

COMMISSION OF THE EUROPEAN COMMUNITIES

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2006/0279 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending
Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), as regards the implementing powers conferred on the Commission

(presented by the Commission)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62(1) and (2)(a) thereof,

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Having regard to the opinion of the Committee of the Regions[3],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[4],

Whereas:

(1) Regulation (EC) No 562/2006[5] provides that certain measures should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[6].

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for measures of general scope intended to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing them by the addition of new non-essential elements.

(3) In accordance with the joint statement of the European Parliament, the Council and the Commission[7] on Decision 2006/512/EC, instruments which are already in force must be adjusted in accordance with the applicable procedures. The statement comprises a list of instruments to be adapted as a priority, including Regulation (EC) No 562/2006.

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1 OJ C […], […], p. […].
2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ C […], […], p. […].
5 OJ L 105, 13.4.2006, p.1.
6 OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).
7 OJ C 255, 21.10.2006, p. 1.

(4) Power should be conferred on the Commission to adapt certain practical rules governing border control and to amend certain annexes. Since these measures are of general scope and seek to amend non-essential elements of Regulation (EC) No 562/2006 and to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Regulation (EC) No 562/2006 provides for a period of suspension as regards the implementing powers conferred on the Commission. In their joint statement on Decision 2006/512/EC, the European Parliament, the Council and the Commission have stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time-limit. The European Parliament and Council have also stated that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time-limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, there are grounds to delete the provision in Regulation (EC) No 562/2006 that provides for the aforementioned period of suspension.

(6) Regulation (EC) No 562/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 562/2006 is hereby amended as follows:

1) Article 12(5) is replaced by the following:

"5. The Commission hereby adopts the measures concerning additional supervisory methods. These measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 33(2)."

2) Article 32 is replaced by the following:

"Article 32

Amendments to the Annexes

Annexes III, IV and VIII shall be amended in accordance with the regulatory procedure with scrutiny referred to in Article 33(2)."

3) Article 33(2) is replaced by the following:

"2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision No 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof."

4) Article 33(4) is deleted.

Article 2

This Regulation shall enter into force on the [...] day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*