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*Committee on Civil Liberties, Justice and Home Affairs*

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**2011/0199(COD)**

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# **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad area and certain Polish administrative districts in the eligible border area  
(COM(2011)0461 – C7-0213/2011 – 2011/0199(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Kyriacos Triantaphyllides

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1931/2006 as regards the inclusion of the Kaliningrad area and certain Polish administrative districts in the eligible border area (COM(2011)0461 – C7-0213/2011 – 2011/0199(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0461),
  - having regard to Article 294(2) and Article 77(2)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0213/2011),
  - having regard to the Second report on the implementation and functioning of the local border traffic regime set up by Regulation No 1931/2006 (COM(2011)0047),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0000/2011),
1. Adopts its position at first reading, taking over the Commission proposal;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## **EXPLANATORY STATEMENT**

### **I- General context: Local border traffic**

On 20 December 2006, the European Parliament and Council adopted Regulation (EC) No 1931/2006 laying down rules on local border traffic at the external land borders of the Member States (hereafter: The Regulation), which enables Member States to derogate from the general rules on border checks laid down in the Schengen Borders Code for persons living in a border area, including visa requirement, the need to have sufficient means of subsistence as well as the need to prove the purpose of the stay. The objective of this Regulation is to prevent the creation of barriers to trade, social and cultural interchange or regional cooperation with neighbours.

For persons living in a border area to be eligible for a local border permit and to benefit from these derogations to the general rules on border checks, they need to (a) be in possession of a valid travel document; (b) have been resident in the local border area for a minimum of 1 year; (c) produce evidence of their status as border residents and reasons for frequent border crossings; (d) not be the subject of a Schengen Information System alert; and (e) not be considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States. If these conditions are met, persons can benefit from the local border traffic regime which enables them to stay on the territory of the relevant neighbouring country for uninterrupted periods of time not exceeding 90 days.

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. So far, such bilateral agreements are in force between Hungary, Slovakia, Poland and Ukraine as well as between Romania and Moldova, while agreements between Lithuania, Latvia and Belarus as well as between Norway, Latvia and Russia have been signed but not yet ratified.

### **II- Local border areas: the case of Kaliningrad**

The Kaliningrad region of the Russian Federation became an enclave within the EU as a consequence of the EU enlargement in 2004 and since then has had all its ties with its neighbours considerably circumscribed. There have been a number of EU initiatives in the past years which facilitated the movement of Kaliningrad residents (such as the Facilitated Transit Document and Facilitated Rail Transit Document, which have simplified travel between Kaliningrad and mainland Russia or the 2007 EU-Russia Visa Facilitation Agreement, which facilitates the issuance of short-term visas for all Russian nationals travelling to Schengen countries).

However, given the specific geographical situation of Kaliningrad, such initiatives have proven insufficient in addressing the marginalisation of Kaliningrad and its residents. This is why both Poland and the Russian Federation have called for amendments to the local border traffic Regulation taking into account the specific situation of the Kaliningrad region. The Regulation would have to be amended in order to enable the entire Kaliningrad district to be considered as one single border area, since according to the Regulation a local border area is

defined as a 30-km zone which may exceptionally extend to up to 50 km. Such an amendment would prevent the artificial fragmentation of a region of about one million inhabitants in total into three districts (one covered by a local border traffic agreement with Poland, one by an agreement with Lithuania and one without any agreement at all as it lies outside the border area) and enable all inhabitants, under the conditions laid out in the Regulation, to enjoy facilitations for local border traffic.

Taking into account the specific situation of the Kaliningrad Oblast, which is the only such enclave completely surrounded by the EU except for the Baltic Sea, the European Commission has accepted to amend the Regulation so long as this does not represent a precedent but responds to a unique situation.

### **III- Conclusion**

Local border areas constitute a very important tool developed by the European Union to ensure artificial and arbitrary barriers are not erected between peoples living in regions divided by national frontiers. The Rapporteur encourages Member States to conclude bilateral agreements with neighbouring third countries aiming at the promotion of sustained contacts between the peoples living on either side of the European Union's external frontiers.

Bearing in mind that the 2004 enlargement has created such an artificial barrier to long standing cultural, social and economic ties between the inhabitants of the region at large, the Rapporteur supports the request to amend the Regulation as formulated in the Commission proposal. This amendment provides a new opportunity for the European Parliament to reiterate its strong commitment to the principle of freedom of movement and to support consistently and fervently the right of people to circulate freely.

Given the possibility provided to the Member States concerned, under Article 15 of the Regulation, to introduce measures aiming at easing the border crossing for holders of local border traffic permits, the Rapporteur strongly encourages Poland to take concrete actions, such as the establishment of specific border crossings or lanes dedicated exclusively to holders of local border traffic permits, to ensure the facilitation of movement and avoid unnecessary delays or other routine complications which would de facto hinder this movement and introduce new barriers.

This is particularly important when taking into account the amount of persons that is expected to benefit from this new status as reflected by the visa statistics for the year 2011. It appears that, on a yearly basis, 72 532 persons cross the Kaliningrad-Polish border. According to polls carried out in the region, it seems that the interest in acquiring local border traffic permits stems from a desire to visit this part of Poland for purposes of tourism (cultural, nature, shopping) and the visit of grave sites. Based on the visa statistics of 2011, which reveal that 22 209 persons cross the Kaliningrad-Polish border for purposes of tourism; 1 003 for visits; 5 337 for culture and 17 745 for other purposes, it is estimated that around 10 % of the population of Kaliningrad will be likely to apply for local border traffic permits.