EUROPEAN PARLIAMENT

2004 *2009*

Committee on Foreign Affairs

2005/0006(COD)

25.11.2005

OPINION

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation 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 Schengen Convention and the Common Consular Instructions
(COM(2005)0056 – C6-0049/2005 – 2005/0006(COD))

Draftsperson: Karl von Wogau

SHORT JUSTIFICATION

The main body of this regulation is of a technical nature, reaching beyond the terms of reference of the Committee on Foreign Affairs. However, the general issues of avoiding new dividing lines at the borders of the enlarged Union and guaranteeing the security of the external borders of the Union are matters at the heart of the European foreign policy.

Border management is a priority issue tackled in the Action Plans signed with the European Neighbourhood Policy countries. The EU and its neighbours have to make joint efforts to manage their common borders more efficiently in order to facilitate legitimate movements. In particular, the establishment of a local border regime allows the countries' border area populations to maintain traditional contacts without encountering excessive administrative obstacles[1].

Your draftsperson supports the aim of the proposal to enable cross-border residents to carry out their everyday life without facing an excessive administrative burden, as he considers extremely important the promotion of cross-border trade, social and cultural exchange and regional co-operation. At the same time, he believes that the Union's common external border should be as secure as possible on the borders of all its Member States.

It is also essential for him that the border authorities of the Member States and neighbouring countries co-operate in tackling illegal cross border activities. Thus, he supports the special focus that the Commission has given to border management in the ENP Action Plans. He backs strongly the aims of the Hague Programme to further develop an integrated management of external borders and wishes for the investigation of the possibilities to implement new technologies for the protection of the Union's borders, such as data based registration and satellite based observation systems.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission[2]	Amendments by Parliament
Amendment 1 Recital 5 a (new)	
	(5a) The Union and its partners in the European Neighbourhood Policy need to work together to establish effective

[1] European Neighbourhood Policy Strategy Paper COM(2004)0373.
[2] Not yet published in OJ.

management and control systems for migration between themselves and between them and third countries with a view to ensuring that human rights are fully respected and immigration processes are safe. The European Neighbourhood action plans accordingly need to focus especially on this matter.

Justification

Immigration is a complex phenomenon with many facets, as well as a global phenomenon that not only affects the Union as a destination, but also demands practical steps in countries of origin and transit countries. The measures taken both within and outside the EU should therefore be consistent with required for human rights and the full cooperation require by partnership with the EU. The EU should do its utmost to assist its neighbours to that end so as to make cooperation fully effective.

Amendment 2
Recital 8 a (new)

(8a) Within the framework of the European Neighbourhood Policy action plans, the closest possible cooperation should be envisaged between the border police and customs authorities of the Member States and the third countries concerned, including common building facilities and common patrols in the border areas.

Justification

The border authorities of the Member States and neighbouring countries should co-operate to effectively tackle illegal cross border activities.

Amendment 3
Recital 11

(11) The Commission ***should*** submit a report to the European Parliament and to the Council on the application of this Regulation accompanied, where necessary, by legislative proposals.	(11) The Commission ***will be required to*** submit a report to the European Parliament and to the Council on the application of this Regulation accompanied, where necessary, by legislative proposals.

Justification

Immigration is a complex phenomenon with many facets. The Commission will need to bring permanent scrutiny to bear on the implementation of all measures taken to improve immigration management at Union level. The transparency and effectiveness of those measures will depend largely on the involvement of every institution when specific proposals are considered and drawn up.

Amendment 4
Article 1, paragraph 2

2. This Regulation authorises Member States to conclude or maintain bilateral agreements with neighbouring countries for the purpose of implementing the regime of local border traffic hereby established.	2. This Regulation authorises Member States to conclude or maintain bilateral agreements with neighbouring countries for the purpose of implementing the regime of local border traffic hereby established. ***Such bilateral agreements require as precondition the legal and definitive establishment of the external land border of the EU with its neighbouring countries.***

Amendment 5
Article 2, paragraph 1, point (b)

(b) access to and exercise of economic activity;	***deleted***

Justification

Substantial numbers of the persons who need to cross the borders frequently are cross border work commuters. Thus, the scope of the Regulation should include access to and exercise of economic activities on the other side of the border.

Amendment 6
Article 3, point (b)

(b) 'border area' means an area which***, as the crow flies,*** does not extend more than 30 kilometres from the frontier. Within this area, the local administrative districts which are to be considered as ***part of*** the border area ***can be further*** specified by the concerned States. If part of any such district is situated at more than 30 kilometres from the frontier line, ***but not more than 35,*** it	(b) "border area" means an area which does not extend more than 30 kilometres from the frontier. Within this area, the local administrative districts which are to be considered as the border area ***shall be*** specified by the concerned States ***in their bilateral agreements***. If any part of such district is situated at more than 30 kilometres from the frontier line, it shall nevertheless be

shall nevertheless be considered as part of the border area;	considered as part of the border area;

Amendment 7
Article 3, point (c)

(c) 'local border traffic' means the regular crossing of the external land border of a Member State by border residents ***in order to stay in the border area of that Member State*** for a period not exceeding the time limits laid down in this Regulation;	(c) "local border traffic" means the regular crossing of the external land border of a Member State by border residents ***for a stay in the border area, based on for example social, cultural or substantiated economic grounds, or on family links,*** for a period not exceeding the time limits laid down in this Regulation;

Or. en

Justification

This broad wording allows for a row of substantiated grounds to be included.

Amendment 8
Article 4, point (c)

(c) produce, if necessary, documents proving their status as border residents, the existence of legitimate reasons to frequently cross the border on grounds of local border traffic, such as family links, social, cultural or economic motives, as well as, where appropriate, the possession of sufficient means of subsistence in relation to the purpose of their stay;	(c) produce, if necessary, documents proving their status as border residents, the existence of legitimate reasons to frequently cross the border on grounds of local border traffic, such as family links, social, cultural or ***substantiated*** economic motives, as well as, where appropriate, the possession of sufficient means of subsistence in relation to the purpose of their stay;

Amendment 9
Article 4, point (e)

(e) are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States.	(e) are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States***, and also where no alert is issued in Member States' national databases for the purpose of refusing entry on any of those***

grounds.

Amendment 10
Article 5, point (b), point (ii)

(ii) a specific border crossing permit, issued by ***the State of residence and countersigned by the competent authorities of*** the Member State whose border is crossed.	(ii) a specific border crossing permit, ***which includes minimum security features and is*** issued by the Member State whose border is crossed. ***The permit shall be in an electronically readable format, where applicable.***

Amendment 11
Article 6, paragraph 1

For the purposes of this Regulation, border residents may stay in the border area of a neighbouring Member State for up to ***seven*** consecutive days. The total duration of their successive visits to that Member State shall not exceed three months within any half-year period.	For the purposes of this Regulation, border residents may stay in the border area of a neighbouring Member State for up to ***fourteen*** consecutive days. The total duration of their successive visits to that Member State shall not exceed three months within any half-year period.

Justification

Keeping in mind the nature of family and cultural ties, it seems more realistic to extend the maximum stay in the border area for the purposes of this Regulation from seven to fourteen days. The limitation on the successive visits remains unchanged.

Amendment 12
Article 7

Member States may derogate from the obligation to affix entry and exit stamps on the travel documents of border residents crossing the external land borders for the purpose of local border traffic***, provided that the following conditions are fulfilled:***	Travel documents of border residents crossing the external land borders for the purpose of local border traffic ***shall be systematically stamped on entry and on exit. Alternatively, Member States may derogate from the stamping obligation by instead applying a system of data-based registration of entry and exit of persons, in connection with the specific border crossing permit***.
a) the holder of the travel document is not subject to a visa obligation pursuant to Regulation (EC) No 539/2001;	
b) compliance with the time-limits provided for in Article 6 is ensured by any other	

means, to be specified in the bilateral agreements referred to in Articles 14 and 16.

Justification

Although it might create inconvenience at some borders, the stamping of travel documents is an effective means to allow the border guards to register the entry and exit of the third country nationals and also calculate the stay of these persons in the border area. As the majority of the travel documents are machine-readable now, the Member States may opt for data based registration systems as an alternative to stamping.

Amendment 13
Article 7, paragraph 1 a (new)

1a. The Commission shall carry out a feasibility study to investigate the possible creation of a common European data-based system for the registration of the entry, duration of stay and exit of third-country nationals crossing the common external border.

Justification

Feasibility of the creation of a common data based registration system of border crossings should be studied, in order to see whether modern technologies could contribute to more efficient and coherent controls on the Union's external borders.

Amendment 14
Article 17, paragraph 1, point (c)

(c) where there is a requirement of a special nature, taking into account the local circumstances, authorise border residents not subject to a visa obligation pursuant to Regulation (EC) No 539/2001 to cross their border at places other than authorised border crossing points and outside the fixed hours.	***deleted***

Justification

A possibility to cross the Union's external border outside authorised border-crossing points and outside fixed hours should not be allowed, in order for the borders of the Union to remain

controllable by the border guards.

Amendment 15
Article 17, paragraph 3

3. By way of derogation *to* Article 6 of the Schengen Convention, at the border crossing points referred to in paragraph 1, point (a), as well as at the lanes referred to in paragraph 1, point (b), persons who are known to the border guard by reason of their frequent crossing of the border shall be subject ***only*** to random checks.	3. By way of derogation *from* Article 6 of the Schengen Convention, at the border crossing points referred to in paragraph 1, point (a), as well as at the lanes referred to in paragraph 1, point (b), persons who ***regularly cross the border and*** are ***well*** known to the border guard by reason of their frequent crossing of the border shall ***as a rule*** be subject to random ***but thorough*** checks***, to be carried out at irregular intervals and without warning***.

Justification

Despite a personal relationship between a border guard and a border resident, which can be created by frequent crossings, the border guards should carry out random thorough checks without warning, in order to be able to spot any illegal cross-border activities and guarantee the safety of the Union's external border.

Amendment 16
Article 20, paragraph 1 a (new)

	1a. Particular attention shall be focused on the more sensitive land border points which account for a greater volume of traffic and where the number of persons moving is higher. The Commission shall submit a detailed report to the European Parliament and the Council on the more sensitive land border points in the Union, together with a proposal setting out specific support measures.

Justification

Immigration is a complex phenomenon with many facets. The Commission will need to bring permanent scrutiny to bear on the implementation of all measures taken to improve immigration management at Union level. The transparency and effectiveness of those measures will depend largely on the involvement of every institution when specific proposals are considered and drawn up. Attention should focus especially on land borders with greater traffic which, on account of their location, absorption capacity, or particular features such as small size or population density, require specific practical measures.

Amendment 17
Article 21 a (new)

Article 21a

The specific border crossing permits or the visas issued for local border crossing shall in no way exclude the possibility of obtaining other types of visa (Schengen or national), where applicable.

Amendment 18
Article 23 a (new)

Article 23a

By way of derogation from this Regulation, Member States referred in Article 3(a)(ii) and (iii) of this Regulation may maintain agreements between themselves in force at the time of the entry into force of this Regulation pending the entry into force of the Council decision authorising the lifting of internal border controls at their common borders.

Justification

Following the paragraph 1.7.1. of the 'Hague Programme: strengthening freedom, security and justice in the European Union' (OJ C 53 of 03.03.2005., p 001-0014) the internal border controls should be lifted at the earliest date possible i.e. the end of 2007 at the earliest. Following this, the internal border controls between 'old' and 'new' member States and between 'new' Member States themselves will be lifted within two years, which makes it impracticable, both in terms of control and resources, to start renegotiating these agreements instead of concentrating to creation of the necessary circumstances for the removal of internal border controls.

PROCEDURE

Title	Proposal for a regulation 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 Schengen Convention and the Common Consular Instructions
References	COM(2005)0056 – C6-0049/2005 – 2005/0006(COD)
Committee responsible	LIBE
Committee asked for its opinion Date announced in plenary	AFET 12.4.2005
Enhanced cooperation	
Draftsman Date appointed	Karl von Wogau 30.3.2005
Discussed in committee	4.10.2005 22.11.2005
Date amendments adopted	23.11.2005
Result of final vote	for: 51 against: 5 abstentions: 4
Members present for the final vote	Vittorio Agnoletto, Angelika Beer, André Brie, Elmar Brok, Simon Coveney, Véronique De Keyser, Giorgos Dimitrakopoulos, Camiel Eurlings, Alfred Gomolka, Klaus Hänsch, Richard Howitt, Anna Ibrisagic, Toomas Hendrik Ilves, Jelko Kacin, Georgios Karatzaferis, Ioannis Kasoulides, Helmut Kuhne, Joost Lagendijk, Vytautas Landsbergis, Cecilia Malmström, Francisco José Millán Mon, Pierre Moscovici, Pasqualina Napoletano, Annemie Neyts-Uyttebroeck, Baroness Nicholson of Winterbourne, Vural Öger, Cem Özdemir, Alojz Peterle, Tobias Pflüger, João de Deus Pinheiro, Paweł Bartłomiej Piskorski, Poul Nyrup Rasmussen, Michel Rocard, Raül Romeva i Rueda, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Emil Saryusz-Wolski, György Schöpflin, Gitte Seeberg, Konrad Szymański, Antonio Tajani, Paavo Väyrynen, Inese Vaidere, Geoffrey Van Orden, Ari Vatanen, Josef Zieleniec
Substitutes present for the final vote	Árpád Duka-Zólyomi, Kinga Gál, Tunne Kelam, Jaromír Kohlíček, Alexander Lambsdorff, Janusz Onyszkiewicz, Doris Pack, Aloyzas Sakalas, Pierre Schapira, Inger Segelström, Csaba Sándor Tabajdi, María Elena Valenciano Martínez-Orozco, Marcello Vernola
Substitutes under Rule 178(2) present for the final vote	Thomas Wise