain they operate in,
- b) to ensure that there is no risk to public policy and internal security in the patrolling area,

- c) to check documents of persons being in the area, who are not known to the patrol team,
- d) to stop all suspected persons who do not have any documents and ask them to explain in detail their reasons for being in that area,
- e) to stop and bring to the nearest border guard's station persons who crossed or tried to cross the border illegally.

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

2.4 The main tasks of stationing are:

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

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

2.6 Surveillance should also be carried out, where appropriate, using technical and electronic means (i.e., radars, sensors, and infrared vision at night).

*\* Legal basis:*

- [Schengen Borders Code \(Article 12\)](#)

## PART IV: LIST OF RELEVANT LEGAL INSTRUMENTS

- **Community law:**

- [Convention implementing the Schengen Agreement of 14 June 1985](#) between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, signed at Schengen on 19 June 1990 ([OJ L 239, 22.9.2000, p. 19](#));
- [Decision of the Executive Committee of 14 December 1993](#) on the common principles for cancelling, rescinding or shortening the length of validity of the uniform visa (SCH/Com-ex (93)24) ([OJ L 239, 22.9.2000, p. 154](#));
- [94/795/JHA: Council Decision of 30 November 1994](#) on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State ([OJ L 327, 19.12.1994, p. 1](#));
- [Council Regulation \(EC\) N° 1683/95 of 29 May 1995](#) laying down a uniform format for visas ([OJ L 164, 14.7.1995, p.1](#)) as amended by Council Regulation (EC) N° 334/2002 of 18 February 2002 amending Council Regulation (EC) N° 1683/95 of 29 May 1995 laying down a uniform format for visas ([OJ L 53, 23.2.2002, p. 7](#));
- [Decision 2119/98/EC of the European Parliament and of the Council of 24 September 1998](#) setting up a network for the epidemiological surveillance and control of communicable diseases in the Community ([OJ L268, 3.10.1998, p. 1](#));
- [Council Regulation \(EC\) N° 2725/2000 of 11 December 2000](#) concerning the establishment of ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin Convention ([OJ L 316, 15.12.2000, p.1](#));
- [Charter of Fundamental Rights of the European Union \(OJ C 364, 18.12.2000, p.1\)](#) ;
- [Council Directive N° 2001/51 of 28 June 2001](#) supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 ([OJ L 187 7. 7.2001, p. 45](#));
- [Council Regulation \(EC\) N° 539/2001 of 15 March 2001](#) listing the third countries whose nationals must be in possession of visas when crossing the external borders ([OJ L 81 of 21.3.2001, p.1](#)), amended by the following:
  - [Council Regulation \(EC\) N° 2414/2001 \(OJ L 327 of 12.12.2001\)](#);
  - [Council Regulation \(EC\) N° 453/2003 \(OJ L 69 of 13.3.2003, p.10\)](#);

- [Council Regulation \(EC\) N° 851/2005 of 2 June 2005](#) amending Regulation (EC) N° 539/2001 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 as regards the reciprocity mechanism;
- [Council Regulation \(EC\) N° 333/2002 of 18 February 2002](#) on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form ([OJ L 53, 23.2.2002, p.4](#));
- [Council Regulation \(EC\) N° 407/2002 of 28 February 2002](#) (OJ L 62, 5.3.2002, p. 1 laying down certain rules to implement [Regulation \(EC\) N° 2725/2000](#) concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention ([OJ L 316, 15.12.2000, p.1](#));
- [Council Regulation N° 1030/2002 of 13 June 2002](#) laying down a uniform format for residence permits for third-country nationals ([OJ L 157, 15.6.2002, p. 1](#));
- [Regulation \(EC\) N° 2320/2002 of the European Parliament and the Council of 16 December 2002](#) establishing common rules in the field of civil aviation security ([OJ L 355, 30.12.2002, p.1](#));
- [Council Regulation \(EC\) No 343/2003 of 18 February 2003](#) establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (Dublin Regulation) ([OJ L 50 of 25.2.2003, p. 1](#));
- [Council Regulation \(EC\) N° 415/2003 of 27 February 2003](#) on the issue of visas at the border, including the issue of such visas to seamen in transit ([OJ L 64, 7.3.2003, p. 1](#));
- [Council Regulation \(EC\) N° 693/2003 of 14 April 2003](#) establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual ([OJ L 099, 17.4.2003, p. 8](#));
- [Council Regulation \(EC\) N° 694/2003 of 14 April 2003](#) on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) N° 693/2003 ([OJ L 099, 17.4.2003, p. 15](#));
- [Council Decision of 8 March 2004](#) concerning the conclusion of a Memorandum of Understanding between the European Community and the National Tourism Administration of the Peoples' Republic of China on visa and related issues concerning tourist groups from the Peoples' Republic of China (ADS) ([OJ L 83, 20.3.2004, p. 12](#));

- [Regulation \(EC\) N° 851/2004](#) of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control ([OJ L 142, 30.4.2004, p. 1](#));
- [Council Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004](#) on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States ([OJ L 229, 29.6.2004, p. 35](#));
- [Council Directive N° 2004/83/EC of 29 April 2004](#) on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ([OJ L 304, 30.9.2004, p. 12](#));
- [Council Directive 2005/85/EC of 1<sup>st</sup> December 2005](#) on minimum standards on procedures in Member States for granting and withdrawing refugee status ([OJ L 326, 13.12.2005, p. 13](#));
- [Council Regulation No 2252/2004 of 13 December 2004](#) on standards for security features and biometrics in passports and travel documents issued by Member States ([OJ L 385, 29.12.2004, p. 1](#));
- [Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts \(OJ C 313, 16.12.2005, p.1\)](#);
- [Regulation N° 562/2006 of 15 March 2006](#) of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) ([OJ L 105, 13.4.2006, p. 1](#));
- [Decision N° 895/2006 of the European Parliament and of the Council of 14 June 2006](#) introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia of certain documents as equivalent to their national visas for the purposes of transit through their territories ([OJ L 167, 20.6.2006, p.1](#));
- [Decision N° 896/2006 of the European Parliament and of the Council of 14 June 2006](#) establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory ([OJ L 167, 20.6.2006, p.8](#));
- Regulation of the European Parliament and the Council N° [.../2006] of .... laying down rules on local border traffic at the external land borders of the Member States;

- **International law:**

- [Convention of 7 December 1944 on International Civil Aviation \(ICAO Convention, Annex 2, 9\)](#);



- [European Convention for the protection of Human Rights of 4 November 1950 and its Protocols](#);
- [Geneva Convention relating to the Status of Refugees of 28 July 1951](#), as amended by the New York Protocol of 31 January 1967;
- [Convention on Facilitation of International Maritime Traffic \(FAL\) of 9 April 1965](#);
- [ILO Convention on Seafarers' Identity Documents \(No 185\) of 19 June 2003](#);
- [Agreement between the European Community and its Member States, of one part, and the Swiss Confederation, of the other, on the free movement of persons \(OJ L 114, 30.4.2002, p. 6\)](#);
- Bilateral agreements on local border traffic.