

Free movement of persons: local border traffic at external borders of the Member States and establishment of a special "L" visa, amending the Schengen Conventions and the Common Consular Instructions

2005/0006(COD) - 23/02/2005 - Legislative proposal

PURPOSE: to lay down rules on local border traffic at the external land borders of the Member States and amending the Schengen Convention and the Common Consular Instructions

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

CONTENT: The purpose of the proposed Regulation is to lay down common rules on the criteria and conditions for establishing a regime of local border traffic at the "external land borders" of the Member States, i.e. the common land border between:

- a Member State and a neighbouring third country (e.g., the border between Poland and Ukraine or between Slovenia and Croatia);
- a Member State fully implementing the Schengen acquis and a Member State bound to apply such acquis in full but for which the Council decision authorising it to fully apply that acquis has not entered into force (e.g., the border between Austria and Hungary);
- two Member States bound to apply the Schengen acquis in full, but for which the Council decision authorising them to fully apply that acquis has not entered into force (e.g., the border between the Czech Republic and Poland).

It shall be noted, however, that the personal scope of the draft Regulation only covers third-country nationals (with some exceptions) lawfully resident in the border area of a neighbouring country for at least one year. EU citizens, as well as third country nationals enjoying the Community right to free movement have been explicitly excluded from the scope.

Furthermore, as regards border residents subject to the visa obligation, a specific visa ("L", from "Local") is introduced. The "L" visa would be a multiple-entry visa issued for at least one year and for maximum five years, entitling the holder to stay in the border area of the issuing Member State for 7 consecutive days maximum and without exceeding, in any case, three months within any half-year period.

The procedures and criteria to be followed for the issuing of such visas would be, for the Member States fully implementing the Schengen acquis, conforming to the provisions of the Common Consular Instructions (CCI). Member States not fully implementing the Schengen acquis would apply - until the Council authorises them to fully apply such acquis - their national legislation, which shall nevertheless be compatible with the rules laid down in this Regulation.

This proposed Regulation authorises Member States to negotiate bilaterally with their neighbours, if appropriate, the specific arrangements applicable to local border traffic at their common land border, provided that such arrangements comply with and do not affect the provisions established by this Regulation.

Member States may also maintain or conclude agreements between themselves on local border traffic, provided that they are compatible with the present Regulation. It is obvious that, once border controls will be lifted at the “temporary external borders”, these agreements will lose their *raison d’être*.

As a consequence of the adoption of “The Hague Programme” by the European Council of 4/5 November 2004, the Council took the decision of extending the co-decision procedure to certain areas covered by Title IV of the EC Treaty, including measures related to external borders. This proposal will be subject to the codecision procedure and replaces two separate proposals tabled in 2003 on the same subject that the Commission will withdraw upon the adoption of this proposal.