

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed 2005/0006(COD)
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 Amended by 2011/0199(COD)	
Subject 7.10.04 External borders crossing and controls, visas	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		12/04/2005
		PPE-DE BREJC Mihael	
	Committee for opinion	Rapporteur for opinion	Appointed
	AFET Foreign Affairs		30/03/2005
		PPE-DE VON WOGAU Karl	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2752	05/10/2006
European Commission	Commission DG	Commissioner	
	Justice and Consumers	FRATTINI Franco	

Key events			
23/02/2005	Legislative proposal published	COM(2005)0056	Summary
12/04/2005	Committee referral announced in Parliament, 1st reading		
01/12/2005	Vote in committee, 1st reading		Summary
13/12/2005	Committee report tabled for plenary, 1st reading	A6-0406/2005	
14/02/2006	Results of vote in Parliament		
14/02/2006	Debate in Parliament		
14/02/2006	Decision by Parliament, 1st reading	T6-0049/2006	Summary
05/10/2006	Act adopted by Council after Parliament's 1st reading		

20/12/2006	Final act signed		
20/12/2006	End of procedure in Parliament		
30/12/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0006(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by 2011/0199(COD)
Legal basis	EC Treaty (after Amsterdam) EC 062-p2-ab-ii/iv; EC Treaty (after Amsterdam) EC 062-p2-aa
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/26858

Documentation gateway

Legislative proposal		COM(2005)0056	23/02/2005	EC	Summary
Amendments tabled in committee		PE364.911	10/11/2005	EP	
Amendments tabled in committee		PE365.047	23/11/2005	EP	
Committee opinion	AFET	PE360.314	25/11/2005	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0406/2005	13/12/2005	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0049/2006	14/02/2006	EP	Summary
Commission response to text adopted in plenary		SP(2006)1012	09/03/2006	EC	
Draft final act		03607/2/2006	20/12/2006	CSL	
Follow-up document		COM(2009)0383	24/07/2009	EC	Summary
Follow-up document		COM(2011)0047	09/02/2011	EC	Summary

Additional information

European Commission	EUR-Lex
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Final act

Regulation 2006/1931 OJ L 405 30.12.2006, p. 0001 Summary
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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

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.

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

The committee adopted the report by Mihael BREJC (EPP-ED, SI) amending the proposal under the 1st reading of the codecision procedure:

- instead of an 'L' visa as proposed by the Commission, border residents should be issued with a document, entitled 'local border traffic permit' (LBTP), authorising them to cross the border "for the purpose of local border traffic". The LBTP would bear the photograph of the holder and contain information such as his/her name, date of birth, nationality and place of residence, as well as details of the issuing authority, date of issue and period of validity and the border area in which the holder of the permit is authorised to move. It would also contain security features and technical specifications complying with the 2002 regulation laying down a uniform format for residence permits for third country nationals;
- whereas the Commission had proposed a system of entry and exit stamps on the travel documents used for local border traffic, MEPs said that no entry or exit stamps were needed for the LBTP, although entry and exit checks would be carried out on border residents;
- the committee clarified the type of stay in the border area which would justify the regular crossing of a Member State's external land border for the purpose of local border traffic: such stays would be "based on for example social, cultural or substantiated economic grounds, or on family links";
- under the bilateral agreements on local border traffic which may be concluded - or maintained - between Member States and neighbouring third countries, the maximum permissible duration of each uninterrupted stay under the local border traffic regime should not exceed three months;
- MEPs modified the definition of 'border residents', specifying that this should mean third-country nationals who have been lawfully resident in the border area of a country neighbouring a Member State "for a period specified in the bilateral agreements referred to in Article 14, which shall be at least one year". A period of residence of less than one year could be allowed "in exceptional and duly justified cases specified in the bilateral agreements";
- as regards the definition of 'border areas', the committee felt that the limit laid down by the Commission (not more than 35 km from the border line) was insufficiently flexible for some of the newer Member States whose main towns were further away from the border. It therefore proposed that a border area could extend up to a maximum of 50 km from the border line;
- MEPs deleted the provisions drawing a distinction between old and new Member States, since the EU10 was expected to fully join the Schengen area in 2007, before the new regulation came into force.

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

The European Parliament adopted a resolution drafted by Mihael BREJC (EPP-ED, SI) and made some amendments to the Commission's proposal:

- Whereas the Commission's proposal created a special 'L' visa, Parliament has deleted this idea in favour of a 'local border traffic permit'. The territorial validity of the permit is limited to the border area of the issuing Member State.
- The local border traffic permit will contain security features and technical specifications which comply with the relevant provisions of Council Regulation 1030/2002/EC laying down a uniform format for residence permits for third-country nationals.
- The local border traffic permit must bear the photograph of the holder of the permit and contain at least the following information: the forename, surname, date of birth, nationality and place of residence of the holder of the permit; the issuing authority, date of issue and period of validity; the border area within which the holder of the permit is authorised to move; the number of the valid travel document or documents authorising its holder to cross the external borders. It must clearly state that its holder is not authorised to move outside the border area, and that any misuse shall be subject to penalties as provided for in the legislation.
- While the Commission only applied the regime to third country nationals who need a visa to enter the EU, Parliament applies it to all non-EU nationals.
- Parliament modified the definition of 'border residents', specifying that this should mean third-country nationals who have been lawfully resident in the border area of a country neighbouring a Member State "for a period specified in the bilateral agreements referred to in Article 14, which shall be at least one year". A period of residence of less than one year could be allowed "in exceptional and duly justified cases specified in the bilateral agreements";
- Permits would be valid for between one and five years.
- Member States shall keep a central register of permits applied for, issued, extended and withdrawn and shall designate a national contact point responsible for providing without delay, upon request from other Member States, information on permits held in that register.
- The bilateral agreements referred to in Article 14 must specify the maximum permissible duration of each uninterrupted stay under the local border traffic regime, which shall not exceed three months. The Commission proposed seven days.
- Member States shall carry out entry and exit checks on border residents in order to ensure that they fulfil the relevant conditions. However, no entry and exit stamps shall be affixed to the local border traffic permit under the local border traffic regime. This is in contrast to the Commission proposal, which allowed passports to be stamped.
- Parliament deleted the provisions drawing a distinction between old and new Member States, since the EU10 was expected to fully join the Schengen area in 2007, before the new regulation came into force.
- As regards the definition of 'border areas', Parliament felt that the limit laid down by the Commission (not more than 35 km from the border line) was insufficiently flexible for some of the newer Member States whose main towns were further away from the border. It therefore proposed that a border area could extend up to a maximum of 50 km from the border line.

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

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

LEGISLATIVE ACT: Regulation (EC) No 1931/2006 of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention.

CONTENT: this Regulation establishes a local border traffic regime at the external land borders of the Member States and introduces for that purpose a local border traffic permit. It authorises Member States to conclude or maintain bilateral Agreements with neighbouring third countries for the purpose of implementing the local border traffic regime established by this Regulation. The Regulation constitutes a derogation from the general rules governing the border control of persons crossing the external borders of the European Union which are set out in Regulation (EC) No 562/2006 establishing a Schengen Borders Code.

"Local border traffic" means the regular crossing of an external land border by border residents in order to stay in a border area, for example for social, cultural or substantiated economic reasons, or for family reasons, for a period not exceeding the time limit laid down in this Regulation.

The territorial validity of the local border traffic permit shall be limited to the border area of the issuing Member State. The permit shall be valid for a minimum of one year and a maximum of five years. It shall bear a photograph of the holder and shall contain at least the following information:

- the forename(s), surname(s), date of birth, nationality and place of residence of the holder of the permit;
- the issuing authority, date of issue and period of validity;
- the border area within which the holder of the permit is authorised to move;
- the number(s) of the valid travel document or documents entitling its holder to cross the external borders.

It shall clearly state that its holder is not authorised to move outside the border area and that any abuse shall be subject to penalties as

provided for by law.

Member States shall keep a central register of local border traffic permits applied for, issued, extended and cancelled or revoked and shall designate a national contact point responsible for providing without delay, upon request from other Member States, information on the permits entered in that register. They shall also keep a record of all cases of abuse of the local border traffic regime and of penalties imposed. That information shall be forwarded every six months to the other Member States and to the Commission.

By 19 January 2009, the Commission shall submit a report to the European Parliament and the Council on the implementation and functioning of the local border traffic regime, as established by this Regulation and implemented by the bilateral Agreements concluded or maintained. That report shall be accompanied, where necessary, by appropriate legislative proposals.

ENTRY INTO FORCE: 19/01/2007.

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

This report concerns the implementation and functioning of the local border traffic regime introduced by Regulation (EC) No 1931/2006 of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States.

Legal background: on 20 December 2006, the European Parliament and the Council adopted Regulation (EC) No 1931/2006 laying down rules on local border traffic at the external land borders of the Member States (LBT Regulation). This Regulation allows the Member States to derogate, for persons living in a border area, from the general rules on border checks laid down in the Schengen Borders Code, in order to prevent the creation of barriers to trade, social and cultural interchange or regional cooperation with neighbours. In implementing the local border traffic regime, the Member States may conclude bilateral agreements with neighbouring countries aimed at addressing specific needs in relation to their respective neighbours, as these needs vary because of different local, geographical, social and economic situations. These bilateral agreements should comply fully with the parameters set for local border traffic regimes by the LBT Regulation. The parameters, and in particular the definition of the local border area, were set after difficult negotiations in the Council and are considered to represent the delicate, right balance between facilitation for those living in a border area who need to cross the border frequently and the security requirements of the whole Schengen area.

Under Article 18 of the LBT Regulation, the Commission is obliged to report to the European Parliament and the Council on the implementation and functioning of the local border traffic regime two years after the entry into force of the Regulation. The present report fulfils this obligation.

Based on the available information, the Commission draws the following conclusions:

- the current text of the Regulation was the outcome of intense negotiations in and between the institutions, and was considered to strike the delicate, right balance between facilitating personal contacts in the border area and maintaining a high level of security;
- Member States should be encouraged to take full advantage of other instruments available to facilitate cross-border contacts. For example, in the case of Ukraine and the Russian Federation there is a visa facilitation agreement which enables certain categories of persons, who need to travel frequently, to obtain multi-entry visas valid for up to 5 years;
- the mechanism of consultation has been put in place in order to ensure full compatibility of bilateral local border traffic agreements with the parameters set by the LBT Regulation. Consultations with the Member States have been relatively intensive. However, the results of these consultations are not always satisfactory as some Member States are neglecting the last phase of this procedure, i.e. "correction", before signing the bilateral agreements, as regards provisions incompatible with the LBT Regulation;
- only three bilateral local border traffic agreements have entered into force since the adoption of the LBT Regulation, between Hungary/Ukraine (since 11 January 2008), Slovakia/Ukraine (since 27 September 2008) and between Poland/Ukraine (since 1 July 2009). It is therefore difficult to draw practical conclusions based on such limited evidence, in particular as regards the total number of people benefiting from the regime, or to know whether the relevant facilitation measures or conditions have proved problematic;
- there were however no reports from the Member States that there was a wide misuse by owners of LBT permits or that the agreements raised some security risks for the Schengen area.

In principle, the Commission considers that this report comes too early to reconsider Regulation No 1931/2006 as regards the parameters set for the bilateral agreements:

- concerning travel medical insurance, it is possible that a financial burden may be created in the border area when nationals from the neighbouring third country need to be given emergency medical care and leave thereafter without paying. However, this problem could be solved in other ways (e.g. via an agreement between the health authorities of the countries concerned). Further experiences in implementing the agreements based on the current LBT Regulation will help in assessing the potential size of the problem;
- with regard to the border area, at this stage, the Commission would be prepared to consider allowing some flexibility on delimitation of the border area in a bilateral agreement if the definition provided by the LBT Regulation were to lead in individual cases to situations which are against the spirit of the Regulation, which provides for an exceptional extension of the border area in order not to split a community artificially. Moreover, when monitoring the application of the LBT Regulation, the Commission will pay particular attention to the parameters for the delimitation of the local border area. The Commission would therefore welcome a discussion with the Member States on whether the Regulation is considered sufficiently flexible to accommodate particular situations arising in relation to specific border regions, and is ready to reflect on the need for proposing amendments to the Regulation in the light of that discussion;
- more comprehensive information will gradually become available as more and more agreements are implemented in practice. The Commission is ready to submit a new report on the implementation and functioning of the local border traffic regime to the European Parliament and the Council in the second half of 2010.

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

This is the second report on the implementation and functioning of the local border traffic (LBT) regime introduced by Regulation (EC) No 1931/2006 of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States.

The 2006 Regulation laying down rules on local border traffic at the external land borders of the Member States allows derogating, for persons living in a border area, from the general rules on border checks set out in the Schengen Borders Code. The aim is to avoid creating barriers to trade, social and cultural interchange or regional cooperation with neighbouring countries. The Regulation authorises Member States to conclude bilateral agreements with neighbouring non-EU countries, provided these agreements fully comply with the parameters set by the Regulation.

In its first report on the functioning of the local border traffic (LBT) regime (see the follow-up document dated 24/07/2009), the Commission stated that more comprehensive information will gradually become available as more and more agreements are implemented in practice. The Commission is ready to submit a new report on the implementation and functioning of the local border traffic regime to the European Parliament and the Council in the second half of 2010.

The Commission asked Member States for information on the application and effects of the local border traffic regime. This second report has been drawn up on the basis of the answers provided by eighteen Member States. Six Member States (NL, IT, CZ, EL, CY and BG) did not reply. However, Member States which do not have external land borders, or which do not intend concluding LBT agreements, made no general comments on the implementation and functioning of the LBT regime.

Main conclusions: the Local Border Traffic regime has been in existence for four years, and there are still only four LBT agreements in force that were negotiated under the Regulation. However, three more agreements ? between Poland and Belarus, Lithuania and Belarus and Norway and Russia ? are expected to enter into force over the next few months. This shows that the countries concerned consider the regime useful for increasing cross-border trade, social and cultural interchange and regional cooperation.

From the relatively limited information available, the Commission concludes that the LBT regime is working well in practice, since it makes life significantly easier for people living near the external land borders and there is little evidence that the regime is being abused.

The Commission therefore believes that the LBT Regulation strikes the right balance between facilitations and the security concerns of the Schengen area as a whole. Consequently, the Commission is not considering amending the LBT Regulation either in order to redefine the border area or to require travel medical insurance. The Commission therefore requests Member States with agreements that do not conform to the Regulation to amend these, in line with the procedure laid down in Article 13 of the Regulation. If these agreements are not amended, the Commission will be obliged to make use of its powers under the Treaty to ensure consistent and correct implementation of EU law.

In the specific case of Kaliningrad, the Commission is in favour of amending the Local Border Regulation so that it covers the entire Kaliningrad district, subject to a favourable outcome of the discussion between Member States and the European Parliament.