



EUROPEAN COMMISSION

Brussels, 12.12.2011
COM(2011) 873 final

2011/0427 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Establishing the European Border Surveillance System (EUROSUR)

{SEC(2011) 1536 final}

{SEC(2011) 1537 final}

{SEC(2011) 1538 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Introduction

This proposal shall provide for the necessary legal framework to respond to the request of the European Council of 23-24 June 2011 to further develop the European Border Surveillance System (EUROSUR) as a matter of priority in order to become operational by 2013, allowing Member States' authorities carrying out border surveillance activities and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union¹ (Frontex), hereinafter referred to as 'the Agency', to share operational information and improve cooperation.

The aim of EUROSUR is to reinforce the control of the Schengen external borders. EUROSUR will establish a mechanism for Member States' authorities carrying out border surveillance activities to share operational information and to cooperate with each other and with the Agency in order to reduce the loss of lives at sea and the number of irregular immigrants entering the EU undetected, and to increase internal security by preventing cross-border crimes, such as trafficking in human beings and the smuggling of drugs.

The works currently carried out for the testing and the gradual establishment of EUROSUR are based on a roadmap presented in a Commission Communication in 2008.²

1.2. Legal basis

This legislative proposal is based on Article 77(2)(d) of the Treaty on the Functioning of the European Union (TFEU), according to which the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning any measure necessary for the gradual establishment of an *integrated management system for external borders*.³

The establishment of EUROSUR forms part of a policy aimed at reinforcing the management of the external borders of the Member States. Hence EUROSUR will constitute a new policy instrument which will streamline cooperation and enable systematic information exchange between Member States as well as with the Agency on border surveillance, something which currently does not exist at EU level.

Once adopted, the legislative act on EUROSUR would constitute a development of the provisions of the Schengen *acquis*, in which the United Kingdom and Ireland are not participating, but which is applicable to four associated countries (Norway, Iceland, Switzerland and Liechtenstein). Schengen states are committed to maintaining common standards for external border control.

¹ OJ L349, 25.11.2004, p. 1.

² COM(2008) 68 final of 13.2.2008 (EUROSUR roadmap). On progress made in 2008-2010, see SEC(2009)1265final of 24.9.2009 and SEC(2011)145final of 28.1.2011.

³ Compare also Article 77(1)(c) TFEU.

1.3. Objective and content of the legislative proposal

The purpose of the legislative proposal is to improve the situational awareness and reaction capability of Member States and the Agency when preventing irregular migration and cross-border crime at the external land and maritime borders (Article 1).

This shall be done by establishing a common framework (Article 4), with clear responsibilities and competencies for the national coordination centres for border surveillance in the Member States (Article 5) and the Agency (Article 6), which form the backbone of EUROSUR. These centres, which shall ensure an effective and efficient management of resources and personnel at national level, and the Agency shall communicate with each other via the communication network (Article 7), which would allow to exchange both non-classified sensitive as well as classified information.

The cooperation and information exchange between the national coordination centres and the Agency is done via 'situational pictures' (Article 8), which shall be established at national (Article 9) and European level (Article 10) as well as for the pre-frontier area (Article 11). These three pictures, of which the two latter shall be managed by the Agency, are structured in a similar way to facilitate the flow of information among them.

The situational pictures will as a general rule not involve personal data but rather the exchange of information on incidents and depersonalised objects, such as the detection and tracking of vessels. In exceptional cases personal data may form part of the data shared by Member States with the Agency provided that the conditions of Regulation (EC) No 2007/2004 of 26 October 2004 are met.⁴ To the extent personal data forms part of the national situational picture of neighbouring external border sections, it may be exchanged between neighbouring Member States only, under the conditions set by the horizontal EU legal framework on data protection.

Furthermore, the Agency shall provide a service for the common application of surveillance tools (Article 12), taking into account that such a service can be provided more cost-efficiently at European level. Such a service could be implemented with the support of relevant European space programmes, including the operational Global Monitoring for Environment and Security (GMES).

The approach chosen in EUROSUR is to make best use of existing information, capabilities and systems available in other EU agencies to the extent possible (Article 17). For this reason, the Agency would closely cooperate with the EU Satellite Centre, the European Fisheries Control Agency and the European Maritime Safety Agency in providing the service for the common application of surveillance tools as well as with EUROPOL in order to exchange information on cross-border crime.

With regard to maritime traffic data to be provided by the SafeSeaNet system under Directive 2002/59/EC, the Commission intends to make an appropriate proposal modifying the Directive in 2013. It is envisaged that the relevant information in SafeSeaNet will also be made available for purposes other than those related to maritime safety, maritime security and marine environment protection and thereby be part of the surveillance tools used in the EUROSUR framework.

Better awareness of what is going on at the external borders is only of limited value if it is not complemented by an improved capability of EU Member States to react to challenges faced at their external borders. For this reason, Member States shall divide their external borders into borders

⁴ Cf Article 11c of Regulation (EC) No 2007/2004, inserted by Regulation (EU) No 1168/2011.

sections (Article 13), to which – based on risk analysis and the number of incidents occurring – impact levels shall be attributed (Article 14). Depending on which impact levels have been attributed, the national coordination centres and the Agency shall take counter-measures in order to lower the impact on the border section in question (Article 15).

The cooperation with neighbouring third countries is crucial for the success of EUROSUR. Therefore existing and planned regional networks set up between Member States and neighbouring third countries shall be linked to EUROSUR via the national coordination centres (compare Article 9(2)(h) and Article 18). Taking into account that Member States and the Agency are already in the process of setting up the different components of EUROSUR at national and European level, EUROSUR should become operational in the second half of 2013 (Article 21). The Joint Research Centre of the European Commission should provide the Agency with technical support on the further technical development of EUROSUR.

As EUROSUR is not intended as a system to regulate the collection, storage or cross-border exchange of personal data, it was not covered by the Commission's Communication on an overview of information management in the area of freedom, security and justice of 2010⁵. The development of EUROSUR has nevertheless been analysed on the basis of the principles set out in that Communication, as further elaborated in the accompanying impact assessment. This concerns notably the principle of necessity where the possibility to use EUROSUR for the exchange of personal data has been kept to the absolute minimum, the principle of cost-effectiveness where a step-by-step approach has been chosen using the least complex technical solutions, and a bottom-up policy design, with the Commission working since 2008 in close cooperation with Member States' experts to assess different technical solutions and to jointly validate findings and recommendations of the studies carried out.

This proposal was subjected to scrutiny to ensure that its provisions are fully compatible with fundamental rights and notably human dignity, prohibition of torture and inhuman or degrading treatment or punishment, right to liberty and security, right to the protection of personal data, non-refoulement, non-discrimination and rights of the child. Particular attention was paid to Articles 4 and 19(2) of the EU Charter of Fundamental Rights, which prohibit removal of persons to a State where there is a serious risk of death penalty, torture or other inhuman or degrading treatment or punishment. Article 18(2) of this Regulation explicitly prohibits any exchange of information with a third country that could use this information to identify persons or groups of persons who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights.

In addition, Article 24 of the Charter was of importance, as many irregular migrants and victims of trafficking are children. Article 1(3) explicitly provides that Member States and the Agency shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation. Article 8 of the Charter on the protection of personal data is also of particular importance as data sharing may include personal data, in which situation the data protection rules apply and must be fully respected.

⁵ COM(2010) 385 final, 20.7.2010.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission Staff Working Document accompanying this proposal, which is assessing the impact of this proposal, gives a detailed overview on the consultations carried out in 2008-2011 and also provides for a detailed explanation of the framework of EUROSUR and the different policy options and costs for its establishment.

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 77 (2) (d) of the Treaty on the Functioning of the European Union is the legal basis for the proposal.

4. BUDGETARY IMPLICATION

The different components of EUROSUR will be mainly implemented by the Agency and by Member States (shared management) on the basis of the 2008 EUROSUR roadmap (COM(2008)68final).

With regard to setting up the national coordination centres, Member States will be supported by the External Borders Fund in 2012-2013 and the instrument for financial support for external borders and visa as part of the planned Internal Security Fund in 2014-2020.

On the other hand, the Agency will use its own budget to set up the communication network and other horizontal components of EUROSUR, such as the European situational picture and the common pre-frontier intelligence picture, and when necessary this is completed by support under the Internal Security Fund (direct or indirect centralised financial management).

Funding provided under the 7th Framework Programme for Research and Development will support the setting up of the envisaged service for the common application of surveillance tools in 2012-2013.

Measures in neighbouring third countries will be supported in 2012-2013 by the Thematic Programme for Asylum and Migration, as part of the Development Cooperation Instrument.

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Establishing the European Border Surveillance System (EUROSUR)

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)(d) 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,

Whereas:

- (1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004⁶ (Frontex), hereinafter referred to as 'the Agency'. EUROSUR should provide these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability when detecting and preventing irregular migration and cross-border crime as well as protecting and saving lives of migrants at the external borders of the Member States of the Union.
- (2) Member States should establish national coordination centres for border surveillance to improve the cooperation and information exchange between them and with the Agency. It is essential for the proper functioning of EUROSUR that all national authorities with a responsibility for external border surveillance under national law are cooperating via national coordination centres.
- (3) This Regulation should not hinder Member States from making their national coordination centres also responsible for coordinating the information exchange and cooperation with regard to the surveillance of air borders and for checks at border crossing points.

⁶ OJ L 349, 25.11.2004, p. 1.

- (4) This Regulation forms part of the European model of integrated border management of the external borders and of the Internal Security Strategy of the European Union. EUROSUR also contributes to the development of the Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), providing a wider framework for maritime situational awareness through information exchange amongst public authorities across sectors in the Union.
- (5) According to point (i) of Article 2 of Regulation 2007/2004, the Agency should provide the necessary assistance to the development and operation of EUROSUR, and, as appropriate, to the development of CISE, including interoperability of systems.
- (6) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably human dignity, prohibition of torture and inhuman or degrading treatment or punishment, right to liberty and security, right to the protection of personal data, non-refoulement, non-discrimination and rights of the child. This Regulation should be applied by Member States in accordance with these rights and principles.
- (7) Any exchange of personal data using the communication network for EUROSUR should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁷, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁸ and, in the framework of police and judicial cooperation, the Council Framework Decision 2008/977/JHA 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters⁹ are applicable in cases in which more specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.
- (8) Since the establishment of EUROSUR cannot be sufficiently achieved by Member States alone and can therefore, by virtue of the scale and impact of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality this Regulation does not go beyond what is necessary in order to achieve its objective.
- (9) In order to implement a gradual geographical roll-out of EUROSUR, the obligation to designate and operate national coordination centres should apply in three successive stages, first to the Member States located at the southern sea external borders and at the eastern land external borders, at a second stage to the remaining Member States with land or sea external borders and at a third stage to the remaining Member States.

⁷ OJ L 281, 23.11.1995, p. 31.

⁸ OJ L 8, 12.1.2001, p. 1.

⁹ OJ L 350, 30.12.2008, p. 60.

- (10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is therefore not bound by it or subject to application thereof. Given that this Regulation builds upon the Schengen *acquis*, under Title V of Part Three of the Treaty on the Functioning of the European Union, Denmark shall, in accordance with Article 4 of that Protocol, decide within six months after adoption of this Regulation whether it will implement it in its national law.
- (11) This Regulation constitutes a development of provisions of the Schengen *acquis*, in which the United Kingdom is not participating, 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*¹⁰. The United Kingdom is therefore not taking part in adoption of this Regulation and is not bound by it or subject to application thereof.
- (12) This Regulation constitutes a development of provisions of the Schengen *acquis*, in which Ireland is not participating, 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*¹¹. Ireland is therefore not taking part in adoption of this Regulation and is not bound by it or subject to application thereof.
- (13) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis*, as provided for by the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*¹².
- (14) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis*, as provided for by the Agreement between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*¹³.
- (15) As regards Liechtenstein, this Regulation constitutes a development of provisions of the Schengen *acquis*, as provided for by 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*¹⁴.
- (16) Implementation of this Regulation does not prejudice the division of competence between the Union and the Member States, and does not affect obligations of Member States under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations

¹⁰ OJ L 131, 1.6.2000, p. 43.

¹¹ OJ L 64, 7.3.2002, p. 20.

¹² OJ L 176, 10.7.1999, p. 36.

¹³ OJ L 53, 27.2.2008, p. 52.

¹⁴ OJ L 160, 18.6.2011, p. 19.

Convention against Transnational Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.

- (17) Implementation of this Regulation does not affect the rules for the surveillance of sea external borders in the context of operational cooperation coordinated by the Agency, as laid down in Council Decision 2010/252/EU of 26 April 2010¹⁵.

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).

Article 2

Scope

1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including measures for monitoring, detection, identification, tracking, prevention and interception of illegal border crossings.
2. This Regulation shall not apply to operational, procedural and legal measures taken after interception.
3. Member States and the Agency shall comply with fundamental rights, including data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Article 3

Definitions

¹⁵ OJ L 111, 4.5.2010, page 20.

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

- (a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control measures on the basis of combining new information with existing knowledge;
- (b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements, including the means and timelines to react adequately to unusual circumstances;
- (c) 'situational picture' means a graphical interface to present real-time data, information and intelligence received from different authorities, sensors, platforms and other sources, which is shared across communication and information channels with other authorities in order to achieve situational awareness and support the reaction capability along the external borders and the pre-frontier area;
- (d) 'cross-border crime' means any serious or organised crime committed at the external borders of Member States, such as trafficking in human beings, smuggling of drugs and other illicit activities;
- (e) 'external border section' means the whole or a part of the external land or sea border of a Member State as defined by national legislation or as determined by the national coordination centre or any other responsible national authority;
- (f) 'pre-frontier area' means the geographical area beyond the external border of Member States, which is not covered by a national border surveillance system.

TITLE II

FRAMEWORK

CHAPTER I

Components

Article 4

EUROSUR framework

1. For the exchange of information and cooperation in the field of border surveillance, Member States and the Agency shall use the framework of EUROSUR, consisting of the following components:
 - (a) national coordination centres for border surveillance;
 - (b) national situational pictures;
 - (c) communication network;

- (d) European situational picture;
 - (e) common pre-frontier intelligence picture;
 - (f) common application of surveillance tools.
2. The national coordination centres shall provide the Agency via the communication network with all the information from their national situational pictures which is required for the establishment and maintenance of the European situational picture and of the common pre-frontier intelligence picture.
 3. The Agency shall give the national coordination centres via the communication network unlimited access to the European situational picture and to the common pre-frontier intelligence picture.
 4. The components listed in paragraph 1 shall be established and maintained in line with the principles outlined in the annex.

Article 5

National Coordination Centre

1. Each Member State with land and sea external borders shall designate, operate and maintain a National Coordination Centre for border surveillance, which shall coordinate and exchange information between all authorities with a responsibility for external border surveillance at national level as well as with the other national coordination centres and the Agency. The Member State shall notify the establishment of the centre to the Commission, which shall forthwith inform the other Member States and the Agency.
2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency.
3. The national coordination centre shall:
 - (a) ensure the timely information exchange and cooperation between all national authorities with a responsibility for external border surveillance and with relevant law enforcement authorities at national level as well as with other national coordination centres and the Agency;
 - (b) contribute to an effective and efficient management of resources and personnel;
 - (c) establish and maintain the National Situational Picture in accordance with Article 9;
 - (d) support the planning and implementation of all national border surveillance activities;
 - (e) administer the national border surveillance system, where applicable in accordance with national law;
 - (f) measure regularly the effects of national border surveillance activities;

- (g) coordinate operational measures with other Member States, without prejudice to the competences of the Agency.
- 4. The national coordination centre shall operate twenty four hours a day and seven days a week.

Article 6

The Agency

- 1. The Agency shall
 - (a) administer the communication network for EUROSUR in accordance with Article 7;
 - (b) establish and maintain the European situational picture in accordance with Article 10;
 - (c) establish and maintain the common pre-frontier intelligence picture in accordance with Article 11;
 - (d) facilitate the common application of surveillance tools in accordance with Article 12.
- 2. For the purposes of paragraph 1, the Agency shall operate twenty four hours a day and seven days a week.

Article 7

Communication network

- 1. The Agency shall establish and maintain a communication network in order to provide communications and analytical tools and allow for the secure exchange of non-classified sensitive and classified information in near real time with and between the national coordination centres. The network shall be operational twenty four hours a day and seven days a week and allow for:
 - (a) bilateral and multilateral information exchange in near real time;
 - (b) audio and video conferencing;
 - (c) secure handling, storing, processing of non-classified sensitive information;
 - (d) secure handling, storing, transmission and processing of EU classified information up to the level of RESTREINT UE/EU RESTRICTED or equivalent national classification levels, ensuring that classified information is handled in a separate and duly accredited part of the communication network.
- 2. The Agency shall provide technical support and ensure that the communication network is interoperable with any other communication and information system managed by the Agency.
- 3. The Agency and the national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance

with rules and standards which apply the basic principles and common standards of or are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure¹⁶.

4. Member States' authorities, agencies and other bodies using the communication network shall ensure that equivalent security rules and standards as those applied by the Agency are complied with for the handling of classified information.

CHAPTER II

Situational Awareness

Article 8

Situational pictures

1. The national situational pictures, the European situational picture and the common pre-frontier intelligence picture shall be produced through the collection, evaluation, collation, analysis, interpretation, generation, visualisation and dissemination of information.
2. The pictures referred to in paragraph 1 shall consist of the following layers:
 - (a) an events layer, containing information on incidents concerning irregular migration, cross-border crime and crisis situations;
 - (b) an operational layer, containing information on the status and position of own assets, areas of operation and environmental information;
 - (c) an analysis layer, containing strategic information, analytical products, intelligence as well as imagery and geo-data.

Article 9

National Situational Picture

1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.
2. The national situational picture shall be composed of information collected from the following sources:
 - (a) national border surveillance system, where applicable in accordance with national law;

¹⁶ OJ L 317, 3.12.2001, p.1.

- (b) stationary and mobile sensors operated by national authorities with a responsibility for external border surveillance;
- (c) patrols on border surveillance and other monitoring missions;
- (d) local, regional and other coordination centres;
- (e) other relevant national authorities and systems;
- (f) the Agency;
- (g) national coordination centres in other Member States and in third countries;
- (h) regional networks with neighbouring third countries, such as the SEAHORSE Atlantic network, SEAHORSE Mediterranean network, the Baltic Sea Region Border Control Cooperation network CoastNet, the Black Sea Border Coordination and Information Centre and other regional networks set up at the external land borders;
- (i) ship reporting systems, such as the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS). Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;
- (j) other relevant European and international organisations;
- (k) other sources.

3. The events layer of the national situational picture shall consist of the following sub-layers:

- (a) a sub-layer on irregular migration, which shall contain information on incidents concerning illegal border crossings of migrants occurring at or nearby the external borders of the Member State concerned, on facilitations of irregular border crossings and on any other relevant irregular migration incident, such as a search and rescue mission for persons attempting to cross the border illegally.
- (b) a sub-layer on cross-border crime, which shall contain information on incidents concerning trafficking in human beings, smuggling of drugs and other illicit goods, and on any other serious and organised or organised crime incident at or nearby the external borders of the Member State concerned;
- (c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact on the control of the external borders;
- (d) a sub-layer on other events, which shall contain information on unidentified and suspect platforms and persons present at or nearby the external borders of the Member State concerned, as well as any other event which may have a significant impact on the control of the external borders;

4. Each incident in the events layer of the national situational picture shall be assigned with a single indicative impact level, ranging from 'low' and 'medium' to 'high' impact. All events assigned with a 'medium' to 'high' impact level shall be shared with the Agency.
5. The operational layer of the national situational picture shall consist of the following sub-layers:
 - (a) a sub-layer on own assets, which shall contain information on position, time, course, speed, status and type of own assets, and of the deployment plan, including the geographic coordinates of the area of operation, patrol schedules and communication codes; where own assets are deployed on a multi-task mission which includes military tasks, the national coordination centre can decide not to share such information with other national coordination centres and the Agency except when the own assets are deployed in the neighbouring border section of another Member State;
 - (b) a sub-layer on areas of operation, which shall contain information on the mission, location, status, duration and the authorities involved in operations;
 - (c) a sub-layer on environmental information, which shall contain or give access to information on terrain and weather conditions at the external borders of the Member State concerned.
6. The analysis layer of the national situational picture shall consist of the following sub-layers:
 - (a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime.
 - (b) an analytical sub-layer, which shall present analytical reports, risk rating trends, regional monitors and briefing notes relevant for the concerned Member State;
 - (c) an intelligence picture sub-layer, which shall contain migrant profiles, routes, information on the impact levels attributed to the external land and sea border sections and facilitation analysis.
 - (d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.
7. The information contained in the analysis layer and on environmental information in the operational layer of the national situational picture may be based on the information provided in the European situational picture and in the common pre-frontier intelligence picture.
8. The information on own assets in the operational layer shall be classified as EU Restricted.
9. The national coordination centres of neighbouring Member States shall share with each other directly and in near real time the situational picture of neighbouring external border sections relating to:
 - (a) all incidents concerning irregular migration and cross-border crime and other significant events contained in the events layer;

- (b) the positions of own patrols contained in the operational layer, when the primary mission of the patrol is to prevent irregular migration and cross-border crime;
- (c) the planning schemes, schedules and communication codes for the following day of patrols operating in the neighbouring external border sections;
- (d) tactical risk analysis reports as contained in the analysis layer.

Article 10

European Situational Picture

1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member States.
2. The European Situational Picture shall be composed of information collected from the following sources:
 - (a) national situational pictures, including basic information received under Article 9(8);
 - (b) the Agency;
 - (c) other relevant European and international organisations;
 - (d) other sources.
3. The events layer of the European situational picture shall include information relating to:
 - (a) incidents regarding irregular migration and cross-border crime as well as crisis situations and on other events contained in the events layer of the national situational picture, which has been assigned with a medium or high impact level by the national coordination centre;
 - (b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, once it is having a moderate or significant impact on the external borders of the Member States;
 - (c) incidents regarding irregular migration and cross-border crime in the operational area of a joint operation coordinated by the Agency.
4. In the European situational picture the Agency shall use the impact level that was assigned to a specific incident in the national situational picture by the national coordination centre.
5. The *operational layer* of the European situational picture shall consist of the following sub-layers:
 - (a) a sub-layer on own assets, which shall contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations or at the disposal of the

Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;

- (b) a sub-layer on operations, which shall contain information on the joint operations coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;
 - (c) a sub-layer on environmental information, which shall include information on terrain and weather conditions at the external borders of the Member States.
6. The analysis layer of the European situational picture shall consist of the following sub-layers:
- (a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime;
 - (b) an analytical sub-layer, which shall present overall and subcategory risk ratings maps; risk rating trends; regional monitors; briefing notes as well as correlation indicators for the risk ratings and Frontex Risk Analysis Network indicators;
 - (c) an intelligence picture sub-layer, which shall contain migrant profiles, routes, information on the impact levels attributed to the external land and sea border sections and facilitation analysis;
 - (d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.
6. The information on own assets in the operational layer of the European situational picture shall be classified as EU Restricted.

Article 11

Common Pre-Frontier Intelligence Picture

1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.
2. The common pre-frontier intelligence picture shall be composed of information collected from the following sources:
 - (a) national coordination centres;
 - (b) information and reports provided by immigration liaison officers;
 - (c) the Agency;

- (d) other relevant European and international organisations;
 - (e) third countries;
 - (f) other sources.
3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance operations and checks at border crossing points.
 4. The events layer of the common pre-frontier intelligence picture shall include information on: any incident, crisis situation and on any other event in the pre-frontier area, which could have a moderate or significant impact on irregular migration and cross-border crime at the external borders of the Member States.
 5. The Agency shall assign a single indicative impact level to each incident in the events layer of the common pre-frontier intelligence picture. The Agency shall inform the national coordination centres on any incident in the pre-frontier area, which has been assigned with a medium or high impact level.
 6. The operational layer of the common pre-frontier intelligence picture shall be structured in the same manner as in the European situational picture, containing information on assets operating and operations being carried out in the pre-frontier area as well as environmental information.
 7. The analysis layer of the common pre-frontier intelligence picture shall be structured like the one of the European situational picture, containing strategic information, analytical products and services, intelligence as well as imagery and geo-data on the pre-frontier area.

Article 12

Common application of surveillance tools

1. The Agency shall facilitate the common application of surveillance tools, such as satellites and ship reporting systems, by Member States in order to supply the national coordination centres and itself with surveillance information on the external borders and on the pre-frontier area on a regular, reliable and cost-efficient basis.
2. The Agency may provide a national coordination centre upon request with information on the external borders of the requesting Member State and on the pre-frontier area which is derived from:
 - (a) selective monitoring of designated third country ports and coasts which have been identified through risk analysis and intelligence as embarkation or transit points for vessels used for irregular migration and cross-border crime;
 - (b) tracking of a vessel over high seas which is suspected of or has been identified as being used for irregular migration and cross-border crime;
 - (c) monitoring of designated areas in the maritime domain in order to detect, identify and track vessels suspected of or used for irregular migration and cross-border crime;

- (d) environmental assessment of designated areas in the maritime domain and at the external land border in order to optimise monitoring and patrolling activities;
 - (e) selective monitoring of designated pre-frontier areas at the external land border, which have been identified through risk analysis and intelligence as potential departure or transit areas for irregular migration and cross-border crime.
3. The Agency may provide the information referred to in paragraph 1 by combining and analysing data collected from the following systems, sensors and platforms:
 - (a) ship reporting systems within their given legal limitations, such as the Automated Identification System (AIS) and the Vessel Monitoring System (VMS);
 - (b) satellite imagery;
 - (c) sensors mounted on any platforms, including manned and unmanned aerial vehicles.
 4. The Agency may refuse a request from a national coordination centre on the basis of technical and financial limitations as well as for other justified reasons.
 5. The Agency may use on its own initiative the surveillance tools referred to in paragraph 2 for collecting information which is relevant for the common pre-frontier intelligence picture.

CHAPTER III

Reaction Capability

Article 13

Determination of external border sections

Each Member State shall divide its external land and sea borders into border sections, with a local or regional coordination centre ensuring the effective and efficient management of personnel and resources.

Article 14

Attribution of impact levels to external border sections

1. Based on the Agency's risk analysis and after consultation of the Member States concerned, the Agency shall attribute the following impact levels to each of the external land and sea border sections of Member States:
 - (a) low impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have an insignificant impact on border security;
 - (b) medium impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a moderate impact on border security;

- (c) high impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a significant impact on border security.
- 2. The national coordination centre shall regularly assess whether there is a need to adjust the impact level of any of the border sections. The national coordination centre may invite the Agency to change the impact level by providing substantiated information on the altered conditions at the external border section concerned.
- 3. The Agency shall visualise of the impact levels attributed to the external borders in the European situational picture.

Article 15

Reaction corresponding to impact levels

- 1. The Member States shall ensure that the surveillance and patrolling activities carried out at the external border sections correspond to the attributed impact levels in the following manner:
 - (a) where a low impact level is attributed to an external border section, the local or regional coordination centre shall organize regular surveillance on the basis of risk analysis and ensure that sufficient patrols are being kept in the border area in readiness for tracking, identification and interception;
 - (b) where a medium impact level is attributed to an external border section, the national coordination centre shall support the local or regional coordination centre by the temporary allocation of additional personnel and resources;
 - (c) where a high impact level is attributed to an external border section, the national coordination centre shall ensure that the local or regional coordination centre is given all necessary support at national level, including information, resources and personnel; the national coordination centre may also request the Agency for support in accordance with the provisions of Regulation (EC) No 2007/2004.
- 2. The national coordination centre shall inform the Agency about the measures taken at national level pursuant to points (b) and (c) of paragraph 1 without any delay.
- 3. Where a medium or high impact level is attributed to an external border section which is adjacent to the border section of another Member State or a third country, the national coordination centre shall coordinate the measures taken with the national coordination centre of the neighbouring country.
- 4. Where a national coordination centre submits a request according to point (c) of paragraph 1, the Agency may support that centre in particular by
 - (a) giving priority treatment for the common application of surveillance tools;
 - (b) coordinating the deployment of European Border Guard Teams in accordance with Regulation (EC) No 2007/2004;

- (c) ensuring the deployment of technical equipment at the disposal of the Agency in accordance with Regulation (EC) No 2007/2004;
 - (d) coordinating any additional support offered by Member States.
5. The Agency shall evaluate the attribution of impact levels and the corresponding measures taken at national and Union level in its risk analysis reports.

TITLE IV

SPECIFIC PROVISIONS

Article 16

Allocation of tasks to other centres in the Member States

1. Member States may entrust regional, local, functional or other centres, which are in the position to take operational decisions, with ensuring the situational awareness and reaction capability in the respective area of competence, including the tasks and competences referred to in points (b), (d) and (e) of Article 5(3).
2. The decision of the Member State referred to in paragraph 1 shall not affect the national coordination centre in its ability to cooperate and exchange information with other national coordination centres and the Agency.
3. In pre-defined cases the national coordination centre may authorise a centre referred to in paragraph 1 to communicate and exchange information with the regional coordination centre or the national coordination centre of another Member State or third country on condition that it regularly informs its own national coordination centre about the communication and information exchange.

Article 17

Cooperation of the Agency with third parties

1. The Agency shall make use of existing information, capabilities and systems available in other EU agencies and entities, within the respective legal frameworks.
2. In accordance with paragraph 1, the Agency shall cooperate in particular with the following entities:
 - (a) European Police Office (Europol), the Maritime Analysis and Operations Centre – Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture;
 - (b) the EU Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency when providing the common application of surveillance tools;

- (c) the European Commission and EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;
 - (d) international organisations which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture.
3. Information between the Agency and the entities referred to in paragraph 2 shall be exchanged via the network referred to in Article 7 or other communication networks which fulfil the criteria of availability, confidentiality and integrity.
 4. The cooperation between the Agency and the entities referred to in paragraph 2 shall be regulated in working arrangements in accordance with Regulation (EC) No 2007/2004 and the respective legal basis of each entity. As regards the handling of classified information, these arrangements shall provide that the EU agencies and other entities concerned comply with equivalent security rules and standards as those applied by the Agency.
 5. The agencies and centres referred to in paragraph 2 may use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights.

Article 18

Cooperation with neighbouring third countries

1. The exchange of information and cooperation with neighbouring third countries on preventing irregular migration and cross-border crime may take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third countries.
2. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2), which a third country that could use this information to identify persons or groups of persons who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.
3. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2) shall be done in compliance with the conditions of the bilateral and multilateral agreements concluded with neighbouring third countries.
4. Prior approval of any other Member State, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1 and of the networks referred to in point (h) of Article 9(2), shall be required before that information can be shared with any third country under that agreement or network.
5. Any exchange of information with third countries of information derived from service for the common application of surveillance tools is subject to the legislation and rules governing

those tools and systems as well as to the relevant provisions of Directive 95/46/EC and Regulation (EC) No 45/2001.

Article 19

Handbook

The European Commission shall, in close cooperation with the Member States and the Agency, make available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices. The European Commission shall adopt the Handbook in the form of a recommendation.

Article 20

Monitoring and evaluation

1. The Agency shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against the objectives of achieving an adequate situational awareness and reaction capability at the external borders.
2. The Agency shall submit a report on the functioning of EUROSUR on 1 October 2015 and every two years thereafter.
3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council on 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.
4. Member States shall provide the Agency with the information necessary to draft the report referred to in paragraph 2. The Agency shall provide the Commission with the information necessary to produce the evaluation referred to in paragraph 3.

Article 21

Entry into force and applicability

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall apply from 1 October 2013.
3. Article 5(1) shall apply to the Member States located at the southern sea and eastern land external borders of the Union (Bulgaria, Cyprus, Estonia, Finland, France, Greece, Hungary,

Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain) from 1 October 2013.

4. Article 5(1) shall apply to the remaining Member States with land and sea external borders (Belgium, Germany, Netherlands and Sweden) as from 1 October 2014.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Annex

The following principles shall be taken into account when setting, operating and maintaining the different components of the EUROSUR framework:

- (a) *Principle of communities of interest:* The national coordination centres and the Agency shall form particular communities of interest for sharing information and cooperation in the framework of EUROSUR. Communities of interest shall be used to organise different national coordination centres and the Agency to exchange information in pursuit of shared objectives, requirements and interests.
- (b) *Principles of coherent management and of using existing structures:* The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework shall make use of existing systems and capabilities. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.
- (c) *Principles of information sharing and of information assurance:* Information made available in the EUROSUR framework shall be available to all national coordination centres and the Agency, unless specific restrictions have been laid down or agreed upon. The national coordination centres shall guarantee the availability, confidentiality and integrity of the information to be exchanged at national and European level. The Agency shall guarantee the availability, confidentiality and integrity of the information to be exchanged at European level.
- (d) *Principles of service-orientation and of standardisation:* The different EUROSUR capabilities shall be implemented using a service-oriented approach. The Agency shall ensure that, to the extent possible, the EUROSUR framework is based on internationally agreed standards.
- (e) *Principle of flexibility:* Organisation, information and technology shall be designed to enable the EUROSUR stakeholders to react to changing situations in a flexible and structured manner.

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. Summary of estimated impact on expenditure
 - 3.2.2. Estimated impact on operational appropriations
 - 3.2.3. Estimated impact on appropriations of an administrative nature
 - 3.2.4. Compatibility with the current multiannual financial framework
 - 3.2.5. Third-party participation in financing
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation establishing the European Border Surveillance System (EUROSUR)

1.2. Policy area(s) concerned in the ABM/ABB structure¹⁷

Currently Heading 3a, Title 18 – Home Affairs

Future Multiannual Financial Perspectives: Heading 3 (Security and citizenship)

Nature of the proposal/initiative

- The proposal/initiative relates to **a new action** (home affairs funding for the period 2014-2020)
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**¹⁸
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

1.3. Objectives

1.3.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

In its conclusions of 23-24 June 2011 the European Council stated that the "the European Border Surveillance System (EUROSUR) will be further developed as a matter of priority in order to become operational by 2013 and allow Member States' authorities carrying out border surveillance activities to share operational information and improve cooperation".

As stated in the Commission Work Programme (CWP) for 2011¹⁹ "the aim of EUROSUR is to reinforce the control of the Schengen external border, especially the southern maritime and eastern land borders. EUROSUR will establish a mechanism for Member States' authorities carrying out border surveillance activities (border guards, coast guards, police, customs, and navies) to share operational information and to cooperate with each other and with Frontex in order to reduce the loss of lives at sea and the number of irregular migrants entering the EU undetected, and to increase internal security by preventing cross-border crime such as terrorism, trafficking in human beings, smuggling of weapons and drugs, etc."

Since 2008, the EU Member States, the EU border agency Frontex and the European Commission have been closely cooperating in order to define and develop the EUROSUR framework. The components of

¹⁷ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

¹⁸ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

¹⁹ COM(2010) 623 final of 27.10.2010, VOL. II, 43, 14.

EUROSUR are being tested and gradually established on a pilot basis since 2011, using funding provided under the Frontex budget. In parallel, since 2008 Member States have been using the External Borders Fund to set up the national components of EUROSUR, such as the national coordination centres and national border surveillance systems.

Therefore the following ABB activities are currently concerned:

18.02 – Solidarity, external borders, return, visa policy and free movement of persons – Objective 1: Enable persons to cross internal borders without border checks, promote secure borders and prevent irregular migration by developing further an integrated external border management system and high standards of border checks, including the set up of SIS II and the financial support from the External Borders Fund.

The parallel development and implementation of EUROSUR shortens considerably the time needed for its establishment and also allows to test and adapt the different components of EUROSUR before making it operational at the end of 2013.

The works carried out for the development, testing and gradual establishment of EUROSUR are based on a roadmap presented in a Commission Communication in 2008.²⁰ This roadmap has been endorsed by the Justice and Home Affairs Council in its conclusions of June 2008 and February 2010 and by the Stockholm Programme and the Action Plan implementing the Stockholm Programme.

1.3.2. Specific objective(s) and ABM/ABB activity(ies) concerned

EUROSUR has two specific objectives, namely to significantly increase the *situational awareness* and *reaction capability* of the Member States' border control authorities and Frontex, so that in a best case scenario any new route or method for irregular migration and cross-border crime is identified and disrupted shortly after it has been established.

1.3.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

1. *Situational awareness* measures how the authorities are capable of detecting cross-border movements and finding reasoned grounds for control measures. This can be accomplished by achieving the following operational objectives at national and European level:

- a. Improved interagency cooperation by streamlining structures and interlinking systems in the law enforcement domain;
- b. The use of data fusion combined with modern technological capabilities for detecting and tracking cross-border movements, in particular (small) vessels;
- c. Cross-sectoral information exchange with other actors in the maritime domain, such as transport, customs, fisheries control and defence;
- d. Improved information exchange with neighbouring third countries.

2. The *reaction capability* measures the lapse of time required to reach any cross-border movement to be controlled and also the time and the means to react adequately to unusual

²⁰ COM(2008) 68 final of 13.2.2008 ('EUROSUR roadmap').

circumstances. The following operational objectives should therefore be attained at national and European level:

- a. Exchange of data, information and intelligence in close-to-real time and - whenever needed - in a secure manner, thereby moving from a patrolling driven to a more intelligence driven approach based on risk analysis;
- b. Effective management of personnel and resources, including sensors and patrols;
- c. Effect measurement, evaluating the effect of border surveillance activities, thereby providing a new baseline for risk assessment and re-arrangement of priorities.

Table interlinking problems, objectives and actions

Specific objectives	Actions envisaged
1a - Streamlining structures and interlinking systems at national level. 2a - Effective management of personnel & resources. 2c – Effect measurement.	Establishment of a <i>national coordination centre</i> (NCC) and of the Frontex Situation Centre (FSC).
2a - Exchange of data, information and intelligence in close-to-real time.	Setting up of the <i>EUROSUR network</i> , interlinking NCCs and Frontex. Setting up of the Common Pre-Frontier Intelligence Picture.
1d - Improved information exchange with neighbouring third countries.	Interlinking EUROSUR with <i>regional networks</i> set up between Member States and neighbouring third countries.
1b - Use of data fusion combined with technological capabilities for detecting and tracking cross-border movements. 1c - Cross-sectoral information exchange with other actors in the maritime domain	Setting up of a service for the <i>common application of surveillance tools</i> at EU level.

1.3.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

Frontex shall ensure that methods are in place to monitor the functioning of EUROSUR against the main policy objectives, taking into account the following indicators:²¹

Impact indicators²²

- Reduced number of irregular migrants entering the Schengen undetected;
- Reduced death toll of migrants at sea;
- Reduced cross-border crime, in particular of drugs smuggled across the external borders.

Result and output indicators²³

- Increased situational awareness at the external borders and in the pre-frontier area;
- Improved interagency cooperation at national level;
- Improved cooperation between Member States as well as with Frontex;
- Increased cooperation with neighbouring third countries.

²¹ Compare Chapter 8 of the accompanying impact assessment.

²² In comparison to the figures for 2011 as provided in the Frontex risk analysis reports and relevant reports of EUROPOL. These indicators will also depend on factors outside of EUROSUR, such as changes in the political and economic situation in neighbouring third countries.

²³ In comparison to the current situation as described in the impact assessment accompanying the proposal for the EUROSUR Regulation.

Increased technical and operational capability to detect and track small boats;
Increased exchange of unclassified and classified information in close-to-real time;
Increased capability to react to alerts, incidents and other events at the external borders.

1.4. Grounds for the proposal/initiative

1.4.1. Requirement(s) to be met in the short or long term

The EU will continue to face a number of general and specific problems in the field of border surveillance in the period 2012-2020, which are addressed by EUROSUR.²⁴

The EU faces considerable pressure from irregular migration at its external borders, which is expected to continue over the coming years. The use of small unseaworthy boats has increased dramatically the number of migrants drowning in the Mediterranean Sea, which poses a major challenge to law enforcement authorities because it is extremely difficult to detect and track such small boats on the high seas. Criminal networks involved in the smuggling of migrants are often using the same routes and methods for cross-border crime activities, such as trafficking in human beings and drugs. An improved interagency cooperation between border control and police authorities should contribute significantly to fighting such serious crimes at the external borders.

Criminal networks are often faster and more flexible in changing their routes and methods for irregular migration and cross-border crime than Member States' authorities in reacting to changed situations. One reason for this delayed reaction is that in some Member States, up to six different authorities are directly involved in the surveillance of maritime borders, without clear rules and workflows for cooperation and information exchange among them. However, there is not only a lack of coordination inside some Member States, but also in between Member States, due to the absence of proper procedures, networks or communication channels to exchange information. The migration pressure presents considerable challenges also for the third countries located on the southern shores of the Mediterranean Sea. It is therefore necessary to cooperate more closely with the countries of origin and the countries of embarkation of irregular migrants.

1.4.2. Added value of EU involvement

In line with the *principle of subsidiarity*,²⁵ EUROSUR follows a decentralised approach, with the national coordination centres for border surveillance forming the backbone of the EUROSUR cooperation. By interlinking existing national and European systems and developing new capabilities, EUROSUR enables Member States' border control authorities and Frontex to communicate and exchange information in order to have better situational awareness at the external borders, thus bringing true added value to border surveillance.

Better information sharing will help to identify targets such as boats used for irregular migration and cross-border crime more accurately and therefore allow a more targeted timely and cost-efficient use of available equipment for interception. This is an objective which cannot be sufficiently achieved by the Member States alone and which can be better achieved at Union level.

²⁴ Compare Chapters 3.2 and 3.3 of the accompanying impact assessment.

²⁵ Compare Chapter 3.5 of the accompanying impact assessment.

1.4.3. Lessons learned from similar experiences in the past

The EUROSUR initiative builds on experiences collected in the past, such as under the European Patrols Network (EPN) coordinated by Frontex. Furthermore, the intention is to make best use of existing national border control infrastructures in combination with operational international and European systems as well as recent technological developments (e.g. use of satellites). In particular with regard the use of modern technology, EUROSUR is taking advantage of a number of research projects carried out under the 7th Framework Programme for Research and Development (FP7).²⁶

1.4.4. Coherence and possible synergy with other relevant instruments

By making best-use of existing systems, capabilities and funding programmes available at Union level, EUROSUR aims at ensuring the best possible coherence and synergies with other relevant instruments.

²⁶ See lists of projects in Annex 1.5 of the

1.5. Duration and financial impact

- Proposal/initiative of **limited duration**
 - Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - Financial impact from 2014 to 2020
- Proposal/initiative of **unlimited duration**
 - Implementation with a start-up period from YYYY to YYYY,
 - followed by full-scale operation.

1.6. Management mode(s) envisaged²⁷

- Centralised direct management** by the Commission
- Centralised indirect management** with the delegation of implementation tasks to:
 - executive agencies
 - bodies set up by the Communities²⁸
 - national public-sector bodies/bodies with public-service mission
 - persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation
- Shared management** with the Member States
- Decentralised management** with third countries
- Joint management** with international organisations (*to be specified*)

If more than one management mode is indicated, please provide details in the "Comments" section.

The different components of EUROSUR will be mainly implemented by Frontex and by Member States (shared management) on the basis of the 2008 EUROSUR roadmap (COM(2008)68final). With regard to setting up the national coordination centres, Member States will be supported by the External Borders Fund in 2012-2013 and the instrument for financial support for external borders and visa as part of the planned Internal Security Fund in 2014-2020. On the other hand, Frontex will use its own budget to set up the EUROSUR network and other horizontal components of EUROSUR, such as the Common Pre-frontier Intelligence Picture and when necessary, this is completed by support under the Internal Security Fund (direct or indirect centralised financial management).

²⁷ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

²⁸ As referred to in Article 185 of the Financial Regulation.

Funding provided under the 7th Framework Programme for Research and Development will support the setting up of the envisaged service for the common application of surveillance tools in 2012-2013.

Measures in neighbouring third countries will be supported in 2012-2013 by the Thematic Programme for Asylum and Migration , as part of the Development Cooperation Instrument.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Two years after EUROSUR is fully operational and every year thereafter, Frontex shall submit to the Commission a report on the technical and operational functioning of EUROSUR, taking into account the above mentioned indicators.²⁹ Moreover three years after the EUROSUR system would have started all its operations and every four years thereafter, the Commission shall produce an overall evaluation of EUROSUR, including examining results against objectives and assessing the continuing validity of the underlying rationale. The first evaluation is expected to take place in 2016 under the condition of EUROSUR becoming operational as of 2013. The Commission should submit the reports on the evaluation to the European Parliament and the Council, accompanied, where necessary, by appropriate proposals to amend the Regulation establishing EUROSUR.

2.2. Management and control system

2.2.1. Risk(s) identified

- The cost estimates provided in the accompanying impact assessment have been developed on the basis of data provided by Member States, EU agencies and the private sector and verified by the external contractor for the technical study assessing the financial impact of EUROSUR (GHK). They constitute a best estimate of costs of implementing the policy options under consideration on the basis of their description in the 2008 EUROSUR roadmap and subsequent technical documents. Adjustments to the scope, organisational and governance structures, technical requirements, nature of the provision of services and phasing of implementation of the EUROSUR roadmap would be expected to lead to changes in the costs of providing those services.
- Due to the fact that the different components and steps identified in the 2008 EUROSUR roadmap (COM(2008)68final) are being developed, tested and implemented in parallel. The reason for this approach is that the usual life cycle for developing a system, in which one step builds on the results of the previous one and in which the implementation of the system follows its development, would be too time consuming. Attention has to be paid when merging the results of the different steps into one common framework. This coherence can be achieved best by legislation, clearly defining the different content of the components as well as the roles and responsibilities of the different actors.

2.2.2. Control method(s) envisaged

The management and control systems established under the different financial programmes (e.g. Internal Security Fund) used will be applied. Furthermore, it is envisaged to use internal (e.g. Joint Research Centre) as well as external expertise (e.g. external contractors) to ensure a proper and smooth implementation of the different components of EUROSUR.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

Anti-fraud measures established at national and European level fully apply.

²⁹ Compare Chapter 8 of the accompanying impact assessment.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines³⁰

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff. ⁽³¹⁾	from EFTA ³² countries	from candidate countries ³³	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3a	18 02 03 02 - Frontex	Diff	NO	NO	NO	NO
3a	18 02 06 – External Borders Fund	Diff	NO	NO	YES	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3	18 02 cc - Internal Security Fund – Borders & Visas	Diff	NO	NO	YES	NO
3	18 02 05 02 - Frontex	Diff	NO	NO	NO	NO

³⁰ These budget lines are being used for the gradual development and testing of the different EUROSUR components until-2013. Taking into account that the proposed EUROSUR Regulation should enter into force at the end of 2013, the financial legal statement is limited to the time period of 2014-2020. An overview of the costs spent on developing EUROSUR in 2008-2010 and on the estimated costs for EUROSUR in 2011-2020 can be found in the accompanying impact assessment.

³¹ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

³² EFTA: European Free Trade Association.

³³ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure for 2014-2020³⁴

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multiannual financial framework:			Number 3 Security and Citizenship								
DG: HOME			Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Subsequent years	TOTAL
• Operational appropriations											
Internal Security Fund ³⁵	Commitments	(1)	14,107	16,111	16,111	16,411	16,411	16,411	16,411		111,973
	Payments	(2)	1,915	3,997	7,720	12,130	15,751	16,266	16,347	37,848	111,973
18 02 03 02 ³⁶	Commitments	(1a)	20,601	19,997	18,290	18,290	18,290	18,290	18,290		132,048
	Payments	(2a)	10,301	20,299	19,144	18,290	18,290	18,290	18,290	9,145	132,048
Appropriations of an administrative nature financed from the envelope for specific programmes ³⁷											
Number of budget line		(3)	0	0	0	0	0	0	0		0
TOTAL appropriations	Commitments	=1+1a +1b+1c	34,708	36,108	34,401	34,701	34,701	34,701	34,701		244,021

³⁴ An overview of the total estimated costs for 2011-2020 can be found in the accompanying impact assessment.

³⁵ This budget line covers the following costs: 1) 75% EU co-funding of the operational costs for national coordination centres (NCCs) in the 24 Member States with land and maritime external borders, insofar as these costs are programmed by the Member States using the Union budget; 2) Costs of the service for the common application of surveillance tools, which should also be co-funded from relevant European space programmes, including the operational Global Monitoring for Environment and Security (GMES), to the extent available in 2014-2020. 3) Costs for interlinking EUROSUR with *regional networks* set up between Member States and neighbouring third countries. 4) Any other costs needed to implement EUROSUR.

³⁶ For operational costs for the Frontex Situation Centre (FSC), the network interlinking the NCCs and Frontex, and the Common Pre-Frontier Intelligence Picture. It is envisaged that between MEUR 5-10 per year of these estimates shall be covered by the Frontex budget and between MEUR 10-15 per year by the Internal Security Fund. The exact amounts to be financed by Frontex will be defined in the annual budgetary procedure..

³⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

for DG HOME	Payments		12,215	24,296	26,864	30,420	34,041	34,556	34,637	46,993	244,021
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• TOTAL operational appropriations	Commitments	(4)	34,708	36,108	34,401	34,701	34,701	34,701	34,701		244,021
	Payments	(5)	12,215	24,296	26,864	30,420	34,041	34,556	34,637	46,993	244,021
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0	0	0	0	0	0	0		0
TOTAL appropriations under HEADING 3 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6	34,708	36,108	34,401	34,701	34,701	34,701	34,701		244,021
	Payments	=5+ 6	12,215	24,296	26,864	30,420	34,041	34,556	34,637	46,993	244,021

Heading of multiannual financial framework:	5	" Administrative expenditure "
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EUR million (to 3 decimal places)

		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Subsequent years	TOTAL
DG: HOME										
• Human resources		0,254	0,254	0,254	0,254	0,254	0,254	0,254		1,778
• Other administrative expenditure		0	0	0	0	0	0	0		0
TOTAL DG HOME	Appropriations	0,254	0,254	0,254	0,254	0,254	0,254	0,254		1,778

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0,254	0,254	0,254	0,254	0,254	0,254	0,254		1,778

EUR million (to 3 decimal places)

		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020		TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	34,962	36,362	34,655	34,955	34,955	34,955	34,955		245,799
	Payments	12,469	24,550	27,118	30,674	34,295	34,810	34,891	46,993	245,799

3.2.2. Estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Indicate objectives and outputs ↓			2014		2015		2016		2017		2018		2019		2020		TOTAL			
	OUTPUTS																			
	Type of output ³⁸	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost
SPECIFIC OBJECTIVES N 1a, 2a & 2c ³⁹																				
- Output ⁴⁰	Centre	2,179	24	7,470	24	7,470	24	7,470	24	7,470	24	7,470	24	7,470	24	7,470	24	7,470	24	52,29
- Output ⁴¹	Centre	75,765	1	11,316	1	12,164	1	10,457	1	10,457	1	10,457	1	10,457	1	10,457	1	10,457	1	75,765
Sub-total for specific objectives N 1a, 2a & 2c			25	18,786	25	19,634	25	17,927	25	17,927	25	17,927	25	17,927	25	17,927	25	17,927	25	128,055
SPECIFIC OBJECTIVE No 2a ⁴²																				
- Output ⁴³	Network	33,071	1	5,969	1	4,517	1	4,517	1	4,517	1	4,517	1	4,517	1	4,517	1	4,517	1	33,071
- Output ⁴⁴	Picture	23,212	1	3,316	1	3,316	1	3,316	1	3,316	1	3,316	1	3,316	1	3,316	1	3,316	1	23,212

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40
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42
43
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Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).
 See Section 1.4.2: 1a - Streamlining structures and interlinking systems at national level; 2a - Effective management of personnel & resources; 2c – Effect measurement.
 75% EU co-funding of the operational costs for national coordination centres (NCCs) in the 24 Member States with land and maritime external borders.
 Operational costs for the Frontex situation centre (FSC).
 2a - Exchange of data, information and intelligence in close-to-real time.
 Operational costs for the network connecting the national coordination centres and Frontex.
 Operational costs for the Common Pre-Frontier Intelligence Picture (CPIP).

Sub-total for specific objective N°2a			2	9,285	2	7,833	2	7,833	2	7,833	2	7,833	2	7,833	2	7,833	2	56,283
SPECIFIC OBJECTIVE No 1d ⁴⁵																		
- Output ⁴⁶	Networks	537,75	4	951	4	0	4	0	4	300	4	300	4	300	4	300	4	2,151
Sub-total for specific objective N°1d			4	0,951	4	0	4	0	4	0,300	4	0,300	4	0,300	4	0,300	4	2,151
SPECIFIC OBJECTIVES No 1b & 1c ⁴⁷																		
- Output ⁴⁸	Service		1	5,686	1	8,641	1	8,641	1	8,641	1	8,641	1	8,641	1	8,641	1	57,532
Sub-total for specific objectives N° 1b & 1c			1	5,686	1	8,641	1	8,641	1	8,641	1	8,641	1	8,641	1	8,641	1	57,532
TOTAL COST			32	37,198	32	38,688	32	36,891	32	37,191	32	37,191	32	37,191	32	37,191	32	244,021

⁴⁵ 1d - Improved information exchange with neighbouring third countries.

⁴⁶ Interlinking EUROSUR with *regional networks* set up between Member States and neighbouring third countries.

⁴⁷ 1b - Use of data fusion combined with technological capabilities for detecting and tracking cross-border movements; 1c - Cross-sectoral information exchange with other actors in the maritime domain.

⁴⁸ Operational costs for the service for the *common application of surveillance tools* at EU level.

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	Year 2014 ⁴⁹	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources	0,254	0,254	0,254	0,254	0,254	0,254	0,254	1,778
Other administrative expenditure	0	0	0	0	0	0	0	0
Subtotal HEADING 5 of the multiannual financial framework	0,254	0,254	0,254	0,254	0,254	0,254	0,254	1,778

Outside HEADING 5⁵⁰ of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature	0	0	0	0	0	0	0	0
Subtotal outside HEADING 5 of the multiannual financial framework	0	0	0	0	0	0	0	0

TOTAL	0,254	0,254	0,254	0,254	0,254	0,254	0,254	1,778
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⁴⁹ Year N is the year in which implementation of the proposal/initiative starts.

⁵⁰ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:⁵¹

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
• Establishment plan posts (officials and temporary agents)							
18 01 01 01 (Headquarters and Commission's Representation Offices)	2 AD	2 AD	2 AD	2 AD	2 AD	2 AD	2 AD
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External personnel (in Full Time Equivalent unit: FTE)⁵²							
XX 01 02 01 (CA, INT, SNE from the "global envelope")							
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)							
XX 01 04 yy⁵³	- at Headquarters ⁵⁴						
	- in delegations						
XX 01 05 02 (CA, INT, SNE - Indirect research)							
10 01 05 02 (CA, INT, SNE - Direct research)							
Other budget lines (specify)							
TOTAL	2 AD	2 AD	2 AD	2 AD	2 AD	2 AD	2 AD

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	Monitoring of and support for the daily management of EUROSUR.
External personnel	

⁵¹ The 2 AD posts referred to in the table below are included in the proposal for the Regulation establishing the Internal Security Fund.

⁵² CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

⁵³ Under the ceiling for external personnel from operational appropriations (former "BA" lines).

⁵⁴ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

3.2.4. *Compatibility with the current and the next multiannual financial framework*

- Proposal/initiative is compatible the current and the next multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework⁵⁵.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
<i>Specify the co-financing body</i>								
TOTAL appropriations cofinanced								

⁵⁵ See points 19 and 24 of the Interinstitutional Agreement.

Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative ⁵⁶					... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
		Year N	Year N+1	Year N+2	Year N+3				
Article									

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

⁵⁶ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.