This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►B ►C1 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 ◄

(OJ L 405, 30.12.2006, p. 1)

Amended by:

		Official Journal		
		No	page	date
►M1	Regulation (EU) No 1342/2011 of the European Parliament and of the Council of 13 December 2011	L 347	41	30.12.2011

Corrected by:

►C1	Corrigendum, OJ L 29, 3.2.2007, p. 3 (1931/2006)

▼B

▼C1

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

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.

([1]) Opinion of the European Parliament of 14 February 2006 (not yet published in the Official Journal) and Council Decision of 5 October 2006.

([2]) OJ L 105, 13.4.2006, p. 1.

▼C1

(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 ([1]). As a result, this Regulation should be read together with Council Regulation (EC) No 1932/2006 ([2]) 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.

([1]) OJ L 81, 21.3.2001, p. 1. Regulation as last amended by Regulation (EC) No 851/2005 (OJ L 141, 4.6.2005, p. 3).

([2]) See page 10 of this Official Journal.

▼C1

(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 ([1]).

(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* ([2]), 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 ([3]).

([1]) OJ L 239, 22.9.2000, p. 69.
([2]) OJ L 176, 10.7.1999, p. 36.
([3]) OJ L 176, 10.7.1999, p. 31.

▼C1

(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* ([1]). 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* ([2]). Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(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 ([3]) and Article 4(1) of Decision 2004/860/EC ([4]).

(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:

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.

([1]) OJ L 131, 1.6.2000, p. 43. Decision as amended by Decision 2004/926/EC (OJ L 395, 31.12.2004, p. 70).

([2]) OJ L 64, 7.3.2002, p. 20.

([3]) Council Decision 2004/849/EC of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 368, 15.12.2004, p. 26).

([4]) Council Decision 2004/860/EC of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation, concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 370, 17.12.2004, p. 78).

▼C1

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.

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. ►**M1** 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 ([1]) applies;

([1]) 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 (OJ L 158, 30.4.2004, p. 77). Corrected version in OJ L 229, 29.6.2004, p. 35.

▼C1

(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 ([1]).

CHAPTER II

LOCAL BORDER TRAFFIC REGIME

Article 4

Entry conditions

Border residents may cross the external land border of a neighbouring Member State under the local border traffic regime, on condition that they:

(a) are in possession of a local border traffic permit and, if so required by the relevant bilateral Agreement referred to in Article 13, a valid travel document or documents;

(b) are not persons for whom an alert has been issued in the Schengen Information System (SIS) for the purposes of refusing them entry;

(c) 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 in particular where no alert has been issued in Member States' national databases for the purposes of refusing entry on the same grounds.

Article 5

Duration of stay in the border area

The bilateral Agreements referred to in Article 13 shall specify the maximum permissible duration of each uninterrupted stay under the local border traffic regime, which shall not exceed three months.

([1]) OJ L 239, 22.9.2000, p. 19. Convention as last amended by Regulation (EC) No 1160/2005 of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 18).

▼C1

Article 6

Entry and exit checks

1. Member States shall carry out entry and exit checks on border residents in order to ensure that they fulfil the conditions set out in Article 4.

2. No entry or exit stamps shall be affixed to the local border traffic permit under the local border traffic regime.

3. Paragraph 1 shall be without prejudice to Article 15.

CHAPTER III

LOCAL BORDER TRAFFIC PERMIT

Article 7

Introduction of a local border traffic permit

1. A local border traffic permit is hereby introduced.

2. The territorial validity of the local border traffic permit shall be limited to the border area of the issuing Member State.

3. The local border traffic permit shall bear a photograph of the holder of the permit and shall contain at least the following information:

(a) the forename(s), surname(s), date of birth, nationality and place of residence of the holder of the permit;

(b) the issuing authority, date of issue and period of validity;

(c) the border area within which the holder of the permit is authorised to move;

(d) the number(s) of the valid travel document or documents, as referred to in Article 9(a), entitling its holder to cross the external borders.

It shall clearly state that its holder is not authorised to move outside the border area and that any abuse shall be subject to penalties as provided for in Article 17.

Article 8

Security features and technical specifications of the local border traffic permit

1. The security features and technical specifications of the local border traffic permit shall comply with the relevant provisions of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals ([1]).

2. Member States shall forward to the Commission and to the other Member States a specimen of the local border traffic permit drawn up in accordance with paragraph 1.

([1]) OJ L 157, 15.6.2002, p. 1.

▼C1

Article 9

Issuing conditions

Local border traffic permits may be issued to border residents who:

(a) are in possession of a valid travel document or documents, as referred to in Article 17(3)(a) of the Schengen Convention, entitling them to cross the external borders;

(b) produce documents proving their status as border residents and proving the existence of legitimate reasons frequently to cross an external land border under the local border traffic regime;

(c) are not persons for whom an alert has been issued in the SIS for the purposes of refusing them entry;

(d) 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 in particular where no alert has been issued in Member States' national databases for the purposes of refusing entry on the same grounds.

Article 10

Validity

The local border traffic permit shall be valid for a minimum of one year and a maximum of five years.

Article 11

Issuing fees

The fees corresponding to the administrative costs of processing applications for the local border traffic permit shall not exceed the fees charged for processing applications for short-term multiple-entry visas.

The local border traffic permit may be issued free of charge.

Article 12

Issuing arrangements

1. The local border traffic permit may be issued by either a consulate or any administrative authority of a Member State designated in the bilateral Agreements referred to in Article 13.

2. Member States shall keep a central register of local border traffic permits applied for, issued, extended and cancelled or revoked and shall designate a national contact point responsible for providing without delay, upon request from other Member States, information on the permits entered in that register.

▼C1

CHAPTER IV

IMPLEMENTATION OF THE LOCAL BORDER TRAFFIC REGIME

Article 13

Bilateral Agreements between Member States and neighbouring third countries

1. For the purposes of implementing the local border traffic regime, Member States shall be authorised to conclude bilateral Agreements with neighbouring third countries in accordance with the rules set out in this Regulation.

Member States may also maintain existing bilateral Agreements with neighbouring third countries on local border traffic. To the extent that such Agreements are incompatible with this Regulation, the Member States concerned shall amend the Agreements in such a way as to eliminate the incompatibilities established.

2. Before concluding or amending any bilateral Agreement on local border traffic with a neighbouring third country, the Member States concerned shall consult the Commission as to the compatibility of the Agreement with this Regulation.

If the Commission considers the Agreement to be incompatible with this Regulation, it shall notify the Member State concerned. The Member State shall take all appropriate steps to amend the Agreement within a reasonable period in such a way as to eliminate the incompatibilities established.

3. Where the Community or the Member State concerned has not concluded a general readmission Agreement with a third country, the bilateral Agreements on local border traffic with that third country shall provide for the readmission of persons found to be abusing the local border traffic regime as established by this Regulation to be facilitated.

Article 14

Comparability of treatment

In the bilateral Agreements referred to in Article 13, Member States shall ensure that third countries grant persons enjoying the Community right of free movement and third-country nationals lawfully resident in the border area of the Member State concerned treatment at least comparable to that granted to the border residents of the third country concerned.

Article 15

Easing of border crossing

1. The bilateral Agreements referred to in Article 13 may provide for border crossing to be eased, whereby Member States:

(a) set up specific border crossing points open only to border residents;

(b) reserve specific lanes to border residents at ordinary border crossing points; or

▼C1

(c) taking into account the local circumstances, and where exceptionally there is a requirement of a special nature, authorise border residents to cross their external land border at defined places other than authorised border crossing points and outside the fixed hours.

2. Where a Member State decides to ease border crossing for border residents in accordance with paragraph 1, it shall, as a matter of course, ease border crossing for any person enjoying the Community right of free movement residing in the border area concerned.

3. At the border crossing points referred to in paragraph 1(a) and at the lanes referred to in paragraph 1(b), persons who regularly cross the external land border and who, by reason of their frequent crossing of the border, are well known to the border guards shall, usually, be subject only to random checks.

Such persons shall be subject to thorough checks from time to time, without warning and at irregular intervals.

4. Where a Member State decides to ease border crossing for border residents in accordance with paragraph 1(c):

(a) the local border traffic permit shall contain, in addition to the information required by Article 7(3), details of the place where, and the circumstances in which, the external land border may be crossed;

(b) the Member State in question shall carry out random checks and conduct regular surveillance in order to prevent unauthorised border crossings.

CHAPTER V

FINAL PROVISIONS

Article 16

Ceuta and Melilla

The provisions of this Regulation shall not affect the specific arrangements applying to the towns of 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.

Article 17

Penalties

1. Member States shall ensure that any abuse of the local border traffic regime, as established by this Regulation and as implemented by the bilateral Agreements referred to in Article 13, is subject to penalties as provided for by national law.

2. Those penalties shall be effective, proportionate and dissuasive and shall include the possibility of cancelling and revoking local border traffic permits.

3. Member States shall keep a record of all cases of abuse of the local border traffic regime and of penalties imposed in accordance with paragraph 1. That information shall be forwarded every six months to the other Member States and to the Commission.

▼C1

Article 18

Report on the local border traffic regime

By 19 January 2009, the Commission shall submit a report to the European Parliament and the Council on the implementation and functioning of the local border traffic regime, as established by this Regulation and implemented by the bilateral Agreements concluded or maintained in conformity with the rules set out in this Regulation. That report shall be accompanied, where necessary, by appropriate legislative proposals.

Article 19

Notification of bilateral Agreements

1. Member States shall notify the Commission of all bilateral Agreements referred to in Article 13 and of any denunciation thereof or amendment thereto.

2. The Commission shall make the information notified in accordance with paragraph 1 available to the Member States and to the public by publishing it in the *Official Journal of the European Union* or by any other appropriate means.

Article 20

Amendment of the provisions of the Schengen Convention

The provisions of Article 136(3) of the Schengen Convention shall be replaced by the following:

‘3. Paragraph 2 shall not apply to bilateral Agreements on local border traffic as referred to in Article 13 of 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 (*).

(*) OJ L 405, 30.12.2006, p. 1. Corrected by OJ L 29, 3.2.2007, p. 3.’

Article 21

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

▼**M1**

ANNEX

1. Kaliningrad oblast
2. Polish administrative districts (powiaty) of województwo pomorskie: pucki, m. Gdynia, m. Sopot, m. Gdańsk, gdański, nowodworski, malborski
3. Polish administrative districts (powiaty) of województwo warmińsko-mazurskie: m. Elbląg, elbląski, braniewski, lidzbarski, bartoszycki, m. Olsztyn, olsztyński, kętrzyński, mrągowski, węgorzewski, giżycki, gołdapski, olecki.