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NOTE

From: Presidency
To: Permanent Representatives Committee/Mixed Committee
Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the reinforcement of checks against relevant databases at external borders (first reading)

1. The Commission presented its Border legislative package on 15 December 2015, after which the Council agreed on its general approach on the aforementioned proposal on 25 February 2016.
2. After the European Parliament (LIBE Committee) voted its Report on the proposal on 21 June 2016, political trilogues were held on 13 July and 11 October 2016, along with several technical meetings.
3. The JHA Counsellors discussed the remaining outstanding issues in the interinstitutional negotiations on 8 November 2016 with a view to reaching an agreement thereon that would allow the Presidency to conclude the discussions with the European Parliament as soon as possible.

4. These issues concern: a) the length of the possible derogation from systematic checks at the air borders - Article 7 2d - for a transitional period, with a possible prolongation under specific circumstances for a further period, where the European Parliament insists on a total period of at least 24 months, and b) the databases to be consulted when verifying persons enjoying the right of free movement - Article 7(2b) - for which the European Parliament wants to specify which international databases could fall within the scope of the provision.
 5. The Permanent Representatives Committee is invited to give the Presidency a mandate to negotiate an agreement with the European Parliament on the draft Regulation, on the basis of the compromise text in the Annex.
 6. The text of the proposal is set out in the annexed four-column document; changes are underlined and/or indicated in **bold**. It should be noted that the wording of the Recitals will be adapted in due time to reflect the relevant Articles once these have been agreed. Equally, Article 7 2c (on the evaluation by the Commission of the implementation and consequences of the future regulation) will be adapted in due time to reflect the relevant provisions, i.e. Article 7 2d (on the derogation for air borders).
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Proposal for a Regulation of the European Parliament and of the Council amending Regulation No 562/2006 (EC)
as regards the reinforcement of checks against relevant databases at external borders

COMMISSION PROPOSAL	COUNCIL POSITION	LIBE AMENDMENTS	COMPROMISE
<p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:</p>	<p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:</p>		
<p>(1) Control at external borders remains one of the main safeguards of the area without controls at internal borders. It is carried out in the interest of all Member States. One of the purposes of such controls is to prevent any threat to the Member States' internal security and public policy, irrespectively of the origin of such threat.</p>	<p>(1) Control at external borders remains one of the main safeguards of the area without controls at internal borders. It is carried out in the interest of all Member States. One of the purposes of such controls is to prevent any threat to the Member States' internal security and public policy, irrespectively of the origin of such threat.</p>	<p>(1) Control at <i>and protection of</i> external borders <i>remain the most efficient way to guarantee the long-term security of the Union. Border control at the external borders</i> is carried out in the interest of all Member States. One of the purposes of such control is to <i>contribute to fighting irregular migration and human trafficking and to prevent, inter alia,</i> any threat to the Member States' internal security and public policy <i>and public health, irrespectively</i> of the origin of such threat, <i>including where such a threat derives from Union citizens.</i></p>	<p>(1) Control at external borders remains one of the main safeguards of the area without controls at internal borders <u>and it significantly contributes to guaranteeing the long-term security of the Union and the citizens.</u> It is carried out in the interest of all Member States. One of the purposes of such control is to prevent any threat to the Member States' internal security and public policy, irrespectively of the origin of such threat, <u>including where such a threat derives from Union citizens.</u></p>

		<p><i>(1a) The implementation of this Regulation should take into account the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 2 of the Treaty on European Union (TEU). Respect for Regulation (EC) 45/2001^{1a} and all Union law relating to data protection should be a primary obligation of Members States when implementing this Regulation.</i></p> <p><i>^{1a} Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).</i></p>	<p><i>A new recital 4b. was drafted.</i></p>
		<p><i>(1b) Border checks should be carried out in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and should be proportionate to the objectives pursued.</i></p>	<p><i>A new recital 4b. was drafted.</i></p>

<p>(2) The phenomenon of foreign terrorist fighters, many of whom are Union citizens, demonstrates the necessity to strengthen the checks at external borders with regard to Union citizens.</p>	<p>(2) The phenomenon of foreign terrorist fighters, many of whom are Union citizens, demonstrates the necessity to strengthen the checks at external borders with regard to Union citizens.</p>	<p>(2) <i>Although current minimum systematic checks based on a rapid and straightforward verification of the validity of the travel document is currently the rule for persons enjoying the right of free movement under Union law,</i> the phenomenon of foreign terrorist fighters, many of whom are Union citizens, <i>and the evolution of organised crime, demonstrate</i> the necessity to strengthen the checks at external borders with regard to Union citizens <i>by consulting relevant databases and, where there is doubt as to the authenticity of the travel document or the identity of its holder, verification of biometric identifiers.</i></p>	<p>(2) <u>Minimum checks based on a rapid and straightforward verification of the validity of the travel document for crossing the border and of its holder, are currently the rule for persons enjoying the right of free movement under Union law.</u> The phenomenon of foreign terrorist fighters, many of whom are Union citizens demonstrates the necessity to strengthen the checks at external borders with regard to [...] <u>persons enjoying the right of free movement under Union law.</u></p>
		<p><i>(2a) An equivalent level of security should be afforded to Union citizens throughout the Union.</i></p>	
<p>(3) The documents of persons enjoying the right of free movement under Union law should therefore be checked systematically against relevant databases related to stolen, misappropriated, lost and invalidated travel documents in order to avoid that persons hide their real identity.</p>	<p>(3) The documents of persons enjoying the right of free movement under Union law should therefore be checked systematically against relevant databases related to stolen, misappropriated, lost and invalidated travel documents in order to avoid that persons hide their real identity.</p>	<p>(3) The documents of persons enjoying the right of free movement under Union law should therefore, <i>as a general rule,</i> be checked systematically, <i>on entry into and on exit from the territory of the Union,</i> against relevant databases related to stolen, misappropriated, lost, <i>fraudulent</i> and invalidated travel documents in order to avoid that persons hide their real identity.</p>	<p>(3) The documents of persons enjoying the right of free movement under Union law should therefore be checked systematically <u>on entry into and on exit from the territory of Member States</u> against relevant databases related to stolen, misappropriated, lost and invalidated travel documents in order to avoid that persons hide their real identity. <u>Where there is a doubt as to the</u></p>

		<i>Member States should ensure an electronic connection to Interpol 's Stolen and Lost Travel Documents database (SLTD) at external border crossing points.</i>	<u>authenticity and validity for crossing the border</u> of the travel document or the identity of its holder, verification of biometric identifiers should be done.
	<u>(3a) Member States are obliged to check systematically third country nationals against all databases on entry. It should be ensured that such checks are also carried out systematically on exit.</u>		<u>3a) Member States are obliged to check systematically third country nationals against all databases on entry. It should be ensured that such checks are also carried out systematically on exit.</u>
(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against relevant national and European databases in order to ensure that they do not represent a threat to internal security or public policy.	(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against relevant national and European databases in order to ensure that they do not represent a threat to internal security or public policy.	(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against relevant national and European databases in order to ensure that they do not represent a threat to internal security or public policy. <i>To that end, the Member States should ensure that their border guards have access to the relevant national and European data banks, including the Schengen Information System (SIS) and the Europol Information System (EIS).</i>	(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against [...] <u>the Schengen Information System, other relevant Union databases international and Interpol's databases. This is without prejudice to the consultation of national databases.</u>

			<u>(4a) To that end, the Member States should ensure that their border guards have access at external border crossing points to the relevant national and European databases, including the Schengen Information System (SIS) and Interpol's Stolen and Lost Travel Documents database (SLTD) in order to ensure full implementation of these provisions.</u>
			<u>(4b) These new systematic checks should be carried out in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union, in accordance with Article 4 SBC and should fully respect human dignity, in accordance with Article 7 Schengen borders code.</u>
			<u>(4c) In accordance with Article 15 Schengen borders code, the Member States should deploy appropriate staff and resources in sufficient numbers to carry out systematic checks to prevent that these checks would cause disproportionate waiting times and hinder the flow of traffic at the external borders.</u>

	<p><u>(4a) The obligation of systematic checks on entry and on exit applies to the external borders of the Member States. It also applies, both on entry and on exit, to the internal borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to relevant provisions of relevant Acts of Accession has not yet been taken. In order to avoid that the persons enjoying the right of free movement under Union law are subject to those checks twice when crossing the internal borders of those Member States by land, on exit they should be subject to those checks only on a non-systematic basis, based on a risk assessment.</u></p>		<p><u>(4d) The obligation of systematic checks on entry and on exit applies to the external borders of the Member States. It also applies, both on entry and on exit, to the internal borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to relevant provisions of relevant Acts of Accession has not yet been taken. In order to avoid that the persons enjoying the right of free movement under Union law are subject to those checks twice when crossing the internal borders of those Member States by land, on exit they may be subject to those checks only on a non-systematic basis, based on a risk assessment.</u></p>
<p>(5) Technological developments allow in principle to consult relevant databases without delaying the process of crossing the border, as the controls on documents and persons can be carried out in parallel. It is therefore possible without negative effect on persons travelling in good faith to strengthen checks at</p>	<p>(5) Technological developments allow in principle to consult relevant databases without delaying the process of crossing the border, as the controls on documents and persons can be carried out in parallel. <u>Automatic border control gates may be relevant in that context. The use of passenger information received in</u></p>	<p>(5) Technological developments allow in principle to consult relevant databases <i>with a limited effect on the duration</i> of crossing the border, as the controls on documents and persons can be carried out in parallel. <i>Synergies, convergence and interconnectivity between information systems and their</i></p>	<p>(5) Technological developments allow in principle to consult relevant databases [...] <u>with a limited effect on the duration</u> of crossing the border, as the controls on documents and persons can be carried out in parallel. <u>Automatic border control gates may be relevant in that context.</u> The use of passenger information</p>

<p>external borders to better identify those persons who intend to hide their real identity or who are subject to relevant alerts for security reasons or for arrest. Systematic checks should be carried out at all external borders. (text c'tued below, in next row)</p>	<p><u>accordance with Council Directive 2004/82/EC, or in accordance with other Union or national legislation, may also contribute to speeding up the process of required controls during the border crossing process.</u> It is therefore possible without <u>disproportionate</u> negative effect on persons travelling in good faith to strengthen checks at external borders to better identify those persons who intend to hide their real identity or who are subject to relevant alerts for security reasons or for arrest. Systematic checks should be carried out at all external borders.</p>	<p><i>corresponding infrastructure for Union border management and for customs operations should be structurally improved by making data management in the Union more effective, efficient, interoperable and compatible, with full respect for data protection requirements, in order to better protect the external borders and enhance the internal security of the Union, for the benefit of all Union citizens. Strengthening checks at external borders to better identify those persons who intend to hide their real identity or who are subject to relevant alerts for security reasons or for arrest could have a negative effect on persons travelling in good faith. Nevertheless, as a general rule, systematic checks should be carried out at all external borders. The use of passenger information received in accordance with Council Directive 2004/82/EC^{7a}, or with other Union or national law, may contribute to accelerating the process of required checks during the border crossing process.</i> (text c'tued below, in next row)</p>	<p><u>received in accordance with Council Directive 2004/82/EC, or in accordance with other Union or national legislation, may also contribute to speeding up the process of required controls during the border crossing process.</u> It is therefore possible without <u>disproportionate</u> negative effect on persons travelling in good faith to strengthen checks at external borders to better identify those persons who intend to hide their real identity or who are subject to relevant alerts for security reasons or for arrest. Systematic checks should be carried out at all external borders. (see (5a) below)</p>
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<p>However, if systematic checks at land and sea borders were to have a disproportionate impact on the flow of traffic at the border, Member States should be allowed not to carry out systematic checks against databases but only if based on a risk analysis assessing that such a relaxation would not lead to a security risk. Such risk assessment should be transmitted to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004¹ and be the subject of regular reporting both to the Commission and to the Agency.</p>	<p>(5a) However, if systematic checks at (...) borders were to have a disproportionate impact on the flow of traffic at the border, Member States should be allowed not to carry out systematic checks against databases but only if based on a risk analysis assessing that such a relaxation would not lead to a security risk. Such risk assessment should be transmitted to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004² and be the subject of regular reporting both to the Commission and to the Agency. <u>This derogation should, however, only apply for a limited transitional period regarding air borders.</u></p>	<p>However, if systematic checks at borders were to have a disproportionate impact, <i>for example</i> on the flow of traffic at the border, Member States <i>concerned</i> should be <i>able</i> to carry out <i>targeted</i> checks against <i>all relevant</i> databases <i>at specified border crossing points</i>, but only if based on a risk <i>assessment evaluating</i> that such a relaxation would not lead to a security risk. Such risk assessment should be <i>based on a set of common risk indicators developed by the Commission, in close cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004^{7b} ('the Agency') and with the Council. The risk assessment should be immediately</i> transmitted to the Agency, <i>to the Commission and</i></p>	<p>(5a) However, if systematic checks at [...] borders were to have a disproportionate impact on the flow of traffic at the border, Member States should be allowed not to carry out systematic checks <u>consultations</u> against databases but only if based on a risk analysis assessing that such a relaxation would not lead to a security risk. Such risk assessment should be transmitted to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004³ and be the subject of regular reporting both to the Commission and to the Agency. <u>This derogation should, however, only apply for a limited transitional period to air borders.</u> <u>At the border crossing points benefiting from such derogations, at least the identity of persons enjoying</u></p>
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¹ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).

² Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).

³ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).

		<p><i>to any Member State sharing a border with the Member State concerned and should be the subject of regular reporting to the European Parliament, to the Commission and to the Agency.</i></p> <p><i>^{7a} Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJ L 261, 6.8.2004, p. 24).</i></p> <p><i>^{7b} Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).</i></p>	<p><u>the right of free movement under Union law must be established on the basis of the production or presentation of an authentic travel document which is valid for crossing the border.</u></p> <p><u>For this purpose those persons should be in particular subject to a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices, and in case of doubts about the travel document and/or where there are indications that such a person may represent a threat to public policy, internal security or public health of the Member States, the border guard should carry out the consultation of all relevant databases in accordance with this Regulation.</u></p>
		<p><i>(5a) It should be possible for border guards to decide not to check relevant databases regarding a person enjoying the right of free movement under Union law if it can be clearly assessed that that person does not jeopardise the internal</i></p>	<p><i>[Some of these categories are mentioned in Annex VI of SBC.]</i></p>

		<p><i>security of any of the Member States. Such persons could include, inter alia, children under the age of 12 and minors accompanied by parents; school pupils when travelling on organised excursions; elderly persons when travelling in an organised manner; pilots of aircraft and other crew members; Heads of State or government and the members of their delegations; holders of diplomatic, official or service passports and members of international organisations; rescue services, police and fire brigades and border guards; off-shore workers; holders of permits required by national law in accordance with specific Member States' arrangements in bilateral agreements as referred to in point (a) of Article 4(2) of Regulation (EU) 562/2006 of the European Parliament and of the Council^{1a}.</i></p> <p>^{1a} <i>Regulation (EU) 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105,</i></p>	
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		<i>13.4.2006, p. 1).</i>	
	<u>(5b) Where a Member State intends to carry out targeted consultations regarding persons enjoying the right of free movement under Union law, it should notify without delay the other Member States, the Agency and the Commission. A procedure for this notification should be developed by the Commission, in cooperation with the Member States, in the context of the Schengen Borders Code Handbook.</u>	<i>(5b) Where a Member State intends to carry out targeted checks and consultations regarding persons enjoying the right of free movement under Union law, it should notify the other Member States, the Agency and the Commission without delay. The Commission should develop, no later than one month from the date of entry into force of this Regulation, a procedure for such notification, in cooperation with the Member States, in the context of the Schengen Borders Code Handbook</i>	<u>(5b) Where a Member State intends to carry out targeted consultations regarding persons enjoying the right of free movement under Union law, it should notify without delay the other Member States, the Agency and the Commission. A procedure for this notification should be developed by the Commission, in cooperation with the Member States, in the context of the Schengen Borders Code Handbook.</u>
(6) With Council Regulation (EC) No 2252/2004 ⁴ , the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens. These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify these biometric identifiers, in	(6) With Council Regulation (EC) No 2252/2004 ⁵ , the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens. These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify <u>at least one of</u> these biometric	(6) With Council Regulation (EC) No 2252/2004 ⁹ , the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens. These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify <i>at least one of</i> these biometric	(6) With Council Regulation (EC) No 2252/2004 ⁹ , the Union introduced the facial image and fingerprints as security elements in the passport of Union citizens. These security features have been introduced in order to render the passports more secure and establish a reliable link between the holder and the passport. Member States should therefore verify <u>at least one of</u> these biometric

⁴ Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1).

⁵ Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1).

<p>case of doubts on the authenticity of the passport or on the identity of its holder.</p>	<p>identifiers, in case of doubts on the authenticity of the <u>travel document</u> or on the identity of its holder. <u>The same approach should apply to the checks on the third-country nationals, where this is possible.</u></p>	<p>identifiers, in case of doubts on the authenticity of the <i>travel document</i> or on the identity of its holder. <i>The same verification should apply, where possible, to third-country nationals.</i></p> <p>⁹ Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1).</p>	<p>identifiers, in case of doubts on the authenticity and validity of the passport <u>travel document for crossing the border</u>, or on the identity of its holder. <u>The same approach should apply to the checks on the third-country nationals, where this is possible.</u></p>
		<p><i>(6a) Many identity cards produced by the Member States do not have any security features such as facial image or fingerprints. In order to make it possible for systematic verification to be carried out on travel documents other than passports, taking into account internal security issues, the Commission should take swift action to propose the establishment of common standards for the security features and biometrics that are to be included in identity cards issued by the Member States.</i></p>	<p><u>(6a) In order to facilitate the systematic checks against databases, Member States should phase out travel documents without machine readable zone.</u></p>
<p>(7) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the</p>	<p>(7) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the</p>		<p>(7) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the</p>

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⁶ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

⁷ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

⁸ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

		<i>(7a) Member States should, in accordance with the applicable Union and national law, exchange data, regularly update their existing relevant databases, make full use of existing information systems and establish the necessary technical connections to all information systems and databases. Member States should, in this regard, exchange best practices with each other.</i>	<u>(7a) Member States should also, in their own interest and in the interests of other Member States, enter data into the European databases. Equally, they should ensure that the data are accurate and up-to-date and obtained and entered lawfully.</u>
(8) Member States are obliged to check systematically third country nationals against all databases on entry. It should be ensured that such checks are also carried out systematically on exit.	(8) <i>(moved up in the Preamble and became Recital 3a).</i>	(8) Member States are obliged to check systematically third country nationals against all databases on entry. <i>In the same way, Member States</i> should <i>ensure</i> that such checks are carried out systematically on exit.	<i>[Mentioned in recital 3a.]</i>
(9) Since the objective of this Regulation, namely reinforcing the checks against databases at external borders in reply in particular to the increase of the terrorist threat concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, it cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in	(9) Since the objective of this Regulation, namely reinforcing the checks against databases at external borders in reply in particular to the increase of the terrorist threat concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, it cannot be sufficiently achieved by the Member States <u>individually</u> , but can rather be better achieved at Union level, the Union may adopt	(9) Since the objective of this Regulation, namely <i>improving</i> the checks against databases at external borders, <i>which</i> concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, cannot be sufficiently achieved by the Member States, but can rather, <i>by reason of its scale or effects</i> , be better achieved at Union level, the Union may adopt measures, in accordance with the	(9) Since the objective of this Regulation, namely reinforcing the checks against databases at external borders in reply in particular to the increase of the terrorist threat concerns one of the safeguards of the area without internal border control and as such concerns the proper functioning of the Schengen area, it cannot be sufficiently achieved by the Member States <u>individually</u> , but can rather be better achieved at Union level, the Union may adopt

<p>accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</p>	<p>measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</p>	<p>principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve <i>that objective</i>.</p>	<p>measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve <u>that</u> objective.</p>
<p>(10) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>	<p>(10) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>		<p>(10) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>

<p>(11) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁹; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(11) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC¹⁰; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>		<p>(11) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>
<p>(12) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹¹; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(12) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹²; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>		<p>(12) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>

⁹ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

¹⁰ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

¹¹ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

¹² Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<p>(13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>¹³, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC¹⁴.</p>	<p>(13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>¹⁵, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC¹⁶.</p>		<p>(13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>, which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC.</p>
<p>(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>	<p>(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>		<p>(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and</p>

¹³ OJ L 176, 10.07.1999, p.36

¹⁴ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.07.1999, p.31).

¹⁵ OJ L 176, 10.07.1999, p. 36.

¹⁶ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.07.1999, p. 31).

development of the Schengen <i>acquis</i> ¹⁷ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ¹⁸ .	development of the Schengen <i>acquis</i> ¹⁹ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ²⁰ .		development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC.
(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and	(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and		(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and

¹⁷ OJ L 53, 27.2.2008, p. 52.

¹⁸ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

¹⁹ OJ L 53, 27.2.2008, p. 52.

²⁰ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

development of the Schengen <i>acquis</i> ²¹ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ²² .	development of the Schengen <i>acquis</i> ²³ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ²⁴ .		development of the Schengen <i>acquis</i> ²⁵ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ²⁶ .
(16) As far as the use of Schengen Information System is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession	(16) As far as the use of Schengen Information System is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession,	(16) As far as the use of <i>SIS</i> is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession and Article 4(2) of the	(16) As far as the use of Schengen Information System is concerned this Regulation constitutes an act building upon, or otherwise relating to, the Schengen <i>acquis</i> within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession,

²¹ OJ L 160, 18.6.2011, p. 21

²² Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

²³ OJ L 160, 18.6.2011, p. 21.

²⁴ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

²⁵ OJ L 160, 18.6.2011, p. 21.

²⁶ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

and Article 4(2) of the 2011 Act of Accession.	Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession. <u>The results of queries in the Schengen Information System should be without prejudice to Article 1(4) of Council Decision 2010/365/EU.</u>	2011 Act of Accession. <i>The results of queries in SIS should be without prejudice to Article 1(4) of Council Decision 2010/365/EU^{1a}.</i> <i>^{1a} Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17.)</i>	<u>Article 4(2) of the 2005 Act of Accession</u> and Article 4(2) of the 2011 Act of Accession. <u>The results of queries in the Schengen Information System should be without prejudice to Article 1(4) of Council Decision 2010/365/EU.</u>
		<i>(16a) Member States that are not in the Schengen area and whose borders constitute the external borders should be fully integrated into SIS in order to conduct better border management and help preserve the security of the Union.</i>	
(17) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.	(17) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.		(17) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
(18) Regulation (EC) No 562/2006 of the European Parliament and of the Council ²⁷ should therefore be amended accordingly,	(18) Regulation (EC) No 562/2006 of the European Parliament and of the Council ²⁸ should therefore be amended accordingly,		(18) Regulation (EC) No 562/2006 of the European Parliament and of the Council should therefore be amended accordingly,

²⁷ 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).

<i>Article 1</i>		<i>Article 1</i>
Regulation (EC) No 562/2006 is amended as follows:		Regulation (EC) No 562/2006 is amended as follows:
Article 7 is amended as follows:		(1) Article 7 is amended as follows:
(a) Paragraph 2 is replaced by the following:		(a) paragraph 2 is replaced by the following:
"2. On entry and on exit, persons enjoying the right of free movement under Union law shall be subject to the following checks:		"(2) On entry and on exit, persons enjoying the right of free movement under Union law shall be subject to the following checks:
(a) verification of the identity and the nationality of the person and the validity and authenticity of the travel document, <u>including</u> by consulting the relevant databases, in particular:	(a) verification of the identity and the nationality of the person and the validity and authenticity of the travel document, <i>including</i> by consulting the relevant databases, <i>which shall include</i> :	(a) verification of the identity and the nationality of the person, and the authenticity and validity of the travel document for crossing the border , <u>including</u> by consulting the relevant databases, in particular:
(1) the Schengen Information System;		(1) the Schengen Information System;
(2) the Interpol database on stolen and lost travel documents;		(2) the Interpol database on stolen and lost travel documents;
(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	(3) national databases containing information on stolen, misappropriated, <i>fraudulent</i> , lost and invalidated travel documents, <i>including, for passports and travel documents containing a storage</i>	(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

		<p><i>medium as referred to in Article 1(2) of Council Regulation (EC) No 2252/2004*</i>, the authenticity of the storage medium.</p> <p><i>* Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1).</i></p>	
	<p><u>For passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation 2252/2004, the authenticity of the storage medium shall be checked.</u></p>		<p><u>For passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation 2252/2004, the authenticity of the chip data shall be checked.</u></p>
<p>(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, including by consulting the relevant Union and national databases, in particular the Schengen Information System.</p>	<p>(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, including by consulting the relevant Union, and national databases, in particular the Schengen Information System.</p>	<p>(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, by consulting the Schengen Information System.</p>	<p>(b) verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health, including by consulting the [...] <u>Schengen Information System, other relevant Union databases, international and Interpol's databases. This is without prejudice to the consultation of national databases.</u></p>

<p>Where there is doubt on the authenticity of the travel document or on the identity of its holder, the checks shall include the verification of the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004*.</p>	<p>c) Where there is doubt on the authenticity of the travel document or on the identity of its holder, (...) verification of <u>at least one of</u> the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004*. <u>Where possible, such verification shall also be carried out regarding travel documents not covered by that Regulation.</u></p>	<p>Where there is doubt on the authenticity of the travel document or on the identity of its holder, the checks shall include the verification of the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004*.</p> <p><i>Where possible, such verification shall also be carried out regarding travel documents not covered by this Regulation.</i></p> <hr/> <p>* Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1).</p>	<p>Where there is doubt on the authenticity of the travel document or on the identity of its holder, [...] verification of <u>at least one of</u> the biometric identifiers integrated in the passports and travel documents issued in accordance with Council Regulation (EC) No 2252/2004*. <u>Where possible, such verification shall also be carried out regarding travel documents not covered by that Regulation.</u></p>
		<p><i>2a. When crossing the border between a Member State which fully applies the Schengen acquis and a Member State which does not yet fully apply the Schengen acquis, the persons enjoying the right of free</i></p>	

- * Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p.1)."
- * Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1).
- * Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ L 385, 29.12.2004, p. 1).

		<p><i>movement under Union law, in particular under Directive 2004/38/EC of the European Parliament and of the Council^{1a}, may be subject, on entry and exit, to the checks referred to in points (a) and (b) of the first subparagraph only if it can be clearly assessed, based on a risk assessment carried out by that Member State fully applying the Schengen acquis and the Agency, that there are risks for the internal security of the Union. The minimum check referred to in paragraph 2b shall in any event be carried out.</i></p> <p>^{1a} <i>Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).</i></p>	
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<p>Where, at external land and sea borders, the checks referred to in points a) and b) of the first subparagraph would have a disproportionate impact on the flow of traffic, Member States may carry out those checks on a targeted basis based on an assessment of the risks related to internal security, public policy, international relations of any of the Member States or a threat to public health.</p>	<p>2a. Where (...) the <u>consultation of the data bases</u> referred to in paragraph 2(a) and (b) would have a disproportionate impact on the flow of traffic, a Member State may <u>decide to</u> carry out those <u>consultations</u> on a targeted basis <u>at specified border crossing-points</u>, based on an assessment of the risks related to internal security, public policy, international relations of any of the Member States or a threat to public health.</p> <p><u>The scope and duration of the temporary reduction to targeted checks shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment established by the Member State concerned. The risk assesment shall explain the reasons for the temporary reduction to targeted checks and shall take into account, inter alia, the disproportionate impact on the flow of traffic and assess the possible risks and shall provide for statistics on passengers and incidents related to cross border crime. It shall be updated regularly.</u></p>	<p>2b. Where the checks referred to in points (a) and (b) of paragraph 2 would have a disproportionate impact, for example on the flow of traffic, Member States may decide to carry out those checks on a targeted basis at specified border crossing points, based on an assessment of the risks related to the internal security and public policy of any of the Member States or a threat to public health. The risk assessment shall assess the possible risks and provide statistics on passengers and incidents related to cross-border crime. The risk assessment shall be updated regularly.</p> <p>The duration and location of the targeted checks shall not go beyond what is strictly necessary and shall be based on a set of common risk indicators developed by the Commission in close cooperation with the Agency and the Council. Where checks have been introduced on a targeted basis in accordance with the first subparagraph, all persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents. Such a minimum</p>	<p>2a. Where [...] <u>the consultation of the databases</u> referred to in [...] <u>paragraph 2(a) and (b)</u> [...] would have a disproportionate impact on the flow of traffic, <u>a</u> Member State may <u>decide to</u> carry out those [...] <u>consultations</u> on a targeted basis <u>at specified border crossing-points</u>, based on an assessment of the risks related to internal security, public policy, international relations of any of the Member States or a threat to public health.</p> <p><u>The scope and duration of the temporary reduction to targeted consultations shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment established by the Member State concerned. The risk assesment shall explain the reasons for the temporary reduction to targeted consultations and shall take into account, inter alia, the disproportionate impact on the flow of traffic and assess the possible risks and shall provide for statistics on passengers and incidents related to cross border crime. It shall be updated regularly.</u></p> <p><u>Persons who in principle do not have to undergo the targeted consultation,</u></p>
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		<p><i>check shall consist of a speedy and straightforward verification, where appropriate by using technical devices.</i></p>	<p><u>shall be at least subject to checks with a view to establishing their identity on the basis of the production or presentation of travel documents. Such checks shall consist in particular of a rapid and straightforward verification of the validity of the travel document for crossing the border, and of the presence of signs of falsification or counterfeiting, where appropriate by using technical devices and in case of doubts about the travel document and/or where there are indications that such a person may represent a threat to public policy, internal security or public health of the Member States, the border guard shall carry out the consultation of the databases referred to in paragraph 2(a) and (b).</u></p>
<p>Each Member State shall transmit its risk assessment to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004 and report every three months to the Commission and to that Agency on the application of the checks carried out on a targeted basis.</p>	<p><u>The Member State concerned shall without delay transmit its risk assessment and updates to it to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004 and shall report every six months to the Commission and to that Agency on the application of the</u></p>	<p>2c. Prior to the introduction of checks carried out on a targeted basis, each Member State concerned shall, without delay transmit its risk assessment, based on common risk indicators, and any updates thereto to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No</p>	<p>[...]The Member State <u>concerned</u> shall <u>without delay</u> transmit its risk assessment <u>and updates to it</u> to the Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004 and <u>shall</u> report every [...] <u>six</u> months to the Commission and to the Agency on the application</p>

	<p>checks carried out on a targeted basis. <u>The Member State concerned may decide to classify the risk assessment or parts thereof.</u></p>	<p>2007/2004 (<i>'the Agency'</i>), <i>to the Commission and to any Member States with which it shares a border and shall report every three months to the European Parliament</i>, to the Commission and to <i>the Agency</i> on the application of the checks carried out on a targeted basis. <i>The Agency shall transmit without delay its evaluations of the Member State's initial assessment and subsequent reports to all other Member States, indicating whether or not it deems the Member State concerned to have conducted an appropriate security risk and traffic flow assessment, and whether or not the Member State has appropriately decided to apply targeted checks on the basis of that assessment. Any classification of the risk assessment and common risk indicators or parts thereof shall comply with Union law and in particular with Regulation (EC) 1049/2001 of the European Parliament and of the Council^{1a}.</i></p>	<p>of the checks carried out on a targeted basis. <u>The Member State concerned may decide to classify the risk assessment or parts thereof.</u></p>
	<p>2b. <u>Where a Member State intends to carry out targeted consultations pursuant to paragraph 2a, it shall notify the other Member States, the Agency and the Commission accordingly without delay. The Member State concerned may decide to classify the notification or parts thereof.</u> <u>In case the Member States, the Agency or the Commission have concerns about the intention, they shall notify the Member State in question of these concerns without delay. The Member State in question shall take these concerns into account.</u></p>	<p><i>1a Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European</i></p>	<p>2b. <u>Where a Member State intends to carry out targeted checks pursuant to paragraph 2a, it shall notify the other Member States, the Agency and the Commission accordingly without delay. The Member State concerned may decide to classify the notification or parts thereof.</u> <u>In case the Member States, the Agency or the Commission have concerns about the intention, they shall notify the Member State in question of these concerns without delay. The Member State in question shall take these concerns into account.</u></p>

		<i>Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).</i>	
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	<p><u>2c. The Commission shall, before two years after [date to be inserted: date of entry into force], transmit to the the European Parliament and the Council an evaluation of the implementation and consequences of paragraphs 2a and 2b.</u></p>		<p><u>2c. The Commission shall, before two years after [date to be inserted: date of entry into force], transmit to the the European Parliament and the Council an evaluation of the implementation and consequences of [...]Article 7(2) of Regulation (EC) No 562/2006 as amended by this Regulation.</u></p>
	<p><u>2d. With regard to air borders, paragraphs 2a and 2b shall apply for a maximum transitional period of six months from [date to be inserted: date of entry into force].</u></p>		<p><u>2d. With regard to air borders, paragraphs 2a and 2b shall apply for a maximum transitional period of six months from [date to be inserted: date of entry into force]. In exceptional cases, where at a specific airport there are specific infrastructural difficulties requiring a longer period of time for adaptations to allow for the carrying out of systematic consultations of databases without disproportionate impact on the flow of traffic, the six-month transitional period referred to in the first subparagraph may be prolonged for that airport, by a maximum of eighteen months under the conditions specified below. For that purpose, the Member State shall, at the latest three months before the expiry of the transitional period referred to in the first subparagraph, notify the</u></p>

			<p><u>Commission, the Agency and the other Member States about the specific infrastructural difficulties in a specific airport, the envisaged measures to remedy them and the required period of time for implementation.</u></p> <p><u>The Commission, within one month of receipt of such a notification and after consulting the Agency, may authorise the Member State concerned to prolong the transitional period for that airport and, where relevant, shall set the length of such prolongation.</u></p>
	<p><u>2e. The consultation of the databases referred to in paragraph 2(a), and the consultation of the relevant Union and national databases referred to in paragraphs 2(b) may be carried out in advance based on passenger information received in accordance with Council Directive 2004/82(EC) or in accordance with other Union or national legislation.</u></p> <p><u>In case this consultation is carried out in advance based on such passenger information, a verification shall take place at the border crossing point. This process shall consist of a verification of the received advanced</u></p>		<p><u>2e. The consultation of the databases referred to in paragraph 2(a), and the consultation of the relevant Union and national databases referred to in paragraphs 2(b) may be carried out in advance based on passenger information received in accordance with Council Directive 2004/82(EC) or in accordance with other Union or national legislation.</u></p> <p><u>In case this consultation is carried out in advance based on such passenger information, a verification shall take place at the border crossing point. This process shall consist of a verification of the received advanced</u></p>

	<u>data against the data in the travel document and the verification of the identity and the nationality of the person concerned, as well as the validity and the authenticity of the travel document.</u>		<u>data against the data in the travel document and the verification of the identity and the nationality of the person concerned, as well as the authenticity and the validity of the travel document for crossing the border.</u>
	<u>2f. By derogation to paragraph 2, the persons enjoying the right of free movement under Union law who cross the internal land borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to relevant provisions of relevant Acts of Accession has not yet been taken, shall be subject to the checks on exit referred to in that paragraph only on a non-systematic basis, based on a risk assessment.</u>		<u>2f. By derogation to paragraph 2, the persons enjoying the right of free movement under Union law who cross the internal land borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to relevant provisions of relevant Acts of Accession has not yet been taken, may be subject to the checks on exit referred to in that paragraph only on a non-systematic basis, based on a risk assessment.</u>
	<u>(aa) Paragraph 3(a)(i) and (ii) are replaced by the following:</u>		<u>(aa) Paragraph 3(a)(i) and (ii) are replaced by the following:</u>
	<u>"(i) Verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, including by consulting the relevant databases, in particular:</u>		<u>"(i) Verification of the identity and the nationality of the third country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in</u>

			<u>particular:</u>
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	<u>(1) the Schengen Information System;</u>		<u>(1) the Schengen Information System;</u>
	<u>(2) the Interpol database on stolen and lost travel documents;</u>		<u>(2) the Interpol database on stolen and lost travel documents;</u>
	<u>(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents</u>		<u>(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents</u>
	<u>For passport and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates.</u>		<u>For passport and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates.</u>
	<u>(ii) verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit."</u>		<u>(ii) verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit."</u>
		<i>The competent Member State shall ensure that the border authorities have sufficient technical, financial and human resources to prevent, as a rule, the additional checks causing longer waiting times and hindering the flow of traffic at the external borders.</i>	Moved to the new recital 4c.
(b) In paragraph 3(b), point (iii) is replaced by the following:	(b) Paragraph 3(b)(iii) is replaced by the following:		(b) Paragraph 3(b) [...] (iii) is replaced by the following:

<p>"(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, in particular the Schengen Information System;"</p>	<p>"(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, in particular the Schengen Information System;"</p>	<p>(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, <i>including, on a mandatory basis</i>, the Schengen Information System;</p>	<p>"(iii) verification that the third-country national concerned is not considered to be a threat to public policy, internal security or international relations of any of the Member States, including by consulting the relevant Union and national databases, in particular the Schengen Information System;"</p>
<p>(c) In paragraph (3)(c), point (iii) is deleted.</p>	<p>(c) Paragraph 3(c)(iii) is deleted.</p>		<p>(c) Paragraph 3(c)(iii) is deleted.</p>
	<p>(d) In paragraph 3, the following points are added:</p>		<p>(d) In paragraph 3, the following points are added:</p>
	<p><u>"(x) The consultation of the databases referred to in paragraph 3(a)(i), and the consultation of the relevant Union and national databases referred to in paragraphs 3(a)(vi) may be carried out in advance based on passenger information received in accordance with Council Directive 2004/82(EC) or with other Union or national legislation.</u> <u>In case this consultation is carried out in advance based on such passenger information, a verification shall take place at the border crossing point. This process shall consist of a verification of the received advanced data against the data in the travel</u></p>		<p><u>"(x) The consultation of the databases referred to in paragraph 3(a)(i), and the consultation of the relevant Union and national databases referred to in paragraphs 3(a)(vi) may be carried out in advance based on passenger information received in accordance with Council Directive 2004/82(EC) or with other Union or national legislation.</u> <u>In case this consultation is carried out in advance based on such passenger information, a verification shall take place at the border crossing point. This process shall consist of a verification of the received advanced data against the data in the travel</u></p>

	<u>document and the verification of the identity and the nationality of the person concerned, as well as the validity and the authenticity of the travel document. "</u>		<u>document and the verification of the identity and the nationality of the person concerned, as well as the authenticity and validity of the travel document for crossing the border. "</u>
	(y) <u>Where there is doubt on the authenticity of the travel document or on the identity of the third country national, the checks, where possible, shall include the verification of at least one of the biometric identifiers integrated in the travel documents."</u>		(y) <u>Where there is doubt on the authenticity of the travel document or on the identity of the third country national, the checks, where possible, shall include the verification of at least one of the biometric identifiers integrated in the travel documents."</u>
		<i>Article 1a</i>	
		<i>The Commission shall publish an study on the impact of this Regulation on the flow of traffic on the entry and exit at Schengen external borders by ... [one year after the date of entry into force of this Regulation].</i>	
		<i>Article 1b</i>	
		<i>By ... [two years after the date of entry into force of this Regulation], the Commission shall submit to the European Parliament and to the Council a report evaluating the implementation and consequences of Article 7(2) of Regulation (EC) No 562/2006 as amended by this Regulation.</i>	Mentioned in 2c.

<i>Article 2</i>	<i>Article 2</i> <u>Entry into force and applicability</u>		
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.		This Regulation shall enter into force on the twentieth 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.
		<i>It shall apply from ... [the date of entry into force of this Regulation] to ... [five years after the date of entry into force of this Regulation]. The European Parliament and the Council may, following a proposal by the Commission, extend the application of this Regulation. If so, this Regulation shall expire five years after the expiry of any such extension.</i> <i>Upon expiry of this Regulation, the version of Article 7(2) and (3)(b)(iii) and (c)(iii) of Regulation (EC) 562/2006 applicable before ... [the date of entry into force of this Regulation] shall apply.</i>	
Done at Strasbourg,	Done at Strasbourg,		Done at Strasbourg,
<i>For the EP</i> <i>For the Council</i> The President The President	<i>For the EP</i> <i>For the Council</i> The President The President		For the EP For the Council The President The President