Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council

REGULATION (EU) No 610/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2013

amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) Union policy in the field of external borders aims for integrated management to ensure a uniform and high level of control and surveillance, which is a necessary corollary to the free movement of persons within the Union and a fundamental component of an area of freedom, security and justice. To this end, common rules on standards and procedures for the control of external borders should be established, taking into account the specific and disproportionate pressures faced by some Member States at their external borders. The rules set should be governed by the principle of solidarity between Member States.

(2) The free movement of people within the Schengen area has been one of the biggest achievements of European integration. Freedom of movement is a fundamental right, the conditions for the exercise of which are laid down in the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) and in Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States[(2)].

(3) The abolition of internal border controls requires full mutual trust between Member States in their capacity to fully implement the accompanying measures allowing those controls to be lifted.

(4) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)[3] entered into force on 13 October 2006.

(5) After several years of practical application, the need for a number of amendments has emerged, based on the practical experiences of the Member States and of the Commission in applying Regulation (EC) No 562/2006, on the results of Schengen evaluations, on reports and requests submitted by Member States and on developments in primary and secondary Union law, as has the need for clarification and more efficient mapping of critical technical issues.

(6) The Commission report of 21 September 2009 on the operation of the provisions on stamping of the travel documents of third-country nationals in accordance with Articles 10 and 11 of Regulation (EC) No 562/2006 as well as the Commission report of 13 October 2010 on the application of Title III (Internal Borders) of Regulation (EC) No 562/2006 contain concrete suggestions for technical amendments to Regulation (EC) No 562/2006.

(7) Recently adopted Union legislative acts, in particular Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)[4] and Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals[5], require certain amendments to Regulation (EC) No 562/2006.

(8) Equally, certain provisions of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders[6] ("the Convention implementing the Schengen Agreement") should be amended in order to reflect the changes in Regulation (EC) No 562/2006 and the current legal situation.

(9) Pursuant to Case C-241/05 Nicolae Bot v Préfet du Val-de-Marne[7], there is a need to amend the rules dealing with the calculation of the authorised length of short-term stays in the Union. Clear, simple and harmonised rules in all legal acts dealing with this issue would benefit both travellers as well as border and visa authorities. Regulation (EC) No 562/2006 and the Convention implementing the Schengen Agreement, Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas[8] and Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement[9], Regulation (EC) No 767/2008 of 9 July 2008 concerning the Visa Information System (VIS) and the

exchange of data between Member States on short-stay visas (VIS Regulation)[10] and Regulation (EC) No 810/2009, should therefore be amended accordingly.

(10) The adoption of Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union[11] (Frontex) ("the Agency") improves the integrated management of the external borders and provides a further enhancement of the role of the Agency in line with the objective of the Union to develop a policy with a view to the gradual introduction of the concept of Integrated Border Management.

(11) In order to align the provisions of Regulation (EC) No 562/2006 with the TFEU, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the adoption of additional measures governing surveillance as well as amendments to the Annexes to Regulation (EC) No 562/2006. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(12) Since the objective of this Regulation, namely to provide for technical amendments to the existing rules of Regulation (EC) No 562/2006 and the Convention implementing the Schengen Agreement, as well as Regulations (EC) No 1683/95, (EC) No 539/2001, (EC) No 767/2008 and (EC) No 810/2009, can only be achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*[12] which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement[13].

(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[14] which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[15].

(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein

on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[16] which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[17].

(16) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

(17) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*[18]; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(18) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*[19]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

F1 Article 1

[F1 Amendments to Regulation (EC) No 562/2006]

. . . . . .

Textual Amendments

F1 Deleted by Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification).

Article 2

Amendments to the Convention implementing the Schengen Agreement

The Convention implementing the Schengen Agreement is hereby amended as follows:

(1) in Article 18(1), the words "three months" are replaced by the words "90 days";

(2) Article 20 is amended as follows:

(a) in paragraph 1, the phrase "three months during the six months following the date of first entry" is replaced by the phrase "90 days in any 180-day period";

(b) in paragraph 2, the words "three months" are replaced by the words "90 days";

(3) Article 21 is amended as follows:

(a) in paragraph 1, the phrase "three months in any six-month" is replaced by the phrase "90 days in any 180-day";

(b) paragraph 3 is deleted;

(4) Article 22 is replaced by the following:

"Article 22

Aliens who have legally entered the territory of one of the Contracting Parties may be obliged to report, in accordance with the conditions laid down by each Contracting Party, to the competent authorities of the Contracting Party whose territory they enter. Such aliens shall report either on entry or within three working days of entry, at the discretion of the Contracting Party whose territory they enter.";

(5) Article 136 is deleted.

Article 3

Amendment to Regulation (EC) No 1683/95

Article 5 of Regulation (EC) No 1683/95 is replaced by the following:

"Article 5

For the purposes of this Regulation, 'visa' means a visa as defined in Article 2(2)(a) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)[(20)].

[F2 Article 4

[F2 Amendments to Regulation (EC) No 539/2001]

. . . . . .

Textual Amendments

F2 Deleted by Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (codification).