



Brussels, 15.6.2015  
C(2015) 3894 final

**COMMISSION RECOMMENDATION**

**of 15.6.2015**

**amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C (2006) 5186 final)**

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### **amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C (2006) 5186 final)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Commission Recommendation of 6 November 2006 C(2006)5186 established a "Practical Handbook for Border Guards (Schengen Handbook)" containing common guidelines, best practice and recommendations on border controls.
- (2) The Commission committed itself to ensuring regular updates of the Practical Handbook for Border Guards. It did so by Commission Recommendations C(2008)2976, C(2009)7376, C(2010)5559, C(2011)3918 and C(2012)9330.
- (3) The Practical Handbook for Border Guards should be adjusted to the changes of Regulation (EC) No 562/2006 of the European Parliament and of the Council<sup>1</sup> brought by Regulation (EU) No 610/2013 of the European Parliament and of the Council<sup>2</sup>.
- (4) The Practical Handbook for Border Guards should reflect the accession of Croatia to the Union on 1 July 2013.
- (5) The terminology of the Practical Handbook for Border Guards should be aligned with the Lisbon Treaty, which entered into force on 1 December 2009, including the replacement of the European Community by the European Union.
- (6) The Practical Handbook for Border Guards should take into account mandatory verification of fingerprints of short-stay visa holders on entry at the Schengen external borders as of 11 October 2014, as required under Article 7(3)(aa) of Regulation (EC) No 562/2006 and Article 18 of the Regulation No 767/2008 of the European Parliament and of the Council<sup>3</sup>.

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

<sup>2</sup> Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council (OJ L 182, 29.6.2013, p. 1).

<sup>3</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

HEREBY RECOMMENDS:

1. The Annex to the Recommendation of 6 November 2006 (C(2006)5186 final) should be amended as set out in the Annex to this Recommendation.
2. Member States should transmit the amendments to the Practical Handbook for Border Guards, laid down in this Recommendation, to their national authorities competent for carrying out border controls on persons.

Done at Brussels, 15.6.2015

*For the Commission*  
*Dimitris Avramopoulos*  
*Member of the Commission*





Brussels, 15.6.2015  
C(2015) 3894 final

ANNEX 1

**ANNEX**

*to the*

**Commission Recommendation**

**amending the Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons (C(2006) 5186 final)**

## ANNEX

The Annex to the Recommendation C(2006)5186 final should be amended as follows:

(1) In Part One, point 2 is replaced by the following:

"2. EU MEMBER STATES:

- |                   |                |                     |
|-------------------|----------------|---------------------|
| 1. Austria        | 11. Germany    | 20. The Netherlands |
| 2. Belgium        | 12. Greece     | 21. Poland          |
| 3. Bulgaria       | 13. Hungary    | 22. Portugal        |
| 4. Croatia        | 14. Ireland    | 23. Slovakia        |
| 5. Czech Republic | 15. Italy      | 24. Slovenia        |
| 6. Cyprus         | 16. Latvia     | 25. Spain           |
| 7. Denmark        | 17. Lithuania  | 26. Sweden          |
| 8. Estonia        | 18. Luxembourg | 27. Romania         |
| 9. Finland        | 19. Malta      | 28. United Kingdom" |
| 10. France        |                |                     |

(2) In Part One, point (c) of point 4 is replaced by the following:

"c) sea, river and lake ports of the Member States for regular internal ferry connections."

(3) In Part One, points 6, 14 and 15 are replaced by the following:

"6. **'Persons enjoying the Union right of free movemet'** are nationals of EU Member States, EEA countries and Switzerland, as well as members of their family, regardless of their nationality accompanying or joining them.14. **'Minimum check'** is the check to be carried out on all persons including EU citizens and persons enjoying the Union right of free movement, in order to verify their identity and nationality for EU/EEA/CH citizens or their identity and family ties with an EU/EEA/CH citizen for their family members who are not EU/EEA/CH citizens themselves. It consists of a rapid and straightforward verification of the travel document, with the aim of checking the validity of it and of detecting the presence of signs of falsification or counterfeiting, and includes, where considered necessary on the basis of a risk assessment, consultation of the relevant databases, notably the documents section of SIS and Interpol.

15. **'Thorough check'** is the check to be carried out on third-country nationals. It consist of the verification by the border guard that a third-country national fulfils all the conditions to enter (and exit) the territory of a Schengen State and includes consultation of the relevant databases, notably the documents section of SIS and Interpol."

(4) In Part One, point (a) of point 23 is replaced by the following:

"(a) transit through or an intended stay in the territory of the Member State of duration of no more than 90 days in any 180 days period from the date of first entry in the territory of the Member States;"

(5) In Part Two, Section I, point 1 is amended as follows:

(a) Point a) of point 1.1 is replaced by the following:

"a) the possession of a valid travel document or documents authorising them to cross the border, whereby its validity shall extend at least three months after the intended date of departure from the Member States (although in a justified case of emergency, this obligation may be waived) and it shall have been issued within the previous 10 years;"

(b) In point 1.1, the last paragraph is replaced by the following:

"N. B. The above conditions do not apply to EU citizens and other beneficiaries of the Union right to free movement, who are entitled, as a general rule, to enter the territory of any Member State on simple presentation of an identity card or a passport. For further details, see points 1.6 and 3.1 below."

(c) In point 1.2, the last paragraph is replaced by the following:

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

(d) In point 1.3, the fourth and the fifth indents in the box are replaced by the following:

"- check the data in the file system in particular the documents section of SIS and Interpol's Lost and Stolen Documents; while doing this keep always verbal contact and observe the behaviour and reaction of the traveller (e.g., nervousness, an aggressive attitude, excessive willingness to co-operate); also cross-check the data in the Visa Information system if indicated on the visa sticker that data is contained in the VIS. Depending on the marking of the visa sticker, this shall be done by using the number of the visa sticker (marking "O", or the number of the visa sticker in combination with verification of fingerprints of the visa holder (marking "FP");

- before you put the border's stamp make sure that the person did not overstay the allowed period during his/her last stay within the Schengen States territory, i.e. 90 days within any 180 days;"

(e) Point 1.4 is replaced by the following:

"All persons must undergo a minimum check upon entry and exit, involving the matching of the identity of the person with the documents enabling them to cross the border. The minimum check usually consists of a rapid and straightforward verification of the travel document, with the aim of checking the validity of it and of detecting the presence of signs of falsification or counterfeiting. This check should involve the consultation, in the relevant databases, notably the documents section of SIS and Interpol's Lost and Stolen Documents database, of information concerning stolen, misappropriated, lost and invalidated documents, based, where considered necessary, on a risk assessment. In case such consultation reveals a SIS alert on the need to seize a document, a document in question should be seized immediately and the information to that effect has to be passed on to the Sirene Bureau without any delay in line with the rules set out in the SIRENE manual.

The minimum checks should be the rule for persons enjoying the Union right of free movement (see point 3.1 below), unless there are considerations that the person represents a genuine, present and sufficiently serious danger to the internal security or public policy or international relations of Member States."

(f) In point 1.5, new points j) and k) are added:

"j) Rescue services, police, fire brigades and border guards (point 3.14)

k) Offshore workers (point 3.15)"

(g) In point 1.5, the last paragraph before the box is replaced by the following:

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

(h) In point 1.6, the second and the third indents are replaced by the following:

"- the thorough scrutiny of the travel document for signs of falsification or counterfeiting. Where appropriate, the examination of travel documents, visas and residence permits should be carried out through comparison with specimen of current documents which entitle to cross the border and with specimens of visa stickers, and by using equipment such as UV lamps, magnifying glasses, retrieval lamps, microscopes, document boxes and, where necessary, more advanced equipment such as video spectrum etc. Moreover, the relevant databases (notably relevant sections of SIS and Interpol) shall be consulted. The same applies to the Visa Information System, if indicated on the visa sticker that data is contained in the VIS. Depending on the marking of the visa sticker, this shall be done by using the number of the visa sticker (marking "O", or the number of the visa sticker in combination with verification of fingerprints of the visa holder (marking "FP").

- the examination of the entry and exit stamps in the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the territory of the Schengen States i.e. 90 days in any 180 period. The period of three months must be counted starting from the date of first entry;"

(i) In point 1.6, the last paragraph in the box is replaced by the following:

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

(j) In point 1.6, the following box is added:

"Guidelines on calculation of the length of stay:

For the 90 days within 180 days-period, the day of entry shall be calculated as the first day of stay in the Member States and the day of exit shall be calculated as the last day of stay in the Member States. The notion of "any" implies the application of a "moving" 180-day reference period, looking backwards, at each day of the stay, into the last 180 days period, in order to verify if the 90 days/180 day requirement continues to be fulfilled. This means that an absence for an uninterrupted period of 90 days allows for a new stay for up to 90 days. See: <http://ec.europa.eu/dgs/home-affairs/what-we->

do/policies/borders-and-visas/border-crossing/docs/short\_stay\_schengen\_calculator\_user\_manual\_en.pdf

The “short-stay calculator” on the European Commission's/DG HOME's website (or as downloaded from CIRCA) can be used for calculating the period of allowed stay under the new rules. The user’s guide contains information on the new rules, the use of the calculator and practical examples. See: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/index_en.htm)

This way of calculating short stays, which applies as of 18 October 2013, does not apply to the visa waiver agreements concluded between the EU and Antigua and Barbuda, The Bahamas, Barbados, Brazil, Saint Kitts and Nevis, Mauritius, and Seychelles with respect to which the old definition ("3 months during a 6 months period following the date of first entry") continues to apply. The length of stay of non-EU citizens traveling with a visa issued in accordance with the visa facilitation agreements concluded by the EU and certain third countries is to be calculated according to the new calculation method since in these agreements there is a reference to "90 days per period of 180 days".

(k) In point 1.10, the following is deleted from the Legal Basis box:

"- Judgment of the ECJ of 3 October 2006, Case C-241/05 Bot vs. Prefet du Val-de-Marne"

(6) In Part Two, Section I, in point 2.2.6 the box is replaced by the following:

*\* Legal basis:*

- Regulation 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II), Art.24-26
- Council Decision 2007/533 of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), Chapter V-IX

(7) In Part Two, Section I, point 3 is amended as follows:

a) The title of point 3.1 and first paragraph of point 3.1.1 are replaced by the following:

"3.1 Persons enjoying the Union right of free movement

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

b) Points 3.1.2, 3.1.3 and 3.1.4 are replaced by the following:

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

In case the traveller presents a travel document without a machine readable zone and there is a doubt about his/her identity, a second line check should be carried out.



3.1.3 Checks on persons enjoying the Union right of free movement should be limited, as a general rule, to the verification of their identity and nationality /family ties (so-called “minimum check”, see above point 1.4). In principle no questions concerning employment certificate, pay slips, bank statements, accommodation, means of subsistence or other personal data should therefore be asked to them. 3.1.4

However, on a non-systematic basis, and in order to ensure that the presence of these persons does not represent a genuine, present and sufficiently serious danger to the internal security or public policy or international relations of Member States or a threat to public health, border guards may carry out a **further check** on these persons by consulting national and European databases.

Non-systematic checks on persons enjoying the right of free movement under Union law can be carried out at all border crossing points on the basis of risk assessment or, as an ancillary measure - on a random basis.

Based on an analysis of the **risks for internal security** or analysis of the threats that may affect the security of external borders, checks **may be carried out systematically on those persons which fall under this risk assessment**. Those persons who do not fall under the risk assessment would generally not be checked against the databases. This also means, that the passenger data of EU citizens transmitted for the performance of border control may be checked in the databases for the purposes of allowing their use as evidence to ensure that there is no threat to the national security. In particular, to better target checks, API data should be used on passengers on incoming flights according to the current and updated risk assessment.

#### **Example in view of identifying foreign fighters**

With a view of detecting persons returning back to the EU from the conflict zones where they were combatting or supporting terrorist organizations, the border guards may systematically check against the databases on particular travel patterns (e.g. flights coming from the geographical areas in the vicinity of conflict zones) a certain category of persons falling under the risk assessment. In that context Member States are invited to use the common risk indicators established by the Commission together with Member States and relevant agencies.

In any case, these checks shall remain proportional to the objective pursued, i.e. to the protection of internal security or security of external borders, but shall be adapted to the evolving threats identified by the Member States. They should be intensified in case the risk increases and should be carried out as long as the relevant risk assessment indicates the need for such intensified checks.

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

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

- c) Point 3.4.1 is replaced by the following:

"Member States may authorise seamen holding a seafarer's identity document issued in accordance with the International Labour Organization (ILO) Seafarers' Identity Documents Convention No 108 (1958) or No 185 (2003), the Convention on

Facilitation of International Maritime Traffic (FAL Convention) and the relevant national law, to enter the Member States by going ashore to stay in the area of the port where their ships call or in the adjacent municipalities, or exit the Member States by returning to their ships, without presenting themselves at a border crossing point, on condition that they appear on their ship's crew list, which has previously been submitted for checking by the competent authorities.

However, on the basis of an assessment of the risks of internal security and illegal immigration, seamen shall be subject to a check in accordance with Article 7 by the border guards before they go ashore."

- d) Point 3.8.3 is replaced by the following:

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

- e) In point 3.9, the first paragraph is replaced by the following:

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

- f) Points 3.10, 3.11 and 3.12 are replaced by the following:

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

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

3.12 As a rule, ADS tourists must be accompanied by a tour leader, who must ensure that they enter and leave the Union as a group."

- g) The following points 3.14 and 3.15 are added:

"3.14 Rescue services, police, fire brigades and border guards

The arrangements for the entry and exit of members of rescue services, police, fire brigades acting in emergency situations as well as border guards crossing the border in exercise of their professional tasks shall be laid down by national law.

3.15 Offshore workers

Offshore workers, who regularly return to the Member States without having stayed on the territory of a third country shall not be systematically checked. Nevertheless, an

assessment of the risks of illegal immigration shall be taken into account in order to determine the frequency of the checks to be carried out."

(8) In part Two, Section I, point 4 is amended as follows:

a) Point 4.1 is replaced by the following:

"As a general rule, the travel documents of all third country nationals must be stamped systematically on entry and exit. The stamp does not constitute proof that a thorough check has been carried out; it only makes it possible to establish, with certainty, the date and place of the crossing of the border. Stamping is also intended to ensure that it is possible to verify, during checks on entry to and exit from the Schengen territory, whether the allowed maximum duration of a third-country national's stay in the Schengen territory – 90 days in any 180 days period – has been respected."

b) In point 4.2, the following points h) and i) are added:

"h) to the travel documents of crews of passengers and goods trains on international connections;

i) to the travel documents of nationals of third countries who present a residence card provided for in Directive 2004/38/EC."

c) Point 4.3, is replaced by the following:

"The travel document of family members of EU, EEA and CH citizens who are third-country nationals must also be stamped, unless they present a residence permit or card issued in accordance with Directive 2004/38/EC as submitted in line with Art.34 of the Schengen Border Code or otherwise clearly indicating a family member of an EU citizen or a family member of an EEA or CH citizen.

\* Examples:

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

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

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

d) In Point 4.6 the paragraph before the box is replaced by the following:

"On entry and exit of third-country nationals subject to the visa obligation, the stamp shall, as a general rule, be affixed 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 must not be stamped, and the stamps cannot be affixed on the personal data and other pages where original formal notes are made."

(9) In Part Two, Section I, point 6 is amended as follows:

(a) In point 6.1, point f) is replaced by the following:

"f) they have already stayed for 90 days during any 180-days period (which entails considering the 180-day period preceding each day of stay) on the territory of the Schengen States;"

(b) In point 6.2 the introductory phrase is replaced by the following:

"A Member State shall not refuse entry and let the third-country national enter into its territory in the following cases:"

(c) In point 6.2, point c) is replaced by the following:

"c) if the person holds a residence permit, a long-stay visa or a re-entry visa issued by a Schengen State, or where required, a residence permit or a long stay visa and a re-entry visa or when the person holds a residence permit issued by a Schengen State and passport older than 10 years, in order to allow the person to transit and reach the territory of such a State. Transit can, however, be refused in case there is an alert concerning this person in national databases of a Schengen State whose external borders the person is seeking to cross and the alert is accompanied by instructions to refuse entry or transit."

(d) Point 6.3 is replaced by the following:

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

(e) In point 6.3.1 the fifth paragraph is replaced by the following :

"The above is without prejudice to other actions to be performed as a consequence of a SIS alert, such as the arrest of the person, the adoption of protection measures, information on lost and stolen documents etc. In case such consultation reveals a SIS alert on the need to seize a document, it has to be seized immediately and the Sirene Bureau must be contacted for further information without any delay."

(f) In point 6.3.2, the paragraph before the box is replaced by the following:

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

(g) Point 6.8 is replaced by the following:

"6.8 If a person enjoying the Union right of free movement is refused entry, the border guard must always provide the person with a written decision. The decision must be drafted in such a way that the person concerned is able to comprehend its content and the implications. The decision must also include precise and full indication of the public policy or public security grounds on which the decision taken is based, unless this is contrary to the interests of State security. The decision must also specify the court or administrative authority with which the person concerned may lodge an appeal and the time limit for the appeal."

(10) In Part Two, Section I, point 7.1, the first indent, point a) is replaced by the following:

"a) transit through or an intended stay in the territory of the Member State of duration of no more than 90 days in any 180-days period in the territory of the Member States;"

(11) In Part Two, Section I, point 9.2.1 is replaced by the following:

"9.2.1 Until Bulgaria, Croatia, Cyprus and Romania join the Schengen area, they may recognise

- a Schengen uniform visas valid for two or multiple entries;
- long-term visas and residence permits issued by a Schengen State;  
as equivalent to their national visas for the purpose of transit through their territory or intended stays on their territory exceeding 90 days in any 180 days period."

(12) In Part Two, Section I, point 10 is amended as follows:

(a) The footnote 8 to the title of the point is replaced by the following:

"<sup>8</sup> This section does not apply to Norway, Iceland, Liechtenstein and Switzerland. This section applies to Denmark as far as the determination of the Member State responsible for examining an asylum application is concerned."

(b) The General Principles box is replaced by the following:

General principles:

All applications for international protection (including asylum) lodged at the border must be examined by Member States in order to assess, on the basis of the criteria laid down in Directive 2011/95/EU of 13 December 2011, whether the applicant qualifies either for refugee status, in accordance with the Geneva Convention relating to the Status of Refugees of 28 July 1951 as supplemented by the New York Protocol of 31 January 1967, or for subsidiary protection status, as defined in the same Directive.

The Member State actually responsible for examining the application is to be determined in accordance with Council Regulation (EU) No 604/2013 of 26 June 2013 (Dublin III Regulation).

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

\_\_\_\_\_  
\* This Directive will be repealed and replaced by Directive 2013/32/EU with effect from 21 July 2015.]

(c) In point 10.4, the legal basis box is replaced by the following:

*Legal basis:*

- [Geneva Convention 28 July 1951](#) and [New York Protocol](#);
- [Council Regulation \(EC\) 2725/2000](#);
- [Council Regulation \(EC\) No 407/2002](#);

- [Council Regulation \(EU\) No 603/2013](#);
- [Council Regulation \(EU\) No 604/2013](#);
- Council [Regulation](#) (EU) No 118/2014;
- [Council Directive 2011/95/EU](#);
- [Council Directive 2005/85/EC](#).
  
- Charter of Fundamental Rights of the European Union, in particular Article 4 (prohibition of torture and inhuman or degrading treatment or punishment) and Article 18 (right to asylum) and Article 19 (protection in the event of removal, expulsion or extradition).

(13) In Part Two, Section II, point 1 is amended as follows:

a) Point 1.1. is replaced by the following:

"The border guard in command of a crossing point must ensure that effective checks on persons and documents are carried out, while at the same time ensuring the safety and flow of road traffic. To that end technical improvements should be introduced, where necessary, to reduce the response times of consultation with the relevant data. Where relevant, the technical infrastructure of border crossings should be improved, including the increased use of passport readers and mobile terminals."

b) Point 1.2 is replaced by the following:

"If possible, there should be separate lanes installed for persons enjoying the Union right of free movement and other third-country nationals, in accordance with general rules on the separation of lanes."

c) In point 1.3, the second box, the last paragraph is replaced by the following:

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

d) The following point 1.4 is added:

"1.4 Member States may conclude or maintain bilateral agreements with neighbouring third countries concerning the establishment of shared border crossing points, at which Member State border guards and third-country border guards carry out exit and entry checks one after another in accordance with their national law on the territory of the other party. Such shared border crossing points may be located either on the territory of a Member State territory or on the territory of a third country."

(14) In Part Two, Section II, point 2 is amended as follows:

(a) Point 2.2 is replaced by the following:

"2.2 Checks can be carried out in one of the following three ways:

- a) in the first station of arrival or last station of departure in a Schengen State,
- b) on board the train, during transit between the last station of departure in a third country and the first station of arrival in a Schengen State or vice versa,

- c) in the last station of departure or the first station of arrival on the territory of a third country."

(b) In point 2.4 point c) is replaced by the following:

- "c) on board the train during transit between stations in a third country and stations in the Schengen States, provided that the persons stay on board the train."

(15) In Part Two, Section III, point 1 is amended as follows:

(a) In point 1.1. the following paragraphs are added:

"The technical infrastructure of border crossings should be improved, including the increased use of passport readers, e-gates and mobile terminals.

Technical improvements should be introduced, where necessary, to reduce the response times of consultation with the relevant data."

(b) The following points 1.7, 1.8 and 1.9 are added:

1.7 In order to better target checks on all passengers including EU citizens advanced passenger data in accordance with the Council Directive 2004/82/EC shall be used based on a current and updated risk assessment on incoming flights. It is for the national authorities to determine on which incoming flights crossing the external borders the advance passenger data will be used.

1.8 Where relevant, the technical infrastructure of border crossings should be improved, including the increased use of passport readers, e-gates and mobile terminals.

Technical improvements should be introduced, where necessary, to reduce the response times of consultation with the relevant data.

1.9 The advanced passenger data in accordance with the Council Directive 2004/82/EC to enable more targeted checks on incoming flights crossing the external borders on all passengers including EU citizens should be used on a more regular basis. It is for the national authorities to determine on which incoming flights crossing the external borders the advance passenger data will be used, according to the current and up- dated risk assessment. Member States may use these API data for law enforcement purposes."

(16) In Part Two, Section IV, point 1 is amended as follows:

(a) Points 1.2, 1.3, 1.4 and 1.5 are replaced by the following:

"1.2 Checks on ships shall be carried out at the port of arrival or departure, or in an area set aside for that purpose, located in the immediate vicinity of the vessel or on board ship in the territorial waters as defined by the United Nations Convention on the Law of the Sea. However, in accordance with the agreements reached on the matter, checks may also be carried out during crossings or, upon the ship's arrival or departure, in the territory of a third country.

No systematic border checks shall be carried out on persons staying aboard. However, a search of the ship and checks on the persons staying aboard shall be carried out when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration

1.3 The master, the ship's agent or some other person duly authorised, shall draw up a list of the crew and any passengers containing the information required in the forms 5 (crew list) and 6 (passenger list) of the Convention on Facilitation of International Maritime Traffic (FAL Convention) as well as, where applicable, the visa or residence permit numbers.

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

1.4 The above list(s) must be handed over to the border guards or to other authorities which shall forward the list without delay at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available.

1.5 A confirmation of receipt (signed copy of the list(s) or an electronic receipt confirmation) shall be returned to the master, who shall produce it on request when the ship is in port."

(b) Point 1.7 is replaced by the following:

"1.7 The master of the ship is obliged to inform border guards about the presence of stowaways on his/her ship at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available. Stowaways remain under the responsibility of the master."

(17) In Part Two, Section IV, point 2 is amended as follows:

(a) Points 2.2 and 2.3 are replaced by the following:

"2.2 The cruise ship's master shall transmit to the border guards the itinerary and the programme of the cruise, as soon as they have been established and no later than twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of call is not known or it is changed during the voyage, as soon as this information is available.

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

(b) In point 2.4. point e) the paragraph before the box is replaced by the following

"e) where a cruise ship departs from one port situated in a Schengen State to another, no exit checks must be carried out. Nevertheless, checks shall be carried out on the crew and passengers of those ships only when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration."

(c) Point 2.5 is replaced by the following:

"2.5 The crews and passengers lists must be transmitted to the respective border guards by the cruise ship's captain or, failing that, the ship owner's agent at the latest twenty-four hours before arriving in the port, or at the latest at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours, or, if the port of



call is not known or it is changed during the voyage, as soon as this information is available. A confirmation of receipt (signed copy of the list(s) or an electronic receipt confirmation) shall be returned to the master, who shall produce it on request when the ship is in port."

(18) In Part Two, Section IV, point 5 is amended as follows:

(a) In point 5.1 the following point i) is added:

"i) Point 1.3 (the obligation to submit passenger and crew lists) does not apply. If a list of the persons on board has to be drawn up in accordance with Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community, a copy of that list shall be transmitted not later than thirty minutes after departure from a third- country port by the master to the competent authority of the port of arrival on the territory of the Member States."

(b) The following point 5.2 is added:

"Where a ferry coming from a third country with more than one stop within the Member States takes passengers on board only for the remaining leg within that territory, those passengers shall be subject to an exit check at the port of departure and an entry check at the port of arrival. Checks on persons who, during those stop-overs, are already on board the ferry and have not boarded in the Member States shall be carried out at the port of arrival. The reverse procedure shall apply where the country of destination is a third country."

(19) In Part Two, Section IV, the following point 6 is added:

*"6. Cargo connections between Member States*

6.1 No border checks shall be carried out on cargo connections between the same two or more ports situated on the territory of the Schengen States, not calling at any ports outside the Schengen States and consisting of the transport of goods.

Nevertheless, checks shall be carried out on the crew and passengers of those ships only when they are justified on the basis of an assessment of the risks relating to internal security and illegal immigration."