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NOTE

from: The Presidency
to: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

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(COM(2011)118 final)

No. prev. doc. 17771/11 FRONT 188 CODEC 2240 COMIX 781

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Council 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) and the Convention implementing the Schengen Agreement

Following discussions on the proposal for a Regulation of the European Parliament and of the Council amending Council 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) and the Convention implementing the Schengen Agreement at the Working Party on Frontiers under the Polish Presidency, the Presidency considers that there is a large majority of delegations supporting the last compromise text as set out in doc. 17771/11, subject to a limited number of open issues.

The Presidency intends to reach agreement as soon as possible on Article 5 and for that purpose coordination with the Visa Working Party is currently undergoing. As previously discussed in the Working Party, if the way of calculating the authorised period of stay is to be amended, the same solution should have to be followed for visa free travellers as well for third-country nationals who need a short-stay visa to access the Schengen area. That actually means that several legislative instruments regarding visa policy should be accordingly amended in the framework of the current proposal. The Visa Working Party will continue the discussion on the matter at its meeting on 7 February 2012.

For the purpose of reaching an agreement on the outstanding issues, the Presidency invites delegations to lift their reservations and consider the following suggestions.

1) **Article 5:** At this stage, agreement has been reached on the deletion of the words *"from the date of first entry"* both in Article 5 of the SBC and in Article 20.1 of CISA, and to specify at the end of paragraph 1 that *"When implementing these provisions, the day of entry is calculated as a first day of stay and the day of exit is calculated as a last day of stay in the territory of the Member States."* It has also been agreed to replace the reference to 3 months by "90 days", but to keep the words "in any six-month period". In this regard the Commission has shown its preference to include in the calculation of stay the reference to "any 180 days period". However, the Visa Working Party is continuing to consider the choice between "any 180 days period" and "in any six months". Delegations are invited to comment on the Commission's preference to include in the calculation of stay the reference to "any 180 days period".

2) **Article 11 (4):** the Presidency notes that several delegations still have concerns on this provision but they have not submitted any alternative proposal. Therefore, the Presidency suggests to keep Article 11 (4) as in the Commission proposal which is acceptable to a majority of delegations and to ask the Commission, as indicated by the Polish Presidency, to include a recommendation in the Handbook making more precise what are the possible consequences of the absence of an exit stamp when it is not the fault of border guards. A new recommendation should also be included in the Handbook for border guards concerning the need to raise the awareness of border guards within the framework of their trainings on possible negative consequences for travellers of the lack of an exit stamp.

3) **Article 34 (1) (a)** : The Presidency, supported by the Commission, suggests to complete the text of the amendment to Article 34 (1) (a) by asking Member States to provide specimens of those residence cards issued on the basis of Directive 2004/38/EC which have not been issued in accordance with the uniform format laid down by Regulation (EC) No 1030/2002 since so far there is no obligation to issue residence permits in the uniform format. Actually, some Member States issue these cards in form of a paper, others use plastic cards like credit cards. In practice that means that it is difficult for the border guards to check if those residence cards have been legally issued and if they are genuine documents.

4) **Annex IV, point 1.1.6:** The Presidency has slightly reworded the first subparagraph in point 1.1.4.1 to make it clearer, and has added the words "respect the principle of non-refoulement".

The text of the compromise as agreed by the Working Party and SCIFA appears in **bold**. The new texts suggested by the Presidency appears **in bold and underlined**.

In the light of the above delegations are invited to agree on the text of the draft Regulation as set out in the Annex.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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) and the Convention implementing the Schengen Agreement

Article 1

Amendment of the Schengen Borders Code

Regulation (EC) No 562/2006 is hereby amended as follows:

(1) Article 2 is amended as follows:

(a) In point 1, point (c) is replaced by the following:

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

(b) in point 4 the words "regular ferry connection" is replaced by the words "regular internal ferry connection";

(c) the following point 4a is inserted:

"4a '**regular** internal cargo connection' means any cargo connection between the same two or more ports situated in the territory of the Member States, not calling at any ports outside the territory of the Member States **and consisting of the transport of goods according to a prefixed itinerary**;"¹;

(d) in point 5 the phrase "persons enjoying the Community right of free movement" is replaced by the following "persons enjoying the right of free movement under Union law";

¹ NO has a reservation on this provision.

- (e) in point 5(a) the phrase "Article 17(1)" is replaced by the phrase "Article 20(1)";
- (f) in point 5(b) the word "Community" is replaced by the word "Union";
- (g) in point 6 the phrase "Article 17(1)" is replaced by the phrase "Article 20(1)";
- (h) Point 15 is replaced by the following:

“residence permit’ means:

- (a) all residence permits issued by the Member States according to the uniform format laid down by Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals and residence cards issued in accordance with Directive 2004/38/EC;
- (b)¹ all other documents issued by a Member State to third-country nationals authorising a stay in² its territory, that have been the subject of a notification and subsequent publication in accordance with Article 34, with the exception of:
 - (i) temporary permits issued pending examination of a first application for a residence permit as referred to in point (a) or an application for asylum and
 - (ii) visas issued by the Member States in the uniform format laid down by Council Regulation (EC) No 1683/95*

- (2) In Article 3 point (a) is replaced by the following:

“(a) the rights of persons enjoying the right of free movement under Union law;”

- (3) In Article 4, paragraph 2 is replaced by the following³:

"2.By way of derogation from paragraph 1, exceptions to the obligation to cross external borders only at border crossing points and during fixed opening hours may be allowed:

- (a) for individuals or groups of persons, where there is a requirement of a special nature for the occasional crossing of external borders outside border crossing points or outside fixed opening hours, provided that they are in possession of the permits required by national law and that there is no conflict with the interests of public policy and the internal security of the Member States. Member States may make specific arrangements in bilateral agreements;

¹ **SI** has a reservation on this paragraph.

² **ES** has a reservation on the deletion of the words "or re-entry into".

³ **ES** and **EL** have a reservation on the deletion of the exceptions made to persons "in connection with pleasure boating or coastal fishing" and "for seamen going ashore to stay in the area of the port where their ships call or in the adjacent municipalities".

- (b) for individuals or groups of persons in the event of an unforeseen emergency situation."

(4) Article 5 paragraph 1 is amended as follows:

- (a) the text of paragraph 1 is replaced¹, the introductory wording and point (a) are replaced by the following:

"For intended stays in the territory of the Member States of a duration of no more than **90 days** in any six month period ~~from the date of first entry~~ in the territory of the Member States, the entry conditions for third-country nationals shall be the following:

- (a) they are in possession of a valid travel document **entitling the holder** to cross the border satisfying the following criteria:
- (i) its validity shall extend at least three months after the intended date of departure from the territory of the Member States. In a justified case of emergency, this obligation may be waived.
 - (ii) it shall have been issued within the previous 10 years.

When implementing these provisions, the day of entry is calculated as a first day of stay and the day of exit is calculated as a last day of stay in the territory of the Member States.

- (b) paragraph 4 is amended as follows:

- (i) point (a) is replaced by the following:

"(a) third-country nationals who do not fulfil all the conditions laid down in paragraph 1 but who hold a residence permit or a long-stay visa shall be authorised to enter the territories of the other Member States for transit purposes so that they may reach the territory of the Member State which issued the residence permit or long-stay visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit;"

- (ii) in point (b), the first and second paragraphs are replaced by the following:

"third-country nationals who fulfil the conditions laid down in paragraph 1, except for that laid down in point (b), and who present themselves at the border may be authorised to enter the territories of the Member States, if a visa is issued at the border in accordance with Articles 35 and 36 of Regulation (EC) No 810/2009 of the European Parliament and of the Council*.

Member States shall compile statistics on visas issued at the border in accordance with Article 46 and Annex XII of Regulation (EC) No 810/2009.

OJ L243, 15.9.2009, p.1 "

¹ CH has a reservation on this provision.

(5) Article 7 is amended as follows:

- (a) In the second subparagraph of paragraph 2 the phrase "persons enjoying the Community right of free movement" is replaced by "persons enjoying the right of free movement under Union law".
- (b) In the third subparagraph of paragraph 2 the phrase "persons enjoying the Community right of free movement" is replaced by "persons enjoying the right of free movement under Union law".
- (c) In the fourth subparagraph of paragraph 2 the phrase "persons enjoying the Community right of free movement" is replaced by "persons enjoying the right of free movement under Union law".
- (d) the first subparagraph of paragraph 5 is replaced by the following:

“Third-country nationals subject to a thorough second line check shall be given information in writing **or in another effective way**, on the purpose of, and procedure for, such a check.”
- (e) in paragraph 6, the word ‘Community’ is deleted and the phrase ‘under Union law’ is inserted after the word ‘movement’;
- (f) the following paragraph 8 is added:

"8. Where points (a) or (b) of Article 4(2) apply, Member States may also provide derogations from the rules set out in this Article."

(6) In Article 9, paragraph 2 is replaced by the following:

"2.(a) Persons enjoying the right of free movement under Union law are entitled to use the lanes indicated by the sign in part A ("EU, EEA, CH") of Annex III. They may also use the lanes indicated by the sign in part B1 ("visa free") and B2 ("all passports") of Annex III.

Third-country nationals who are not obliged to possess a visa when crossing the external borders of the Member States in accordance with Regulation (EC) No 539/2001 and third-country nationals who hold a valid residence permit ~~or long-stay visa~~ may use the lanes indicated by the sign in part B1 ("visa free") of Annex III to this Regulation. They may also use the lanes indicated by the sign in B2 ("all passports") of Annex III to this Regulation."

(b) All other persons shall use the lanes indicated by the sign in part B2 of Annex III.

The indications on the signs referred to in points (a) and (b) of the first subparagraph may be displayed in such language or languages as each Member State considers appropriate.

The provision of separate lanes indicated by the sign in part B1 ("*visa free*") of Annex III is an option and not an obligation for Member States. They shall decide whether to do so and at which border crossing points in accordance with practical needs."

(7) **The title and paragraph 2 of Article 10 are** ~~is~~ amended as follows:

"Article 10 - Stamping of the travel documents (...)"

(a) Paragraph 2 is replaced by the following:

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

The travel documents of nationals of third countries who are members of the family of nationals of third countries enjoying the right of free movement under Union law, but who do not present the residence card provided for in Directive 2004/38/EC, shall be stamped on entry and exit. "

(b) In paragraph 3, the following points (f) and (g) are added:

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

(g) to the travel documents of nationals of third countries who present a residence card provided for in Directive 2004/38/EC."¹

¹ CH has a reservation on this provision.

(8) Article 11 is amended as follows:

Paragraph 3 is replaced by the following:

"Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be returned in accordance with Directive 2008/115/EC of the European Parliament and of the Council **and their national legislation**".

A new paragraph 4 is added:

"The relevant provisions of paragraph 1 and 2 shall apply mutatis mutandis in the absence of an exit stamp".¹

(9) Article 12(5) shall be replaced by the following:

"5. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning additional measures governing surveillance.";

(10) In Article 13, paragraph 5 is replaced by the following:

"5. Member States shall collect statistics on the number of persons refused entry, the grounds for refusal, the nationality of the persons refused and the type of border (land, air or sea) at which they were refused entry and submit them in accordance with Regulation (EC) No 862/2007 of the European Parliament and of the Council *."

* OJ L 199, 31.7.2007, p. 23.

(11) In Article 15(1), the third subparagraph is replaced by the following:

"Member States shall ensure that the border guards are specialised and properly trained professionals, taking into account common core curricula for border guards established and developed by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States established by Council Regulation (EC) No 2007/2004. Training curricula shall include specialised training for detecting situations of particular vulnerability involving unaccompanied minors and victims of trafficking. Member States shall encourage border guards to learn languages, in particular those necessary for the carrying-out of their tasks."

(12) In Article 18, second paragraph, the reference "4," is added after the word "Articles".

¹ ES has a reservation.

(13) In Article 19, paragraph 1 is amended as follows:

(a) in the first subparagraph, the following points (g) and (h) are added:

"(g) rescue services, police and fire brigades **and border guards**;

(h) offshore workers."

(14) In Article 21, point (d) is amended as follows¹.

“(d) the possibility for a Member State to provide by law for an obligation on third-country nationals to report their presence on the territory of any Member State pursuant to the provisions of Article 22 of the Schengen Convention.”

(15) Article 32 shall be replaced by the following:

"Article 32

Amendments to the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning amendments to annexes III, IV and VIII.";

(16) Article 33 shall be replaced by the following:

"Article 33

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Articles 12(5) and 32 shall be conferred for an indeterminate period of time from X.X.2011. (Date of entry into force of this Regulation)

3. The delegation of powers referred to in Articles 12(5) and 32 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

¹ **BE** and **SI** have a reservation on this amendment.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 12(5) and 32 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council."

(17) In Article 34(1), point (a) is replaced by the following¹:

"(a) the list of residence permits, distinguishing between those covered by point (a) of Article 2 point 15 and those covered by point (b) of Article 2 point 15 and accompanied by a specimen for permits covered by Article 2 point 15 (b). Residence cards issued in accordance with Directive 2004/38/EC shall be specifically highlighted as such **and specimen shall be provided for those residence cards which have not been issued in accordance with the uniform format laid down by Regulation (EC) No 1030/2002.**"

(18) In Article 37, the first sentence is replaced by the following:

"The Member States shall notify the Commission of national provisions relating to Article 21(c) **and (d)**², the penalties as referred to in Article 4(3) and the bilateral agreements authorised by this Regulation."

(19) Annexes III, IV, VI, VII and VIII are amended in accordance with the Annex to this Regulation.

Article 2

Amendment of the Convention implementing the Schengen Agreement

The Convention implementing the Schengen Agreement of 14 June 1985 is amended as follows:

(-1a) Article 20 paragraph 1 is amended as follows:

¹ **SI** has a reservation.

² This new text is linked to the Presidency text on amendment (14) to Article 21 point (d) of the SBC.

“Aliens not subject to a visa requirement may move freely within the territories of the Contracting Parties for a **duration of no more than 90 days in any six-month period** ~~maximum period of three months during the six months~~, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).”

(-1b) Article 21 paragraph 1 is amended as follows:

“1. Aliens who hold valid residence permits issued by one of the Contracting Parties may, on the basis of that permit and a valid travel document, move freely for up to ~~three months~~ **90 days** within the territories of the other Contracting Parties, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c) and (e) and are not on the national list of alerts of the Contracting Party concerned.”

(1) Article 21 paragraph 3 is deleted;

(2) Article 22 is amended as follows:

“Aliens who have legally entered the territory of one of the Contracting Parties **may** be obliged to report, in accordance with the conditions laid down by each Contracting Party, to the competent authorities of the Contracting Party whose territory they enter. Such aliens shall report either on entry or within three working days of entry, at the discretion of the Contracting Party whose territory they enter.”

(3) Article 136 is deleted.

Article 3

Entry into force

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at [...],

For the European Parliament
The President

For the Council
The President

ANNEX

Annexes III, IV, VI, VII and VIII are amended as follows:

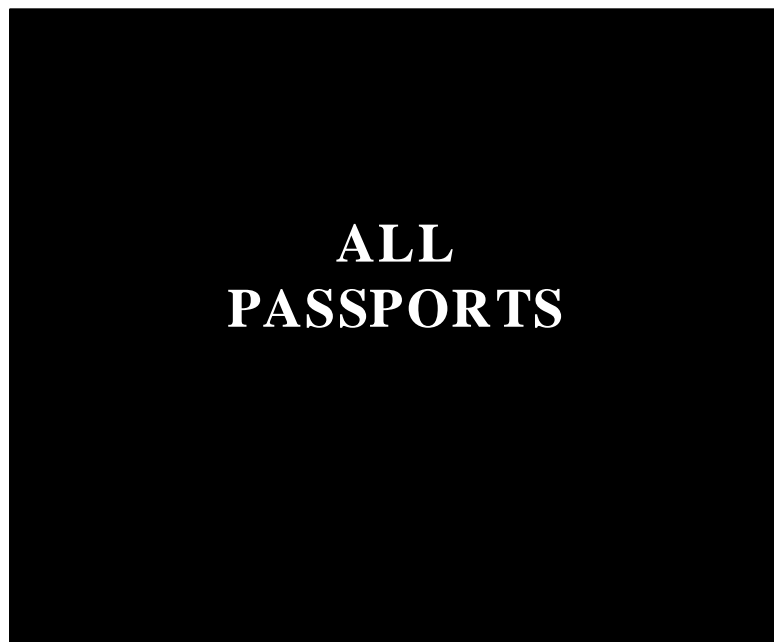
(1) Annex III is amended as follows:

(a) Part B is replaced by the following:

"PART B1: 'visa free';



PART B2: 'all passports'."



"

(b) In Part C, the following signs are inserted between the signs "EU, EEA, CH" and the signs "ALL PASSPORTS".



Amendments to the Annexes

(2) In Annex IV point 3 the first paragraph is replaced by the following:

"On the entry and exit of third-country nationals subject to the visa obligation, the stamp shall be done **as a general rule** on the page facing the one on which the visa is affixed."

(3) In Annex VI, point 1 is amended as follows:

(a) the following point 1.1.4. is inserted:

*"1.1.4. (...) **Shared border crossing points***

1.1.4.1. Member States may conclude bilateral agreements with neighbouring third countries concerning the establishment of **shared** border crossing points at which **the Member State and the border guards of the third country carry out one after another exit and entry checks** ~~one party carry out entry and/or exit checks~~ in accordance with their legislation on the territory of the other party. **These Agreements shall:**

- **include provisions regarding the access to asylum procedures in the territory of the Member States and respect the principle of non-refoulement;**
- **regulate tasks exercised by border guards of both parties with particular focus on procedures related to arrest of a person or seizure of property, access to and guarantees for entry into territory of Member States of persons enjoying the right of free movement under EU law.**
- **guarantee ability of Member State border guards to use information systems processing personal data in accordance with Article 7 of Schengen Borders Code and allow to establish the technical and organizational security measures required by EU law to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access.**

1.1.4.2. **Shared** border crossing points may be located either on Member State territory or on third-country territory.

1.1.4.3. Before concluding or amending any bilateral Agreement on **Shared** border crossing points with a neighbouring third country, the Member State concerned shall consult the Commission as to the compatibility of the Agreement **with relevant EU legislation.**

If the Commission considers the Agreement to be incompatible with **relevant EU legislation**, it shall notify the Member State concerned. The Member State shall take all appropriate steps to amend the Agreement within a reasonable period in such a way as to eliminate the incompatibilities established

(b) points 1.2.1. and 1.2.2. are replaced by the following:

“1.2.1 Checks shall be carried out both on train passengers and on railway staff on trains crossing external borders, including those on goods trains or empty trains. Member States may conclude **bilateral or multilateral** agreements on how to conduct those checks respecting the principles set out in point 1.1.4. Those checks shall be carried out in one of the following ways”:

"1.2.1. Checks shall be carried out both on train passengers and on railway staff on trains crossing external borders, including those on goods trains or empty trains. Member States may conclude bilateral agreements on how to conduct those checks respecting the principles set out in point 1.1.4. Those checks shall be carried out in one of the following ways:

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

1.2.2. In addition, in order to facilitate rail traffic flows of high-speed passenger trains, the Member States on the itinerary of these trains from third countries may also decide, by common agreement with third countries concerned respecting the principles set out in point 1.1.4, to carry out entry checks on persons in trains from third countries in either one of the following ways:

- in the stations in a third country where persons board the train,
- in the stations where persons disembark within the territory of the Member States,

on board the train during transit between stations on the territory of a third country and stations on the territory of the Member States, provided that the persons stay on board the train."

(4) In Annex VI, point 3 is amended as follows:

(a) in point 3.1.1., the second sentence is replaced by the following:

“3.1.1. Checks on ships shall be carried out at the port of arrival or departure, on board ship or in an area set aside for the purpose, located in the immediate vicinity of the vessel. Member States may conclude **bilateral** agreements according to which, checks may also be carried out during crossings or, upon the ship's arrival or departure, in the territory of a third country respecting the principles set out in point 1.1.4. The purpose of checks is to ensure that both crew and passengers fulfil the conditions laid down in Article 5, without prejudice to Article 19(1) (c).”

(b) points 3.1.2., 3.1.3., 3.1.4. and 3.1.5. are replaced by the following:

“3.1.2. The master, the ship's agent or some other person duly authorized by the master **or authenticated in a manner acceptable to the public authority concerned** ~~or any other person duly authorised by the operator of the ship~~ (in both cases hereinafter referred to as ‘master’), shall draw up a list of the crew and any passengers containing the information required in the International Maritime Organization (IMO) Convention on Facilitation of International Maritime Traffic (FAL) form 5 (crew list) and 6 (passenger list) as well as, where applicable, the visa or residence permit numbers 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.

The master shall communicate the list(s) to the ~~relevant competent authority appointed by that Member State~~ (border guards or, **if national law provides for, to other relevant authorities which shall forward the lists without delay to the border guards.**”

3.1.3. A confirmation of receipt (**signed copy of the lists or an electronic receipt confirmation**) shall be returned to the master **by the border guards or by the authorities referred to in point 3.1.2.**, who shall produce it on request when the ship is in port.

3.1.4. The master shall promptly report to the competent authority any changes to the composition of the crew or the number of passengers.

In addition, the master shall notify the competent authorities promptly, and within the time-limit set out in point 3.1.2., of the presence on board of stowaways. Stowaways will, however, remain under the responsibility of the master.

By way of derogation from Articles 4 and 7, no systematic border checks shall be carried out on persons staying aboard. Nevertheless a ~~physical inspection search~~ of the ship **and personal checks on the persons** staying aboard shall be carried out by border guards on the basis of an assessment of the risks related to internal security and illegal immigration.

3.1.5. The master shall notify the competent authority of the ship's departure in due time and in accordance with the rules in force in the port concerned.”

(c) point 3.2.1. is replaced by the following:

“3.2.1. The cruise ship's master shall transmit to the respective competent authority the itinerary and the programme of the cruise, **as soon as they have been established and no later than at least 24 hours before leaving the port of departure and before the arrival at each port in the territory of the Member States** within the time-limit set out in point 3.1.2.”

(d) points 3.2.2 and 3.2.3 are amended as follows:

“3.2.2. If the itinerary of a cruise ship comprises exclusively ports situated in the territory of the Member States, by way of derogation from Articles 4 and 7, no border checks shall be carried out and the cruise ship may dock at ports which are not border crossing points.

Nevertheless, **checks ~~may~~ shall be carried out on the crew and passengers of those ships when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.”**

(e) in points 3.2.3.(a) and 3.2.3.(b) the reference "point 3.2.4" is replaced by the reference "point 3.1.2.";

(f) in point 3.2.3.(e), the second subparagraph is replaced by the following:

Nevertheless, **checks ~~may~~ shall be carried out on the crew and passengers of those ships when this is justified on the basis of an assessment of the risks related to internal security and illegal immigration.”**

(g) point 3.2.4. is deleted;

(h) in point 3.2.9. the second subparagraph is deleted

(i) in point 3.2.10., the following point (i) is added:

"(i) Point 3.1.2. (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*, a copy of this 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 in the territory of the Member States.

* OJ L 188, 2.7.1998, p. 35."

(j) the following point 3.2.11. is added:

"3.2.11. Where a ferry **coming** from a third country with more than one stop within the territory of the Member States takes passengers on board only for the remaining leg within that territory, these 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** ~~passengers~~ who, during those stop-overs, are already on board the ferry and have not boarded in the territory of the Member States shall be carried out at the port of arrival

(5) Annex VII point 3 is amended as follows:

(a) point 3.1. and point 3.2. are replaced by the following:

“3.1. By way of derogation from Articles 4 and 7, Member States may authorize seamen holding a seafarer's identity document issued in accordance with the International Labour Organization (ILO) Seafarers' Identity Documents Convention No 108 (1958) ~~or and~~ No 185 (2003), the London Convention of 9 April 1965 and the relevant national law, to enter the territory ~~and exit~~ of 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 by returning to their ships**, without presenting themselves at a border crossing point, on condition that they appear on the crew list, which has previously been submitted for checking by the competent authorities, of the ship to which they belong.”

However, according to the 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.”

(6) In Annex VII point 6, the following points 6.4. and 6.5. are added:

6.4. Member States shall nominate national contact points for consultation on minors and inform the Commission thereof¹. A list of these national contact points shall be made available to Member States by the Commission.

6.5. In case of doubt as to any of the circumstances set out in points 6.1., 6.2. and 6.3., border guards shall make use of the list of national contact points for consultation on minors.

(7) In Annex VII the following points 7 and 8 are added:

7. Rescue services, police, fire brigades **and border guards**

Member States may conclude bilateral agreements for the entry and exit of members of rescue services, police and fire brigades acting in emergency situations, **as well as border guards crossing the border in exercise of their professional tasks**. These arrangements may provide for derogations from Articles 4, 5 and 7.

¹ BE has a reservation on this provision.

8. Offshore workers¹

By way of derogation from Articles 4 and 7, offshore workers (working on oil-platforms, maritime wind parks etc.) who regularly return by sea or air to the territory of the Member States without having stayed in the territory of a third country shall not be systematically checked.

Nevertheless, an assessment of the risks of illegal immigration, in particular where the coastline of a third country is located in the immediate vicinity of an offshore site, shall be taken into account in order to determine the frequency of the checks to be carried out."

¹ **SI** has a reservation.