Basic information

2011/0051(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
External and internal borders: rules on movement of persons across borders (Schengen Borders Code) Amending Regulation (EC) No 1683/95 1994/0163(CNS) Amending Regulation (EC) No 539/2001 2000/0030(CNS) Amending Regulation (EC) No 562/2006 2004/0127(COD) Amending Regulation (EC) No 767/2008 2004/0287(COD) Amending Regulation (EC) No 810/2009 2006/0142(COD) **Subject** 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas 7.30 Police, judicial and customs cooperation in general	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	PAPANIKOLAOU Georgios (PPE)	25/05/2011
	Shadow rapporteur BOZKURT Emine (S&D) WEBER Renate (ALDE) ŽDANOKA Tatjana (Verts/ALE) MCINTYRE Anthea (ECR) ERNST Cornelia (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
DEVE Development	The committee decided not to give an opinion.	

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	VOSS Axel (PPE)	07/06/2012

Council of the European Union	Council configuration: Employment, Social Policy, Health and Consumer Affairs; Meetings: 3247; Date: 2013-06-20
European Commission	Commission DG: Migration and Home Affairs; Commissioner: MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
10/03/2011	Legislative proposal published	COM(2011)0118	Summary
24/03/2011	Committee referral announced in Parliament, 1st reading		
06/06/2013	Vote in committee, 1st reading		
07/06/2013	Committee report tabled for plenary, 1st reading	A7-0206/2013	Summary
12/06/2013	Decision by Parliament, 1st reading	T7-0264/2013	Summary
12/06/2013	Results of vote in Parliament		
20/06/2013	Act adopted by Council after Parliament's 1st reading		
26/06/2013	Final act signed		
26/06/2013	End of procedure in Parliament		
29/06/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0051(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1683/95 1994/0163(CNS) Amending Regulation (EC) No 539/2001 2000/0030(CNS) Amending Regulation (EC) No 562/2006 2004/0127(COD) Amending Regulation (EC) No 767/2008 2004/0287(COD) Amending Regulation (EC) No 810/2009 2006/0142(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p1 Treaty on the Functioning of the European Union TFEU 077-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/05621

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE478.678	18/01/2012	
Amendments tabled in committee		PE480.876	21/02/2012	
Specific opinion	JURI	PE491.369	20/06/2012	
Amendments tabled in committee		PE510.804	03/06/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0206/2013	07/06/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0264/2013	12/06/2013	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00003/2013/LEX	26/06/2013	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0118	10/03/2011	Summary
Commission response to text adopted in plenary	SP(2013)520	16/07/2013	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2011)0118	02/05/2011	
Contribution	PT_PARLIAMENT	COM(2011)0118	02/05/2011	
Contribution	BG_PARLIAMENT	COM(2011)0118	04/05/2011	
Contribution	IT_CHAMBER	COM(2011)0118	18/08/2011	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2013/0610
OJ L 182 29.06.2013, p. 0001 Summary

Corrigendum to final act 32013R0610R(01)
OJ L 225 30.07.2014, p. 0091 Summary

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

2011/0051(COD) - 10/03/2011 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and the Convention implementing the Schengen Agreement to take account of the experience gained since the entry into force of these legal instruments.

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

BACKGROUND: on 13 October 2006, 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) entered into force. After four years of practical application, the need for a number of limited technical amendments has emerged. The main sources for these amendments are:

- practical experiences of the Member States and the Commission in the application of the Schengen Borders Code, including the results of Schengen evaluations and the reports and requests submitted by Member States;
- the Commission reporton the operation of the provisions on stamping of the travel documents of third-country nationals in accordance with Articles 10 and 11 of the Schengen Borders Code and Commission report on the application of Title III (Internal Borders) of the Schengen Borders Code;
- consistency considerations linked to other recently adopted legislation, in particular the Visa Code (Regulation (EC) No 810/2009) and the Return Directive (Directive 2008/115/EC).

This proposal contains **amendments that improve clarity and narrow the scope for divergent interpretations of the existing text** as well as amendments responding to practical problems that have arisen during the first years of the Schengen Borders Code. Furthermore it provides for an explicit legal framework for bilateral agreements related to joint border checks on road traffic.

New policy initiatives, such as the creation of an EU Entry/Exit System and an EU Registered Traveller Programme, will be the subject of specific proposals to be discussed separately.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 77(1) and 77(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT:

The main proposed amendments concern the following issues:

Definitions: the proposal provides a clear definition of the method for calculating ‘stays not exceeding three months per six month period’ (Article 5). Following the judgment delivered by the ECJ on 3 October 2006 in Case C-241/05, *Bot*, and the adoption of a related parallel provision in Article 2(2)(a) of the Visa Code, clarified and authentic legislative guidance on this issue is needed for the Schengen Borders Code.

The definition of residence permit is also reshaped. In order to avoid any misunderstanding, it is made clear that visas (both long-stay and short-stay) can never be considered as ‘residence permits’ within the meaning of point 15(b).

Duration of the validity of certain travel documents: a clarification is made concerning the required period of validity of travel documents of non-visa holders (Article 5), in response to practical needs and in order to align the text with Article 12 of the Visa Code.

Creating separate lanes for certain travellers: the proposal foresees the possibility to create separate lanes for visa-free travellers (Article 9) in order to provide additional flexibility and speed up border control in accordance with practical needs.

Stamping of the travel documents of third-country nationals: the situation of train crews on international connections is comparable to pilots or seamen as these trains follow a fixed schedule. The Commission already announced that it would introduce an exemption from stamping for this category of persons.

Border guard training: the proposal provides measures to improve training of border guards in order to detect situations of particular vulnerability involving unaccompanied minors and victims of trafficking (Article 15).

Rescue services: in order to allow for derogations related to the entry and exit of members of rescue services, police and fire brigades acting in emergency situations an express legal framework is required (addition of a new category in Article 19, accompanied by related provisions in Annex VII)

including the possibility to conclude bilateral agreements on this issue. In addition, a special exemption is made for offshore workers (such as workers on oil-platforms or on maritime windparks) in Annex VII, point 8, providing for rules comparable to coastal fishing.

Checks within the territory: many Member States do not implement Article 22 of the Schengen implementing Convention (reporting obligation for legally staying third-country nationals entering other Member States). Practical difficulties in verifying compliance with this general reporting obligation are broadly acknowledged and no convincing cost/benefit argument could be made to show that this rule has a significant impact on identifying illegally staying immigrants. The recent Commission report on the application of Title III (Internal Borders) of the Schengen Borders Code therefore proposed repealing Article 22 Schengen implementing Convention as well as the corresponding reference to it in Article 21(d) Schengen Borders Code. The proposed amendment does not affect the right of Member States to provide for targeted checks to fight illegal immigration in their territory.

Delegated acts: in order to align the provisions of the Schengen Borders with the Treaty on the Functioning of the European Union (TFEU), the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adoption of ad**ditional measures governing surveillance** as well as amendments to the annexes.

Reporting obligations: alignment of reporting obligations, expressly obliging Member States to inform the Commission of all bilateral agreements authorised by the Schengen Borders Code.

An explicit legal framework for joint border crossings (Annex VI): in order to enable bilateral agreements to be concluded between Member States and neighbouring third countries on cooperation in border control with joint border crossing points, Annex VI of the Schengen Borders Code needs to be amended to expressly permit bilateral agreements for joint border checks on road traffic and to provide a legal framework on certain key issues, such as the situation of persons requesting international protection.

Amendments to the Annexes: a number of technical amendments have been made to the Annexes.

Repealing certain articles of the Convention: the rules relating to border checks have been harmonised by EU law. This affects the power of Member States to conclude treaties in this field. The conclusion of bilateral agreements between a Member State and a third country on border checks without specific permission to do so in the Schengen Borders Code would affect EU law within the meaning of Article 3(2) TFEU and Article 2(1) TFEU. Article 136 of the Convention implementing the Schengen Agreement is incompatible with this principle. It should therefore be repealed

It should be noted that throughout the text, a certain number of changes resulting from the entry into force of the Lisbon Treaty are proposed ('EU' instead of 'EC').

BUDGETARY IMPLICATIONS: this proposal has no implications for the EU budget.

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

2011/0051(COD) - 07/06/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Georgios PAPANIKOLAOU (EPP, EL) on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and the Convention implementing the Schengen Agreement.

The committee recommends that the European Parliament's position at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows:

Title: the draft Regulation should relate not only the amendment of Regulation (EC) No 562/2006 but also the Convention implementing then Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2998 and (EC) No 810/2009 of the European Parliament and of the Council concerning visa policy.

Legal basis: the legal base would be Article 77(2) of the Treaty on the Functioning of the European Union (TFEU) instead of Article 77(**1**) of the TFEU.

Enhancing free movement within the Schengen area while improving border controls: it is recalled that the free movement of persons within the Schengen area was one of Europe's greatest achievements. Freedom of movement is a fundamental right, the conditions for the exercise of which are laid down in the Treaty. A necessary corollary of this frontier-free area is the integrated management of external borders ensuring a uniform and high level of control and surveillance. This management is based on common rules on standards and procedures for the control of external borders should be established, taking into account the **specific and disproportionate pressures faced by some Member States** at their external borders. The rules set should be governed by the principle of **solidarity** between Member States.

The abolition of **internal border** controls requires full mutual trust between Member States in their capacity to fully implement the accompanying measures allowing those controls to be lifted.

Fundamental rights: it is stipulated that 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, in particular the principle of *non-refoulement*; and fundamental rights.

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

Amendments to technical rules: a number of cross-cutting technical measures have been provided for in the text. Amongst these, the amendments relating to the **calculation of the authorised length of short-term stay visas** deserve mention: the phrase stating validity was of “three months in any six-month period”, has been replaced by **“90 days in any 180-day period**”.

Other technical measures regarding the stamping of travel documents: another amendment stipulates that, exceptionally, at the request of a third-country national, 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.

It should be noted that other technical amendments are contained in the text (e.g. checking procedures on maritime traffic, on ships, or in port of arrival or departure).

Delegated acts: amendments were made to the provisions regarding amendments to the annexes by means of delegated acts. The power to adopt delegated acts is conferred on the Commission. The delegation of powers may be revoked at any time by the European Parliament or by the Council.

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

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

2011/0051(COD) - 12/06/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 506 votes to 121, with 55 abstentions, a legislative resolution on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and the Convention implementing the Schengen Agreement.

The European Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and the Council. They amend the proposal as follows:

Title: the draft Regulation should relate not only the amendment of Regulation (EC) No 562/2006 but also the Convention implementing then Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2998 and (EC) No 810/2009 of the European Parliament and of the Council concerning visa policy.

Legal basis: the legal base would be Article 77(2) of the Treaty on the Functioning of the European Union (TFEU) instead of Article 77(**1**) and (2) of the TFEU.

Enhancing free movement within the Schengen area while improving border controls: it is recalled that the free movement of persons within the Schengen area was one of Europe’s greatest achievements. Freedom of movement is a fundamental right, the conditions for the exercise of which are laid down in the Treaty. A necessary corollary of this frontier-free area is the integrated management of external borders ensuring a uniform and high level of control and surveillance. This management is based on common rules on standards and procedures for the control of external borders should be established, taking into account the **specific and disproportionate pressures faced by some Member States** at their external borders. The rules set shall be governed by the principle of **solidarity** between Member States.

Moreover, the abolition of **internal border** controls requires full mutual trust between Member States in their capacity to fully implement the accompanying measures allowing those controls to be lifted.

Definitions: the following aspects are defined:

- **“shared border-crossing point”** means any border crossing point situated either on the territory of a Member State or on the territory of a third country, at which Member State border guards and third-country border guards carry out exit and entry checks one after another;
- **“offshore worker”** means a person working on an offshore installation located in the territorial waters or in an area of exclusive maritime economic exploitation of the Member States as defined by international maritime law, and who returns regularly by sea or air to the territory of the Member States.

Amendments to technical rules: a number of cross-cutting technical measures have been provided for in the text. Of these, the amendments relating to the **calculation of the authorised length of short-term stay visas** deserve mention: the phrase stating validity was of “three months in any six-month period”, has been replaced by **“90 days in any 180-day period**”.

Other technical measures regarding the stamping of travel documents:,

- 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) have also been amended.

Respect for 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, in particular the principle of *non-refoulement*; and fundamental rights.

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

Delegated acts: lastly, amendments were made to the provisions regarding amendments to the annexes by means of delegated acts. The power to adopt delegated acts is conferred on the Commission. The delegation of powers may be revoked at any time by the European Parliament or by the Council.

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

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.

LEGISLAIVE 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.

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

2011/0051(COD) - 26/06/2013 - Corrigendum to final act

Corrigendum to Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 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

(Official Journal of the European Union L 182 of 29 June 2013)

On page 8, point (21) of Article 1:

for:

‘(21)	Annexes III, IV, VI, VII and VIII to Regulation (EC) No 562/2006 are amended in accordance with Annex I to this Regulation.';

read:

‘(21)	Annexes III to VIII to Regulation (EC) No 562/2006 are amended in accordance with Annex I to this Regulation.'.