Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Codification

2015/0006(COD) - 20/01/2015 - Legislative proposal

PURPOSE: to codify 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).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EC) No 562/2006 of the European Parliament and of the Council has been substantially amended several times. It is recalled that on 1 April 1987 the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Conclusions of the Presidency of the December 1992 Edinburgh European Council confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

CONTENT: in the interests of clarity and rationality, the purpose of this proposal is to **undertake a codification of 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). **The new Regulation will supersede the various acts incorporated in it**; it fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

Main codified provisions:

Purpose, scope and application: this Regulation provides for the absence of border control of persons crossing the internal borders between the Member States of the European Union. It lays down rules governing border control of persons crossing the external borders of the Member States of the European Union. In addition, it establishes the list of persons to which it the absence of control to internal borders applies. 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 be proportionate to the objectives pursued.

Types of controls: the Regulation provides that border control comprises not only checks on persons at border crossing points and surveillance between those border crossing points, but also an analysis of the risks for internal security and of the threats that may affect the security of external borders. Therefore, the Regulation sets out the conditions, criteria and detailed rules governing checks at border crossing points and surveillance at the border, including checks in the Schengen Information System (SIS).

Since only a verification of fingerprints can confirm with certainty that a person wishing to enter the Schengen area is the person to whom the visa has been issued, provisions have been made for the use at external borders of the Visa Information System (VIS).

Exceptional circumstances and controls: the Regulations stipulates that it should be possible to have checks at external borders relaxed in the event of exceptional and unforeseeable circumstances in order to avoid excessive waiting time at border crossing points. The systematic stamping of the documents of third-country nationals remains an obligation in the event of border checks being relaxed. Stamping makes it possible to establish, with certainty, the date on which, and where, the border was crossed.

In order to reduce the waiting times of persons enjoying the Union right of free movement, separate lanes, indicated by uniform signs in all Member States, should, where circumstances allow, be provided at border crossing points. Separate lanes should be provided in international airports. Where it is deemed appropriate and if local circumstances so allow, Member States should consider installing separate lanes at sea and land border crossing points.

Exceptional reintroduction of controls and serious threats: the reintroduction of internal border control should remain exceptional. In an area without internal border control, it is necessary to have a common response to situations seriously affecting the public policy or internal security of that area, of parts thereof, or of one or more Member States, by allowing for the temporary reintroduction of internal border control in exceptional circumstances, but without jeopardising the principle of the free movement of persons.

Given the impact that such measures of last resort may have on all persons having the right to move within the area without internal border control, the conditions and procedures for reintroducing such measures should be provided for, in order to ensure that they are exceptional and that the principle of proportionality is respected.

In any case, the reintroduction of internal border control should remain an exception and should only be effected as a measure of last resort, for a strictly limited scope and period of time, based on specific objective criteria and on an assessment of its necessity which should be monitored at Union level. Where a serious threat to public policy or internal security requires immediate action, a Member State should be able to reintroduce border control at its internal borders for a period not exceeding ten days. Any prolongation of that period needs to be monitored at Union level.

Conditions for the reintroduction of internal border control: the reintroduction of internal border control might exceptionally be necessary in the case of terrorist incidents or threats, or because of threats posed by organised crime. The temporary reintroduction of border control at certain internal borders may only be justified under a specific Union-level procedure. The temporary reintroduction of border control at certain internal borders could also be justified in the case of exceptional circumstances and as a measure of last resort where the overall functioning of the area without internal border control is put at risk as a result of persistent serious deficiencies relating to external border control identified in the context of a rigorous evaluation process in accordance with Regulation (EU) No 1053/2013.