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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE
EUROPEAN COUNCIL AND THE COUNCIL**

on the operationalisation of the European Border and Coast Guard

1. EUROPEAN BORDER AND COAST GUARD – PUTTING IN PLACE A REINFORCED PROTECTION OF THE EXTERNAL BORDERS

Protecting the external borders of the European Union, including through the European Border and Coast Guard, is one of the key pillars of the comprehensive European policy on migration on which the European Union is delivering in order to address the immediate, medium as well as long term needs identified in the European Agenda on Migration¹.

The European Border and Coast Guard follows the concept and principles of **integrated border management** and brings together, in the spirit of shared responsibility, a robust European border agency with the border guard authorities of the Member States, including coast guards to the extent that they carry out border control tasks. The primary role and competence of the Member States in reinforcing the control at the external border, on the basis of their own existing capacities of more than 100 000 border and coast guard officers, is essential to achieve this objective².

Rolling out the activities and tools of the European Border and Coast Guard in early January - just three months after the entry into force of the new Regulation³ - promises additional guarantees for reinforcing the management and security of the EU's external borders.

This report takes stock of the progress made in three months in the set priority areas and identifies next steps to make sure that we have a fully operational and equipped European Border and Coast Guard in place. This will enable the European Union and its Member States to now respond quickly and effectively to migration challenges on the external borders. This report is the first in a series of regular reports which will serve to contribute to have the right tools and responses in place for a much better protection of the external borders.

The protection of external borders is the prerequisite for the normal functioning of the Schengen area without internal borders. The joint investment and engagement in ensuring the European Border and Coast Guard is fully operational as quickly as possible is a practical expression of the commitment of Member States to share responsibility and demonstrate solidarity in the common interest.

2. CONTINUED INCREASED OPERATIONAL SUPPORT TO FRONT-LINE MEMBER STATES

Building on the capacities and resources of Frontex, the European Border and Coast Guard is continuing to provide requested support on the ground to frontline Member States in border management⁴. It does so through regular joint operations deployed at different sections of the EU external borders (i.e. Joint Operations Triton in Central Mediterranean, Poseidon in

¹ COM(2015) 240 final.

² This estimated figure is based on data collected for the 2014 feasibility study for creating the European System of Border Guards. This type of precise data will be further collected and completed by the Agency in the framework of the vulnerability assessments in the coming months.

³ The European Border and Coast Guard has been established in record time. On 15 December 2015, the European Commission presented a legislative proposal. On 22 June 2016 political agreement was reached, with final adoption of the Regulation on the European Border and Coast Guard by the European Parliament and the Council on 14 September 2016, just nine months after it was proposed. The Regulation on European Border and Coast Guard entered into force on 6 October 2016, and the rapid reaction and return pools became respectively operational on 7 December 2016 and 7 January 2017.

⁴ The European Border and Coast Guard Agency is also enhancing the cooperation with the European Fisheries Control Agency and the European Maritime Safety Agency on coast guard functions.

Greece and Flexible Activities and Focal Points in relation to the Western Balkan Route) and by supporting return in Member States.

Based on the pre-existing pools of the European Border and Coast Guard teams and of Technical Equipment⁵, the Agency provides the biggest operational support in the frontline Member States that it has provided so far. To reinforce the manpower of the responsible national border guard, currently more **than 1550 members** of the European Border and Coast Guard Teams are deployed in regular joint operations by the Agency at the external borders of the frontline Member States. By way of example, this means that the numbers deployed to Greece join up with the approximately 10 000 Greek border and coast guard officers⁶. These teams are assisted by **24 boats and vessels, 6 aircrafts and helicopters, more than 80 patrol cars and 13 thermo-vision vehicles.**

This combined deployment represents the biggest pooling of EU Member States' resources in civil missions which comes on top of the national border guards deployed by the responsible Member State:

- 760 officers deployed to Greece, including experts deployed at the Greek-Turkish land borders and on the Aegean islands assisting in border control, implementation of the hotspot approach and of the EU-Turkey Statement (in 2016 the Agency assisted Greece with the readmission of 908 migrants to Turkey);
- 600 officers deployed to Italy and the operations in the Central Mediterranean including crew members of the deployed assets and experts assisting in the implementation of the hotspot approach;
- 130 officers deployed to Bulgaria assisting in controlling the land borders, also in view of preventing irregular secondary movements;
- Around 70 officers are currently deployed in other Member States in order to assist border management in the Western Balkan region.

In addition, preparation is ongoing with Greece in view of deploying European Border and Coast Guard Teams at the land border with the former Yugoslav Republic of Macedonia and Albania in order to step up border surveillance and prevent irregular secondary movements and to further reinforce the EU response to the challenges at the Western Balkan route. The operation is expected to start at the beginning of February.

Despite these deployments, the running operations are constantly confronted with gaps, both in terms of human resources and technical equipment. These gaps have to be filled in order to have a much better protection of external borders.

Next steps:

Member States should

- *Ensure that the agreed resources are always made available to the European Border and Coast Guard for the running operations and the mandatory pools.*
- *Provide the following resources on the basis of the currently identified gaps:*

⁵ Unlike the new Rapid Reaction Pools, the pre-existing pools were already operational under the Agency's previous mandate to carry out joint operations. The contributions to the pools are provided by Member States and the deployments are agreed in advance between the Agency and the Member States. The latest contributions were set in December 2016 to cover the foreseen operational needs of the Agency in 2017.

⁶ The figure is based on the 2014 study on the feasibility of the European system of border guards.

Gaps for Greece (Joint Operation Poseidon)

- Until 16 February 2017: 4 officers, 1 helicopter, 2 transportation vehicles
- 16 February - 30 March 2017: 10 officers, 1 helicopter, 1 coastal patrol boat (March only), 4 patrol cars, 2 transportation vehicles

Gaps for Greece (Joint Operation Flexible Activities at the Northern Greek land border)

- February 2017: 54 officers, 26 patrol cars, 3 dog teams, 1 thermo-vision vehicle, 2 transportation vehicles
- March 2017: 54 officers, 26 patrol cars, 3 dog teams, 1 thermo-vision vehicle, 2 transportation vehicles

Gaps for Bulgaria (Joint Operations Flexible Activities and Focal Points)

- 1 February - 1 March 2017: 87 officers, 34 patrol cars, 16 dog teams, 4 thermo-vision vehicles
- 1 - 29 March 2017: 69 officers, 33 patrol cars, 16 dog teams, 1 thermo-vision vehicle

Gaps for Italy (Joint Operation Triton)

- January 2017: 37 officers, 1 fixed wing aircraft
- February 2017: 27 officers, 1 helicopter, 1 coastal patrol vessel
- March 2017: 26 officers, 1 offshore patrol vessel, 2 coastal patrol vessels

The European Border and Coast Guard Agency should

- *In order to ensure the smooth and effective running of the mandatory pools inform Member States on a monthly basis about needed resources based on a continuous monitoring of the situation at the external borders.*

3. PROGRESS MADE IN THE MAIN PRIORITY AREAS

Five priority areas for swift operationalisation of the Agency were identified and endorsed by Member States at the Justice and Home Affairs Council in April 2016:

1. putting in place the mandatory pooling of resources to enhance the Agency's rapid reaction capability;
2. carrying out preventive vulnerability assessments based on a common methodology;
3. enhancing the support for return activities;
4. establishing the complaint mechanism and
5. paving the way for better operational cooperation with priority third countries by setting a model status agreement for deploying the Agency's operational activities in third countries.

3.1. Reinforcing the European Border and Coast Guard Agency's rapid reaction capabilities, including the mandatory pooling of resources

To enable the EU to react swiftly one of the major achievements of the European Border and Coast Guard Regulation was to strengthen considerably the Agency's rapid reaction capability to carry out rapid border interventions⁷ on top of on-going joint operations. To this end, the mandatory pooling of human and technical resources with two dedicated Rapid Reaction Pools was set up:

- The Rapid Reaction Pool is intended to be a standing corps of 1500 border guard officers and other relevant staff placed at the immediate disposal of the Agency enabling it to carry out rapid border interventions. Border guards from this pool shall be deployed from each Member State within five working days after the operational plan is agreed by the executive director and the host Member State. The pool is organised around 14 specialised profiles and it should include amongst others 467 border surveillance officers, 458 registrations and finger scanning experts, 97 advanced-level document officers and 137 nationality screening experts.
- The Rapid Reaction Equipment Pool will consist of equipment to be deployed within 10 working days after the operational plan is agreed by the executive director and the host Member State to cover the initial needs in the framework of rapid border intervention.

Both Rapid Reaction Pools have been established since 7 December 2016, as required by the European Border and Coast Guard Regulation. Whilst for the Rapid Reaction Pool, the availability of more than 1 500 border guards and other officers have been confirmed by the Member States, considerable gaps still exist for most types of equipment to be pledged for availability in the Rapid Reaction Equipment Pool, especially as regards offshore patrol vessels and helicopters, as compared with the numbers decided by the Management Board, the Agency's body responsible for taking strategic decisions, and in which each Member State is represented alongside the Commission. While certain needs could be covered with the Agency's own capabilities, Member States need to urgently pledge to fill the gaps to ensure the required availability for all types of equipment.

Next steps:

Member States should

- *Urgently pledge to fill the gaps of the Rapid Reaction Equipment Pool to ensure its full capacity throughout the year by end of February.*

3.2. Carrying out preventive vulnerability assessments based on a common methodology

The European Border and Coast Guard Regulation has equipped the Agency with a new effective mechanism to assess vulnerabilities in the Member States' capacities and, by complementing the Schengen Evaluation Mechanism, to further reinforce the **preventive**

⁷ In contrast to joint operations planned in advance in an annual cycle, a mechanism of **rapid border interventions** is designed to respond to unexpected challenges at the external borders. In accordance with Article 20 (5) of the European Border and Coast Guard Regulation, based on a request of a Member State facing such challenges, the Agency's Executive Director should decide within 2 working days on launching a rapid border intervention and, within three working days of this decision to agree together with the host Member State on the operational plan for the deployment. In addition, to enable covering the initial financial needs for such a rapid border intervention deployment, the European Border and Coast Guard Agency is also obliged every year to put aside a 4% reserve within its operational budget.

quality control of the functioning of the Schengen area. The vulnerability assessments will allow the EU and its Member States to be better prepared to face current and future challenges at the external borders. In particular, the annual assessment process will ensure a collective preparedness for a migration crisis by identifying and addressing in advance Member States' weak points as regards their equipment, staffing, IT system, contingency planning and infrastructure needed for border management, including their capacity to deal with potential arrival of large numbers of persons on their territory, so such detected deficiencies would not impact on the functioning of the Schengen area.

The common vulnerability assessment methodology adopted at the end of 2016 sets up one single overall assessment process. Through **baseline assessments**, the Agency will annually evaluate the ability of **all** Member States to face the current challenges at the external borders by looking at the existing capacities (i.e. equipment, infrastructure, staff, systems, contingency planning) in conjunction with relevant threat indicators against a set of the objective criteria.

Building on the baseline assessments, the Agency will also carry out **simulation exercises** annually to assess the readiness to face upcoming challenges by Member States selected according to the methodology. Moreover, the Agency will set up an **emerging threats mechanism** allowing for constant screening of the situation at the external borders and which could trigger a specific vulnerability assessment.

In accordance with the procedure defined in Article 13 of the European Border and Coast Guard Regulation, when necessary, the assessments carried out by the Agency will result in the Agency's Executive Director, in consultation with the Member State concerned making a **recommendation setting out the necessary measures** for the Member State to eliminate such identified vulnerabilities within a defined timeframe.

The planning for 2017 was endorsed by the Management Board at its meeting on 23-24 November 2016. While the Agency's workload for collecting and analysing the data and identifying possible vulnerabilities is challenging, it is essential to keep **the high level of ambition** for the implementation of the assessment process in 2017 in line with the agreed common methodology. It is expected to carry out baseline assessments on the current challenges, and when appropriate, simulation exercises also evaluating in all pertinent Member States as for their capacities to face the future challenges. The full commitment and participation of Member States, especially for data collection, will be essential.

In order to support the Agency in delivering on this important task and to ensure the smooth exchanges and cooperation with the Member States, the **Vulnerability Assessment Network** composed of experts from Member States, the European Border and Coast Guard Agency and the Commission was established. Its first meeting took place on 12-13 December 2016 in Warsaw.

On 18 January 2017, in order to start the baseline assessments, the Agency has started the collection of data on the Member States' all existing capacities necessary for border management requiring around 90 000 data positions to be provided by Member States and analysed by the Agency. This collected data will serve as a basis and key reference for performing vulnerability assessments in 2017 and onwards. In order to support the Member States' efforts to collect and provide timely the data, the Agency will deploy on a temporary basis several staff members to selected Member States to support them in this challenging exercise.

In the context of the Vulnerability Assessments process, early results of this work need to feed into fixing as a matter of priority the most urgent vulnerabilities being identified. This means being able to respond in the coming months to the vulnerabilities linked to the main migration challenges currently being faced.

Next steps:

The European Border and Coast Guard Agency should

- *Ensure a priority process for identifying the most urgent vulnerabilities based on the first results of the vulnerability assessment process and other information.*
- *Carry out baseline assessments on the current challenges for all the Member States by April 2017.*
- *Carry out simulation exercises on the future challenges in relation to all Member States, for which the methodology will require so, between April-October 2017.*
- *Set up and apply a mechanism for emerging threat assessment as of April 2017.*

Member States should

- *Set up a Vulnerability Assessment capacity at national level and put in place a system for collection of data from all relevant authorities by end of January 2017.*
- *Provide the Agency with all the necessary data on the existing capacities in line with the Agency's request by 17 February 2017.*
- *If applicable, contribute actively and fully cooperate with the Agency in conducting simulation exercises to assess their respective capacities to face future challenges at be carried out in all Member States between April- October 2017.*

3.3. Support for return

The European Border and Coast Guard Regulation made return of irregular migrants a priority area of work for the Agency, enabling it to scale up considerably the support it provides to the Member States - which are primarily responsible for the return of irregular migrants. This is part of the Commission's ambitious efforts to create a legislative and operational framework that makes the EU's return system more effective and to improve cooperation on readmission with third countries.

The Regulation significantly **widens the mandate of the Agency** enabling it to provide across the board assistance on return, covering both voluntary departure and forced return, by organising return operations, providing assistance on consular cooperation with third countries in view of the identification of irregular migrants. Since 7 January 2017, **three new pools** of forced-return monitors, forced-return escorts and return specialists are available for operations. They can now be mobilised forming European Return Intervention Teams. Upon request from Member States, these teams can provide operational support to increase the capacities of Member States to return. 22 Member States⁸ have contributed to these pools, providing 395 of the 690 experts that are needed. **Member States need to fill this gap** and ensure that all profiles are adequately represented in the pools.

The Agency has rapidly scaled up its activities on return – in 2016, it organised a record number of 232 operations, returning 10 700 irregular migrants - a four-fold increase compared to 2015 when 3565 migrants were returned in 66 operations; since the entry into force of the Regulation until 12 January, the Agency organised 78 return operations – more than in the

⁸ Situation on 12 January 2017.

whole year 2015 – to return 3421 irregular migrants. The Agency should **further expand** its assistance by providing support with returns through commercial flights and developing intra-EU hubs dedicated to return operations.

The Agency has also strengthened its assistance to Member States on so-called 'pre-return' activities. In this context, it organised identification missions from Mali, Gambia and Nigeria to several Member States with the purpose of confirming the identity of irregular migrants. The Agency is also assisting Greece by promoting consular cooperation to ensure return, and providing risk analysis prior to return operations.

The significant increases in the resources made available to the Agency have enabled this up-scaling of its work on return. In both 2016 and 2017, EUR 66.5 million have been allocated to its return activities, up from EUR 9.5 million in 2015; 52 staff will be working on return-related activities in 2017, and this number is expected to reach 117 by 2020.

One of the key measures announced by the Commission was the setting up of an **Integrated Return Management System**, to help build operational synergies between the work on return and readmission of the Member States, European Border and Coast Guard, Commission and the EU-funded programmes ERIN (European Reintegration Network), EURINT (European Integrated Approach on Return towards Third Countries) and EURLO (European Return Liaison Officers). The Integrated Return Management System's aim is to facilitate the provision of operational support to Member States (for instance with the organisation of identification missions) and exchange of best practices.

As a first step, in order to facilitate the planning of return operations and to assist the Member States and the Agency in the gathering and sharing of operational information, the Commission has developed a secure platform, the **Integrated Return Management Application** (IRMA). Under the European Return Liaison Officers network programme, nine European Return Officers were deployed to countries relevant for readmission, for instance Afghanistan or Ethiopia, to provide support to all Member States on readmission issues, while new deployments are being planned. The Agency, in agreement with the EU programmes and the Commission, has also embarked on a gradual process of transferring the operational support activities currently carried out by the programmes to the Agency, such as support to Member States with organising identification missions or exchange of best practices through dedicated working groups on third-countries.

The Agency's efforts to step up its support to return operations will benefit and should be reinforced by the wider discussion and work to improve returns and readmissions within the European Union. In light of the new needs, the Commission will update the EU Action Plan on Return in the coming weeks to ensure swiftly an effective response. In particular, the Commission will identify on the basis of the current EU rules how better enforcement of return decisions can be achieved, using the flexibility contained in those rules, and provide clear guidance in this respect.

Next steps:

The European Border and Coast Guard Agency should

- *Ensure that the return-related pools are fully equipped and operational.*
- *Make fullest use of its new mandate, by developing new ways of supporting return, in particular through commercial flights.*

The Member States should

- *Urgently fill the gaps of the Return Pools.*
- *Collect real time, accurate information on returns.*
- *Provide the Agency all information that is necessary to exercise its mandate.*

The Commission will

- *Bring forward a revised Action Plan on Return in the coming weeks.*

3.4 Setting up of the European Border and Coast Guard Agency's complaint mechanism

On 6 October 2016, the Agency's Executive Director, in consultation with the Fundamental Rights Officer, set up a complaints mechanism to monitor and ensure the respect for fundamental rights in the activities carried out by the European Border and Coast Guard Agency. A complaint form has been made available on the Agency's website in six languages (English, French, Arabic, Pashtu, Urdu, Tigrinya), nonetheless complaints may be submitted in any EU official languages. By mid-January 2017, only one complaint was submitted to the Agency.

Furthermore, the Agency intends to establish a network of authorities in Member States that have the mandate to handle the complaints against Member States' staff transmitted by the Agency's Fundamental Rights Officer. This network will also include the national bodies competent for fundamental rights. A first contact meeting between the Fundamental Rights Officer and those contact points was organised in Brussels in December 2016.

In order to support the implementation of the complaint mechanism and to generally mainstream fundamental rights in respect of all the activities of the Agency, the EU funding for the Agency was specifically increased by EUR 500 000 per year. In addition, the Fundamental Rights Officer will receive additional staff in 2017 to support her tasks.

Next steps:

The European Border and Coast Guard Agency should

- *Prioritise and launch the recruitment procedure for the staff necessary to support the Fundamental Rights Officer by end of March 2017.*

3.5. Paving the way for better operational cooperation with priority third countries by setting a model status agreement

The European Border and Coast Guard Regulation also enhanced the Agency's role as regards cooperation with third countries. The Agency has previously established bilateral working arrangements in the field of border management and return with 18 priority third countries, for example with all Western Balkans countries and with Turkey. Since April 2016, the Agency has also deployed a liaison officer to Turkey.

The Agency is currently revising all the existing working arrangements in line with the new mandate. Additional budget and posts were provided to enable the Agency to deploy in the coming years up to additional 10 liaison officers in priority countries, starting with Niger and Serbia with the latter foreseen to cover the whole Western Balkan region.

In the past, however the Agency was not legally entitled to deploy its teams in the territory of third countries. This limitation proved particularly problematic during the 2015 with regards to addressing the migratory flows on the Western Balkan Route during the 2015. For the first time, the European Border and Coast Guard Regulation now provides for the possibility for the Agency to carry out actions with executive powers on the territory of neighbouring third countries subject to a prior agreement concluded by the European Union and the third country concerned.

The Commission adopted on 22 November 2016 a model status agreement which serves as a blueprint for such agreements. The Commission selected two priority third countries, Serbia and the former Yugoslav Republic of Macedonia and is currently conducting exploratory talks in view of pursuing such agreements. On 25 January 2017, the Commission adopted recommendations to the Council to authorise the opening of negotiations with Serbia and the former Yugoslav Republic of Macedonia.

Next steps:

The Council should

- *authorise swiftly the opening of negotiations with Serbia and the former Yugoslav Republic of Macedonia on the respective status agreements*

The European Border and Coast Guard Agency should

- *finalise the recruitment and subsequently the deployment of the liaison officers to Niger and to Serbia, respectively by April and June 2017*

3.6. Headquarters agreement

For more than eleven years, the Agency has been operating without a headquarters agreement with the host Member State. In accordance with Article 57 of the European Border and Coast Guard Regulation, such agreement should be concluded no later than 7 April 2017. Following the entry into force of the European Border and Coast Guard Regulation, the Agency and Poland have revived the discussions in view of achieving this objective. The technical negotiations have been finalised on 23 January 2017.

Next step:

Poland and the European Border and Coast Guard Agency should

- *Conclude the headquarters agreement according to the respective procedures by 7 April 2017.*

3.7. Increasing budget and staff

The EU funding for the Agency will gradually increase from 250 million euro in 2016 to 320 million euro in 2020 and the Agency's staff will grow from 400 in 2016 to 1000 staff members in 2020.

Initially, nearly 240 additional posts of different types (Temporary Agents, contractual agents, seconded national experts) were foreseen for 2017 as a first step to reach the ultimate number of 1000 Agency's staff members by year 2020. However in view of equipping the Agency as quickly as possible with the necessary staff, the budgetary authority agreed on 1 December 2016 to amend the Agency's 2016 Establishment Plan enabling it to already recruit 50

temporary agents in 2016 out of the 130 foreseen for 2017. In the meantime, the Agency has proactively launched the relevant recruitment processes related to the 50 frontloaded posts. However, more efforts are needed to urgently absorb the allocated resources.

Next steps:

The European Border and Coast Guard Agency should

- *launch recruitment procedures for all the posts foreseen under the agreed 2017 establishment plan by end of March 2017, in particular to address staffing needs for the priority areas*
- *ensure the effective absorption of additional financial resources in line the priorities endorsed by the budgetary authority*

4. CONCLUSIONS

The first three months of rolling out the activities and tools of the European Border and Coast Guard Regulation have shown that all stakeholders are working to ensure a reinforced capability to protect the external borders. In particular, first steps have been completed through the setting up of the new mandatory pools.

The process for the preventive mechanism for detecting and addressing Member States' vulnerabilities, which forms an essential part of this new approach for a much better border protection, has now been started. Early results of this work need to feed into fixing as a matter of priority the most urgent vulnerabilities being identified. This means being able to respond in the coming months to the vulnerabilities linked to the main migration challenges currently being faced.

Delivering on returning irregular migrants – also as a means to deter and reduce further irregular migration – is another priority where the Agency must considerably enhance its support alongside stepped-up efforts by the Member States. Building on the good results already achieved, it should develop new tools to provide enhanced support on return. For its part, the Commission, will in the coming weeks bring forward a revised Action Plan on Return.

The Commission will report again on the progress made to reinforce the external borders on 1 March 2017.