

# Schengen Borders Code: use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP)

2013/0060(COD) - 28/02/2013 - Legislative proposal

**PURPOSE:** to amend [Regulation \(EC\) No 562/2006 of the European Parliament and of the Council establishing the Schengen Borders Code](#) as regards the use of the [Entry/Exit System \(EES\)](#) and the [Registered Traveller Programme \(RTP\)](#).

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

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

**BACKGROUND:** according to the [Schengen Borders Code](#), EU citizens and other persons enjoying the right of free movement under Union law (e.g. family members of EU citizens) crossing the external border shall be subject to a minimum check, both at entry and exit, consisting of the verification of the travel document in order to establish the identity of the person. On the other hand, all third country nationals however must be subject, at entry, to a thorough check.

However, current rules for third-country nationals could be described as "one-size-fits-all" as the same checks apply regardless of any differences in risk between different travellers or their frequency of travel.

Taking into account the foreseen increase in passenger flows at the external borders, an alternative border check procedure should be offered for frequent third-country travellers moving gradually away from a "country-centric" approach towards a "person-centric" approach.

This is what is proposed in the draft Regulation establishing a totally automated [Registered Traveller Programme \(RTP\)](#).

The [establishment of an Entry/Exit System \(EES\)](#) with or without biometrics which would record entries and exits of third-country nationals for short stays at the external borders would be the precondition for allowing full automation of the border checks for registered travellers.

These new measures, which are the subject of separate proposals, cannot come into full application without amending the Schengen Borders Code.

This is why, in addition to presenting the two above-mentioned proposals, it is proposed to amend the Schengen Code which governs the movement of persons across borders and their monitoring, to ensure the functioning of the two new systems.

**IMPACT ASSESSMENT:** the analysis of the impact relevant to this proposal is covered in the impact assessments relating to the legislative proposals on the establishment of an Entry/Exit System (EES) and the Registered Traveller Programme (RTP) please refer to the respective summaries.

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

**CONTENT:** the main amendments proposed are the following:

**Definitions:** the addition of EES, RTP, registered traveller and automated border control (ABC).

**Data to be entered in the EES:** a new Article 5a is added on the general obligation for a third country national entering the Schengen area to be registered in the EES, together with the exceptions concerning third country nationals that are exempted from border checks or from the obligation to cross external borders only at border crossing points or during the fixed opening hours.

**Border checks on persons:** in Article 7(2), the obligation to check the authenticity of the travel documents that contain an electronic storage medium using valid certificates has been added.

Provision has also been made for the following:

- the obligation to check whether the third country national entering the Schengen area has not yet exceeded the maximum duration of authorised stay by checking the stamps in the passport has been replaced by an obligation to consult the EES;
- the obligation for border guards to verify whether a third country national traveller has already been registered in the EES;
- the obligation for border guards to verify during the exit check whether a third country national exceeded the maximum duration of stay by consulting the EES;
- description of the verification of identity and participation in the RTP for a registered traveller;
- an obligation for border guards to inform third country nationals on their request about the maximum number of days they are still allowed to stay within the Schengen area, as set out in the EES and if applicable in the VIS.

**Border checks on Registered Travellers and use of automated means for border checks:** a new Article 7a Paragraph 1 describes the derogations from thorough checks applicable to a registered traveller at entry of the Schengen area. These relate to: (i) thorough check of the travel document; (ii) verification of point of departure and destination, the purpose of the stay including supporting documents; (iii) verification of the possession of sufficient means of subsistence.

Provision is also made for a procedure for travellers that are identified by the ABC gate as non-registered travellers or for registered travellers who do not fulfil all entry conditions. In these cases, the normal procedures (carried out by a border guard) shall be applicable.

Other technical provisions have been added on the use of the automated controls, as well as technical amendments relating to the establishment of the EES and the RTP. The entry and exit conditions for the travellers concerned as such remain unchanged.

**Relaxation of border checks:** the existing text is adapted to the establishment of the EES and the abolition of the stamping of passports. The obligation to always enter the data of the traveller into the EES while exiting the Schengen area is highlighted. Even in situations of relaxation

of border check procedures the registration in the EES shall be carried out.

Separate lanes and information on signs: the current text has been amended to clarify that registered travellers are allowed to use the lanes provided for EU citizens. A new paragraph 6 is added to take account of the introduction of ABC means. In order to have a harmonised approach, Member States shall use for ABC lanes the signs contained in Annex III Part D shall be used by all Member States at all border crossing points.

Presumptions as regards fulfilment of conditions of duration of stay: the existing text is adapted to the establishment of the EES. Currently, Article 11 regulates the procedures and assumptions in case of absence of entry or exit stamps. With the EES, the stamping will be replaced by an entry in the EES.

Annex III Model signs indicating lanes at border crossing points: the signs contained in Annex III are completed by adding new signs for the use of ABC means and the introduction of the RTP.

It should be noted that the existing Article 10 (stamping obligations) is deleted, as are Annex II point (f), Annex IV and Annex VIII.

Territorial measures: given that the proposal constitutes a further development of the Schengen acquis, it will have direct consequences for certain Member States and associated countries, in accordance with the relevant texts of the Treaties, Protocols and Agreements concluded with third countries:

- Denmark shall decide within a period of six months after the Council has decided on this proposal whether it will implement it in its national law;
- Ireland and the United Kingdom: these Member States are not taking part in the adoption of this Regulation and are not bound by it or subject to its application;
- Iceland, Norway, Switzerland and Liechtenstein shall be associated with the application of this Regulation;
- Cyprus, Bulgaria and Romania shall apply this Regulation because it replaces the requirement to check the length of stay of third country nationals.

BUDGETARY IMPLICATION: the proposed amendment has no implications for the EUs budget.