



Brussels, 19 May 2015
(OR. en)

9004/15

Interinstitutional File:
2015/0006 (COD)

CODIF 67
CODEC 736
SCHENGEN 19
FRONT 104
COMIX 227
VISA 185

NOTE

From:	General Secretariat of the Council
To:	Working Party on Codification of Legislation
No. prev. doc.:	5470/15 - COM (2015) 8 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification) - Opinion of the Consultative Working Party of Legal Services

Delegations will find attached the opinion of the Consultative Working Party of Legal Services regarding the above mentioned subject.



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels,

18 MAI 2015

OPINION

FOR THE ATTENTION OF **THE EUROPEAN PARLIAMENT**
 THE COUNCIL
 THE COMMISSION

Proposal for a Regulation of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

COM(2015) 8 final of 20.1.2015 - 2015/0006 (COD)

Having regard to the Inter-institutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts, and in particular to point 4 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 9 and 26 February and on 15 April 2015 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a Regulation of the European Parliament and of the Council codifying 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) resulted in the Consultative Working Party's establishing, by common accord, as follows.

1. A recital corresponding, in an adapted form, to current recital 19 of Regulation (EC) No 562/2006 should be introduced into the preamble to the draft codified text. The wording of that recital should read as follows: *'Since the objective of Regulation (EC) No 562/2006 and its successive amendments, namely the establishment of rules applicable to the movement of persons across borders, could not be sufficiently achieved by the Member States but could rather be better achieved at Union level, the Union was able to adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, that Regulation and its successive amendments did not go beyond what was necessary in order to achieve that objective.'*

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

2. In recital 2, the reference made to 'Article 77(2)(b) and (e)' should be adapted so as to read as a reference to 'Article 77(2)(e)'.

3. In Article 8(3)(c), introductory wording, the words 'from points (a) and (b)' should be removed.

4. In the title of Article 27, the indication '23(1)' should be removed.

5. In Annex VI, point 2.1.2, the text consisting of the two final sentences starting with the words 'Checks on passengers [...]' should be aligned with point (b)(iii), so as for that text to constitute a second subparagraph of point 2.1.2(b)(iii).

6. In Annex VI, point 3.2.3, the final sentence starting with the words 'Nevertheless, checks shall be carried out [...]' should be aligned with point (e), so as for that sentence to constitute a second subparagraph of point 3.2.3(e).

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal is a straightforward codification of existing texts, without any change in their substance.


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