Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention

[[X1]REGULATION (EC) No 1931/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 December 2006

laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention**]**

[[X1]THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(1)],

Whereas:

(1) The need to develop rules on local border traffic in order to consolidate the Community legal framework on external borders was highlighted in the Commission Communication entitled 'Towards an integrated management of the external borders of the Member States of the European Union'. This need was confirmed by the Council on 13 June 2002, with the approval of the 'Plan for the management of the external borders of the Member States of the European Union', subsequently endorsed by the European Council in Seville on 21 and 22 June 2002.

(2) It is in the interest of the enlarged Community to ensure that the borders with its neighbours are not a barrier to trade, social and cultural interchange or regional cooperation. An efficient system for local border traffic should consequently be developed.

(3) The local border traffic regime constitutes a derogation from the general rules governing the border control of persons crossing the external borders of the Member States of the European Union which are set out in 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)[(2)].

(4) The Community should lay down criteria and conditions to be complied with when the crossing of an external land border under the local border traffic regime is being eased for border residents. Such criteria and conditions should ensure a balance between, on the one hand, the easing of border crossing for bona fide border residents having legitimate reasons frequently to cross an external land border and, on the other hand, the need to prevent illegal immigration and potential threats to security posed by criminal activities.

(5) As a general rule, in order to prevent abuses, local border traffic permits should be issued only to those who have been lawfully resident in a border area for at least one year. Bilateral Agreements concluded between Member States and neighbouring third countries may provide for a longer period of residence. In exceptional and duly justified cases, such as those relating to minors, changes in marital status or inheritance of land, those bilateral Agreements may also provide for a shorter period of residence.

(6) Local border traffic permits should be issued to border residents whether or not they are subject to a visa requirement pursuant to 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[(3)]. As a result, this Regulation should be read together with Council Regulation (EC) No 1932/2006[(4)] amending Regulation (EC) No 539/2001, which is designed to exempt from the visa obligation border residents who benefit from the local border traffic regime established by this Regulation. As a consequence, this Regulation may enter into force only in conjunction with that amending Regulation.

(7) The Community should lay down specific criteria and conditions for the issuing of local border traffic permits to border residents. Those criteria and conditions should be consistent with the entry conditions imposed on border residents crossing an external land border under the local border traffic regime.

(8) The right to free movement enjoyed by citizens of the Union and members of their families and the equivalent rights enjoyed by third-country nationals and members of their families under Agreements between the Community and its Member States, on the one hand, and the third countries concerned, on the other hand, should not be affected by the establishment of rules on local border traffic at Community level. However, where border crossing is eased under the local border traffic regime for border residents, and this entails less systematic control, border crossing should, as a matter of course, be eased for any person enjoying the Community right of free movement residing in the border area concerned.

(9) For the implementation of the local border traffic regime, Member States should be allowed to maintain or conclude, if necessary, bilateral Agreements with neighbouring third countries, provided that such Agreements comply with the rules laid down in this Regulation.

(10) This Regulation does not affect the specific arrangements applied in Ceuta and Melilla, as referred to in the Declaration by the Kingdom of Spain on the towns of Ceuta and Melilla in the Final Act to the Agreement on the Accession of the Kingdom of Spain to 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 signed at Schengen on 19 June 1990[(5)].

(11) Penalties, as provided for in national law, should be imposed by Member States on border residents who abuse the local border traffic regime established by this Regulation.

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

(13) This Regulation respects the fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(14) Since the objective of this Regulation, namely the laying down of the criteria and conditions for the establishment of a local border traffic regime at external land borders, directly affects the Community *acquis* on external borders and cannot thus be achieved sufficiently by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community. 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.

(15) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, 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* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of that Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law.

(16) As regards Iceland and Norway, this Regulation constitutes a development of 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*[(6)], which fall within the area referred to in Article 1(A), of Council Decision 1999/437/EC on certain arrangements for the application of that Agreement[(7)].

(17) This Regulation constitutes a development of 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*[(8)]. 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 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*[(9)]. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 1931/2006 of the European Parliament and of the Council. (See end of Document for details)*

(19) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed 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* which fall within the area referred to in Article 1(A) of Decision 1999/437/EC read in conjunction with Article 4(1) of Decision 2004/849/EC[(10)] and Article 4(1) of Decision 2004/860/EC[(11)].

(20) Articles 4(b) and 9(c) of this Regulation constitute provisions building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

HAVE ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 december 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (Official Journal of the European Communities L 405 of 30 December 2006).

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1 This Regulation establishes a local border traffic regime at the external land borders of the Member States and introduces for that purpose a local border traffic permit.

2 This Regulation authorises Member States to conclude or maintain bilateral Agreements with neighbouring third countries for the purpose of implementing the local border traffic regime established by this Regulation.

Article 2

Scope

This Regulation shall not affect the provisions of Community and national law applicable to third-country nationals relating to:

(a) long-term stays;

(b) access to and exercise of economic activity;

(c) customs and taxation matters.

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EC) No 1931/2006 of the European Parliament and of the Council. (See end of Document for details)*

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. ‘external land border’ means the common land border between a Member State and a neighbouring third country;

2. ‘border area’ means an area that extends no more than 30 kilometres from the border. The local administrative districts that are to be considered as the border area shall be specified by the States concerned in their bilateral Agreements as referred to in Article 13. If part of any such district lies between 30 and 50 kilometres from the border line, it shall nevertheless be considered as part of the border area**[**[F1].**][**[F2] The areas listed in the Annex to this Regulation shall be considered as part of the border area;**]**

3. ‘local border traffic’ means the regular crossing of an external land border by border residents in order to stay in a border area, for example for social, cultural or substantiated economic reasons, or for family reasons, for a period not exceeding the time limit laid down in this Regulation;

4. ‘persons enjoying the Community right of free movement’ means:

   (i) citizens of the Union within the meaning of Article 17(1) of the Treaty establishing the European Community, and nationals of third countries who are members of the family of a citizen of the Union exercising his or her right of free movement to whom Directive 2004/38/EC[(12)] applies;

   (ii) nationals of third countries and members of their families, whatever their nationality, who, under Agreements between the Community and its Member States, on the one hand, and those third countries, on the other, enjoy rights to move freely equivalent to the right of citizens of the Union;

5. ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty establishing the European Community and who is not covered by point 4;

6. ‘border residents’ means third–country nationals who have been lawfully resident in the border area of a country neighbouring a Member State for a period specified in the bilateral Agreements referred to in Article 13, which shall be at least one year. In exceptional and duly justified cases specified in those bilateral Agreements, a period of residence of less than one year may also be considered as appropriate;

7. ‘local border traffic permit’ means a specific document, as introduced by Chapter III, entitling border residents to cross an external land border under the local border traffic regime;

8. ‘the Schengen Convention’ means 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[(13)].