

External and internal borders: rules on movement of persons across borders (Schengen Borders Code)

2011/0051(COD) - 26/06/2013 - Final act

PURPOSE: to amend [Regulation \(EC\) No 562/2006](#) of the European Parliament and of the Council establishing the Schengen Borders Code and the Convention implementing the Schengen Agreement to take account of the experience gained since the entry into force of these legal instruments.

LEGISLATIVE ACT: Regulation (EU) No 610/2013 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), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council.

CONTENT: after several years of practical application, the need for a number of amendments has emerged, based on the practical experiences of the Member States and of the Commission in applying Regulation (EC) No 562/2006, on the results of Schengen evaluations, on reports and requests submitted by Member States and on developments in primary and secondary Union law, as has the need for clarification and more efficient mapping of critical technical issues.

As a result, Parliament and the Council adopted this Regulation introducing **technical amendments** to the existing rules laid down in Regulation (EC) No 562/2006 and the Convention implementing the Schengen Agreement, as well as Regulations (EC) No 1683/95, (EC) No 539/2001, (EC) No 767/2008 and (EC) No 810/2009.

Calculation of the length of short stays: the amendments adopted involve cross-cutting technical provisions that introduce, in particular, changes in regard to the **rules for calculating short-stay periods in the Schengen area**.

The purpose is to introduce clear, simple and harmonised rules into all the legislative acts relating to this question so as to facilitate both travellers and the competent authorities responsible for borders and visa issuance. The phrase in the current rules stating validity was of “three months in any six-month period”, has been replaced by **“90 days in any 180-day period”**.

For the purposes of implementing the new rules, the date of entry shall be considered as the first day of stay on the territory of the member states and the date of exit shall be considered as the last day of stay on the territory of the Member States. Periods of stay authorised under a residence permit or a long-stay visa will not be taken into account in this calculation.

These new rules will apply after a transitional period of 90 days from the date of entry into force of the Regulation.

Other technical measures: the amending Regulation also includes the following changes:

- exceptionally, at the request of a third-country national, the insertion of an entry or exit stamp may be dispensed with if insertion might cause serious difficulties for that person. In that case, entry or

exit shall be recorded on a separate sheet indicating that person's name and passport number. That sheet shall be given to the third-country national;

- technical measures relating to checking procedures on maritime traffic (on ships, or in port of arrival or departure);
- new definitions for “shared border crossing points” and “offshore workers”: as regards shared border crossing points, the new Regulation will result in **economies of scale** by allowing Member States to conclude or maintain bilateral agreements with third-country neighbours (in particular the establishment of shared border crossing points, at which Member State border guards and third-country border guards carry out exit and entry checks one after another in accordance with their national law on the territory of the other party.

Respect of fundamental rights: when applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union, the Geneva Convention, obligations related to access to international protection, and, in particular the principle of *non-refoulement*; and fundamental rights.

In this regard, border guards shall, in the performance of their duties, fully respect human dignity, in particular in cases involving vulnerable persons.

Territorial measures: provisions are foreseen to take into account the situation of Iceland, Norway, Switzerland and Liechtenstein as countries associated with the Schengen *acquis*.

Denmark, Ireland and the United Kingdom do not take part either in the adoption of this Regulation or in its application, in accordance with the relevant provisions of the Treaty. Denmark may, however, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

DELEGATED ACTS: the Commission is empowered to adopt delegated acts in order to amend the annexes of the Regulation. The power to adopt delegated acts is conferred on the Commission **for an indeterminate period as 19 July 2013**.

The European Parliament or the Council may object to the delegated act within a period of **two months** of notification of that act (which may be extended by a further two months). If either the European Parliament or Council objects, the delegated act shall not enter into force.

ENTRY INTO FORCE: the Regulation enters into force on 19.07.2013. However, some of its provisions shall not be applicable until 18.10.2013.