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Committee on Civil Liberties, Justice and Home Affairs

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PE 357.978v01-00

COMPROMISE AMENDMENTS 199-431

Draft report

(PE 355.529v01-00)

Michael Cashman

Proposal for a regulation of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders

Proposal for a regulation (COM(2004)0391 – C6-0080/2004 – 2004/0127(COD)) – amending act)

Text proposed by the Commission

Amendments by Parliament

Amendment by Michael Cashman

Amendment 199

Title

Council Regulation establishing a Community Code on the rules governing the movement of persons across borders

Regulation **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'**)

Or. en

Justification

'Borders code' is the title under which this text has come to be used in practice. It would therefore be useful to add it.

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PE 357.978v01-00

EN

EN

Amendment by Michael Cashman

Amendment 200

Citation - 1

THE COUNCIL OF THE EUROPEAN UNION,

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Or. en

Amendment by Michael Cashman

Amendment 201

Recital 1

(1) Under Article 62(1) of the Treaty, the **drafting** of measures to ensure there **are no checks** on persons crossing internal borders forms part of the Union's objective of establishing an area without internal **frontiers** in which the free movement of persons is ensured, as set out in Article 14 of the Treaty.

(1) Under Article 62(1) of the Treaty, the **adoption** of measures to ensure there **is no border control** on persons crossing internal borders forms part of the Union's objective of establishing an area without internal **borders** in which the free movement of persons is ensured, as set out in Article 14 of the Treaty.

Or. en

Amendment by Michael Cashman

Amendment 202

Recital 3

(3) The adoption of common measures on the crossing of internal borders by persons and **checks** at external borders **must** reflect the Schengen acquis incorporated in the European Union framework, and in particular the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985 and the Common Manual.

(3) The adoption of common measures on the crossing of internal borders by persons and **border control** at external borders **should** reflect the Schengen acquis incorporated in the European Union framework, and in particular the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985 and the Common Manual.

Or. en

Amendment by Michael Cashman

Amendment 202

Recital 4

(4) As regards **checks** at external borders, the establishment of a “common corpus” of legislation, particularly via consolidation and development of the *acquis*, is one of the fundamental components of the common policy on the management of the external borders, as defined in the Commission Communication of 7 May 2002 “Towards integrated management of the external borders of the Member States of the European Union”. This objective was included in the “Plan for the management of the external borders of the Member States of the European Union”, approved by the Council on 13 June 2002 and endorsed by the Seville European Council on 21 and 22 June 2002 and by the Thessaloniki European Council on 19 and 20 June 2003.

(4) As regards **border control** at external borders, the establishment of a “common corpus” of legislation, particularly via consolidation and development of the *acquis*, is one of the fundamental components of the common policy on the management of the external borders, as defined in the Commission Communication of 7 May 2002 “Towards integrated management of the external borders of the Member States of the European Union”. This objective was included in the “Plan for the management of the external borders of the Member States of the European Union”, approved by the Council on 13 June 2002 and endorsed by the Seville European Council on 21 and 22 June 2002 and by the Thessaloniki European Council on 19 and 20 June 2003.

Or. en

Amendment by Michael Cashman

Amendment 203

Recital 6

(6) Border **checks** are in the interest not only of the **States** at whose external borders **they are** carried out but of all Member States which have abolished **checks** at their internal borders. **They must** help to combat illegal immigration and trafficking in human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations. **The performance of border checks must be proportionate to these objectives.**

(6) Border **control is** in the interest not only of the **Member State** at whose external borders **it is** carried out but of all Member States which have abolished **border control** at their internal borders. **Border control should** help to combat illegal immigration and trafficking in human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations.

Or. en

Amendment by Michael Cashman

Amendment 204

Recital 6 a) new

(6a) Border checks should be conducted in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and be proportionate to the objectives pursued.

Or. en

Amendment by Michael Cashman

Amendment 205

Recital 7

(7) Border ***checks comprise*** not only checks on persons at ***authorised*** crossing-points ***but also*** surveillance between these crossing-points. It is therefore necessary to lay down the conditions, criteria and detailed arrangements governing checks at crossing-points and surveillance.

(7) Border ***control comprises*** not only checks on persons at ***border*** crossing-points ***and*** surveillance between these ***border*** crossing-points ***but also analysis of the risks for the internal security and analysis of the threats that may affect the security of external borders.*** It is therefore necessary to lay down the conditions, criteria and detailed arrangements governing checks at ***border*** crossing-points and surveillance.

Or. en

Amendment by Michael Cashman

Amendment 206

Recital 8

(8) Provision ***must*** be made for relaxing checks at external borders in the event of exceptional and ***unforeseen*** circumstances.

(8) ***To avoid excessive waiting time at borders,*** provision ***should*** be made for relaxing checks at external borders in the event of exceptional and ***unforeseeable*** circumstances. ***The systematic stamping of the documents of third country nationals remains an obligation in the case of***

border checks being relaxed. The stamping makes it possible to establish, with certainty, the date and place of the crossing of the border, without establishing in all cases that all required travel document control measures have been carried out.

Or. en

Amendment by Michael Cashman

Amendment 207
Recital 9

(9) To reduce the waiting times of persons enjoying the Community right *to* free movement, *who are usually subject only to an identity check*, separate lanes should, where circumstances permit, be provided at external border crossing-points, identified by *minimum* uniform indications in all Member States. Separate lanes should be provided in international airports.

(9) To reduce the waiting times of persons enjoying the Community right *of* free movement, separate lanes should, where circumstances permit, be provided at external border crossing-points, identified by uniform indications in all Member States. Separate lanes should be provided in international airports. *Where it is deemed appropriate and if local circumstances so allow, Member States should consider installing separate lanes at sea and land border crossing points.*

Or. en

Amendment by Michael Cashman

Amendment 208
Recital 12

(12) Operational cooperation and assistance between Member States in relation to border *checks* will be managed and coordinated by the “European Agency for the Management of Operational Cooperation at the External Borders of the Member States” established by Regulation (EC) No

(12) Operational cooperation and assistance between Member States in relation to border *control* will be managed and coordinated by the “European Agency for the Management of Operational Cooperation at the External Borders of the Member States” established by Regulation (EC) *No 2007/2004*.

Or. en

Amendment by Michael Cashman

Amendment 209
Recital 13

(13) With regard to the crossing of internal borders, checks should not be carried out or formalities imposed solely because such a border is crossed.

(13) deleted

Or. en

Amendment by Michael Cashman

Amendment 210
Recital 14

(14) It must nevertheless be made clear that this Regulation is without prejudice to the checks carried out under general police powers and the security checks on persons identical to those carried out for national flights, to the possibilities for Member States to carry out exceptional checks on baggage in accordance with Council Regulation (EEC) No 3925/91 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing, and to national legislation on carrying travel or identity documents or the requirement that persons notify the authorities of their presence on the territory of the Member State in question.

(13) It should nevertheless be made clear that this Regulation is without prejudice to the checks carried out under general police powers and the security checks on persons identical to those carried out for domestic flights, to the possibilities for Member States to carry out exceptional checks on baggage in accordance with Council Regulation (EEC) No 3925/91 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing, and to national legislation on carrying travel or identity documents or the requirement that persons notify the authorities of their presence on the territory of the Member State in question.

Or. en

Amendment by Michael Cashman

Amendment 211
Recitals 15 and 16

(15) A Member State should also have the

(14) Member States should also have the

possibility of temporarily reintroducing **checks** at *its* borders in the event of a serious threat to *its* public **policy**, internal security **or public health**. The conditions and procedures for doing so **must** be laid down, so as to guarantee the exceptional nature of the measure and the principle of proportionality.

(16) In the event of an exceptionally serious threat to public policy, internal security or public health affecting one or more Member States, the Council must be in a position to decide immediately to reintroduce checks at all internal borders or at specific borders of all or several Member States. The scope and duration of the checks must be restricted to the bare minimum needed to respond to this threat.

possibility of temporarily reintroducing **border control** at *internal* borders in the event of a serious threat to *their* public **order or** internal security . The conditions and procedures for doing so **should** be laid down, so as to guarantee the exceptional nature of the measure and the principle of proportionality. The scope and duration of the border control should be restricted to the bare minimum needed to respond to this threat.

Or. en

Amendment by Michael Cashman

Amendment 212
Recital 17

(17) In an area where persons may move freely, the reintroduction of checks on persons at internal borders must remain an exception and, consequently, the Member State using this measure must inform the other Member States and the Commission in detail of the reasons prompting it to introduce or extend the measure for more than 30 days, in order to engage in a debate and jointly to consider whether alternative measures might be possible. The information sent must be capable of being classified as confidential or secret. The Member State that invoked the safeguard clause must report to the other Member States, the European Parliament and the Commission once the checks have been lifted. The public must also be informed in an appropriate manner of the

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

reintroduction of checks at internal borders and of the authorised crossing-points, save where this is precluded by the reasons for their reintroduction.

Or. en

Amendment by Michael Cashman

Amendment 213
Recital 18 and 19

(18) Provision *must* be made for a procedure enabling the Commission to adapt *the* detailed practical rules governing border *checks*.

(16) Provision *should* be made for a procedure enabling the Commission to adapt *certain* detailed practical rules governing border *control*. *In these cases*, the measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission

(19) The measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

Or. en

Amendment by Michael Cashman

Amendment 214
Recital 18 (a) new

(17) *Provision should also be made for a procedure enabling the Member States to notify the Commission of changes to other detailed practical rules governing border control.*

Or. en

Amendment by Michael Cashman

Amendment 215

Recital 20

(20) Since the objectives of the proposed action, namely the establishment of rules applicable to the movement of persons across borders, directly affect the Community acquis on external and internal borders and cannot thus be achieved sufficiently by the Member States acting alone, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 **this objective**.

(18) Since the objectives of the proposed action, namely the establishment of rules applicable to the movement of persons across borders, directly affect the Community acquis on external and internal borders and cannot thus be achieved sufficiently by the Member States acting alone, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 **these objectives**.

Or. en

Amendment by Michael Cashman

Amendment 216

Recital 24

(24) In accordance with Articles 1 and 2 of the Protocol on the **position** of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark **will not participate** in the adoption of this Regulation and is not **therefore** bound by it or **required** to **apply it**. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, Denmark **will** decide within a period of six months after the Council has adopted this Regulation whether **or not to** implement it in its national law, **as provided for in Article 5 of the Protocol**.

(21) In accordance with Articles 1 and 2 of the Protocol on the **Position** of Denmark annexed to the Treaty on European Union and **to** the Treaty establishing the European Community, Denmark **is not taking part** in the adoption of this Regulation and is not bound by it, or **subject to its application**. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV **of Part Three** of the Treaty establishing the European Community, Denmark **should, in accordance with Article 5 of the said Protocol**, decide within a period of six months after the Council has adopted this Regulation whether **it will** implement it in its national law **or not**.

Or. en

Amendment by Michael Cashman

Amendment 217

Recital 25

(25) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis which fall within the area referred to in **Article 1, point B** of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.

(22) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis which fall within the area referred to in **Article 1, point A** of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.

Or. en

Amendment by Michael Cashman

Amendment 218

Recital 25 a (new)

(23) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Iceland and Norway, annexed to the above mentioned Agreement.

Or. en

Amendment by Michael Cashman

Amendment 219

Recital 25 b (new)

(24) As regards Switzerland, this

Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis¹, which fall in the area referred to in Article 1 (A) of Decision 1999/437/EC read in conjunction with Article 4(1) of the Council Decisions of 25 October 2004 on the signing on behalf of the European Union, and on the signing on behalf of the European Community, and on the provisional application of certain provisions of that Agreement¹.

¹ OJ L 368, 15.12.2004, p.26. and OJ L 370, 17.12.2004, p. 78

Or. en

Amendment by Michael Cashman

Amendment 220
Recital 25 c (new)

(25) An arrangement has to be made to allow representatives of Switzerland to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Switzerland, annexed to the abovementioned Agreement.

Or. en

Amendment by Michael Cashman

Amendment 221
Recital 28

(28) This Regulation constitutes an act building on the Schengen acquis or

(28) Article 1, first sentence, Article 5(4)a, Title III and those provisions of Title II and

otherwise related to it within the meaning of Article 3(1) of the 2003 Act of Accession, **except for Title III, for which the provisions of Article 3(2) of the 2003 Act of Accession apply,**

its annexes referring to the Schengen Information System constitute provisions building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.

Or. en

Amendment by Michael Cashman

Amendment 222
Article 1, Title

Object

Object **and principles**

Or. en

Amendment by Michael Cashman

Amendment 223
Article 1, paragraph 1

This Regulation establishes rules governing **the movement** of persons **across** external **and internal** borders **in** the European Union.

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

It establishes rules governing **border control** of persons **crossing the external borders of the Member States of** the European Union.

Or. en

Amendment by Michael Cashman

Amendment 224
Article 2, point 1, point (a)

(a) the common land borders of the Member States;

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

Or. en

Amendment by Michael Cashman

Amendment 225
Article 2, point 1, point c

(c) sea and lake ports of the Member States for regular ferry connections

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

Or. en

Amendment by Michael Cashman

Amendment 226
Article 2, point 2

2) “external borders” means the Member States' land **and** sea borders and their airports, sea ports and lake ports, provided that they are not internal borders;

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

Or. en

Amendment by Michael Cashman

Amendment 227
Article 2, point 4

(4) “regular ferry connection” means any connection between the same two or more ports situated in the territory of the Member States, not calling at any ports outside the territory of the Member States and consisting of the transport of passengers and vehicles according to a published timetable **or with such regularity and frequency as to constitute a recognisable systematic series**;

(4) "regular ferry connection" means any **ferry** connection between the same two or more ports situated in the territory of the Member States, not calling at any ports outside the territory of the Member States and consisting of the transport of passengers and vehicles according to a published timetable.

Or. en

Amendment by Michael Cashman

Amendment 228
Article 2, point 5

5) “third-country national” means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty;

6) “third-country national” means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty **and who is not covered by paragraph 5;**

Or. en

Amendment by Michael Cashman

Amendment 229
Article 2, point 6

6) “**third-country national** for whom an alert has been issued for the purposes of refusing entry” means any third-country national for whom an alert has been issued **for the purposes of refusing entry** in the Schengen Information System in accordance with Article 96 of the Schengen Convention;

7) “**persons** for whom an alert has been issued for the purposes of refusing entry” means any third-country national for whom an alert has been issued in the Schengen Information System in accordance with **and for the purposes laid down in** Article 96 of the Schengen Convention;

Or. en

Amendment by Michael Cashman

Amendment 230
Article 2, point 7, point a)

a) Union citizens within the meaning of Article 17(1) of the Treaty, and **third-country** nationals who are members of the family of a Union citizen exercising his or her right to free movement to whom Directive 2004/38/EC of 29 April 2004 applies,

a) Union citizens within the meaning of Article 17(1) of the Treaty, and nationals **of third countries** who are members of the family of a Union citizen exercising his or her right to free movement to whom Directive 2004/38/EC of 29 April 2004 applies,

Or. en

Amendment by Michael Cashman

Amendment 231
Article 2, point 7 b)

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

b) nationals *of third-countries* and their family members, whatever their nationality, who, under agreements between the Community and its Member States, on the one hand, and these countries, on the other, enjoy rights of free movement equivalent to those of citizens of the Union;¹

¹ Declaration on holders of aliens' and non-citizens passports "The European Parliament and the Council request the Commission to bring forward proposals, in the framework of the revision of Regulation (EC) N° 539/2001, in order to exempt holders of aliens' and non-citizens' passports residing in a Member State from the visa obligation".

Or. en

Amendment by Michael Cashman

Amendment 232
Article 2, point 8

8) 'border crossing-point' means any crossing-point authorised by the competent authorities for crossing external borders, *whether they be land, sea or air borders*;

8) 'border crossing-point' means any crossing-point authorised by the competent authorities for *the crossing of* external borders .

Or. en

Amendment by Michael Cashman

Amendment 233
Article 2, point 9)

9) "*border check*" means *a check* carried out at a border in response exclusively to an intention to cross that border, regardless of any other consideration. *It covers:*

9) "*Border control*" means *the activity* carried out at a border, *in accordance with and for the purposes of this Regulation*, in response exclusively to an intention to cross *or the act of crossing* that border, regardless

of any other consideration, ***consisting of border checks and border surveillance.***

Or. en

Amendment by Michael Cashman

Amendment 234
Article 2, point 9, point (a)

9a) checks carried out at ***authorised*** border crossing-points, ***in accordance with this Regulation***, to ensure that persons, their ***vehicles*** and the objects in their possession may be authorised to enter the territory of the Member States or authorised to leave it;

9a) "***Border checks***" ***means 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 the territory of the Member States or authorised to leave it.

Or. en

Amendment by Michael Cashman

Amendment 235
Article 2, point 9, point (b)

9b) surveillance of borders outside ***authorised*** border crossing-points and fixed hours, in ***accordance with this Regulation***, to prevent persons from ***by-passing*** border ***crossing-points in order to avoid checks and enter or leave the territory of the Member States illegally***;

9b) "***Border surveillance***" ***means the*** surveillance of borders outside border crossing points and ***the surveillance of border crossing points outside the*** fixed ***opening*** hours, in ***order*** to prevent persons from ***circumventing*** border ***checks***.

Or. en

Amendment by Michael Cashman

Amendment 236
Article 2, point (9 c) (new)

9c) '***second line check***' ***means a further check which may be carried out in a special location away from the location at which all persons are checked (first line).***

Amendment by Michael Cashman

Amendment 237
Article 2, point 10

10) “border guard” means any public *servant* assigned to a border crossing point or along the *external land or sea* border or the immediate vicinity of that border who *is responsible*, in accordance with *the national legislation of each Member State, for carrying out* border control tasks;

10) “border guard” means any public *official* assigned, *in accordance with national law*, to a border crossing point or along the border or the immediate vicinity of that border who *carries out*, in accordance with *this Regulation and national law*, border control tasks;

Or. en

Amendment by Michael Cashman

Amendment 238
Article 2, point 11

11) “*local border traffic*” means the *specific rules on the crossing of borders by persons resident in border areas, as defined in Regulation (EC) No ... on the establishment of a regime of local border traffic at the external land borders of the Member States*;

deleted

Or. en

Amendment by Michael Cashman

Amendment 239
Article 2, point 11

12) “carrier” means any natural or legal person whose *occupation* it is to provide *passenger* transport *by air, sea or land*;

12) “carrier” means any natural or legal person whose *profession* it is to provide transport *of persons*;

Or. en

Amendment by Michael Cashman

Amendment 240
Article 2, point 13, introduction

13) “residence permit” means *any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally on its territory, with the exception of:*

13) "residence permit" means:

Or. en

Amendment by Michael Cashman

Amendment 241
Article 2, point 13, point (a)

(a) *visas; and*

(a) all residence permits issued by the Member States according to the uniform format laid down by Regulation (EC) No 1030/2002;

Or. en

Amendment by Michael Cashman

Amendment 242
Article 2, point 13, point (b)

(b) *permits issued pending examination of an application for a residence permit or for asylum;*

(b) all other documents issued by a Member State to third country nationals authorising a stay or a re-entry into their territory, with the exception of temporary permits issued pending examination of a first application for a residence permit as referred to in (a) or an application for asylum;

Or. en

Amendment by Michael Cashman

Amendment 243
Article 2, point 14

14) “cruise ship” means a ship which follows a given itinerary in accordance with a predetermined programme, **whose passengers take part in a collective** programme of tourist activities in the various ports and which normally neither takes passengers on nor allows passengers to disembark during the voyage;

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

Or. en

Amendment by Michael Cashman

Amendment 244
Article 2, point 15

15) “pleasure boating” means the use of pleasure boats **equipped with sails and/or an engine for private use which are used** for sporting or tourism purposes;

17) “pleasure boating” means the use of pleasure boats for sporting or tourism purposes;

Or. en

Amendment Michael Cashman

Amendment 245
Article 2, point 16

16) “coastal fisheries” means fishing carried out with the aid of vessels which return every day or **after a few days** to a port situated in the territory of a Member State without calling at a port situated in a third State.

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

Or. en

Amendment by Michael Cashman

Amendment 246
Article 2, point 16 a (new)

18 a "threat to public health" means 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 the subject of protection provisions applying to nationals of the Member States.

Or. en

Amendment by Michael Cashman

Amendment 247
Article 3, paragraphe 1, introduction

This Regulation shall apply to any person crossing the ***border of a Member State, but without affecting:***

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

Or. en

Amendment by Michael Cashman

Amendment 248
Article 3, point (c)

(c) the rights of third-country nationals who are long-term residents as defined by Council Directive 2003/109/EC.¹ ***deleted***

¹ OJ L 16, 23.1.2004, p.44.

Or. en

Amendment by Michael Cashman

Amendment 249
Article 4, paragraph 1

1. External borders may be crossed only at **authorised** border crossing-points and during the fixed opening hours. The opening hours **must** be clearly indicated at border **posts**.

Specific crossing-points reserved for residents of border areas may be provided for under the regime of local border traffic.

The list of authorised crossing-points is set out in Annex 1.

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

Member States shall notify the list of their border crossing points to the Commission in accordance with Article 30a.

Or. en

Amendment by Michael Cashman
Amendment 250
Article 4, paragraph 2, point a)

a) under the regime of local border traffic; deleted

Or. en

Amendment by Michael Cashman

Amendment 251
Article 4, paragraphe 2, point d)

d) for nationals of Member States crossing the border of the Member State whose nationality they hold; deleted

Or. en

Amendment by Michael Cashman

Amendment 252
Article 4, paragraphe 2, point e) a (new)

(d) for persons or groups of persons in case of an unforeseen emergency situation.

Or. en

Amendment by Michael Cashman

Amendment 253
Article 4, paragraph 3

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

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

Or. en

Amendment by Michael Cashman

Amendment 254
Article 5, paragraph 1, introductory part

1. For stays not exceeding **90 days**, third-country nationals **may be granted entry into the territory of the Member States provided they fulfil the following conditions:**

1. For stays not exceeding **three months per six-month period, the entry conditions for** third-country nationals **are** the following :

Or. en

Amendment by Michael Cashman

Amendment 255
Article 5, paragraph 1, point a)

a) they **possess** a valid document or documents authorising them to cross the border;

a) they **are in possession of** a valid **travel** document or documents authorising them to cross the border;

Or. en

Amendment by Michael Cashman

Amendment 256
Article 5, paragraph 1, point b)

b) they are in possession of a valid visa if required;

b) they are in possession of a valid visa, if required *pursuant to Regulation (EC) No 539/2001²², except when they are holding a valid residence permit as defined in Article 2, point 15;*
²² OJ L 81, 21.3.2001, p. 1 Last amended by Regulation N° 453/2003, OJ L 69, 13.3.2003, p. 10

Or. en

Amendment by Michael Cashman

Amendment 257
Article 5, paragraph 1, point c)

c) they *produce, if necessary, documents justifying* the purpose and conditions of the intended stay, *including evidence of travel insurance*, and they have sufficient means of subsistence, both for the period of the intended stay and for the return to their country of origin or transit to a third State into which they are certain to be admitted, or are in a position to acquire such means lawfully;

c) they *justify* the purpose and conditions of the intended stay, and they have sufficient means of subsistence, both for the period of the intended stay and for the return to their country of origin or transit to a third State into which they are certain to be admitted, or are in a position to acquire such means lawfully;

Or. en

Amendment by Michael Cashman

Amendment 258
Article 5, paragraph 1, point d)

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

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

Or. en

Amendment by Michael Cashman

Amendment 259
Article 5, paragraph 1, point e)

e) they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States.

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

Or. en

Amendment by Michael Cashman

Amendment 260
Article 5, paragraph 2

2. It is for the third-country national to provide on request the reason for his application to enter the territory for a short stay. In the event of doubt, border guards shall demand presentation of formal documentary evidence.

The supporting documents used to verify fulfilment of the conditions set out in paragraph 1 are specified in Annex II.

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

Or. en

Amendment by Michael Cashman

Amendment 261
Article 5, paragraph 3

3. Means of subsistence shall be assessed in accordance with the purpose of the stay and by reference to average prices for board and lodging. ***The reference amounts set each***

3. Means of subsistence shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices for board and lodging ***in the***

year by *each of* the Member States *are shown in Annex III.*

Member State or Member States concerned, which shall be determined in budget accomodation multiplied by the number of days stayed.

Reference amounts set by the Member States shall be notified to the Commission in accordance with Article 30 a.

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 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.

Or. en

Amendment by Michael Cashman

Amendment 262

Article 5, paragraphs 4 and 5

4. *Third-country nationals holding a valid residence permit issued by a Member State shall be exempt from the visa requirement for entering the territory of the other Member States.*

5. *By way of derogation from paragraph 1, third-country nationals who do not fulfil all the entry conditions but hold a residence permit or authorisation or a re-entry visa issued by one of the Member States or, where required, both documents, shall be authorised entry to the territories of the other Member States for transit purposes so that they may reach the territory of the Member State which issued the residence permit **or authorisation** or re-entry visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions as to refusal of entry or transit.*

4. *By way of derogation from paragraph 1:*

4 a) Third-country nationals who do not fulfil all the entry conditions but hold a residence permit or authorisation or a re-entry visa issued by one of the Member States or, where required, both documents, shall be authorised entry to the territories of the other Member States for transit purposes so that they may reach the territory of the Member State which issued the residence permit or re-entry visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions as to refusal of entry or transit.

Amendment by Michael Cashman

Amendment 263
Article 5, paragraph 6

6. If a third-country national who does not fulfil the conditions for entry given in paragraph 1 invokes the provisions of Article 11(1) and requests entry and transit by the external border of a Member State other than the one which has agreed, exceptionally, to allow him to reside there, he must be sent back and allowed to present himself at the external border of the latter Member State, for the purpose of entering its territory.

4b) Third-country nationals who fulfil the conditions referred to in paragraph 1, except for point b), and who present themselves at the border may be granted entry into the territories of the Member States, if a visa is issued at the border in accordance with Regulation (EC) no 415/2003.

Visas issued at the border shall be recorded on a list.

If it is not possible to affix a visa in the document, it shall, exceptionally, be affixed on a separate sheet inserted in the document. In such a case, the uniform format for forms for affixing the visa, laid down by Regulation (EC) No 333/2002,¹ shall be used.

¹ OJ L 53, 23.2.2002, p. 4

Amendment by Michael Cashman

Amendment 264
Article 5, paragraph 6 a (new)

4 c) Third country nationals who do not fulfil one or more of the conditions referred to in paragraph 1 may be authorised by a Member State to enter into its territory on humanitarian grounds, on grounds of national interest or because of international obligations. Where the third-country national concerned is subject to an

alert as referred to in paragraph 1 point d), the Member State authorising his/her entry into its territory shall inform the other Member States accordingly.

Or. en

Amendment by Michael Cashman

Amendment 265
Article 5, paragraph 7

7. *The residence permits and authorisations referred to in paragraphs 4 and 5 cover:* *deleted*
a) all residence permits issued by the Member States according to the uniform format laid down by Regulation (EC) No 1030/2002;¹
b) all other residence permits and authorisations and return visas referred to in Annex 4 to the Common Consular Instructions.

Or. en

Amendment by Michael Cashman Amendment 266
Article 5 a (new)

Article 5a

Conduct of border checks

1. Border guards shall, in the performance of their duties, fully respect human dignity. Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by such measures.

2. While performing border checks, border guards shall not discriminate against persons on any of the following grounds: sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. .

¹ OJ L 157, 15.6.2002, p. 1.

Amendment by Michael Cashman

Amendment 267

Article 6, title

Checks on persons at *authorised*
crossing-points

Checks on persons at *border* crossing-points

Amendment by Michael Cashman

Amendment 268

Article 6, paragraph 1

1. Cross-border movement at external borders shall be subject to checks by the *national* border guards. Checks shall be carried out in accordance with *paragraphs 2 and 3*.

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

The checks may also cover the means of transport and objects in the possession of the persons crossing the border. When searches are involved, the national legislation of each Member State shall apply.

Amendment by Michael Cashman

Amendment 269

Article 6, paragraph 2

2. All persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents.

2. All persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents.

Such a minimum check consists of a rapid

and straightforward verification, where appropriate by using technical devices and by consulting information exclusively on stolen, misappropriated, lost and invalidated documents in the relevant databases, of the validity of the document authorising the legitimate holder to cross the border and of the presence of signs of falsification or counterfeiting.

The minimum check referred to above shall be the rule for persons enjoying the Community right of free movement.

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

The consequences of such consultations shall not jeopardize the right of entry of persons enjoying the Community right of free movement into the territory of the Member State concerned, as contained in directive 2004/38/EC¹.

The checks shall be carried out by each Member State in accordance with its legislation, in particular where searches are involved. The checks may also cover the vehicles and objects in the possession of the persons crossing the border.

¹ OJ L 158, 30.4.2004, p. 77

Or. en

Amendment by Michael Cashman

Amendment 270

Article 6, paragraph 3, subparagraph 2, introductory part

Thorough checks shall comprise:

Thorough checks *on entry* shall comprise:

Or. en

Amendment by Michael Cashman

Amendment 271

Article 6, paragraph 3, subparagraph 2, point (a)

(a) the verification of *travel documents* **and** the other conditions governing entry **and residence** laid down in Article 5(1) and, where applicable, documents authorising residence and the pursuit of a professional activity;

*(a) the verification of the conditions governing entry laid down in Article 5(1) and, where applicable of documents authorising residence and the pursuit of a professional activity. **This shall include a detailed examination of the following aspects;***

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

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

iii) the examination of the entry and exit stamps on the travel document of the third country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not exceeded already the maximum duration of authorised stay in the territory of the Member States.

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

v) the verification that the third country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his return or transit to a third country, or that

he can obtain these means legally;
vi) verification that the third country national concerned, his means of transport and the objects he is transporting are not likely to jeopardise the public policy, internal security, public health or international relations of any of the Member States. Such verification shall include direct consultation of the data and alerts on persons and, where necessary, objects 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.

Or. en

Amendment by Michael Cashman

Amendment 272

Article 6, paragraph 3, point (b)

(b) the detection and prevention of threats to the internal security, public policy and public health of the Member States, and the recording of offences, particularly through direct consultation of reports on persons and objects included in the Schengen Information System (SIS) and in national data files.

b) Thorough checks on exit shall comprise :

i) the verification that the third-country national is in possession of a document valid for crossing the border;
ii) the verification of the travel document for signs of falsification or counterfeiting;
iii) whenever 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 Member States. Thorough checks on exit may also comprise:
i) the verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No

539/2001, except when they are holding a valid residence permit as defined in Article 2, point 15);
ii) the verification that the person did not exceed the maximum duration of authorised stay in the territory of the Member States;
iii) consultation of alerts on persons and objects included in the SIS and reports in national data files.

Or. en

Amendment by Michael Cashman Amendment 273
Article 6, paragraph 4 a (new)

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

Or. en

Amendment by Michael Cashman

Amendment 274
Article 6, paragraph 4 b (new)

4b. Third country nationals subject to a thorough check in the second line shall be given information on the purpose and the procedure of such a check.
This information shall be available in all the official languages of the Institutions of the Community and in the language(s) of the country or countries bordering the Member State concerned and shall indicate that the third country national may request for the name or service identification number of the border guards conducting the thorough check in the second line as well as for the name of the border crossing point and the date at which the border was crossed.

Or. en

Amendment by Michael Cashman

Amendment 275
Article 6, paragraph 4

4. Detailed rules governing the *checks provided for by paragraphs 2 and 3* are in *Annex IV*.

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

Or. en

Amendment by Michael Cashman

Amendment 276
Article 7, Title

Relaxation of checks

Relaxation of *border* checks

Or. en

Amendment by Michael Cashman

Amendment 277
Article 7, paragraph 1

1. *Checks* at *land* borders may be relaxed as a result of exceptional and unforeseen circumstances *requiring immediate measures to be taken*.

1. *Border checks* at *external* borders may be relaxed as a result of exceptional and unforeseen circumstances. *The 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*.

Or. en

Amendment by Michael Cashman

Amendment 278
Article 7, paragraph 2

2. If the checks provided for by Article 6 cannot be carried out systematically by reason of exceptional and unforeseen circumstances as referred to in paragraph 1, priorities must be set.

2. Where border checks are relaxed in accordance with paragraph 1, border checks on entry movements shall in principle take priority over border checks on exit movements. The decision to relax checks shall be taken by the border guard in command at the border crossing point.

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

Or. en

Amendment by Michael Cashman

Amendment 279
Article 7, paragraphs 3 and 5

3. Detailed rules governing the relaxation of checks and the priority criteria are laid down in Annex V.

deleted

5. Even where checks are relaxed, third-country nationals must be able to request and obtain stamps in their travel document in accordance with Article 9.

3. Even in the event of border checks being relaxed, the border guard shall stamp the travel documents of third country nationals both on entry and exit, in accordance with Article 9.

Or. en

Amendment by Michael Cashman

Amendment 280
Article 7, paragraph 4

4. The relevant Member State shall inform the other Member States and the Commission at the earliest possible opportunity of the measures taken in accordance with paragraphs 1 and 2.

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

Amendment by Michael Cashman

Amendment 281
Article 8, paragraph 1

1. Member States shall **establish** separate lanes at **authorised** crossing-points **on their external air borders so that border checks can be carried out** on persons in accordance with Article 6. Such lanes shall be **identified by the signs provided for by paragraph 2**.

The establishment of separate lanes shall be optional at Member States' authorised maritime and land crossing-points and at borders between Member States not applying Article 18.

1. Member States shall **provide** separate lanes, **in particular at air border** crossing-points **in order to carry out checks** on persons, in accordance with Article 6. Such lanes shall be **differentiated by means of the signs bearing the indications set out in the Annex III**.

Member States may provide separate lanes at their sea and land border crossing points and at borders between Member States not applying Article 18 at their common borders. **The signs bearing the indications set out in the Annex III shall be used if Member States provide separate lanes at these borders.**

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

Or. en

Amendment 282
Article 8, paragraph 2

2. **The minimum indications on signs, which may be electronic displays, shall be as follows:**

a) **for lanes to be used solely by persons** enjoying the Community right of free movement: **the emblem of the European Union with the letters "EU", "EEA" and "CH" within the circle of stars and the word "CITIZENS" beneath the**

a) **Persons** enjoying the Community right of free movement **are entitled to use the lanes indicated by the sign in part A of Annex III. They may also use the lanes indicated by the sign in part B of Annex III.**

circle of stars, as shown in Annex VI, part A,

b) *for lanes intended for the other categories of third country national, but which may also be used by those who enjoy the Community right to free movement: the words “ALL PASSPORTS”, as shown in Annex VI, part B.*

The indications on the signs mentioned above may be *written* in such language or languages as each Member State considers appropriate.

b) *All other persons shall use the lanes indicated by the sign in part B of Annex III.* The indications on the signs mentioned above may be *displayed* in such language or languages as each Member State considers appropriate.

Or. en

Amendment by Michael Cashman

Amendment 283
Article 8, point 3

3. At *authorised maritime* and land crossing-points, Member States may separate traffic into lanes for different *types of vehicle – cars, lorries* and buses – by *means of the* signs in Annex VI, Part C.

3. At *sea* and land *border* crossing-points, Member States may separate *vehicle* traffic into different lanes for *light and heavy vehicles* and buses by *using* signs *as shown* in Annex III, Part C.
Member States may vary the indications on these signs where appropriate in the light of local circumstances.

Or. en

Amendment by Michael Cashman

Amendment 284
Article 8, point 4

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

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

Or. en

Amendment by Michael Cashman

Amendment 285
Article 8, point 5

5. The adaptation of existing signs to the provisions of paragraphs 1, 2 and 3 shall be completed by 31 May 2009. Where Member States replace existing signs or put up new ones before that date, they **must** respect the **minimum** indications provided for in those paragraphs.

5. The adaptation of existing signs to the provisions of paragraphs 1, 2 and 3 shall be completed by 31 May 2009. Where Member States replace existing signs or put up new ones before that date, they **shall** respect the indications provided for in those paragraphs.

Or. en

Amendment by Michael Cashman

Amendment 286
Article 9, paragraph 1, introductory part

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

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

Or. en

Amendment by Michael Cashman

Amendment 287
Article 9, paragraph 1 a (new)

1a. The travel documents of nationals of third countries who are members of the family of a Union citizen to whom Directive 2004/38/EC applies, but who do not present the residence card provided for in Article 10 of this Directive, shall be stamped on entry or exit.

The travel documents of nationals of third countries who are members of the family of nationals of third countries enjoying the Community right of free movement, but

who do not present the residence card provided for in Article 10 of this Directive, shall be stamped on entry or exit.

Or. en

Amendment by Michael Cashman

Amendment 288
Article 9, paragraph 2

2. No entry or exit stamp shall be affixed:

a) to the travel documents of *third country nationals enjoying the Community right of free movement*;

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

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

d) in the case of persons benefiting from local border traffic arrangements, provided they are in possession of the required permits;

e) in the case of persons not normally subject to any check (for example Heads of State and dignitaries whose arrival has been officially announced in advance through diplomatic channels);

f) to documents enabling nationals of Andorra, Monaco and San Marino to cross the border.

Exceptionally, at the request of a third country national, insertion of an entry or exit stamp may be dispensed with if insertion might cause serious difficulties for that person. In that case, entry or exit **must** be recorded on a separate sheet indicating the name and passport number.

2. No entry or exit stamp shall be affixed:

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

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

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

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

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

Exceptionally, at the request of a third country national, insertion of an entry or exit stamp may be dispensed with if insertion might cause serious difficulties for that person. In that case, entry or exit **shall** be recorded on a separate sheet indicating the name and passport number. ***This sheet shall be given to the third country national.***

Amendment by Michael Cashman

Amendment 289
Article 9, paragraph 3

3. *The exit stamp shall be placed systematically on documents authorising a third country national to cross the border which contain a multiple entry visa with a restriction on the total length of stay.* **deleted**

Amendment by Michael Cashman

Amendment 290
Article 9, paragraph 4

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

Amendment by Michael Cashman

Amendment 291
Article 9, paragraph 4 a (new)

4a. Whenever possible, third country nationals shall be informed of the border guard's obligation to stamp their travel document on entry and exit, even when checks are relaxed in accordance with Article 7.

Article 9a

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

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

In such cases:

a) where the third-country national is found on the territory of the Member States applying the Schengen acquis in full, the competent authorities shall indicate, in accordance with national law and practice, in the third-country national's travel document the date of which, and the place where, the person has crossed the external border of one of these Member States;

b) where the third-country national is found on the territory of a Member State in respect of which the decision contemplated in Article 3(2) of the 2003 Act of Accession has not been taken, the competent authorities shall indicate, in accordance with national law and practice, in the third-country national's travel document the date on which, and the place where, the person has crossed the external border of that Member State;

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

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

3. Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be expelled by the competent authorities from the territory of the Member States concerned.

Or. en

Amendment by Michael Cashman

Amendment 293
Article 10, Title

Article 10

Surveillance between border crossing points

Article 10

Border surveillance between border crossing-points

Or. en

Amendment by Michael Cashman

Amendment 294
Article 10, paragraph 1

1. The competent authorities shall use mobile units to carry out external border surveillance: **deleted**

a) between authorised crossing points; and

b) at border crossing points outside normal opening hours.

This surveillance shall be carried out in such a way as to discourage people from circumventing the checks at crossing points.

Or. en

Amendment by Michael Cashman

Amendment 295
Article 10, paragraph 2 a (new)

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

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

Or. en

Amendment by Michael Cashman

Amendment 296
Article 10, paragraph 3

3. Surveillance between ***authorised*** crossing points shall be carried out by ***personnel*** whose numbers and methods shall be adapted to ***the practical situation***. It shall involve frequent and sudden changes to surveillance periods, so that unauthorised border crossings will be an ongoing risk.

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

Or. en

Amendment by Michael Cashman

Amendment 297
Article 10, paragraph 4

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

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

technical means, including electronic means.

carried out by technical means, including electronic means.

Or. en

Amendment by Michael Cashman

Amendment 298

Article 10, paragraphs 5 and 6

5. The means and method of surveillance are selected in the light of operational conditions and, in particular, of the type and nature of the border (land, inland waterway or sea).

deleted

6. Detailed rules governing surveillance **shall** be adopted in accordance with the procedure provided for by Article 30(2).

5. Additional rules governing surveillance **may** be adopted in accordance with the procedure provided for by Article 30(2).

Or. en

Amendment by Michael Cashman

Amendment 299

Article 11, paragraph 1

1. A third country national who does not fulfil all the entry conditions laid down in Article 5(1) shall be refused entry to the territories of the Member States ***unless a Member State considers it necessary to derogate from that principle on humanitarian grounds, on grounds of national interest or because of international obligations. In such cases authorisation to enter shall be restricted to the territory of the Member State concerned, which shall inform the other Member States accordingly. These rules shall not preclude*** the application of special provisions concerning the right of asylum or the issue of long stay visas.

1. A third country national who does not fulfil all the entry conditions laid down in Article 5(1) ***and does not belong to the categories of persons referred to in Article 5(4)*** shall be refused entry to the territories of the Member States. ***This shall be without prejudice to*** the application of special provisions concerning the right of asylum ***and to international protection*** or the issue of long stay visas.

Or. en

Amendment by Michael Cashman

Amendment 300
Article 11, paragraph 2

2. Where third-country nationals subject to the visa requirement because of their nationality present themselves at the border without such a visa, they shall be refused entry unless they fulfil the conditions laid down in Article 1(2) of Regulation (EC) No 415/2003.¹

If these conditions are fulfilled, a visa may be issued at the border in accordance with the above Regulation. Visas issued at the border must be recorded on a list.

3. Entry shall be refused by a substantiated decision taken by the authority empowered to do so by national law, which shall state the procedures for appeal; it shall take effect immediately or, where appropriate, on expiry of the time limit laid down by national law.

The standard form for refusal of entry is given in Annex VIII, Part B. The third country national concerned must acknowledge receipt of the decision to refuse entry by means of that form.

deleted

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

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

OJ L 64, 7.3.2003, p. 1.

Or. en

Amendment by Michael Cashman

Amendment 301
Article 11, paragraph 2 a (new)

2a. Persons refused entry shall have the

right to appeal. Appeals shall be carried out in accordance with national legislation. A written indication on contact points able to provide information on representatives competent to act on behalf of the third country national in accordance with national legislation shall also be given to the third country national.

Initiating the appeal process shall not suspend the decision to refuse entry.

Without prejudice to an eventual compensation granted according to national law, the third country national concerned shall be entitled to correction of the cancelled entry stamp, and any other cancellations or additions which have been made, by the Member state which refused entry should the appeal conclude that the decision to refuse entry was ill-founded.

Or. en

Amendment by Michael Cashman

Amendment 302
Article 11, paragraph 4

4. The border guards shall ensure that a third country national refused entry does not enter the territory of the Member State concerned ***or, if he has already entered it, leaves immediately.***

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

Or. en

Amendment by Michael Cashman

Amendment 303
Article 11, paragraph 4 a (new)

4a. Member States shall collect statistics on the number of persons refused entry, the grounds for refusal, the nationality of the persons refused and the type of border

(land, air, sea) at which they were refused entry. Member States shall transmit these statistics once a year to the Commission. The Commission shall publish every two years a compilation of the statistics provided by the Member States.

Or. en

Amendment by Michael Cashman

Amendment 304
Article 11, paragraph 5

5. Detailed rules governing refusal of entry are given in Annex *VIII*, Part A.

6. Detailed rules governing refusal of entry are given in Annex *V*, Part A.

Or. en

Amendment by Michael Cashman

Amendment 305
Chapter III, Title

Chapter III

Resources for border *checks* and cooperation between Member States

Chapter III

Resources for border *control* and cooperation between Member States

Or. en

Amendment by Michael Cashman

Amendment 306
Article 12

Article 12

Resources for border *checks*

Member States shall deploy appropriate staff and resources in sufficient numbers to carry out *checks* at the external borders, in accordance with Articles 6 to 11, in such a way as to ensure *a* high level of *checks* at

Article 12

Resources for border *control*

Member States shall deploy appropriate staff and resources in sufficient numbers to carry out *border control* at the external borders, in accordance with Articles *5a and 6* to 11, in such a way as to ensure *an efficient*, high

their external borders.

and uniform level of **control** at their external borders.

Or. en

Amendment by Michael Cashman

Amendment 307
Article 13, Title

Article 13
Implementation of **checks**

Article 13
Implementation of **controls**

Or. en

Amendment by Michael Cashman

Amendment 308
Article 13, paragraph 1

1. The border **checks** provided for by Articles 6 to 11 of this Regulation shall be carried out by the **services of the Member States responsible for border guard duties** in accordance with national law.

When carrying out **these duties, border guards are vested with the powers of border police and** the powers to instigate criminal proceedings conferred on **them** by national law.

National services responsible for border guard duties shall be staffed with specialised and properly trained professionals.

1. The border **control** provided for by Articles **5a and** 6 to 11 of this Regulation shall be carried out by the border **guards** in accordance with **the provisions of this Regulation and with** national law.

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

Member States shall ensure that the border guards are composed of specialised and properly trained professionals. **Member States shall encourage border guards to learn languages, in particular those needed for the carrying out of their tasks.**

Or. en

Amendment by Michael Cashman

Amendment 309
Article 13, paragraph 2

2. Measures taken in the performance of border guard duties shall be carried out in proportion to the objectives pursued by such measures.

2. Member States shall notify to the Commission the list of national services responsible for border control under their national law in accordance with Article 30a.

Or. en

Amendment by Michael Cashman

Amendment 310
Article 13, paragraphs 3 and 4

3. The list of national services responsible for border guard duties under the national law of each Member State is given in Annex IX.

deleted

4. To control borders effectively, the Member States shall ensure close, permanent cooperation between all national services responsible for border guard duties.

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

Or. en

Amendment by Michael Cashman

Amendment 311
Article 14, paragraph 1

1. The Member States shall assist each other and shall maintain constant, close cooperation with a view to the effective implementation of border checks.

1. The Member States shall assist each other and shall maintain constant, close cooperation with a view to the effective implementation of border control, in accordance with Articles 5a to 13 of this Regulation. They shall exchange all relevant information.

Or. en

Amendment by Michael Cashman

Amendment 312
Article 14, paragraph 2

2. Operational cooperation between Member States shall be ***managed and*** coordinated by the European Agency for the Management of Operational Cooperation at the External Borders.

2. Operational cooperation between Member States ***in the field of management of external borders*** shall be coordinated by 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 No 2007/2004/EC¹***.

¹ *OJ L 349, 25.11.2004, p. 1*

Or. en

Amendment by Michael Cashman

Amendment 313
Article 14, paragraph 2 a (new)

2a. Without prejudice to the competencies of the Agency, Member States may continue cooperation at an operational level with other Member States and/or third countries at external borders, including the exchange of liaison officers, where such cooperation complements the action of the Agency.

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

Member States shall report to the Agency on these operational matters at the external borders outside the framework of the Agency.

Or. en

Amendment by Michael Cashman

Amendment 314
Article 14, paragraph 2 b (new)

2b. Member States shall provide for training on the rules for border control as well as on fundamental rights. In this regard, account shall be taken of the common training standards as established and further developed by the Agency referred to in paragraph 2.

Or. en

Amendment by Michael Cashman Amendment 315
Article 15, paragraph 1, subparagraph 1

1. Member States which do not apply Article 18 to their common land borders may, up to the date of application of this Article, jointly control those common borders, without prejudice to Articles 6 to 11.

1. Member States which do not apply Article 18 to their common land borders may, up to the date of application of this Article, jointly control those common borders, ***in which case a person may be stopped only once for the purpose of carrying out entry and exit checks*** without prejudice ***to the individual responsibility of Member States arising from Articles 5a and 6 to 11.***

Justification

This amendment includes the basic idea of the Council conclusions on the adoption of bilateral cooperation arrangements in the field of controls on persons at common land borders between certain Member States and the European Union after enlargement.

Or. en

Amendment by Michael Cashman Amendment 316
Chapter IV, Title

Special detailed rules for border checks and specific procedures

Specific rules for border checks

Or. en

Amendment by Michael Cashman

Amendment 317
Article 16

Special detailed rules for different types of border and the different means of transport used for crossing the Member States' external borders

Special detailed rules such as those provided for by Annex X shall be determined for different types of border and the different means of transport used for crossing the Member States' external borders:

- a) land borders (road and rail);*
- b) air borders (international airports, aerodromes, internal flights);*
- c) maritime borders and inland waterway navigation.*

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

The specific rules set out in Annex VI shall apply to the checks with respect to the different types of border and the different means of transport used for crossing the external borders.

Those specific rules may contain derogations from Articles 5 and 6 to 11.

Or. en

Amendment by Michael Cashman

Amendment 318
Article 17, paragraph 1

1. Special arrangements such as those provided for by Annex XI shall be determined for certain categories of persons:

- d) border workers;*

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

- a) Heads of State and the members of their delegation;*
- e) cross-border workers;*

Those specific rules may contain derogations from Articles 5 and 6 to 11.

Or. en

Amendment by Michael Cashman

Amendment 319
Article 17, paragraph 2

2. The model cards issued by the Member States' Foreign Ministries to accredited members of diplomatic missions and consular representations and members of their families **are given in Annex XII.**

2. **Member States shall notify to the Commission** the model cards issued by the Member States' **Ministries of Foreign Affairs** to accredited members of diplomatic missions and consular representations and members of their families **in accordance with Article 30a.**

Or. en

Amendment by Michael Cashman

Amendment 320
Article 19, introductory part

Abolition of controls at internal **frontiers** shall not affect :

The abolition of border **control** at internal **borders** shall not affect :

Or. en

Amendment by Michael Cashman

Amendment 321
Article 19, point a)

a) the exercise of police powers by the competent authorities under **the** legislation **of each Member State, if the checks at the internal border, in a hinterland area adjacent to the border or in defined border areas are carried out under conditions and for purposes identical to those applying to the territory as a whole, particularly as regards their frequency and intensity;**

a) the exercise of police powers by the competent authorities **of the Member States** under **national** legislation, **insofar as the exercise of these powers does not have an equivalent effect to border checks; this also applies in border areas. Within the meaning of the first sentence the exercise of police powers can, in particular, not be considered equivalent to the exercise of border checks when the police measures:**

- i) do not have border control as an objective,**
- ii) are based on general police information and experience regarding possible threats to public security and aim, in**

particular, to combat cross-border crime,
iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders,
iv) are carried out on the basis of spot-checks.

Or. en

Amendment by Michael Cashman

Amendment 322
Article 19, point d)

d) the obligation on third-country nationals to report their presence on the territory of any Member State pursuant to Article 22 of the Schengen Convention.

d) the obligation on third-country nationals to report their presence on the territory of any Member State pursuant to ***the provisions of*** Article 22 of the Schengen Convention.

Or. en

Amendment by Michael Cashman

Amendment 323
Article 20, paragraph 1

Reintroduction of checks at internal borders by a Member State

1. ***A*** Member State may reintroduce border ***checks*** at its internal borders for a limited period of no more than 30 days ***in the event of a serious threat to public policy, public health or internal security,*** in accordance with the procedure laid down in Article 21 or, in an emergency, with that laid down in Article 22. The scope and duration of the ***checks may*** not exceed what is strictly necessary to respond to the serious threat.

Temporary reintroduction of border control at internal borders by a Member State

1. ***When there is a serious threat to public policy or internal security, a*** Member State may ***exceptionally*** reintroduce border ***control*** at its internal borders for a limited period of no more than 30 days ***or for the foreseeable duration of the event if its duration exceeds the period of 30 days,*** in accordance with the procedure laid down in Article 21 or, in an emergency, with that laid down in Article 22. The scope and duration of the ***control shall*** not exceed what is

strictly necessary to respond to the serious threat.

Or. en

Amendment by Michael Cashman

Amendment 324
Article 20, paragraphe 2

2. If the threat to public policy, internal security *or public health* persists beyond **30 days**, the Member State may maintain border *checks* on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days, in accordance with the procedure laid down in Article 23.

2. If the *serious* threat to public policy *or* internal security persists beyond *the time period provided for in paragraph 1*, the Member State may maintain border *control* on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days, in accordance with the procedure laid down in Article 23.

Or. en

Amendment by Michael Cashman

Amendment 325
Article 21, paragraphe 1

1. If a Member State is planning to reintroduce *checks* at internal borders under Article 20(1), it shall *immediately* notify the other Member States and the Commission accordingly, *supplying* the following information:

1. If a Member State is planning to reintroduce *border control* at internal borders under Article 20(1), it shall *as soon as possible* notify the other Member States *in the Council* and the Commission accordingly, *and shall supply* the following information *as soon as available*:

Or. en

Amendment by Michael Cashman

Amendment 326
Article 21, point b)

b) the scope of the proposed decision, specifying *the borders at which checks are*

b) the scope of the proposed decision,

to be reintroduced;

specifying *where border control is* to be reintroduced;

Or. en

Amendment by Michael Cashman

Amendment 327
Article 21, paragraphe 2

2. Following the notification from the Member State concerned, and in view of the consultation provided for in paragraph 3, the Commission *shall* issue an opinion.

2. Following the notification from the Member State concerned, and in view of the consultation provided for in paragraph 3, the Commission *may* issue an opinion *without prejudice to Article 64 (1) of the Treaty establishing the European Community*.

Or. en

Amendment by Michael Cashman

Amendment 328
Article 21, paragraphe 3

3. The information provided for by paragraph 1, as well as the opinion *provided for by* paragraph 2, shall be the subject of consultations between *the requesting* State, the other Member States within the Council and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the measures to the event giving rise to the reintroduction of *checks* and the threats to public policy, internal security or *public health*.

3. The information provided for by paragraph 1, as well as the opinion *that the Commission may provide in accordance with* paragraph 2, shall be the subject of consultations between the *Member State planning to reintroduce border control*, the other Member States within the Council and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the measures to the event giving rise to the reintroduction of *border control* and the threats to public policy *or* internal security.

Or. en

Amendment by Michael Cashman

Amendment 329
Article 21, paragraphe 4

The consultation mentioned above shall take place at least fifteen days before the date planned for the reintroduction *of checks*.

4. The consultation mentioned above shall take place at least fifteen days before the date planned for the reintroduction of *border control*.

Or. en

Amendment by Michael Cashman

Amendment 330
Article 22, titre

Emergency procedure

Procedure for cases requiring urgent action

Or. en

Amendment by Michael Cashman

Amendment 331
Article 22, paragraph 1

1. If considerations of public policy, internal security or *public health* in a State demand *emergency* action, the Member State concerned may immediately reintroduce *checks* at internal borders.

1. If considerations of public policy *or* internal security in a State demand *urgent* action, the Member State concerned may *exceptionally and* immediately reintroduce *border control* at internal borders.

Or. en

Amendment by Michael Cashman

Amendment 332
Article 22, paragraphe 2

2. The *requesting State* shall notify the other Member States and the Commission accordingly, without delay, *supplying* the

2. The *Member State reintroducing border control at its internal borders* shall notify the other Member States and the

information referred to in Article 21(1) and **giving** the reasons that justify the use of the **emergency** procedure.

Commission accordingly, without delay, **and shall supply** the information referred to in Article 21(1) and the reasons that justify the use of **this** procedure.

Or. en

Amendment by Michael Cashman

Amendment 333
Article 23, paragraphe 1

Procedure for prolonging **checks** at internal borders

1. **Checks** at internal borders **may only be prolonged** under the provisions of Article 20(2) after **consulting** the other Member States in the Council and the Commission.

Procedure for prolonging **border control** at internal borders

1. **Member States may only prolong border control** at internal borders under the provisions of Article 20(2) after **having notified** the other Member States in the Council and the Commission.

Or. en

Amendment by Michael Cashman

Amendment 334
Article 23, paragraphe 2

2. The **requesting** Member State shall supply the other Member States and the Commission with all relevant information on the reasons for prolonging the **checks** at internal borders.

2. The Member State **planning to prolong border control** shall supply the other Member States and the Commission with all relevant information on the reasons for prolonging the **border control** at internal borders. The provisions of Article 21(2) shall apply.

The provisions of Article 21(2) shall apply.

Or. en

Amendment by Michael Cashman

Amendment 335
Article 24 (new)

Informing the European Parliament

The Member State concerned or, where appropriate, the Council shall inform the European Parliament as soon as possible of the measures taken under Articles 21 to 23. As of the third consecutive prolongation pursuant to Article 23, the Member State concerned shall, if requested, report to the European Parliament on the need for border control at internal borders.

Or. en

Amendment by Michael Cashman

Amendment 336
Article 25

Arrangements for checks where the safeguard clause applies

Where *checks* at internal borders *are* reintroduced, the relevant provisions of Title II shall apply.

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

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

Or. en

Amendment by Michael Cashman
Amendment 337
Article 26

Report on the reintroduction of checks at internal borders

The Member State which has reintroduced *checks* at internal borders under Article 20 shall confirm the date on which these controls are lifted and, at the same time or soon afterwards, present a report to the European Parliament, the Council and the Commission on the reintroduction of *checks* at internal borders.

Report on the reintroduction of border control at internal borders

The Member State which has reintroduced *border control* at internal borders under Article 20 shall confirm the date on which these controls are lifted and, at the same time or soon afterwards, present a report to the European Parliament, the Council and the Commission on the reintroduction of *border control* at internal borders, *outlining, in particular, the operation of the checks*

and the effectiveness of reintroducing border control.

Or. en

Amendment by Michael Cashman

Amendment 338
Article 27

If the reasons for the application of the safeguard clause allow, the Member State(s) reintroducing checks at internal borders shall inform the public in an appropriate manner about the reintroduction of checks and the authorised crossing-points.

The decision to reintroduce border control at internal borders shall be taken in a transparent manner and the public informed in full thereof, unless there are overriding security reasons for not doing so.

Or. en

Amendment by Michael Cashman

Amendment 339
Article 28

At the request of the Member State concerned, the other Member States, the European Parliament and the Commission shall respect the confidentiality of information supplied in connection with the reintroduction and prolongation of **checks** and the report drawn up under Article 26.

At the request of the Member State concerned, the other Member States, the European Parliament and the Commission shall respect the confidentiality of information supplied in connection with the reintroduction and prolongation of **border control** and the report drawn up under Article 26.

Or. en

Amendment by Michael Cashman

Amendment 340

Article 29

Annexes *I to XII* shall be amended in accordance with the procedure provided for in Article 30(2).

Annexes *III, IV and VIII* shall be amended in accordance with the procedure provided for in Article 30(2).

Or. en

Amendment by Michael Cashman

Amendment 341

Article 30, paragraphe 1

1. The Commission shall be assisted by a committee.

1. The Commission shall be assisted by a committee, *hereinafter "the Committee"*

Or. en

Amendment by Michael Cashman

Amendment 342

Article 30, paragraphe 2

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, *having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.*

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at *two* months.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at *three* months.

Or. en

Amendment by Michael Cashman

Amendment 343
Article 30, paragraphe 3

3..The *committee* shall adopt its rules of procedure.

3. The *Committee* shall adopt its rules of procedure.

Or. en

Amendment by Michael Cashman

Amendment 344
Article 30, paragraphe 3 a) new

3a. Without prejudice to the implementing measures already adopted, the application of the provisions of this Regulation concerning the adoption of technical rules and decisions in accordance with the procedure referred in paragraph 2 shall be suspended four years after the entry into force of this Regulation. On a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article 251 of the Treaty and, to that end, shall review them prior to the expiry of the four-year period.

Or. en

Amendment by Michael Cashman

Amendment 345
Article 30a (new), paragraph 1

- 1. Member States shall notify the Commission of;*
 - the list of residence permits referred to in Article 2 point 15),*
 - the list of their border crossing points,*

- *the reference amounts required for the crossing of their external borders fixed annually by the national authorities,*
- *the list of national services responsible for border control,*
- *the specimen of model cards issued by Foreign Ministries*

Or. en

Amendment by Michael Cashman

Amendment 346
Article 30 a (new) paragraph 2

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

Or. en

Amendment by Michael Cashman

Amendment 347
Article 31

Non-application to certain territories

This Regulation shall not apply to the non-European territories of France and the Netherlands.

Local border traffic

This Regulation is without prejudice to Community rules on local border traffic and to existing bilateral agreements on local border traffic.

Or. en

Amendment by Michael Cashman

Amendment 348

Article 32

Ceuta and Melilla

The provisions of this Regulation shall not ***adversely*** affect the special rules applying to the cities of Ceuta and Melilla, as defined in the Final Act of the Agreement on the Accession of Spain to the Convention implementing the Schengen Agreement of 14 June 1985.¹

The provisions of this Regulation shall not affect the special rules applying to the cities of Ceuta and Melilla, as defined in the ***Declaration by the Kingdom of Spain on the cities of Ceuta and Melilla in the Final Act to the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985.***

Or. en

Amendment by Michael Cashman

Amendment 349

Article 33

Within ten working days of the entry into force of this Regulation, the Member States shall notify the Commission of national provisions relating to Article 19(c) and (d). Subsequent changes to these provisions shall be notified within five working days. The information notified by the Member States shall be published in the *Official Journal of the European Union*, C Series.

Within ten working days of the entry into force of this Regulation, the Member States shall notify the Commission of national provisions relating to Article 19(c) and (d), ***the penalties as referred to in Article 4(3) and the bilateral arrangements concluded in accordance with Article 15(1).*** Subsequent changes to these provisions shall be notified within five working days. The information notified by the Member States shall be published in the *Official Journal of the European Union*, C Series.

Or. en

¹ OJ L 239, 22.9.2000, p. 73.

Amendment by Michael Cashman

Amendment 350

Article 34

The Commission shall submit to the European Parliament and the Council, no later than three years after the entry into force of this Regulation, a report on the application of Title III.
The Commission shall pay particular attention to any difficulties arising from the reintroduction of *checks* at internal borders. Where appropriate, it shall present proposals aimed at resolving such difficulties.

The Commission shall submit to the European Parliament and the Council, no later than three years after the entry into force of this Regulation, a report on the application of Title III.
The Commission shall pay particular attention to any difficulties arising from the reintroduction of *border control* at internal borders. Where appropriate, it shall present proposals aimed at resolving such difficulties.

Or. en

Amendment by Michael Cashman

Amendment 351

Article 35, paragraphe 1

Deletions and repeals

1. Articles 2 to 8 of the Convention implementing the Schengen Agreement of 14 June 1985 shall be **deleted** with effect from ... [date of entry into operation of this Regulation].

Repeals

1. **The provisions of** Articles 2 to 8 of the Convention implementing the Schengen Agreement of 14 June 1985 shall be **repealed** with effect from ... [date of entry into operation of this Regulation].

Or. en

Amendment by Michael Cashman

Amendment 352

Article 35, paragraph 2

2. The following are repealed with effect from the same date:
-the Common Manual, including its annexes;
-the decisions of the Schengen Executive Committee of 22 December 1994

2. The following are repealed with effect from the same date:
-the Common Manual, including its annexes;
-the decisions of the Schengen Executive Committee **of 26 April 1994 (SCH/Com-ex**

(SCH/Com-ex (94)17, rev. 4) and 20 December 1995 (SCH/Com-ex (95) 20, rev. 2);

-Annex 7 to the Common Consular Instructions;
-Regulation (EC) No 790/2001.

-References to the Articles deleted and instruments repealed shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex *XIII*.

(94), 1 rev 2), 22 December 1994 (SCH/Com-ex (94)17, rev. 4) and 20 December 1995 (SCH/Com-ex (95) 20, rev. 2);

-Annex 7 to the Common Consular Instructions;
-Regulation (EC) No 790/2001.
-Council Decision of 29 April 2004 determining the minimum indications to be used on signs at external border crossing points¹

-Council Decision on the amendment of Part II and the drawing up of Annex 16 to the Common Manual

-Council Regulation (EC) No 2133/2004 of 13 December 2004 on the requirement for the competent authorities of the Member States to stamp systematically the travel documents of third-country nationals when they cross the external borders of the Member States and amending the provisions of the Convention implementing the Schengen agreement and the Common Manual to this end.

-References to the Articles deleted and instruments repealed shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex *XII*.

Or. en

Amendment by Michael Cashman

Amendment 353
Article 36

This Regulation shall enter into force ***on the 20th day following that of*** its publication in the *Official Journal of the European Union*. ***It shall be applicable from ... [six months after entry into force].***

This Regulation shall enter into force ***6 months after*** its publication in the *Official Journal of the European Union*. ***However, Article 30a shall enter into force on the day after its publication in the Official Journal***

¹ OJ L 261, 6.8.2004, p. 119.

This Regulation shall be binding in its entirety and directly applicable in **all** Member States, in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the Council
The President

of the European Union.

This Regulation shall be binding in its entirety and directly applicable in **the** Member States, in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the European Parliament

The President

For the Council
The President

Or. en

Amendment by Michael Cashman

Amendment 354

Annexe II, title

ANNEX II

Documentary evidence establishing the likelihood of the reasons for entry

ANNEX I

Supporting documents to verify the fulfilment of entry conditions of Art. 5 (1)c

Or. en

Amendment by Michael Cashman

Amendment 355

Annexe II, paragraph 1, point a)

Annex II

1. The documentary evidence referred to in Article 5(2) **is** the following:

a) for business trips:

-an invitation from a firm or an authority to attend meetings or events connected with trade, industry or work;

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

-entry tickets for fairs and congresses.

Annex I

1. The documentary evidence referred to in Article 5(2) **may** include the following:

a) for business trips:

-an invitation from a firm or an authority to attend meetings, **conferences** or events connected with trade, industry or work;

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

-entry tickets for fairs and congresses **if attending one.**

Amendment by Michael Cashman

Amendment 356
Annexe II, paragraph 1, point b)

Annex II

b) for journeys undertaken for the purposes of study or other types of training:
-a certificate of enrolment at a teaching institute for the purposes of attending vocational ***and*** theoretical courses in the framework of basic and further training;
-student cards or certificates for the courses attended.

Annex I

b) for journeys undertaken for the purposes of study or other types of training:
-a certificate of enrolment at a teaching institute for the purposes of attending vocational ***or*** theoretical courses in the framework of basic and further training;
-student cards or certificates for the courses attended.

Amendment by Michael Cashman

Amendment 357
Annexe IV, titre

ANNEX IV

Checks at authorised border crossing-points

ANNEX II

Registration of information

Amendment by Michael Cashman

Amendment 358
Annexe IV, paragraph 3

ANNEX IV

3. At all border (land, sea and airport) posts, all service information and any other particularly important information shall be entered in a register. The message should

ANNEX II

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

include the following information in particular:
-the names of the border guard responsible locally for border checks and of the other officers in each team;
-relaxation of checks on persons applied in accordance with Article 7;
-the issuing of documents in place of passports and of visas **or permits issued at the border**;
-persons refused entry **or exit (number and nationalities)**;

to be registered shall include in particular:
-the names of the border guard responsible locally for border checks and of the other officers in each team;
-relaxation of checks on persons applied in accordance with Article 7;
-the issuing, **at the border**, of documents in place of passports and of visas;
-persons refused entry **in accordance with Article 11 (grounds for refusal and nationalities)**;
-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;

Or. en

Amendment by Michael Cashman

Amendment 359
Annex V

Relaxation of checks at land borders

- 1. The exceptional and unforeseen circumstances referred to in Article 7(1) are met where unforeseen events lead to such intensity of traffic that the delay in the time taken to reach checking posts becomes excessive, and all resources have been exhausted as regards staff, facilities and organisation.***
- 2. Where checks are relaxed in accordance with Article 7(1) and (2), checks on entry movements shall normally take priority over checks on exit movements.***
- 3. The border guard who relaxes checks must show discretion. Such relaxation of checks may only be temporary, must be adapted to the circumstances justifying it and must be introduced gradually.***
- 4. Individuals known personally to the border guard, and whom he knows, on the basis of an initial check, have not been the***

Deleted

subject of an alert in the SIS or in a national data file and who possess a valid document authorising them to cross the border, will be subject only to random checks to ensure that they hold that document. This applies in particular to those persons who frequently cross the border at the same crossing-point. Thorough checks must be carried out on this group of persons from time to time, without warning and at irregular intervals.

Or. en

Amendment by Michael Cashman

Amendment 360
Annex VI, titre

ANNEX VI
Model signposts identifying lanes at frontier crossing-points

ANNEX III
Model signposts identifying lanes at frontier crossing-points

Or. en

Amendment by Michael Cashman

Amendment 361
Annexe VII paragraph 1

ANNEXE VII

1. Upon initial entry, the stamp must, 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 is done on the page facing the one on which the visa is affixed.

ANNEX IV

Affixing stamps

1. The travel documents of third-country nationals shall be systematically stamped on entry and exit, in accordance with Article 9. The specifications of these stamps are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL).

Or. en

Amendment by Michael Cashman

Amendment 362
Annexe VII, paragraphe 2

ANNEXE VII

2. Different shaped stamps (rectangular for entry, rectangular with rounded corners for exit) are used to certify entry and exit. These stamps contain the letter(s) identifying the State, the name of the border post, the date, the serial number and a pictogram indicating the type of border crossed (land, sea or air).

Stamps also contain a two-digit security code, to be changed at regular intervals not exceeding one month.

ANNEXE IV

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

Or. en

Amendment by Michael Cashman

Amendment 363
Annexe VII, paragraphe 1

ANNEXE VII

1. Upon initial entry, the stamp must, 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 *is* done on the page facing the one on which the visa is affixed.

If that page cannot be used, the stamp *is* entered on the following page.

ANNEX IV

3. In the case of entry and exit of third-country nationals submitted to the visa obligation, the stamp shall, 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 *shall be* done on the page facing the one on which the visa is affixed.

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

Or. en

Amendment 364
Annexe VII, paragraphe 4

ANNEXE VII

Member States **must ensure that the** national contact points responsible for exchanging information on the security codes of the entry and exit stamps used at border crossing-points **have immediate** access to information regarding common entry and exit stamps used at the external border of the Member State concerned, and in particular to information on the following:

- the border crossing-point to which a given stamp is assigned;
- the identity of the border **control official** to whom a given stamp is assigned at any given time;
- the security code of a given stamp at any given time.

Any inquiries regarding common entry and exit stamps **are to** be made through the **abovementioned** national contact points.
-The national contact points **will** also forward immediately to the other contact points, the General Secretariat of the Council, and the Commission information regarding lost and stolen stamps.

ANNEX IV

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

- the border crossing-point to which a given stamp is assigned;
- the identity of the border **guard** to whom a given stamp is assigned at any given time;
- the security code of a given stamp at any given time.

Any inquiries regarding common entry and exit stamps **shall** be made through the **above-mentioned** national contact points. The national contact points **shall** also forward immediately to the other contact points, the General Secretariat of the Council, and the Commission information regarding **a change in the contact points as well as** lost and stolen stamps.

Or. en

Amendment by Michael Cashman

Amendment 365

Annexe V, titre

ANNEXE *VIII*

Procedures for refusing entry

ANNEXE *V*

Procedures for refusing entry *at the border*

Or. en

Amendment by Michael Cashman

Amendment 366

Annexe VIII, part A, paragraphe 1

ANNEX *VIII*

1. When refusing entry, the border guard:

-fills in the standard form for refusing entry, as shown in Part B, **and gives a copy to the third-country national affected by the decision;**

-affixes an entry stamp on the passport, cancelled by a cross in indelible black ink, and writes opposite it on the right-hand side, also in indelible ink, the letter(s) corresponding to the reason(s) for refusing entry, the list of which is given on the abovementioned standard form for refusing entry;

-if he notes that the holder of a short-stay visa has been the subject of an alert in the SIS for the purposes of being refused entry, he shall cancel the visa by applying a stamp stating "CANCELLED". He must inform his central authorities of this decision forthwith. **The procedure for doing this is described at point 2.1 of Annex 14 to the Common Consular Instructions;**

ANNEX *V*

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

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

-affix an entry stamp on the passport, cancelled by a cross in indelible black ink, and write opposite it on the right-hand side, also in indelible ink, the letter(s) corresponding to the reason(s) for refusing entry, the list of which is given on the abovementioned standard form for refusing entry;

-cancel the visa by applying a stamp stating "CANCELLED" in the cases referred to in paragraph 2. In such a case the optically variable feature of the visa sticker, the security feature "latent image effect" as well as the term "visa" shall be destroyed by crossing it out so as to prevent any later misuse. The border guard shall inform his/her central authorities of this decision forthwith;

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

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

Or. en

Amendment by Michael Cashman

Amendment 367
Annexe VIII, part A, paragraphe 2

ANNEX VIII

2. Where, in accordance with Article 11(2), the conditions are met for issuing a visa at the border to a third-country national who does not have one, it is issued by affixing a sticker on the travel document in which a visa can be stamped. If there is no more space in the document, or if it is not possible in any event to affix a visa in the document, it must, exceptionally, be affixed on a separate sheet inserted in the document. In such a case, the standard model sheet for affixing a visa, laid down by Regulation (EC) No 333/2002,¹ must be used.

ANNEX V

The visa shall be cancelled in the following cases:

a) if the holder of the visa is the subject of an alert in the SIS for the purposes of being refused entry unless when he holds a visa or re-entry visa issued by one of the Member States and wants entry for transit purposes in order to reach the territory of the Member State which issued the document.

b) if there are serious grounds to believe that the visa was obtained in a fraudulent way.

The failure of the third country national to produce, at the border, one or more of the supporting documents referred to in article 5(2), shall not automatically lead to a

¹ OJ L 53, 23.2.2002, p. 4.

decision to cancel the visa.

Or. en

Amendment by Michael Cashman

Amendment 368
Annexe VIII, part A, paragraphe 3

ANNEX VIII

3. If a third country national, refused entry, has been brought to the border by a carrier **by air, sea or land**, the authority responsible locally **must**:

- order the carrier to take charge of the **alien** and transport him or her without delay to the third State from which he was brought, to the third State which issued the document authorising him to cross the border, or to any other third State where he is guaranteed admittance. **If the carrier cannot comply with the onward transportation order immediately, immediate transportation to a third State by another carrier must be ensured. The carrier must be made to bear the costs of lodging, maintenance and the return journey**, in accordance with Council Directive 2001/51/EC of 28 June 2001;¹

ANNEX V

3. If a third country national, refused entry, has been brought to the border by a carrier, the authority responsible locally **shall**:

– order the carrier to take charge of the **third-country national** and transport him or her without delay to the third State from which he was brought, to the third State which issued the document authorising him to cross the border, or to any other third State where he is guaranteed admittance, **or to find means of onward transportation** in accordance with **Article 26 of the Schengen Convention and Council Directive 2001/51/EC of 28 June 2001**;

Or. en

Amendment by Michael Cashman

Amendment 369
Annexe VIII, part A, paragraphe 1, subparagraph 6

ANNEX VIII

-if there are grounds both for refusing entry to a third-country national and arresting him, **he must contact the judicial authorities**

ANNEX V

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

¹ OJ L 187, 10.7.2001, p. 45.

Amendment by Michael Cashman

Amendment 370
Annexe VIII, part B*ANNEX VIII*Standard form for *refusals to admit*

(C) Has no valid visa

D) Has a false/counterfeit/forged visa

(E) Has no appropriate documentation
justifying the purpose and conditions of stay(F) Does not have sufficient means of
subsistence in relation to the period and
form of stay, or the means to return to the
country of origin or transit(G) Is a person for whom an alert has been
issued for the purposes of refusing entry
in the SIS
in the national register(H) Is considered to be a threat to public
order, internal security, public health or the
international relations of one or more of the
Member States of the European Union (*each
State must indicate the references to
national legislation relating to such cases of
refusal of entry*).

Comments

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

ANNEX V

Standard form for *refusal of entry at the
border*.C) Has no valid visa **or residence permit**D) Has a false/counterfeit/forged visa **or
residence permit**E) Has no appropriate documentation
justifying the purpose and conditions of stay
**-The following document(s) could not be
provided:**(F) **Has already stayed for three months
during a 6-month period on the territory of
the Member States of the European
Union**(G) Does not have sufficient means of
subsistence in relation to the period and
form of stay, or the means to return to the
country of origin or transit(H) Is a person for whom an alert has been
issued for the purposes of refusing entry
in the SIS
in the national register(I) Is considered to be a threat to public
policy, internal security, public health or the
international relations of one or more of the
Member States of the European Union
(*each State must indicate the references to
national legislation relating to such cases
of refusal of entry*).**Person concerned
Officer responsible
for checks**

Comments

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

right of appeal).

Or. en

Amendment by Michael Cashman

Amendment 371
Annex X, title

ANNEX X
Special detailed rules for different types of border and the different means of transport used for crossing the Member States' external borders

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

Or. en

Amendment by Michael Cashman

Amendment 372
Annex X, paragraph 1.1.1.

1.1.1. To ensure effective checks on persons, while ensuring the safety and smooth flow of road traffic, movements at border crossing-points ***must*** be regulated in an appropriate manner. In case of need, ***measures*** to channel and block traffic ***will be taken in compliance with the agreements on collocated national control offices.***

1.1.1. To ensure effective checks on persons, while ensuring the safety and smooth flow of road traffic, movements at border crossing-points ***shall*** be regulated in an appropriate manner. In case of need, ***Member States may conclude bilateral agreements*** to channel and block traffic. ***They shall inform the Commission thereof pursuant to Article 33.***

Or. en

Amendment by Michael Cashman

Amendment 373
Annex X, paragraph 1.1.2.

1.1.2. At land borders, Member States may, where they deem appropriate and if circumstances allow, install channels or operate separate ***control*** lanes at certain border crossing points, in accordance with Article 8.

1.1.2. At land borders, Member States may, where they deem appropriate and if circumstances allow, install channels or operate separate lanes at certain border crossing points, in accordance with Article 8.

Or. en

Amendment by Michael Cashman

Amendment 374
Annex X, paragraph 1.1.3

1.1.3. Where a Member State decides to install channels or operate separate lanes, the rules set out in Article 8(2) and (3) on the minimum indications to be used on signs shall apply. *deleted*

Specific lanes may be designed and installed for persons eligible for a local border traffic regime. *deleted*

Or. en

Amendment by Michael Cashman

Amendment 375
Annex X, paragraph 1.1.4.

1.1.4. As a general rule, persons travelling in vehicles may remain inside them during checks. Checks must be made outside the checkpoint kiosk, beside the vehicle. Thorough checks **must** take place, if local circumstances allow, **beside the highway** in areas designated for that purpose. In the interests of staff safety, checks shall be carried out by **at least** two border guards.

In the event of heavy traffic, bus passengers on regular local lines must be checked first where the local situation allows.

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

deleted

Or. en

Amendment by Michael Cashman

Amendment 376
Annex X, paragraph 1.2.1

1.2.1. Checks **on rail traffic may** be carried out in the following two ways:

1.2.1. Checks **shall be carried out both on train passengers and on railway staff on trains crossing external borders, including those on goods trains or empty trains. These checks shall** be carried out in **either one of** the following two ways:

- on the platform, in the first station of arrival or departure on the territory of a Member State,

- on board the train, during transit.

When carrying out these checks, the provisions of agreements on collocated national control offices shall be taken into account.

- on the platform, in the first station of arrival or departure on the territory of a Member State,

- on board the train, during transit.

Member States may conclude bilateral agreements on how to conduct these checks. They shall inform the Commission thereof pursuant to Article 33.

Or. en

Amendment by Michael Cashman

Amendment 377

Annex X, paragraph 1.2.2., subparagraph 1

1.2.2. ***To*** facilitate rail traffic flows of ***international*** passenger trains, the ***States directly affected by the transit of*** trains may decide, by common agreement, to carry out checks on ***passengers*** from third ***countries*** either in the stations of ***destination, and/or on*** board the train during transit between ***these*** stations, provided that the ***passengers*** stay on board the train in the previous station/stations.

1.2.2. ***By way of derogation from point 1.2.1. and in order to*** facilitate rail traffic flows of ***high speed*** passenger trains, the ***Member States on the itinerary of these trains from third States*** may ***also*** decide, by common agreement ***with third States concerned,*** to carry out ***entry*** checks on ***persons in trains*** from third ***States in*** either ***one of the following ways :***

- in the stations ***in a third State where persons board the train,***
- ***in the stations where persons disembark within the territory of the Member States,***
- on board the train during transit between the stations ***on the territory of the Member States,*** provided that the ***persons*** stay on board the train in the previous station/stations.

Or. en

Amendment by Michael Cashman

Amendment 378

Annex X, paragraph 1.2.2., subparagraph 2 and 3

With respect to ***international*** trains from third States making several stops in the territory of the Member States, if the rail transport carrier is in a position to board

1.2.3. With respect to ***high speed*** trains from third States making several stops in the territory of the Member States, if the rail transport carrier is in a position to board

passengers exclusively for *a* journey within the territory of the Member States, such passengers shall be subject to entry checks either on the train or at the station of destination.

When travelling in the opposite direction, the passengers shall be subject to exit checks under similar arrangements.

passengers exclusively for ***the remaining part of the*** journey within the territory of the Member States, such passengers shall be subject to entry checks either on the train or at the station of destination ***except where controls have been carried out pursuant to points 1.2.1. or 1.2.2. 1st indent.***

Or. en

Amendment by Michael Cashman

Amendment 379
Annex X, paragraph 1.2.3.

1.2.3. Passengers who wish to take the train ***in the circumstances described under point 1.2.2 on*** the territory of the Member States shall receive clear notification prior to the train's departure that they ***might*** be subject to ***personal*** checks during the journey or at the station of destination.

Persons who wish to take the train ***exclusively for the remaining part of the journey within*** the territory of the Member States shall receive clear notification prior to the train's departure that they ***will*** be subject to ***entry*** checks during the journey or at the station of destination.

Or. en

Amendment by Michael Cashman

Amendment 380
Annex X, paragraph 1.2.4.

1.2.4. In the case of persons travelling in sleeper or couchette compartments, the documents enabling them to cross the border shall normally be checked in the compartment of the attendant, provided that he has collected these documents in compliance with the rules applicable to him and that he keeps them available for checks. At the beginning of the check the existence of the documents enabling all the passengers to cross the border must be verified by comparing these documents with the occupancy and/or booking list. The identity of the persons in the

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

compartments must be verified, if possible in the presence of the attendant, at irregular intervals or where specific reasons exist.

Or. en

Amendment by Michael Cashman

Amendment 381
Annex X, paragraph 1.2.5.

1.2.5. The border guard *locally responsible* may order the cavities of *cars* to be inspected *sporadically or for specific reasons*, if necessary with the assistance of the train inspector, to ensure that persons or objects subject to border *police* checks are not concealed in them.

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

Or. en

Amendment by Michael Cashman

Amendment 382
Annex X, paragraph 1.2.6.

1.2.6. 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 *responsible*, if he cannot act in accordance with his national provisions, shall notify the Member States towards or within whose territory the train is moving.

1.2.6. 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 cannot act in accordance with his national provisions, shall notify the Member States towards or within whose territory the train is moving.

Or. en

Amendment by Michael Cashman

Amendment 383
Annex X, paragraph 2.1.1.

2.1.1. The competent authorities shall, *in cooperation with* the airport operator, *take*

2.1.1. The competent authorities *of the Member States* shall *ensure that* the airport

the requisite measures to ***ensure that inflows*** of passengers ***from*** internal ***and*** other flights ***are physically separated***. Appropriate infrastructures ***must*** be set in place at all international airports to that end.

operator ***takes*** the requisite measures to ***physically separate the flows*** of passengers ***on internal flights from the flows of passengers on*** other flights. Appropriate infrastructures ***shall*** be set in place at all international airports to that end.

Or. en

Amendment by Michael Cashman

Amendment 384
Annex X, paragraph 2.1.2.

2.1.2. The place where ***persons and hand baggage are checked will*** be determined in accordance with the following procedure:

a) Passengers on a flight from a third State who board an internal flight shall 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) shall be subject to an exit check at the airport of departure of the latter flight.

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

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

ii) passengers on flights from or to third States with more than one stop over 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 ***Schengen*** territory, shall be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

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

a) Passengers on a flight from a third State who board an internal flight shall 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) shall be subject to an exit check at the airport of departure of the latter flight.

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

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

ii) passengers on flights from or to third States with more than one stop-over 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 Member States***, shall be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

(iii) where an airline may, for flights from third States with more than one stop over within the territory of the Member States, board passengers only for the remaining leg within this territory, passengers shall be subject to an exit check at the airport of departure and an entry check at the airport of arrival.

Checks on passengers who, during these stop overs, are already on board the aircraft and have not boarded in the territory of the Member States shall be carried out in accordance with point (a). The reverse procedure shall apply to this category of flights where the country of destination is a third State.

(iii) where an airline may, for flights from third States with more than one stop-over within the territory of the Member States, board passengers only for the remaining leg within this territory, passengers shall be subject to an exit check at the airport of departure and an entry check at the airport of arrival.

Checks on passengers who, during these stop-overs, are already on board the aircraft and have not boarded in the territory of the Member States shall be carried out in accordance with point (b) (ii). The reverse procedure shall apply to this category of flights where the country of destination is a third State.

Or. en

Amendment by Michael Cashman

Amendment 385
Annex X, paragraph 2.1.3.

2.1.3. **Checks on persons** shall not be carried out on the aircraft. In order to ensure that, at the airports designated as **authorised** border crossing-points, **passengers may be** checked in accordance with the rules set out in Articles 6 to 11, Member States **must, in agreement** with the airport authorities **and the transport undertaking**, take the **appropriate** measures **to ensure that** passenger traffic **is channelled** to facilities reserved for checks.

The airport operator **must take** the necessary measures to prevent unauthorised persons entering and leaving the reserved areas, for example the transit area.

2.1.3. **Border checks** shall **normally** not be carried out on the aircraft **or at the gate, unless it is justified on the basis of an assessment of the risks related to internal security and illegal immigration.** In order to ensure that, at the airports designated as border crossing-points, **persons are** checked in accordance with the rules set out in Articles 6 to 11, Member States **shall ensure that** the airport authorities take the **requisite** measures to **channel** passenger traffic to facilities reserved for checks.

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

a visa.

Or. en

Amendment by Michael Cashman

Amendment 386
Annex X, paragraph 2.1.4.

2.1.4. Where, in cases of force majeure or imminent danger or on the instructions of the authorities, an aircraft on ***an international*** flight has to land on a landing ground which is not ***an authorised*** border crossing-point, that aircraft may continue its flight only after authorisation from the ***authorities responsible for border checks and surveillance*** and from customs. The same shall apply where ***a foreign*** aircraft lands without permission. In any event, Articles 6 to 11 shall apply to checks on ***passengers*** on such aircraft.

2.1.4. Where, in cases of force majeure or imminent danger or on the instructions of the authorities, an aircraft on ***a flight from a third State*** has to land on a landing ground which is not ***a*** border crossing-point, that aircraft may continue its flight only after authorisation from the border ***guards*** and from customs. The same shall apply where ***an aircraft on a flight from a third State*** lands without permission. In any event, Articles 6 to 11 shall apply to checks on ***persons*** on such aircraft.

Or. en

Amendment by Michael Cashman

Amendment 387
Annex X, paragraph 2.21.

2.2.1. It ***must*** be ensured that ***passengers*** are also checked, in accordance with the rules set out in Articles 6 to 11, in airports which do not hold the status of international airport under the relevant national law (“aerodromes”) but through which the routing of ***international*** flights is authorised.

2.2.1. It ***shall*** be ensured that ***persons*** are also checked, in accordance with the rules set out in Articles 6 to 11, 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 States*** is authorised.

Or. en

Amendment by Michael Cashman

Amendment 388
Annex X, paragraph 2.2.2.

2.2.2. **It** shall not be necessary to make appropriate arrangements in aerodromes to ensure that inflows of passengers from internal and **international** flights are physically separated, without prejudice to Regulation (EC) No 2320/2000 establishing common rules in the field of civil aviation security.²⁹ **When** the volume of traffic is low, the border guards need not be present at all times, provided that there is a guarantee that the necessary personnel can be deployed in good time.

2.2.2. **By way of derogation from point 2.1.1. it** shall not be necessary to make appropriate arrangements in aerodromes to ensure that inflows of passengers from internal and **other** flights are physically separated, without prejudice to Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation security.⁴² **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.

Or. en

Amendment by Michael Cashman

Amendment 389
Annex X, paragraph 2.2.3

2.2.3. When the presence of the border guards is not assured at all times in the aerodrome, the director of this aerodrome **is required to** give adequate notice to the **authorities responsible for carrying out border checks** about the arrival and the departure of **internationally routed airplanes. Calling in auxiliary police officers is authorised, provided that this is permissible under national law.**

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

Or. en

Amendment by Michael Cashman

Amendment 390
Annex X, paragraph 2.3

2.3. Checks on private flights

2.3. Checks on **persons on** private flights

Or. en

Amendment by Michael Cashman

Amendment 391

Annex X, paragraph 2.3.1.

2.3.1. In the case of private flights the captain **must** transmit to the border **authorities** of the Member State of destination and, where appropriate, of the Member State of first entry, prior to take-off, a general declaration comprising inter alia a flight plan in accordance with Annex 2 to the Convention on International Civil Aviation and information concerning passengers' identity.

2.3.1. In the case of private flights **from or to third States** the captain **shall** transmit to the border **guards** of the Member State of destination and, where appropriate, of the Member State of first entry, prior to take-off, a general declaration comprising inter alia a flight plan in accordance with Annex 2 to the Convention on International Civil Aviation and information concerning passengers' identity.

Or. en

Amendment by Michael Cashman

Amendment 392

Annex X, paragraph 2.3.2.

2.3.2. Where private flights coming from a third State and bound for a Member State make stop overs in the territory of other Member States, the competent authorities of the Member State of entry **must** carry out checks **on persons** and apply an entry stamp to the general declaration referred to in point 2.3.1.

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

Or. en

Amendment by Michael Cashman

Amendment 393

Annex X, paragraph 2.3.3.

2.3.3. Where uncertainty exists whether a flight is exclusively coming from, or solely bound for, the territories of the Member 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 points 2.1 to 2.2.

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

Or. en

Amendment by Michael Cashman

Amendment 394
Annex X, paragraph 3.1.2

3.1.2. In the event of exceptional and unforeseen circumstances, checks on shipping traffic may be relaxed in accordance with Article 7.

deleted

Or. en

Amendment by Michael Cashman

Amendment 395
Annex X, paragraph 3.1.3

3.1.3. The ship's captain shall draw up a list, in duplicate, of the crew and of any passengers **in accordance with the rules laid down in Directive 98/41/EC.¹ Upon** arriving in the port he shall give the list(s) to the **officers responsible for checks, which shall be carried out on board ship or nearby.** If, for reasons of force majeure, the list or lists cannot be sent to the **officers carrying out checks**, a copy **must** be sent to the appropriate border post or shipping authority, which shall **see that it is forwarded** without delay to the **authorities empowered to carry out border checks.**

As regards scheduled ferry services, the ship's captain or the passenger registrar shall not be required to draw up a passenger list.

3.1.3. The ship's captain **or, failing that, the individual or corporation who represents the shipowner in all matters relating to the shipowner's duties in fitting out the vessel ("shipowners's agent),** shall draw up a list, in duplicate, of the crew and of any passengers. **At the latest upon** arriving in the port he shall give the list(s) to the **border guards.** If, for reasons of force majeure, the list or lists cannot be sent to the **border guards**, a copy **shall** be sent to the appropriate border post or shipping authority, which shall **forward** that it without delay to the border **guards.**

Or. en

¹ OJ L 188, 2.7.1998, p. 35.

Amendment by Michael Cashman

Amendment 396
Annex X, paragraph 3.1.4

3.1.4. One copy of the two lists duly signed by the **checking officer** shall be returned to the ship's captain, who **must be able to** produce it on request when in port.

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

Or. en

Amendment by Michael Cashman

Amendment 397
Annex X, paragraph 3.1.5

3.1.5. The ship's captain, or failing that **the individual or corporation who represents the shipowner in all matters relating to the shipowner's duties in fitting out the vessel** ("shipowner's agent"), **must** report promptly any changes to the composition of the crew or the number of passengers.

3.1.5. The ship's captain, or failing that **the** shipowner's agent **shall** report promptly any changes to the composition of the crew or the number of passengers.

In addition, the captain **is required to** notify the competent authorities promptly, and if possible even before the ship enters port, of the presence on board of stowaways. Stowaways shall, however, remain under the responsibility of the ship's captain.

In addition, the captain **shall** notify the competent authorities promptly, and if possible even before the ship enters port, of the presence on board of stowaways. Stowaways shall, however, remain under the responsibility of the ship's captain.

Or. en

Amendment by Michael Cashman

Amendment 398
Annex X, paragraph 3.1.6

3.1.6. The ship's captain **must** notify the border **authorities** of the ship's departure **and report any change to the composition of the crew in good** time and in accordance with **Directive 98/41/EC** and the rules in force in the port concerned; if he is unable to notify these authorities, he **must** advise the

3.1.6. The ship's captain **shall** notify the border **guards** of the ship's departure **in due** time and in accordance with the rules in force in the port concerned; if he is unable to notify these authorities, he **shall** advise the appropriate shipping authority. The second copy of the previously completed and signed

appropriate shipping authority. The second copy of the previously completed and signed list(s) shall be returned to these authorities.

list(s) shall be returned to these authorities.

Or. en

Amendment by Michael Cashman

Amendment 399
Annex X, paragraph 3.2, title

3.2. Specific **checking** procedures for certain types of shipping

3.2. Specific **check** procedures for certain types of shipping

Or. en

Amendment by Michael Cashman

Amendment 400
Annex X, paragraph 3.2.1

3.2.1. *If a cruise ship calls in succession at several ports situated in the territory of the Member States without calling at a port situated outside this territory, checks shall normally be carried out only at the first and last port situated within the territory of the Member States.*

3.2.1. *The cruise ship's captain or, failing that, the shipowner agent shall 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 Member States.*

Nevertheless, according to the assessment of the risks of illegal immigration, checks may also be carried out at the other intermediate ports.

Or. en

Amendment by Michael Cashman

Amendment 401
Annex X, paragraph 3.2.2

3.2.2. *The list of passengers shall in all cases be forwarded upon departure from one port to the subsequent port of arrival,*

3.2.2. *If the itinerary of a cruise ship comprises exclusively ports situated in the territory of the Member States, by way of*

at which the competent authorities shall systematically carry out at least an administrative check.

derogation from Articles 4 and 6, no border checks shall 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.

Or. en

Amendment by Michael Cashman

Amendment 402

Annex X, paragraph 3.2.3

3.2.3. Where there are grounds for refusing to allow persons on board to enter the territory of a Member State, the authorities responsible for checks must ensure that the persons concerned do not enter the territory by keeping them either on board or in an area set aside for the purpose.

3.2.3. If the itinerary of a cruise ship comprises both ports situated in the territory of the Member States and ports situated in third States, by way of derogation from Article 6, border checks shall 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 Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers, as referred to in point 3.2.4.

Passengers going ashore shall be subject to entry checks in accordance with Article 6 unless an assessment of the risks related to security and illegal immigration shows that there is no need to carry out such checks.

b) Where the cruise ship comes from a port situated in a third State and calls again at a port situated in the territory of a Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers as referred to in point 3.2.4. to the extent that these lists have been modified since the cruise ship called in the previous port situated in the territory of a Member State.

Passengers going ashore shall be subject to entry checks in accordance with Article 6

unless an assessment of the risks related to security and illegal immigration shows that there is no need to carry out such checks .

c) Where the cruise ship comes from a port situated in a Member State and calls at such a port, passengers going ashore shall be subject to entry checks in accordance with Article 6 if an assessment of the risks related to security and illegal immigration so requires.

d) Where a cruise ship departs from a port situated in a Member State to a port in a third State, crew and passengers shall be subject to exit checks on the basis of the nominal lists of crew and passengers. If an assessment of the risks related to security and illegal immigration so requires, passengers going on board shall be subject to exit checks in accordance with Article 6.

e) Where a cruise ship departs from a port situated in a Member State to such a port, no exit checks shall be carried out. Nevertheless, 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.

Or. en

Amendment by Michael Cashman

Amendment 403

Annex X, paragraph 3.2.3 a (new)

3.2.3 a (new) The nominal lists of crew and passengers shall include:

- name and surname

- date of birth

- nationality

- number and type of travel

document and, where applicable, visa number.

The cruise ship's captain or, failing that, the shipowner agent shall transmit to the respective border guards the nominal lists at least 24 hours before the arrival at each

port in the territory of the Member States or, in case the journey to this port lasts less than 24 hours, immediately after the boarding is completed in the previous port. The nominal list shall be stamped at the first port of entry into the territory of the Member States and in all cases thereafter if the list is modified. The nominal list shall be taken into account in the assessment of the risks as referred to in point 3.2.3.

Or. en

Amendment by Michael Cashman

Amendment 404

Annex X, paragraph 3.2.4 et 3.2.5

3.2.4. Member States shall require pleasure boats coming from a port *of anchorage other than their own to dock in an authorised port of entry in order to carry out checks, on entry and exit, on the persons on board.*

3.2.5. Persons engaged in pleasure boating who leave and return within the same day or within a short period to their boat's usual port of anchorage located within the territory of a Member State, and who are known to the port authorities, shall not be systematically checked. 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 Member State concerned, **personalised spot checks and/or a physical search of the vessel must** be carried out.

3.2.5. By way of derogation from Articles 4 and 6, persons on board pleasure boats coming from *or departing to* a port *situated in a Member State shall not be subject to border checks and may enter a port which is not a border crossing point.*

However, 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 Member State concerned, checks **on these persons** and/or a physical search of the **pleasure boats shall** be carried out.

Or. en

Amendment by Michael Cashman

Amendment 405

Annex X, paragraph 3.2.6

3.2.6. *Where* a pleasure boat *wishes*, exceptionally, *to* enter a port which is not *an authorised* border crossing-point, the authorities *responsible for checks must be notified if possible before the vessel enters the port, and in any event upon its* arrival. The declaration regarding passengers shall be made by lodging the list of persons on board with the port authorities. This list shall be made available to the *authorities responsible for carrying out checks*.

Likewise, if for reasons of force majeure the *vessel* has to dock in a port other than *an authorised* border crossing-point, the port authorities *must* contact the authorities in the nearest *authorised port of entry* in order to report the vessel's presence.

3.2.6. *By way of derogation from Article 4*, 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 shall notify the port authorities in order to be authorised to enter this port. The port authorities shall contact the authorities in the nearest port designated as border crossing point in order to report the vessel's* arrival. The declaration regarding passengers shall be made by lodging the list of persons on board with the port authorities. This list shall be made available to the *border guards, at the latest upon arrival*.

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

Or. en

Amendment by Michael Cashman

Amendment 406
Annex X, paragraph 3.2.7

3.2.7. During these checks, a document containing all the technical characteristics of the vessel and the names of the persons on board shall be handed in. A copy of this document shall be given to the authorities in the *authorised* ports of entry and departure. As long as the vessel remains in the territorial waters of one of the Member States, a copy of this list *must* be included amongst the ship's papers.

3.2.7. During these checks, a document containing all the technical characteristics of the vessel and the names of the persons on board shall be handed in. A copy of this document shall be given to the authorities in the ports of entry and departure. As long as the vessel remains in the territorial waters of one of the Member States, a copy of this list *shall* be included amongst the ship's papers.

Or. en

Amendment by Michael Cashman

Amendment 407
Annex X, paragraph 3.2.8

3.2.8. **The** crews of coastal fisheries vessels who return every day or **nearly every day** to the port of registration or to any other port situated in the territory of the Member States without docking in a port situated in the territory of **another** State shall not be systematically checked. Nevertheless, the assessment of the risks of illegal immigration, in particular where the coastline of a third State is located in the immediate vicinity of the territory of the Member State concerned, **must** be taken into account in order to determine the frequency of the **spot** checks to be carried out. According to those risks, checks on persons and/or a physical search of the vessel **must** be carried out.

3.2.8. **By way of derogation from Articles 4 and 6, 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 Member States without docking in a port situated in the territory of **a third** State shall not be systematically checked. Nevertheless, the assessment of the risks of illegal immigration, in particular where the coastline of a third State is located in the immediate vicinity of the territory of the Member State concerned, **shall** be taken into account in order to determine the frequency of the checks to be carried out. According to those risks, checks on persons and/or a physical search of the vessel **shall** be carried out.

Or. en

Amendment by Michael Cashman

Amendment 408
Annex X, paragraph 3.2.9, second subparagraph

The ship's captain **is required to** notify the **appropriate** authorities of any alteration to the crew list and of the presence of any passengers.

The ship's captain **shall** notify the **competent** authorities of any alteration to the crew list and of the presence of any passengers.

Or. en

Amendment by Michael Cashman

Amendment 409
Annex X, title of paragraph 3.2.10

Ferries not providing scheduled services

Ferry connections

Amendment by Michael Cashman

Amendment 410

Annex X, paragraph 3.2.10, introductory part and letter a)

3.2.10. **Controls** shall be carried out on **passengers on board ferries not providing scheduled services in accordance with Article 2**. The following rules shall apply:

- a) **checks on third-country nationals and checks on persons enjoying the Community right to free movement should be carried out separately. Where possible, the necessary construction work should be undertaken to ensure this** in accordance with Article 8;

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

- a) **where possible, Member States shall provide separate lanes,** in accordance with Article 8;

Amendment by Michael Cashman

Amendment 411

Annex X, paragraph 3.2.10, letters f) and g)

f) to ensure that checks are carried out quickly, there shall be an adequate number of gates. **If necessary, a second gate shall be established;**

g) so as to detect illegal immigrants in particular, random **checks** shall, **at the very least**, be made on the **vehicles** used by the passengers, and where applicable on the loads and other goods stowed in the **vehicle;**

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

g) so as to detect illegal immigrants in particular, random **searches** shall be made on the **means of transport** used by the passengers, and where applicable on the loads and other goods stowed in the **means of transport;**

Amendment by Michael Cashman

Amendment 412

Annex X, paragraph 3.3

3.3. Inland *waterway navigation*

4. Inland *waterways shipping*

Or. en

Amendment by Michael Cashman

Amendment 413
Annex XI

Annex XI

Annex VII

Or. en

Amendment by Michael Cashman

Amendment 414
Annex XI, paragraph - 1 (new)

- 1 (new) Heads of State

By way of derogation from Articles 5 to 11, Heads of State and the members of their delegation, whose arrival and departure have been officially announced through diplomatic channels to the border guards, may not be subject to border checks.

Or. en

Amendment by Michael Cashman

Amendment 415
Annex XI, paragraph 1.1, introductory part

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

2.1. By way of derogation from Article 5 the holders of a pilot's licence or a crew member certificate as provided for in Annex 9 to the Civil Aviation Convention of 7 December 1944 may, in the course of their duties and on the basis of those documents:

Or. en

Amendment by Michael Cashman

Amendment 416
Annex XI, paragraph 1.1, last sentence (new)

In all other cases, the requirements provided for by Article 5(1) shall be fulfilled.

Or. en

Amendment by Michael Cashman

Amendment 417
Annex XI, paragraph 1.2

1.2. Articles 6 to 11 shall apply to checks on aircraft crew members. Wherever possible, priority **must** be given to checks on aircraft crews. Specifically, they shall be checked either before passengers or at special locations set aside for the purpose. **Crews** known to staff responsible for **checks** in the performance of their duties may be subject to random checks only.

2.2. Articles 6 to 11 shall apply to checks on aircraft crew members. Wherever possible, priority **shall** be given to checks on aircraft crews. Specifically, they shall be checked either before passengers or at special locations set aside for the purpose. **By way of derogation from Article 6, crews** known to staff responsible for **border controls** in the performance of their duties may be subject to random checks only.

Or. en

Amendment by Michael Cashman

Amendment 418
Annex XI, paragraph 2.1

2.1. Seamen holding a seafarer's identity document issued in accordance with the Geneva Convention of 19 June 2003 (No 185), the London Convention of 9 April 1965 and the relevant national provisions **may go** ashore to stay in the area of the port where their ships call or in the adjacent municipalities without presenting themselves at a border crossing-point, on condition that they appear on the crew list, which has previously been submitted for checking by the competent authorities, of the

3.1. By way of derogation from Articles 4 and 6, Member States may authorise seamen holding a seafarer's identity document issued in accordance with the Geneva Convention of 19 June 2003 (No 185), the London Convention of 9 April 1965 and the relevant national provisions, **to enter into the territory of the Member States by going** ashore to stay in the area of the port where their ships call or in the adjacent municipalities without presenting themselves at a border crossing-point, on

ship they belong to.

According to the assessment of the risks, **with special reference to** illegal immigration and security, seamen **must also be visually checked by the competent authorities** before they go ashore.

If a **sailor** constitutes a threat to public policy, internal security or public health, he may be refused permission to go ashore.

condition that they appear on the crew list, which has previously been submitted for checking by the competent authorities, of the ship they belong to.

However, according to the assessment of the risks of illegal immigration and security, seamen **shall be subject to a check in accordance with Article 6 by the border guards** before they go ashore.

If a **seaman** constitutes a threat to public policy, internal security or public health, he may be refused permission to go ashore.

Or. en

Amendment by Michael Cashman

Amendment 419
Annex XI, paragraph 2.2

2.2. Seamen who intend to stay outside the municipalities situated in the vicinity of ports **must** comply with the conditions for entry to the territory of the Member States, as laid down in Article 5(1).

3.2. Seamen who intend to stay outside the municipalities situated in the vicinity of ports **shall** comply with the conditions for entry to the territory of the Member States, as laid down in Article 5(1).

Or. en

Amendment by Michael Cashman

Amendment 420
Annex XI, paragraph 2.3

2.3. By way of derogation from point 2.2, holders of a seafarer's identity document may be authorised to enter the territory of the Member States, even if they do not fulfil the conditions for entry laid down in Article 5(1)(b) and (c), in the circumstances set out below:

deleted

a) boarding a ship which has already anchored or is about to arrive in a port of the Member States;

- b) *transit to a third State or return to the State of origin;*
- c) *emergency cases or cases of necessity (illness, dismissal, end of contract, etc.).*

In such cases, holders of 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 Member State may be issued with a visa at the border in accordance with the provisions of Regulation (EC) No 415/2003.

In any event, the border guards must check that the seamen in question hold a valid travel document, that no alert has been entered for the purposes of non-admission and that they do not constitute a threat to the public policy, internal security or public health of the Member States. The border guards must furthermore check, if necessary and where applicable, the following additional items:

- *written declaration by the shipowner or by the shipowner's agent concerned,*
- *written declaration by the appropriate diplomatic or consular authorities,*
- *proof obtained as a result of specific verification by the police authorities or, where appropriate, by other competent administrations,*
- *contract authenticated by affixing the stamp of the maritime authority.*

Or. en

Amendment by Michael Cashman

Amendment 421
Annex XI, paragraph 3.1

3.1. In view of the special privileges or immunities they enjoy, the holders of diplomatic, official or service passports issued by States or Governments recognised by the Member States, as well as the holders of documents issued by the international organisations listed in point **3.4**, who are travelling in the course of their duties may be **granted favourable treatment by being** given priority over other travellers at border checks even though they remain, where **necessary**, subject to the requirement for a visa.

As a general rule, persons holding these documents shall not be required to prove that they have sufficient means of subsistence.

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

By way of derogation from Article 5 (1) c), persons holding these documents shall not be required to prove that they have sufficient means of subsistence.

Or. en

Amendment by Michael Cashman

Amendment 422
Annex XI, paragraph 3.2

3.2. If a person presenting himself at the external border invokes privileges, immunities and exemptions, the **officer responsible for carrying out checks** may require him to provide evidence of his status by producing the appropriate documents, in particular certificates issued by the accrediting State or a diplomatic passport or other means. If he has doubts, the **officer** may, in case of urgent need, apply direct to the Ministry of Foreign Affairs.

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

Or. en

Amendment by Michael Cashman

Amendment 423
Annex XI, paragraph 3.3

3.3. Accredited members of diplomatic missions and of consular representations and their families may enter the territory of the Member States on presentation of the card referred to in Article 17(2) and of the document authorising them to cross the border. Moreover, border guards may not *in any circumstances* refuse the holders of diplomatic, official or service passports entry to the territory of the Member States without first consulting the appropriate national authorities. This shall also apply where an alert has been entered in the SIS for this person.

4.3. Accredited members of diplomatic missions and of consular representations and their families may enter the territory of the Member States on presentation of the card referred to in Article 17(2) and of the document authorising them to cross the border. Moreover, *by way of derogation from Article 11* border guards may not refuse the holders of diplomatic, official or service passports entry to the territory of the Member States without first consulting the appropriate national authorities. This shall also apply where an alert has been entered in the SIS for this person.

Or. en

Amendment by Michael Cashman

Amendment 424
Annex XI, paragraph 3.4, indent 5

– documents issued *by a NATO Headquarters (military ID card accompanied by a travel order, travel warrant, or an individual or group service order).*

– 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.*

Or. en

Amendment by Michael Cashman

Amendment 425
Annex XI, paragraph 4.1

4.1. The procedures for checking cross-border workers are governed by the

5.1. The procedures for checking cross-border workers are governed by the

general rules on border *controls*, in particular *Articles 6 and 11*. Checks may, however, be relaxed in accordance with *Article 7*.

general rules on border *control*, in particular *Articles 6 and 11*.

Or. en

Amendment by Michael Cashman

Amendment 426
Annex XI, paragraph 4.2

4.2. Where a Member State decides to adopt a local border traffic regime, the practical simplifications introduced under the regime, as provided for in Articles 4(1) and (2) and 9(1)(d), shall automatically apply to cross border workers. *deleted*

Or. en

Amendment by Michael Cashman

Amendment 427
Annex XI, paragraph 5.1

5.1. Minors crossing the external border shall be subject to the same checks on entry and exit as adults, as provided for in Articles 6 to 11. *deleted*

Or. en

Amendment by Michael Cashman

Amendment 428
Annex XI, paragraphs 5.2 and 5.3 (new)

5.2. By way of derogation from Article 6 cross-border workers well known by the border guards due to their frequent crossing of the border at the same border crossing point, and whom, on the basis of

an initial check, have not resulted as being subject of an alert in the SIS or in a national data file will be subject only to random checks to ensure that they hold a valid document authorising them to cross the border and fulfil the necessary entry conditions. Thorough checks shall be carried out on these persons from time to time, without warning and at irregular intervals.

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

Or. en

Amendment by Michael Cashman

Amendment 429
Annex XI, paragraphs 5.2

5.2. In the case of accompanied minors, the border guard *must also* check that the persons accompanying minors have parental care over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the *persons* legally exercising parental care over them.

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

Or. en

Amendment by Michael Cashman

Amendment 430
Annex XI, paragraphs 5.3

5.3. *Staff carrying out checks must pay particular attention to* minors travelling unaccompanied. *They must ensure in*

6.3. *In the case of* minors travelling unaccompanied, *border guards shall ensure,* by means of thorough checks on travel

particular, by means of thorough checks on travel documents and supporting documents, that minors do not leave the territory against the wishes of the *persons* having parental care over them.

documents and supporting documents, that *the* minors do not leave the territory against the wishes of the *person(s)* having parental care over them.

Or. en

Amendment by Michael Cashman

Amendment 431

◀ Annex VIII, form (new) ▶

Name of State

LOGO OF STATE

(Name of Office)



No logo required for Iceland and Norway

**APPROVAL OF THE EVIDENCE REGARDING THE RESPECT OF THE
CONDITION OF THE DURATION OF A SHORT STAY IN CASES WHERE THE
TRAVEL DOCUMENT DOES NOT BEAR AN ENTRY STAMP**

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

We, the undersigning authority, _____ have before us:

Surname _____ First name _____

Date of birth _____ Place of birth _____ Sex: _____

Nationality _____ Resident in _____

Travel document _____ number _____

Issued in _____ on _____

Visa number _____ (if applicable) issued by _____

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

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

Contact details of the undersigning authority:

Tel: _____

Fax: _____

e-mail: _____

The person concerned shall receive a copy of this document.

Person concerned

**Officer responsible
+ stamp**

Or. en