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Committee on Civil Liberties, Justice and Home Affairs

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AMENDEMENTS 138-198

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))

Text proposed by the Commission	Amendments by Parliament

Amendment by Michael Cashman

Amendment 138
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 ***('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.

Amendment by Michael Cashman

Amendment 139
Recital 6 a (new)

	(6a) Given that border checks constitute a legitimate interference with fundamental

rights, in particular the right to free movement, such checks should be conducted in such a way as to fully respect human dignity. Border checks should be carried out in a professional and courteous manner and be proportionate to the objectives pursued.

Or. en

Amendment by Agustín Díaz de Mera García Consuegra

Amendment 140
Recital 6 a (new)

(6a) Whereas the purpose of this Regulation is, ultimately, to guarantee the rights and freedoms of persons and their security, it should be borne in mind that these rights and freedoms, as well as people's physical integrity and lives, are endangered to a greater extent when certain roads not covered by conventional frontier posts, such as specific points on the territory or the coastline of Europe, are used to cross frontiers illegally and secretly.

Or. es

Justification

Events show that networks trafficking in human beings use channels of entry which normally are not actual frontier posts, and thus it is important to point this out in the report.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 141
Recital 15

(15) A Member State 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	(15) A Member State should also have the possibility of temporarily reintroducing checks at its borders in the event of a serious threat to its public policy ***or*** internal security. The conditions and procedures for doing so must be laid down, so as to guarantee the exceptional nature of the

proportionality.	measure and the principle of proportionality.

Or. en

Justification

(See justification for amendment to Article 20)

Amendment by Michael Cashman

Amendment 142
Recital 19 b (new)

	(19b) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents([1]) applies to documents the institutions receive in application of this Regulation.
	[1] OJ L 145, 31.5.2001, p. 43.

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 143
Recital 21

(21) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. It will be implemented in accordance with the Member States' obligations as regards international protection and non-refoulement.	(21) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ***and the European Convention for the Protection of Human Rights and Fundamental Freedoms.*** It will be implemented in accordance with the Member States' obligations as regards international protection and non-refoulement.

Or. de

Justification

To clarify that the rights enshrined in the ECHR, particularly in Article 14 thereof, should be taken into consideration.

Amendment by Michael Cashman

Amendment 144
Recital 25 a (new)

	(25a) 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 acquis[1], which falls within the area referred to in Article 1, point G of Decision 1999/437/EC[2] read in conjunction with Article 4(1) of the Council Decision 2004/860/EC on the signing on behalf of the European Community, and on the provisional application of certain provisions of that Agreement[3].

Or. en

Amendment by Gérard Deprez

Amendment 145
Article 2, point 3)

3) 'internal flight' means any flight exclusively ***to or from the territories*** of the Member States and not landing in the territory of a third State;	3) 'internal flight' means any flight exclusively ***between airports or aerodromes situated on the territory*** of the Member States and not landing in the territory of a third State;

Or. fr

Justification

The proposed wording is clearer and avoids any ambiguity. According to the initial text a flight destined exclusively for the territories of the Member States, without landing on the territory of a third country, could have taken off from an airport situated outside the territory of the Member States.

Amendment by Tatjana Ždanoka, Michael Cashman

Amendment 146
Article 2, point 7, point (b a) (new)

(ba) persons in possession of aliens', stateless persons' or non-citizens' passports issued by a Member State;

Or. en

Amendment by Michael Cashman

Amendment 147
Article 2, point (7 a) (new)

7a) 'threat to public health' means any of the diseases with epidemic potential referred to in 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 host Member State.

Or. en

Justification

AM 17 is changed to adapt its text better to the provisions of Article 29 of Directive 38/2004.

Amendment by Gérard Deprez

Amendment 148
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 crossing external borders;

Or. en

Justification

The external borders are precisely defined in point (2) of Article 2. It is therefore superfluous to specify the different kinds of external border.

Amendment by Michael Cashman

Amendment 149
Article 2, point (9 a) (new)

	9a. 'second line check' means a minimum or thorough check carried out in a special location away from the first line at which all persons are checked.

Or. en

Amendment by Gérard Deprez

Amendment 150
Article 4, paragraph 2, point e)

e) for individuals or groups of persons, where there is a requirement of a special nature, provided that they are in possession of the permits required by national legislation and that it does not conflict with the interests of public policy and the internal security of the Member States. ***Such a permit may be issued only if the person requesting it produces the necessary documents when crossing the border.***	e) for individuals or groups of persons, where there is a requirement of a special nature, provided that they are in possession of the permits required by national legislation and that it does not conflict with the interests of public policy and the internal security of the Member States.

Or. fr

Justification

The last sentence is unnecessary: if the persons concerned are in possession of the required permits they will have produced the necessary documents.

Amendment by Gérard Deprez

Amendment 151
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 539/2001, except when they are holding a valid residence permit;***

Or. en

Justification

Provision should be made to exempt holders of a residence permit issued by a Member State from producing a visa.

Amendment by Gérard Deprez

Amendment 152
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 ***are in possession of*** documents justifying 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

Justification

The proposed wording is clearer and avoids any ambiguity. Furthermore, evidence of travel insurance should not constitute one of the documents to be produced.

Amendment by Michael Cashman

Amendment 153
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 year by each of the Member States are shown in Annex III.	3. Means of subsistence shall be assessed in accordance with the purpose***, duration and conditions*** of the stay***. Where a third-country national stays with a host, a letter of guarantee from that host shall be sufficient. Where a third-country national does not stay with a host the means of subsistence shall be assessed*** by reference to average prices for board and lodging ***in budget accommodation, multiplied by the number of days stayed. The presumption of sufficient means of subsistence shall be based on the cash, traveller cheques, any credit cards and statements in respect of guarantees in the third-country national's possession.***

Or. en

Justification

As regards the last sentence: this provision does not fit into Annex II. From its content it is better placed in Article 5.3.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 154
Article 5, paragraph 3 b (new)

	(3b) Third-country nationals shall be informed which documents and financial resources they must be able to provide at the border crossing-point. In the case of third-country nationals subject to the visa requirement pursuant to Regulation (EC) No 539/2001, the diplomatic mission or consular post issuing the visa shall inform them that they must carry with them copies of all the documents requested for the visa application. In the case of third-country nationals not subject to the visa requirement pursuant to Regulation (EC) No 539/2001, Member State representations in the countries listed in Annex II to Regulation (EC) No 539/2001 shall communicate the list of documents specified in Annex II of the present Regulation and the provisions of Article

5(3a) in an appropriate way.

Or. de

Justification

In addition to information on the documents to be carried, it should also be stated what financial resources are required of third-country nationals, since the amounts required by the Member States differ considerably and lack of resources is a reason for refusing entry.

Amendment by Ewa Klamt, Manfred Weber

Amendment 155
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 national border guards. Checks shall be carried out in accordance with paragraphs 2 and 3. ***The checks shall be carried out by the authorities of each Member State in accordance with the relevant national legislation. The checks may also cover the vehicles and objects in the possession of persons crossing the border. Personnel carrying out border police duties may, in carrying out border checks, use technical aids and enhanced technical testing methods on the travel documents presented and consult national and European databanks, in so far as the required conditions exist.***

Or. de

Justification

Second and third sentences (new): an almost identical formulation is contained in paragraph 2 of the Commission proposal. For reasons of legal consistency these rules should, however, be moved to paragraph 1, as it contains the principles applicable to all categories of control (entry, departure, checks on persons enjoying freedom of movement under Community law, checks on third-country nationals, minimum checks, thorough checks, etc).
Fifth sentence (new): the provision should ensure that checks at all EU external borders are, if possible, carried out according to the same standards. In order to achieve this, the principal measures and means to be used regularly during border controls should be mentioned in the Regulation.

Amendment by Ewa Klamt, Manfred Weber

Amendment 156
Article 6, paragraph 2, subparagraph 2

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.	***A minimum check shall consist of a rapid and straightforward check to ascertain whether the documents authorising the holder to cross the border are valid and whether there are any signs of falsification or counterfeiting.*** ***In addition minimum checks may also include a search for persons or things in national or European information systems.***

Or. de

Justification

For reasons of legal consistency, the rules deleted in paragraph 1 should be moved here (cf. amendment 1 by Klamt/Weber to Article 6, paragraph 1).

The newly inserted first sentence should ensure that minimum checks are carried out at all the EU's external borders as far as possible according to the same standards, in so far as they concern checks on identity papers produced.

As regards the newly inserted second sentence: in order to effectively avert danger and pursue criminals it is necessary that the border police authorities should at least be able to consult the European information systems (e.g. the SIS) as a matter of routine when persons – even those enjoying freedom of movement under Community law enter or leave Union territory. Confining the minimum check to routinely establishing a person's nationality and checking the authenticity of travel documents would mean, for example, that wanted criminals or missing persons would be able to cross the EU's external borders at any time, without the border guard even having a chance of establishing that the person is being sought. Under such circumstances the value of the European Arrest Warrant, for example, would be substantially reduced. Routine consultation of information systems is hardly an interference with the freedom of movement or freedom to travel of those enjoying such freedom under Community law.

Amendment by Gérard Deprez

Amendment 157
Article 6, paragraph 2, subparagraph 2

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	***A minimum check*** shall ***consist of a rapid and straightforward check to ascertain whether the document(s) authorising the holder to cross the border are valid and***

vehicles and objects in the possession of the persons crossing the border.	***whether there are any signs of falsification or counterfeiting. Such*** checks may also cover the vehicles and objects in the possession of the persons crossing the border. ***The minimum check shall be the rule for those enjoying freedom of movement under Community law, except in cases where there is strong evidence that the person concerned represents a real, present and sufficiently serious threat to public order, public security or public health in a Member State.***

Or. en

Justification

The minimum check at external borders necessarily entails a check on the authenticity of documents, including those of persons enjoying freedom of movement, who, unfortunately, may include persons sought by the judicial authorities. In the event of serious doubt, the border guard should be entitled both to verify the authenticity of the papers and to ascertain whether the holder is a wanted person.

Amendment by Michael Cashman

Amendment 158
Article 6, point 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) the ***ascertaining whether the person, his vehicle and the objects he is transporting are likely to jeopardise the*** public policy***, internal security,*** public health ***or international relations of any*** of the Member States***. This shall include consulting directly the data and alerts*** on persons and objects ***contained*** in the Schengen Information System (SIS) and in national data files ***and the action, if any, to be taken as a result of an alert. Where the search of the SIS brings to light the fact that an alert, as referred to in Articles 95 to 100 of the Schengen Convention, has been issued, the action requested which appears on the screen must be taken immediately.***

Or. en

Justification

Technical correction: It needs to read Articles 95 - 100 and not 'and'

Amendment by Sylvia-Yvonne Kaufmann

Amendment 159
Article 6, paragraph 4 a (new)

	(4a) Third-country nationals subject to a thorough check in the second line shall be provided immediately with an information sheet outlining the purpose and procedure of the thorough check in the second line, including the possibility mentioned in Article 6, paragraph 4. This standard information sheet shall be available in all the official languages of the Community and the United Nations and in the languages of the countries bordering the European Union. At the end of a thorough

check in the second line they shall be provided with a notice explaining why they were subjected to a second line check, the name of the officers requesting and conducting the second line check and the stamp of the border crossing-point. This notice shall be provided in the language of the country and, if requested by the third-country national, in English.

Or. de

Justification

The changes to the rapporteur's proposal are solely intended to make it clearer.

Amendment by Rosa Díez González

Amendment 160
Article 6, paragraph 4 a (new)

4a. Third-country nationals subject to a thorough check in the second line shall be provided immediately with an information sheet outlining the purpose and procedure of this check. This standard information sheet shall be available in all the official languages of the Community and the United Nations and in the languages of the countries bordering the European Union. At the end of a thorough check in the second line they shall be provided with a notice explaining why they were subject to a second line check, the professional identity of the officers requesting and conducting the second line check and the stamp of the border crossing-point.

Or. es

Amendment by Gérard Deprez

Amendment 161
Article 6, paragraph 4 a (new)

4a. Checks on a person enjoying the Community right on free movement shall

be carried out in accordance with Directive 2004/38/EC.

Or. en

Amendment by Michael Cashman

Amendment 162
Article 9, paragraph 4 b (new)

4b. The Commission shall report to the European Parliament and the Council on the operation of the provisions on stamping travel documents by the end of 2008.

Or. en

Justification

Article 5 of Council Regulation 2133/2004 provides for such a report only to Council. Since Parliament is now a co-legislator in this field, the report should also go to Parliament. The rapporteur could agree to the integration of the stamping regulation (Regulation 2133/2004) into the present text, provided that this amendment can be accepted. At the same time no other changes to this regulation would be requested.

Amendment by Rosa Díez González

Amendment 163
Article 10 b (new)

Article 10b

Resources for border checks

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

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

3. National services responsible for border

guard duties shall be staffed with specialised and properly trained professionals. Member States shall ensure that border guards receive training on the relevant Community legislation in the field of border control and as regards fundamental rights. Member States shall also ensure that border guards fulfilling their duties at authorised border crossing-points speak at least two languages which are relevant for their work. Member States shall encourage border guards to learn more languages.

4. Member States shall deploy appropriate staff and resources in sufficient numbers to carry out checks at the external borders, in accordance with this Regulation, in such a way as to ensure effective and efficient checks at their external borders. The services responsible for border guard duties shall aim to avoid disproportionate waiting time for travellers.

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

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

Or. es

Amendment by Sylvia-Yvonne Kaufmann

Amendment 164
Article 10 b, paragraph 3 (new)

3. National services responsible for border guard duties shall be staffed with specialised and properly trained professionals. Member States shall ensure that all border guards receive training on the relevant Community legislation in the

field of border control and as regards fundamental rights. Member States shall also ensure that border guards fulfilling their duties at authorised border crossing-points speak at least two languages which are relevant for their work. Member States shall encourage border guards to learn more languages and shall promote this.

Or. de

Justification

The Member States should actively promote the learning and mastering of foreign languages, for example by means of financial or professional incentives, in order to ensure rapid and smooth border controls.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 165
Article 11, paragraph 3, subparagraph 1

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.***	3. ***Before a final decision to refuse entry is taken the border guard responsible shall seek a second opinion from a superior officer.*** Entry ***may only*** be refused by a substantiated decision ***stating the precise reasons for the refusal. The decision must be*** taken by ***an*** authority empowered to do so by national law***. It*** shall take effect immediately***. Member States may suspend the entry into force of the decision if they consider it appropriate to do so.*** ***Persons refused entry shall have the right to legal redress. The authority empowered by national law to refuse entry shall accompany the substantiated decision with a written and oral explanation of the redress procedures. Member States shall appoint the representatives competent to represent third-country nationals during the legal procedure. Should the appeal conclude that the decision to refuse entry was ill-founded, the third-country national concerned shall be entitled to compensation from the Member State which is responsible for the damage***

	suffered.
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.	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 ***and receive a copy thereof***.

Or. de

Justification

The decision as to what form of legal redress is made available to third country nationals and who may provide legal advice for them, should be left up to the Member States.

Amendment by Gérard Deprez

Amendment 166
Article 14, paragraph 2 a (new)

2a. Without prejudice to the competences 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.

Or. en

Justification

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States should rapidly become fully operational. To this end the Member States should provide it with the necessary information and act correctly as regards cooperation, exchange of best practice and the introduction of common standards.

Amendment by Gérard Deprez

Amendment 167
Article 14, paragraph 2 b (new)

2b. Member States shall refrain from any activity which might jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on the operational cooperation referred to in paragraph 2a.

Or. en

Amendment by Gérard Deprez

Amendment 168
Article 14, paragraph 2 c (new)

2c. Member States shall provide for training on the rules on border controls. 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 Ewa Klamt, Manfred Weber

Amendment 169
Article 19, paragraph 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 the same effect as 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) are taken for a reason other than the fact that the person being checked is about to or has just crossed the border,*** ***ii) are based on general police information and experience regarding possible threats to public security or crimes,*** ***iii) are devised and executed in a manner distinct from systematic checks on persons at the external borders,*** ***iv) are carried out on the basis of spot-***

	checks.
	Police powers may also be exercised for the purpose of combating cross-border crime or checking that a person is lawfully resident in the territory of a Member State. Furthermore, the execution of measures to prosecute actual infringements of criminal law provisions or to avert tangible threats to the public security or public order of a Member State remains unaffected.

Or. de

Justification

The text proposed by the Commission does not take sufficient account of the distinction made in the European treaties between the Member States' powers as regards police matters and the EU border regime. On this basis the text does not make it sufficiently clear how controls at internal borders differ from general police checks throughout the territory of a Member State, including the border areas. The amendment remedies these omissions. In particular it gives concrete examples of the parameters for general police work.

Amendment by Patrick Gaubert

Amendment 170
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***,*** by the competent authorities under ***conditions determined by*** the ***national*** legislation of each Member State, in ***an*** area adjacent to ***an internal land*** border***, of police powers and checks with a view to discovering and ascertaining infringements concerning foreigners entering or residing in the territory of the Member State concerned, provided that such checks are not of a permanent nature***;

Or. fr

Amendment by Sylvia-Yvonne Kaufmann

Amendment 171
Article 20

1. A Member State may reintroduce border	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.	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 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.
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 threat to public policy ***or*** internal security 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.

Or. en

Justification

The Commission proposes to add 'threat to public health' to the grounds justifying the reintroduction of internal border controls. This is a completely new element so far not foreseen in the Schengen Implementing Convention, the Common Manual in force or the Decision of the Schengen Executive Committee of 20 December 1995 (SCH/Com-ex (95) 20, rev.2).

The Commission justifies this proposal 'since it is also among the conditions for entry in Article 5' (p. 32 of the explanatory statement) as proposed by the Commission. To add this concept to Article 5 seems to be justified since it can according to directive 2004/38 and under very specific circumstances also be a condition for entry for EU citizens.

There is, however, a difference between 'threat to public health' as a reason to refuse the entry for an individual person and 'threat to public health' as a reason to reintroduce internal border controls which would affect all persons wishing to cross the internal border.

While for the first case it is easy to see the benefit of adding 'threat to public health' as a grounds for refusal (a person carrying a very serious disease which can easily infect many people should not be allowed entry into the Schengen zone), this is not really evident for the reintroduction of internal border controls: should there be an outbreak of such a disease on the territory of a Member State the appropriate and proportional policy reaction would be, for example, to put the affected persons in quarantine, maybe seal-off a hospital or a few buildings. It is difficult to imagine that in such a case internal border controls should be reintroduced to undertake health checks of travellers (if 'threat to public health' is the justification to reintroduce controls then that makes only sense if the controls focus on detecting such a threat).

Again a different case is the traveller returning from a third-country in which there was an outbreak of a contagious disease with epidemic potential (for example SARS in China). In such a case the traveller arrives at the external border of the Schengen area.

Amendment by Patrick Gaubert

Amendment 172
Article 21 paragraph 1, introductory part

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 ***decides*** to reintroduce ***border*** checks at ***its*** internal borders ***in accordance with*** Article 20(1), it ***should, as soon as possible, give*** the other Member States ***within the Council*** and the Commission the following information:

Or. fr

Amendment by Patrick Gaubert

Amendment 173
Article 21 paragraph 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.	***Deleted***

Or. fr

Amendment by Patrick Gaubert

Amendment 174
Article 21 paragraph 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***	3. The information provided for by paragraph 1 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.

public policy, internal security or public health. ***The consultation mentioned above shall take place at least fifteen days before the date planned for the reintroduction of checks.***	

Or. fr

Amendment by Patrick Gaubert

Amendment 175
Article 21, paragraph 4

4. Checks may only be reintroduced after the consultations referred to in paragraph 3.	***Deleted***

Or. fr

Amendment by Johannes Voggenhuber

Amendment 176
Article 21, paragraph 1, introductory part

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 checks at internal borders under Article 20(1), it shall immediately ***inform the European Parliament and*** notify the other Member States ***accordingly*** and ***shall request a decision of*** the Commission, supplying the following information:

Or. en

Justification

The 'scoreboard' to review progress on the creation of an area of 'Freedom, security and Justice' in the EU provided for the presentation by the Commission of a legal instrument by the end of the year 2001 in view of the Communitarisation of art. 2 of the Schengen Convention. In an answer to a written question (E-0846/04) the Commission says that it is still convinced of the necessity to communitarise art. 2 of the Schengen Convention and it announces that it would do

so in the framework of the draft Regulation under consideration. The proposal formulated by the Commission is not satisfactory and cannot be considered as a genuine Communitarisation of Art.2 of the Schengen Convention

Amendment by Johannes Voggenhuber

Amendment 177
Article 21, paragraph 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 ***to the other Member States and the request to the Commission,*** and in view of the ***decision*** provided for in paragraph 3, the Commission shall, ***after informing the European Parliament, take a decision on the basis of the information provided by the Member State concerned, after consultation of the other Member States. Where the Commission and the Member State concerned disagree, the Commission may ask the Council to take a decision at ministerial level.***

Or. en

Amendment by Johannes Voggenhuber

Amendment 178
Article 21, paragraphs 3 and 4

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

	reintroduction of checks.
4. Checks may only be reintroduced after the consultations referred to in paragraph 3.	4. Checks may only be reintroduced after the consultations ***and decision referred*** to in paragraph 3.

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 179
Article 21, paragraph 1, point a)

(a) the reasons for the proposed decision, detailing the events that constitute a serious threat to public policy**,** internal security ***or public health***;	(a) the reasons for the proposed decision, detailing the events that constitute a serious threat to public policy ***or*** internal security;

Or. en

Justification

(see justification for amendment on article 20)

Amendment by Sylvia-Yvonne Kaufmann

Amendment 180
Article 21, paragraph 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 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 ***or*** internal security**.**

Or. en

Justification

(see justification for amendment to article 20)

Amendment by Gérard Deprez

Amendment 181
Article 21, paragraph 4 a (new)

4a. The Member State concerned shall inform the European Parliament on the measures taken in accordance with this Article.

Or. en

Justification

The justification is obvious.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 182
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 emergency action, the Member State concerned may immediately reintroduce checks at internal borders.

Or. en

Justification

(see justification for amendment on article 20)

Amendment by Rosa Díez González

Amendment 183
Article 22, paragraph 1

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

Or. es

Amendment by Gérard Deprez

Amendment 184
Article 22, paragraph 2 a (new)

2a. The Member State concerned shall inform the European Parliament of the measures taken in accordance with this Article.

Or. en

Justification

The justification is obvious.

Amendment by Stefano Zappalà

Amendment 185
Article 23, paragraph 2 a (new)

2a. As of the third consecutive prolongation, the requesting Member State shall explain to the European Parliament the need for checks at internal borders

Or. en

Amendment by Sylvia-Yvonne Kaufmann

Amendment 186
Article 24, paragraph 1

1. In the event of an exceptionally serious threat to public policy***,*** internal security ***or public health*** affecting several Member States, for example in the event of a cross-border terrorist threat, the Council, acting on a proposal by the Commission, may decide by qualified majority to	1. In the event of an exceptionally serious threat to public policy ***or*** internal security affecting several Member States, for example in the event of a cross-border terrorist threat, the Council, acting on a proposal by the Commission, may decide by qualified majority to reintroduce checks

reintroduce checks immediately at all internal borders or at particular borders of all or several Member States. The scope and duration of these checks may not exceed what is strictly necessary for responding to the exceptional seriousness of the threat.	immediately at all internal borders or at particular borders of all or several Member States. The scope and duration of these checks may not exceed what is strictly necessary for responding to the exceptional seriousness of the threat.

Or. en

Justification

(see justification for amendment on article 20)

Amendment by Ewa Klamt, Manfred Weber

Amendment 187
Article 24

Article 24	***Deleted***
Joint reintroduction of checks at internal borders because of a cross-border terrorist threat	
1. In the event of an exceptionally serious threat to public policy, internal security or public health affecting several Member States, for example in the event of a cross-border terrorist threat, the Council, acting on a proposal by the Commission, may decide by qualified majority to reintroduce checks immediately at all internal borders or at particular borders of all or several Member States. The scope and duration of these checks may not exceed what is strictly necessary for responding to the exceptional seriousness of the threat.	
2. The Council, acting on a proposal by the Commission, shall decide by qualified majority to lift these exceptional measures as soon as the exceptionally serious threat has ceased to exist.	
3. The European Parliament shall be informed of the measures taken under paragraphs 1 and 2 without delay.	
4. This Article shall not preclude an	

immediate and concomitant decision taken by a Member State under Article 22.

Or. de

Justification

*The Commission proposal envisages, by way of derogation from the Convention Implementing the Schengen Agreement and in the event of particularly serious threats, especially terrorist threats, allowing the reintroduction of border controls not only by the Member State affected, but also by the Council on a proposal from the Commission**.** Such a decision might, contrary to the judgement of the Member State concerned, involve the deployment of personnel who might simultaneously be needed for more important work and for the Member State's own purposes. This would mean depriving the Member State concerned of the freedom to deploy its personnel precisely at times when the threat is greatest. This possibility is not covered by the European treaties and should therefore be rejected. Furthermore, the Commission and the Council could hardly …their powers.*

Amendment by Rosa Díez González

Amendment 188
Article 24 a (new)

Article 24a

Informing the European Parliament

The Member State concerned or, where appropriate, the Council shall inform the European Parliament without delay of the measures taken under Articles 21 to 24.

Or. es

Amendment by Johannes Voggenhuber

Amendment 189
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***	***The decision to reintroduce*** checks 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***

reintroduction of checks and the authorised crossing-points.	***so***.

Or. en

Amendment by Michael Cashman

Amendment 190
Article 30

1. The Commission shall be assisted by a committee.	1. The Commission shall be assisted by a committee, ***hereinafter 'the Committee'. It shall be composed of the representatives of the Member States and chaired by the representative of the Commission.***
2. ***Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.*** ***The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.***	2. ***The Committee shall adopt its rules of procedure.***
3. ***The committee shall adopt its rules of procedure***.	3. ***Where this Regulation imposes procedural requirements for the adoption of implementing measures, the representative of the Commission shall submit a draft of those measures to the Committee and to the European Parliament.*** ***The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter which shall not be less than one month. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.*** ***4. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee and if no objection has been***

raised in the meantime by the competent committee of the European Parliament.

5. Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, or an objection has been raised by the competent committee of the European Parliament, the Commission shall, without delay, submit to the Council and to the European Parliament a proposal relating to the measures to be taken.

6. If, within a period which may not exceed three months from the referral, the proposal has not been rejected either by the European Parliament, by an absolute majority of its members, or by the Council, acting by qualified majority, it shall be adopted by the Commission. Otherwise the Commission shall submit an amended proposal or present a legislative proposal on the basis of the Treaty.

7. Without prejudice to any implementing measures already adopted, application of the provisions of this Regulation which provide for the adoption of technical rules and decisions shall cease four years after the entry into force of this Regulation. Acting on a proposal from the Commission, the European Parliament and the Council may extend the period of validity of the relevant provisions, in accordance with the procedure laid down in Article 251 of the Treaty, and, with that aim in view, shall review those provisions prior to expiry of the four-year period.

Or. en

Amendment by Rosa Díez González

Amendment 191
Article 32 a (new)

	Article 32 a
	Control of implementation by the Commission
	The Commission shall be responsible for controlling the implementation of this Regulation by the Member States. The reports issued on the subject shall be sent periodically to the European Parliament and the Council.

Or. es

Amendment by Michael Cashman

Amendment 192
Annex II, paragraph 1, point (a), indent 1

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

Or. en

Justification

The amendments on Annex II seek, on the one hand, to define the documents necessary in a more comprehensive way, and, on the other hand, to provide for the necessary flexibility.

Amendment by Michael Cashman

Amendment 193
Annex II, paragraph 1, point (c), introductory part (new) and indent 1

	supporting documents as regards the lodging:
- an invitation from the host;	- an invitation from the host ***if staying with one;***

Or. en

Amendment by Michael Cashman

Amendment 194
Annex II, paragraph 1, point (c), introductory part (new) and indent 3

	supporting documents as regards the itinerary:
- confirmation of the booking of an organised trip:	- confirmation of the booking of an organised trip ***or any other appropriate document indicating the envisaged travel plans;***

Or. en

Amendment by Michael Cashman

Amendment 195
Annex II, paragraph 1, point (c), introductory part (new) of indent 4

	supporting documents as regards return:

Or. en

Amendment by Michael Cashman

Amendment 196
Annex II, paragraph 1, point (e), indent 1

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

Or. en

Amendment by Michael Cashman

Amendment 197
Annexe II, paragraph 2

2. The presumption of sufficient means of	***deleted***

subsistence for the purposes of Article 5(1) and (3) will be based, for example, on the cash, travellers' cheques, credit cards, and statements in respect of guarantees in the third-country national's possession. Documents stating that a third-country national's expenses will be covered by a person residing lawfully in the Member State of destination may also constitute evidence of sufficient means of subsistence.

Or. en

Justification

This provision does not fit into Annex II. From its content it is better placed in Article 5, paragraph 3.

Amendment by Michael Cashman

Amendment 198
Annexe X, point 1.2.6.a

1.2.6a. Checks on rail traffic shall not be relaxed in accordance with Article 7.

Or. en

Justification

It is difficult to imagine unforeseen circumstances in this context. Rail traffic should be subject to the same rules like sea and air traffic (see amendments 116 and 112)