

**AMENDMENTS 001-029**

by the Committee on Civil Liberties, Justice and Home Affairs

**Report****Monica Macovei****A8-0218/2016**

Reinforcement of checks against relevant databases at external borders

Proposal for a regulation (COM(2015)0670 – C8-0407/2015 – 2015/0307(COD))

---

**Amendment 1****Proposal for a regulation****Recital 1***Text proposed by the Commission*

(1) Control at external borders *remains one of the main safeguards of the area without controls at internal borders. It is carried out in the interest of all Member States. One of the purposes of such controls is to prevent any threat to the Member States' internal security and public policy, irrespectively of the origin of such threat.*

*Amendment*

(1) Control at *and protection of* external borders *remain the most efficient way to guarantee the long-term security of the Union. Border control at the external borders* is carried out in the interest of all Member States. One of the purposes of such control is to *contribute to fighting irregular migration and human trafficking and to prevent, inter alia, any threat to the Member States' internal security and public policy and public health, irrespective of the origin of such threat, including where such a threat derives from Union citizens.*

## **Amendment 2**

### **Proposal for a regulation Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) The implementation of this Regulation should take into account the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 2 of the Treaty on European Union (TEU). Respect for Regulation (EC) 45/2001<sup>1a</sup> and all Union law relating to data protection should be a primary obligation of Members States when implementing this Regulation.***

---

***<sup>1a</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).***

## **Amendment 3**

### **Proposal for a regulation Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) Border checks should be carried out in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and should be proportionate to the objectives pursued.***

## Amendment 4

### Proposal for a regulation Recital 2

*Text proposed by the Commission*

(2) The phenomenon of foreign terrorist fighters, many of whom are Union citizens, **demonstrates** the necessity to strengthen the checks at external borders with regard to Union citizens

*Amendment*

(2) **Although minimum systematic checks based on a rapid and straightforward verification of the validity of the travel document is currently the rule for persons enjoying the right of free movement under Union law, the phenomenon of foreign terrorist fighters, many of whom are Union citizens, and the evolution of organised crime, demonstrate** the necessity to strengthen the checks at external borders with regard to Union citizens **by consulting relevant databases and, where there is doubt as to the authenticity of the travel document or the identity of its holder, verification of biometric identifiers.**

## Amendment 5

### Proposal for a regulation Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

(2a) **An equivalent level of security should be afforded to Union citizens throughout the Union.**

## Amendment 6

### Proposal for a regulation Recital 3

*Text proposed by the Commission*

(3) The documents of persons enjoying the right of free movement under Union law should therefore be checked systematically against relevant databases related to stolen, misappropriated, lost and invalidated travel documents in order to

*Amendment*

(3) The documents of persons enjoying the right of free movement under Union law should therefore, **as a general rule**, be checked systematically, **on entry into and on exit from the territory of the Union**, against relevant databases related to stolen,

avoid that persons hide their real identity.

misappropriated, lost, *fraudulent* and invalidated travel documents in order to avoid that persons hide their real identity. ***Member States should ensure an electronic connection to Interpol's Stolen and Lost Travel Documents database (SLTD) at external border crossing points.***

## Amendment 7

### Proposal for a regulation Recital 4

*Text proposed by the Commission*

(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against relevant national and European databases in order to ensure that they do not represent a threat to internal security or public policy.

*Amendment*

(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against relevant national and European databases in order to ensure that they do not represent a threat to internal security or public policy. ***To that end, the Member States should ensure that their border guards have access to the relevant national and European data banks, including the Schengen Information System (SIS) and the Europol Information System (EIS).***

## Amendment 8

### Proposal for a regulation Recital 5

*Text proposed by the Commission*

(5) Technological developments allow in principle to consult relevant databases ***without delaying the process*** of crossing the border, as the controls on documents and persons can be carried out in parallel. ***It is therefore possible without negative effect on persons travelling in good faith to strengthen*** checks at external borders to better identify those persons who intend to hide their real identity or who are subject

*Amendment*

(5) Technological developments allow in principle to consult relevant databases ***with a limited effect on the duration*** of crossing the border, as the controls on documents and persons can be carried out in parallel. ***Synergies, convergence and interconnectivity between information systems and their corresponding infrastructure for Union border management and for customs operations***

to relevant alerts for security reasons or for arrest. **Systematic** checks should be carried out at all external borders. However, if systematic checks at **land and sea** borders were to have a disproportionate impact on the flow of traffic at the border, Member States should be **allowed not** to carry out **systematic** checks against databases but only if based on a risk **analysis assessing** that such a relaxation would not lead to a security risk. Such risk assessment should be transmitted to the Agency **for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004<sup>8</sup>** and be the subject of regular reporting **both** to the Commission and to the Agency

**should be structurally improved by making data management in the Union more effective, efficient, interoperable and compatible, with full respect for data protection requirements, in order to better protect the external borders and enhance the internal security of the Union, for the benefit of all Union citizens.**

**Strengthening** checks at external borders to better identify those persons who intend to hide their real identity or who are subject to relevant alerts for security reasons or for arrest **could have a negative effect on persons travelling in good faith. Nevertheless, as a general rule, systematic** checks should be carried out at all external borders. **The use of passenger information received in accordance with Council Directive 2004/82/EC<sup>7a</sup>, or with other Union or national law, may contribute to accelerating the process of required checks during the border crossing process.** However, if systematic checks at borders were to have a disproportionate impact, **for example** on the flow of traffic at the border, Member States **concerned** should be **able** to carry out **targeted** checks against **all relevant** databases **at specified border crossing points**, but only if based on a risk **assessment evaluating** that such a relaxation would not lead to a security risk. Such risk assessment should be **based on a set of common risk indicators developed by the Commission, in close cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004<sup>7b</sup> ('the Agency')** and with the Council. **The risk assessment should be immediately** transmitted to the Agency, **to the Commission and to any Member State sharing a border with the Member State concerned and should** be the subject of regular reporting to the **European Parliament, to the Commission and to the Agency**

*<sup>7a</sup> Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJ L 261, 6.8.2004, p. 24).*

*<sup>7b</sup> Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).*

*<sup>8</sup> Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).*

## **Amendment 9**

### **Proposal for a regulation Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

*(5a) It should be possible for border guards to decide not to check relevant databases regarding a person enjoying the right of free movement under Union law if it can be clearly assessed that that person does not jeopardise the internal security of any of the Member States. Such persons could include, inter alia, children under the age of 12 and minors accompanied by parents; school pupils when travelling on organised excursions; elderly persons when travelling in an organised manner; pilots of aircraft and other crew members; Heads of State or government and the members of their delegations; holders of diplomatic, official or service passports and members of international organisations; rescue services, police and fire brigades and border guards; off-shore workers; holders of permits required by national law in accordance with specific Member States'*

*arrangements in bilateral agreements as referred to in point (a) of Article 4(2) of Regulation (EU) 562/2006 of the European Parliament and of the Council<sup>1a</sup>.*

---

*<sup>1a</sup> Regulation (EU) 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).*

## **Amendment 10**

### **Proposal for a regulation Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

*(5b) Where a Member State intends to carry out targeted checks and consultations regarding persons enjoying the right of free movement under Union law, it should notify the other Member States, the Agency and the Commission without delay. The Commission should develop, no later than one month from the date of entry into force of this Regulation, a procedure for such notification, in cooperation with the Member States, in the context of the Schengen Borders Code Handbook.*

## **Amendment 11**

### **Proposal for a regulation Recital 6**

*Text proposed by the Commission*

*Amendment*

(6) With Council Regulation (EC) No 2252/2004<sup>9</sup>, the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens.

(6) With Council Regulation (EC) No 2252/2004<sup>9</sup>, the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens.

These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify these biometric identifiers, in case of doubts on the authenticity of the *passport* or on the identity of its holder.

---

<sup>9</sup> Council Regulation (EC) 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).

## Amendment 12

### Proposal for a regulation Recital 6 a (new)

*Text proposed by the Commission*

These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify *at least one of* these biometric identifiers, in case of doubts on the authenticity of the *travel document* or on the identity of its holder. *The same verification should apply, where possible, to third-country nationals.*

---

<sup>9</sup> Council Regulation (EC) 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).

*Amendment*

*(6a) Many identity cards produced by the Member States do not have any security features such as facial image or fingerprints. In order to make it possible for systematic verification to be carried out on travel documents other than passports, taking into account internal security issues, the Commission should take swift action to propose the establishment of common standards for the security features and biometrics that are to be included in identity cards issued by the Member States.*

## Amendment 13

### Proposal for a regulation Recital 7 a (new)

***(7a) Member States should, in accordance with the applicable Union and national law, exchange data, regularly update their existing relevant databases, make full use of existing information systems and establish the necessary technical connections to all information systems and databases. Member States should, in this regard, exchange best practices with each other.***

## **Amendment 14**

### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

(8) Member States are obliged to check systematically third country nationals against all databases on entry. ***It should be ensured*** that such checks are ***also*** carried out systematically on exit.

*Amendment*

(8) Member States are obliged to check systematically third country nationals against all databases on entry. ***In the same way, Member States*** should ***ensure*** that such checks are carried out systematically on exit.

## **Amendment 15**

### **Proposal for a regulation Recital 9**

*Text proposed by the Commission*

(9) Since the objective of this Regulation, namely ***reinforcing*** the checks against databases at external borders ***in reply in particular to the increase of the terrorist threat*** concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, ***it*** cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in

*Amendment*

(9) Since the objective of this Regulation, namely ***improving*** the checks against databases at external borders, ***which*** concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, cannot be sufficiently achieved by the Member States, but can rather, ***by reason of its scale or effects***, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve *those objectives*.

In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve *that objective*.

## Amendment 16

### Proposal for a regulation Recital 16

*Text proposed by the Commission*

(16) As far as the use of **Schengen Information System** is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession and Article 4(2) of the 2011 Act of Accession.

*Amendment*

(16) As far as the use of **SIS** is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession and Article 4(2) of the 2011 Act of Accession. ***The results of queries in SIS should be without prejudice to Article 1(4) of Council Decision 2010/365/EU<sup>1a</sup>.***

---

***<sup>1a</sup> Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17.)***

## Amendment 17

### Proposal for a regulation Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) Member States that are not in the Schengen area and whose borders constitute the external borders should be fully integrated into SIS in order to conduct better border management and help preserve the security of the Union.***

## Amendment 18

### Proposal for a regulation

#### Article 1 – point 1 – point a

Regulation 562/2006(EC)

Article 7 – paragraph 2 – subparagraph 1 – point a – introductory part

*Text proposed by the Commission*

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

*Amendment*

(a) verification of the identity and the nationality of the person and the validity and authenticity of the travel document, **including** by consulting the relevant databases, **which shall include**:

## Amendment 19

### Proposal for a regulation

#### Article 1 – point 1 – point a

Regulation 562/2006(EC)

Article 7 – paragraph 2 – subparagraph 1 – point a – point 3

*Text proposed by the Commission*

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

*Amendment*

(3) national databases containing information on stolen, misappropriated, **fraudulent**, lost and invalidated travel documents, **including, for passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation (EC) No 2252/2004\***, **the authenticity of the storage medium**.

---

\* **Council Regulation (EC) 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).**

## Amendment 20

### Proposal for a regulation

#### Article 1 – point 1 – point a

Regulation (EC) No 562/2006

Article 7 – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, **including** by consulting **the relevant Union and national databases, in particular** the Schengen Information System.

*Amendment*

(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, by consulting the Schengen Information System.

**Amendment 21**

**Proposal for a regulation**

**Article 1 – point 1 – point a**

Regulation 562/2006(EC)

Article 7 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

Where there is doubt on the authenticity of the travel document or on the identity of its holder, **the checks shall include the** verification of the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004\*.

*Amendment*

Where there is doubt on the authenticity of the travel document or on the identity of its holder, the checks shall include the verification of the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004\*.  
**Where possible, such verification shall also be carried out regarding travel documents not covered by this Regulation.**

---

\* Council Regulation (EC) 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).

---

\* Council Regulation (EC) 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).

**Amendment 22**

**Proposal for a regulation**

**Article 1 – point 1 – point a**

Regulation (EC) No 562/2006

Article 7 – paragraph 2 – subparagraph 2 a (new)

**2a.** *When crossing the border between a Member State which fully applies the Schengen acquis and a Member State which does not yet fully apply the Schengen acquis, the persons enjoying the right of free movement under Union law, in particular under Directive 2004/38/EC of the European Parliament and of the Council<sup>1a</sup>, may be subject, on entry and exit, to the checks referred to in points (a) and (b) of the first subparagraph only if it can be clearly assessed, based on a risk assessment carried out by that Member State fully applying the Schengen acquis and the Agency, that there are risks for the internal security of the Union. The minimum check referred to in paragraph 2b shall in any event be carried out.*

---

<sup>1a</sup> *Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158,30.4.2004, p. 77).*

## Amendment 23

### Proposal for a regulation

#### Article 1 – point 1 – point a

Regulation 562/2006(EC)

Article 7 – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

Where, **at external land and sea borders**, the checks referred to in points a) and b) of **the first subparagraph** would have a disproportionate impact on the flow of

*Amendment*

**2b.** Where the checks referred to in points (a) and (b) of **paragraph 2** would have a disproportionate impact, **for example** on the flow of traffic, Member

traffic, Member States may carry out those checks on a targeted basis based on an assessment of the risks related to internal security, public policy, *international relations* of any of the Member States or a threat to public health.

States may *decide to* carry out those checks on a targeted basis *at specified border crossing points*, based on an assessment of the risks related to *the* internal security *and* public policy of any of the Member States or a threat to public health. *The risk assessment shall assess the possible risks and provide statistics on passengers and incidents related to cross-border crime. The risk assessment shall be updated regularly.*

*The duration and location of the targeted checks shall not go beyond what is strictly necessary and shall be based on a set of common risk indicators developed by the Commission in close cooperation with the Agency and the Council.*

*Where checks have been introduced on a targeted basis in accordance with the first subparagraph, all persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents. Such a minimum check shall consist of a speedy and straightforward verification, where appropriate by using technical devices.*

## Amendment 24

### Proposal for a regulation

#### Article 1 – point 1 – point a

Regulation (EC) No 562/2006

Article 7 – paragraph 2 – subparagraph 4

#### *Text proposed by the Commission*

Each Member State shall transmit its risk assessment to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004 and report every three months to the Commission and to *that* Agency on the application of the checks carried out on a targeted basis.

#### *Amendment*

**2c.** *Prior to the introduction of checks carried out on a targeted basis, each Member State concerned shall, without delay transmit its risk assessment, based on common risk indicators, and any updates thereto to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004 ('the Agency'), to the Commission and to any Member States*

*with which it shares a border and shall report every three months to the European Parliament, to the Commission and to the Agency on the application of the checks carried out on a targeted basis.*

*The Agency shall transmit without delay its evaluations of the Member State's initial assessment and subsequent reports to all other Member States, indicating whether or not it deems the Member State concerned to have conducted an appropriate security risk and traffic flow assessment, and whether or not the Member State has appropriately decided to apply targeted checks on the basis of that assessment.*

*Any classification of the risk assessment and common risk indicators or parts thereof shall comply with Union law and in particular with Regulation (EC) 1049/2001 of the European Parliament and of the Council<sup>1a</sup>.*

---

*<sup>1a</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).*

## **Amendment 25**

### **Proposal for a regulation**

#### **Article 1 – point 1 – point a**

Regulation (EC) No 562/2006

Article 7 – paragraph 2 – subparagraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

*The competent Member State shall ensure that the border authorities have sufficient technical, financial and human resources to prevent, as a rule, the additional checks causing longer waiting times and hindering the flow of traffic at the external borders.*

## Amendment 26

### Proposal for a regulation

#### Article 1 – point 1 – point b

Regulation (EC) No 562/2006

Article 7 – paragraph 3 – point b – point iii

#### *Text proposed by the Commission*

(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, *in particular* the Schengen Information System;

#### *Amendment*

(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, *including, on a mandatory basis*, the Schengen Information System;

## Amendment 27

### Proposal for a regulation

#### Article 1 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

#### *Article 1a*

*The Commission shall publish a study on the impact of this Regulation on the flow of traffic on the entry and exit at Schengen external borders by ... [one year after the date of entry into force of this Regulation].*

## Amendment 28

### Proposal for a regulation

#### Article 1 b (new)

#### *Text proposed by the Commission*

#### *Amendment*

#### *Article 1b*

*By ... [two years after the date of entry into force of this Regulation], the Commission shall submit to the European Parliament and to the Council a report*

*evaluating the implementation and consequences of Article 7(2) of Regulation (EC) No 562/2006 as amended by this Regulation.*

**Amendment 29**

**Proposal for a regulation  
Article 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*It shall apply from ... [the date of entry into force of this Regulation] to ... [five years after the date of entry into force of this Regulation].*

*The European Parliament and the Council may, following a proposal by the Commission, extend the application of this Regulation. If so, this Regulation shall expire five years after the expiry of any such extension.*

*Upon expiry of this Regulation, the version of Article 7(2) and (3)(b)(iii) and (c)(iii) of Regulation (EC) 562/2006 applicable before ... [the date of entry into force of this Regulation] shall apply.*