Basic information

2015/0006(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Codification Repealing Regulation (EC) No 562/2006 2004/0127(COD) Amended by 2015/0307(COD) Amended by 2015/0310(COD) Amended by 2016/0105(COD) Amended by 2016/0357A(COD) Amended by 2017/0351(COD) Amended by 2018/0152A(COD) Amended by 2021/0428(COD) **Subject** 7.10 Free movement and integration of third-country nationals 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	HAUTALA Heidi (Verts/ALE)	01/07/2015

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3451	2016-02-29

European Commission

Commission DG	Commissioner
Legal Service	TIMMERMANS Frans

Key events

Date	Event	Reference	Summary
20/01/2015	Legislative proposal published	COM(2015)0008	Summary

28/01/2015	Committee referral announced in Parliament, 1st reading		
03/12/2015	Vote in committee, 1st reading		
07/12/2015	Committee report tabled for plenary, 1st reading	A8-0359/2015	Summary
02/02/2016	Decision by Parliament, 1st reading	T8-0025/2016	Summary
02/02/2016	Results of vote in Parliament		
29/02/2016	Act adopted by Council after Parliament's 1st reading		
29/02/2016	End of procedure in Parliament		
09/03/2016	Final act signed		
23/03/2016	Final act published in Official Journal		

Technical information

Procedure reference	2015/0006(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 562/2006 2004/0127(COD) Amended by 2015/0307(COD) Amended by 2015/0310(COD) Amended by 2016/0105(COD) Amended by 2016/0357A(COD) Amended by 2017/0351(COD) Amended by 2018/0152A(COD) Amended by 2021/0428(COD)
Legal basis	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	JURI/8/02599

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE557.322	01/07/2015	
Committee report tabled for plenary, 1st reading/single reading		A8-0359/2015	07/12/2015	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0025/2016	02/02/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00036/2015/LEX	09/03/2016	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2015)0008	20/01/2015	Summary
Follow-up document	COM(2022)0301	24/05/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2015)0008	05/10/2015	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EU	For information	N8-0025/2017 OJ C 152 16.05.2017, p. 0005	09/03/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2016/0399
OJ L 077 23.03.2016, p. 0001 Summary

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

2015/0006(COD) - 09/03/2016 - Final act

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).

LEGISLATIVE ACT: Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

BACGROUND: the Schengen agreement was signed on 14 June 1985 on the initiative of Belgium, Germany, France, Luxembourg and the Netherlands. It sought to gradually establish an **area without internal borders** for all nationals of the signatory countries, other Member States and third countries. The Schengen Implementing Convention (1990) entered into force in 1995.

The measures relating to the Agreement and the Convention form the ‘Schengen acquis’, incorporated into the European Union’s (EU) institutional and legal framework since 1999.

CONTENT: the Regulation **codifies and replaces** Regulation (EC) No 562/2006 of the European Parliament and of the Council on a Union code on a regime for the crossing of frontiers by persons.

The codification is carried out for the sake of clarity of law, given that the regulation has been amended several times and substantially. It consists of bringing together in a new single text a legislative act and all its modifications while preserving totally the substance of these.

Purpose: the 'Schengen Borders Code' lays down rules governing the checking of persons crossing the external borders of the Member States of the European Union.

Internal borders: within the Schengen area, internal borders may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out. However, the national police authorities or the customs authorities may still carry out sporadic checks.

The Schengen States have to remove all the obstacles that prevent the flow of traffic at road crossing points at internal borders. To this end, they shall establish separate lanes at these crossing points, indicated by uniform indications, in particular at international airports and, where possible, at sea and land crossing points.

External borders: when crossing external borders, nationals of non-EU countries are subjected to a thorough check and a stamp is systematically affixed to their travel document, both at entry and exit.

On entry and exit, third-country nationals shall be subject to thorough checks in particular a verification of the conditions governing entry laid down in the Visa Information System (VIS) and, where applicable, of documents authorising residence and the pursuit of a professional activity.

For a stay not exceeding 90 days over a period of 180 days, a non-EU national must:

- be in possession of a valid travel document;
- be in possession of a visa if necessary;
- justify the purpose of the intended stay and have sufficient means of subsistence;
- not persons for whom an alert has been issued in the Schengen Information System (SIS) for the purposes of refusing entry;
- not be considered a threat to public order, internal security, public health or the international relations of EU countries.

The entry into the territory of the Member States of a third-country national may be refused only by means of a substantiated decision stating the precise reasons for the refusal and which may be challenged by means of an appeal.

Schengen evaluation mechanism: in accordance with Regulation (EU) No 1053/2013, Member States and the Commission shall jointly conduct regular, objective and impartial evaluations in order to verify the correct application of this Regulation (for instance, in the form of announced and unannounced on-site visits).

Where **serious deficiencies** in the carrying out of external border control are identified, implementing powers should be conferred on the Commission to recommend that the evaluated Member State take specific measures, such as deploying European border guard teams, submitting strategic plans to the European Agency for the Management of Operational Cooperation at the External Borders (now the European Border and Coast Guard Agency) or, as a last resort and taking into account the seriousness of the situation, closing a specific border crossing-point.

Temporary reintroduction of border control at internal borders: Member States of the Schengen area may, on an exceptional basis and as a last resort, temporarily reintroduce internal border controls:

- where there is a **serious threat to public policy or internal security** in a Member State, that Member State may exceptionally reintroduce border control at all or specific parts of its internal borders for a maximum period of six months. It shall notify its intention to the Commission and the other Member States in advance of the planned reintroduction. In cases requiring **immediate action**, controls may be reintroduced for a maximum period of two months.
- **if the overall functioning of the Schengen area is jeopardised** and if the Schengen evaluation mechanism shows that there is a serious and persistent failure of a State in the control of external borders, border control at internal borders may be reintroduced for a period not exceeding two years. In such a case, the Council may, as a last resort, recommend that one or more Member States decide to reintroduce border controls in order to preserve the functioning of Schengen.

The European Parliament and the Council shall be kept regularly informed of any reason justifying the reintroduction of controls at internal borders.

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 EU, the Convention Relating to the Status of Refugees, obligations related to access to international protection, in particular the principle of *non-refoulement*, the practice of not forcing refugees or asylum seekers to return to a country in which they are liable to be subjected to persecution.

Border checks should be carried out in such a way as to fully respect **human dignity** and in a non-discriminatory manner.

Territorial provisions: the Regulation constitutes a development of the provisions of the Schengen acquis in which the United Kingdom and Ireland do not take part. These Member States are therefore not involved in the adoption of the Regulation and are not bound by it or subject to its application.

DELEGATED ACTS: the Commission may adopt delegated acts with regard to the adoption of additional measures governing surveillance as well as amendments to the annexes to the Regulation. The power to adopt such acts is conferred on the Commission for an indeterminate period of time. The European Parliament or the Council shall have the right to object to a delegated act within a period of two months (extendable for two months) from the date of notification of the act.

ENTRY INTO FORCE: 12.4.2016.

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

2015/0006(COD) - 07/12/2015 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Heidi HAUTALA (Greens/EFA, FI) on the proposal for a regulation of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codified text).

The committee recommended the European Parliament to adopt its position at first reading under the ordinary legislative procedure **taking over the Commission proposal** as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

The examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal is a straightforward codification of existing texts, without any change in their substance.

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

2015/0006(COD) - 02/02/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 533 votes to 86, with 36 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codified text).

Parliament adopted its position at first reading under the ordinary legislative procedure taking over the Commission proposal.

The proposal is a **straightforward codification of existing texts**, without any change in their substance.

The proposed Regulation provides for the absence of border control of persons crossing the internal borders between the Member States of the Union:

- it lays down rules governing border control of persons crossing the external borders of the Member States of the Union;
- it applies to any person crossing the internal or external borders of Member States, without prejudice to: (a) the rights of persons enjoying the right of free movement under Union law; (b) the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Moreover, the proposed Regulation provides:

- that it is necessary to set 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); border checks should be carried out in such a way as to fully respect human dignity;
- **for rules dealing with the calculation of the authorised length of short-term stays** in the Union should be provided;
- for provisions to be made for the use at external borders of the **Visa Information System (VIS)** provided for under Regulation (EC) No 767 /2008 of the European Parliament and of the Council; in order to verify whether the entry conditions for third-country nationals laid down in this Regulation are fulfilled and to manage their tasks successfully, border guards should use all necessary information available, including data which may be consulted in the VIS;
- that 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, the use of the VIS should entail a **systematic search in the VIS** using the number of the visa sticker in combination with a verification of fingerprints. However, given the potential impact of such searches on waiting times at border crossing points, it should be possible, for a transitional period **by way of derogation** and in strictly defined circumstances, to consult the VIS without a systematic verification of fingerprints;
- 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;
- that 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;
- Member States should designate the national service or services responsible for **border-control tasks** in accordance with their national law;
- **for the temporary reintroduction of internal border control in exceptional circumstances**, but without jeopardising the principle of the free movement of persons. The scope and duration of any temporary reintroduction of such measures should be **restricted to the bare minimum** needed to respond to a serious threat to public policy or internal security. In any case, the reintroduction of internal border control should remain an **exception** and should only be effected as a measure of last resort. Any decision to reintroduce such control should be taken in accordance with commonly agreed criteria and should be duly notified to the Commission or recommended by a Union institution;

- for the possibility to trigger a **specific procedure** for the temporary reintroduction of border control at internal borders where an evaluation report has concluded that the evaluated Member State is seriously neglecting its obligations.

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.