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From: Presidency
To: Permanent Representatives Committee

Subject: Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council

In the European Council Conclusions and December 2018, leaders identified the proposal for amending the Regulation on the European Border and Coast Guard (EBCG) as a matter of priority and invited the co-legislators to rapidly conclude negotiations on this file. Already in June 2018 the European Council highlighted the need to further strengthen the supportive role of FRONTEX, through increased resources and an enhanced mandate.

The Council also confirmed its commitment to strengthen the role and mandate of the European Border and Coast Guard Agency (Agency) on 12 October and 6 December 2018. In the latter Council meeting, a partial general approach on return activities and cooperation with third countries was reached.

As regards the other parts of the draft Regulation, during the discussions at political, strategical and technical level, concerns were raised by Member States on the proposed parameters for the standing corps of 10 000 staff, in particular related to its size and the implementation time-frame, as well as the powers of the statutory staff.

In the light of these discussions and in line with the aforementioned European Council Conclusions, the Presidency has been pursuing intensive work to accommodate Member States' concerns and to effectively address outstanding issues, especially those related to the standing corps, with a view to reaching a politically balanced and operationally feasible compromise. The text set out in the Annex provides efficient solutions for the current and future challenges at the EU external borders and in the area of return.

A. The capacity of the standing corps

A significant number of Member States has indicated that it was not convinced that the target number of a 10 000 standing corps by 2020 proposed by the Commission was based on realistic operational needs, and noted with concern the time needed to recruit and train large numbers of personnel.

The Presidency's compromise text addresses these concerns as follows:

- a) The text clarifies that a standing corps of 10 000 is to be understood as indicating the maximum available capacity of the European Border and Coast Guard Agency to effectively address existing and future operational needs, including rapid reaction capacities, to face future crisis. Moreover, the compromise introduces the notion of the gradual approach in the establishment of the standing corps, in three different ways.
 - First, building on a proposal elaborated under the Austrian Presidency, the attainment of the capacity of a standing corps of 10 000 is phased out over seven years, beginning from 2021 until 2027.
 - Second, the Presidency has introduced a transitional period of more than a year from the anticipated entry into force of the amended EBCG Regulation, while it enhances the initially proposed financial support for supporting the Member States to build up their level of engagement as of the entry into force of the legal instrument.

- Third, as a safeguard, the mid-term review is foreseen to assess, and adapt if needed, the maximum capacity of 10 000 and the composition of the standing corps, taking into account existing or potential needs, any significant changes in the individual Member States capabilities to contribute to the corps, as well as the evolution of the statutory staff.

b) The changes introduced underline that the effective deployments will be decided annually by a decision of the Management Board of the Agency, prepared in close cooperation with Member States, taking into account the operational needs identified by the vulnerability assessment as well as the risk analysis within the maximum capacity for that year, set out in Annex I to the draft Regulation.

B. Executive powers of the statutory staff

The establishment of the European Border and Coast Guard is based on the principle of a shared responsibility between national authorities and the Agency (Articles 5 and 7) for controlling the external borders of the European Union.

In order for the Agency to play an even more effective supportive role in the areas of the border control and return activities, individual statutory staff acting as members of teams and under the supervision of the host Member State should also have executive powers. Therefore the draft Regulation, in particular Article 83, sets out clear parameters for exercising powers and tasks by the team members including statutory staff under the authorization, instruction and control of the host Member State. For the effective functioning of the standing corps it is crucial that all three categories of staff have the same powers.

While the abilities to exert executive powers for categories 2 and 3 are provided by their national status, the Agency's statutory (category 1) staff requires such abilities to be explicitly provided for in the EU legislation. The Presidency takes the view that the existence of category 1 is one of the key elements of the strengthening of the capabilities of the European Border and Coast Guard and, therefore, it should be properly empowered to support the host Member State under its instruction and supervision.

The list of tasks requiring executive powers to be defined in the operational plan agreed with the host Member State are based on the existing profiles that were commonly developed by the Agency and the Member States. However, at the expert level, concerns were raised regarding the incompatibility of certain executive powers with national legislation or with the principle of sovereignty.

The compromise text proposal includes strong safeguards in this regard, ensuring that it is up to the host Member States to decide which individual powers from the list are to be attributed to the members of the teams deployed in the context of operations. The performance of the tasks, including those requiring executive powers, shall always be subject to the authorisation of the host Member State. However, for some specific powers, the text explicitly provides that these powers shall be exercised only by border guards of the host Member State or exceptionally by members of the teams if authorized by the host Member State to act on its behalf.

In the light of the above the Presidency is of the opinion that the compromise text submitted in the Annex to this Note constitutes a realistic transposition of the political will to strengthen the mandate of the Agency in two key areas of the proposal, namely the establishment of the standing corps and the recognition of the executive powers of the Agency's deployed staff.

The Presidency therefore invites the Permanent Representatives Committee to provide guidance on the following key elements, as elaborated in the text set out in the Annex;

- The overall capacity of the standing corps established gradually, based on the numbers proposed by the Presidency,
- The provision of the executive powers to the statutory staff,

in order to pursue work at technical level with a view to a timely overall compromise on the draft Regulation.

- (51) The European Border and Coast Guard standing corps should be a standing corps ~~composed of~~ having the capacity as defined in Annex I to deploy up to 10,000 operational staff being border guards, return escorts, return specialists and other relevant staff. The standing corps should be composed of three categories of operational staff, namely statutory staff members employed by the European Border and Coast Guard Agency, staff seconded to the Agency by the Member States for long term durations and staff provided by Member States for short term deployments. The European Border and Coast Guard standing corps should be deployed in the framework of border management teams, migration management support teams or return teams. The actual size of the deployments of the standing corps should depend on the operational needs.

Article 46
Costs

1. The Agency shall fully meet the following costs incurred by Member States in making available their operational staff for the purposes of deploying them for short duration as team members from the European Border and Coast Guard standing corps **in the Member States and in third countries** in accordance with Article 58:
 - ~~(a)~~ (a) travel costs from the home Member State to the host Member State and from the host Member State to the home Member State and within the host Member State for the purposes of deployment or redeployment within that host Member State or to another Member State. **The same applies to the deployments and redeployments in third countries**¹
 - (b) costs related to vaccinations;
 - (c) costs related to special insurance needs;
 - (d) costs related to health care, including costs related to psychological supervision;
 - (e) daily subsistence allowances, including accommodation costs;

costs related to the Agency's technical equipment.²

¹ **A provision will be inserted in Article 75(3): "Articles 39, 44, 48, 55 to 58 shall apply mutatis mutandis to the deployment in the third countries."**

² This provision has been inserted in Article 64(16) and (17).

2. ~~Following prior approval by the Commission, the~~ The management board shall establish ~~adopt~~ detailed rules, and update them as necessary, ~~following prior approval~~ **the positive opinion by of the Commission**, as regards the payment of the costs incurred by staff deployed for short duration in accordance with Article 58. **The decision of the management board shall be based on the proposal of the executive director. To ensure compliance with the applicable legal framework, the proposal of the executive director shall receive the positive opinion of the Commission.** The detailed rules shall be based to the extent possible on simplified cost options. Where relevant, the Management Board shall aim at ensuring coherency with the rules applicable to ~~reimbursement of~~ mission expenses of the statutory staff members.

Article 55

European Border and Coast Guard standing corps

1. A European Border and Coast Guard standing corps having the capacity as defined in Annex I of up to 10 000³ operational staff shall be part of the Agency. This standing corps shall be composed of the following three categories of staff in accordance with the annual availability scheme set in Annex I:
- (a) Category 1: operational staff members of the Agency ~~recruited~~ employed in accordance with Article 94 (1) and deployed as team members in operational areas in accordance with Article 56, ~~as well as~~ **Operational staff includes also the staff responsible for the functioning of the ETIAS Central Unit;**
 - (b) Category 2: operational staff seconded from Member States to the Agency for a long term duration as part of the standing corps~~;~~ in accordance with Article 57;
 - (c) Category 3: operational staff from Member States **ready to be** provided to the Agency for a short term deployment as part of the standing corps in accordance with Article 58.
2. The Agency shall deploy members of the European Border and Coast Guard standing corps as members of the border management teams, migration management support teams, return teams in joint operations, rapid border interventions or return interventions or any other relevant operational activities in the Member States or in third countries. In accordance with Article 83, such activities can only be carried out with the agreement authorisation of the Member State or the third country concerned. The actual size of the deployments of the standing corps shall depend on the operational needs.

³ **See recital 51 (other recitals will be changed accordingly).**

3. ~~In~~ When providing support to the Member States in accordance with Article 83, all the members of the European Border and Coast Guard standing corps ~~deployed as team members~~ shall ~~be enabled~~ have the ability to carry out border control or return tasks, including the tasks requiring executive powers defined in the relevant national laws or, for the staff of the Agency, in accordance with ~~Annex II~~ Article 56(5).
4. On a proposal by the executive director taking into account the Agency's risk analysis, the results of the vulnerability assessment and the multiannual strategic policy cycle, and building on the numbers and profiles available to the Agency through its statutory staff and ongoing secondments, the management board shall decide by 31 March of each year:
- (a) ~~operational needs setting~~ on the numbers per specific profiles of operational staff under each of the three categories within the European Border and Coast Guard standing corps to form teams in the following year;
 - (b) ~~capacity capacities defining~~ on the specific numbers and profiles of operational staff per Member State to be seconded to the Agency in accordance with Article 57 and to be nominated in accordance with Article 58 ~~forming part of~~ within the European Border and Coast Guard standing corps in the following year;
 - (c) an indicative multiannual planning of profiles for the years thereafter to facilitate the long-term planning for the Member States' contributions and the recruitment of the Agency's statutory staff.

In the preparation of the decision referred to in paragraph 1, the executive director shall consult the Member States and prepare his proposal in close cooperation with the Member States and the Commission.⁴

- 4a The crew for technical equipment provided in accordance to article 64 shall be taken into account as part of the contributions for short term deployments provided by the Member States pursuant to Article 58 for the following year. With a view to preparing the relevant management board decision referred to in paragraph 4, the Member State concerned shall inform the Agency about the intention to deploy the technical equipment with the corresponding crew by the end of January of each year.
5. For the purpose of Article 74, the Agency shall develop and ensure the command and control structures for the effective deployments of the European Border and Coast Guard standing corps in the territory of third countries.
6. The Agency may recruit sufficient staff, which may amount up to 4% of the total number of the European Border and Coast Guard standing corps as staff having supportive functions for the establishment of the standing Corps, planning and management of its operations and for the acquisition of the Agency's own equipment.

⁴ **New recital: " When selecting the numbers and profiles to be indicated in the decision of the management board referred to in Article 55(4), the executive director should apply the principle of equal treatment and proportionality in particular with regard to national capabilities of Member States."**

7. The staff referred to in paragraph 6, as well as the staff responsible for the functioning of the ETIAS Central Unit, shall not be deployed as members of the team, but shall nevertheless be counted within Annex I.

Article 56

Agency's statutory staff in the European Border and Coast Guard standing corps

1. The Agency shall contribute to the European Border and Coast Guard standing corps members of its statutory staff (Category 1) to be deployed to operational areas as members of the teams with ~~all~~ the tasks and powers in accordance with Article 83, including the task to operate the Agency's own equipment.
- 1.a When recruiting, the Agency shall ensure geographical balance and select candidates demonstrating high level of professionalism, adhering to high ethical values and having appropriate language skills.**
2. In accordance with Article 62(2), following their recruitment, the new staff members shall undergo full border-guard or return-related training, as relevant, in the framework of dedicated training programmes designed by the Agency, and, based on agreements with selected Member States, implemented in their specialised academies institutions for training and education, including the Agency's partnership academies in Member States. The cost of training shall be entirely covered by the Agency.
3. Throughout their employment, the Agency shall ensure that its statutory staff members discharge their duties as team members with high standards. Adequate training maps shall be designed for each staff member ensuring their constant professional qualification to fulfil border guard or return-related tasks.
4. Other staff members employed by the Agency who are not qualified to perform border control or return functions shall only be deployed during joint operations for coordination and other related tasks. They shall not form part of the teams.
5. The deployment of The Agency statutory staff to be deployed as members of the teams in accordance with Article 83, including the use of executive powers, shall have the ability to perform the be carried out in accordance with Article 83 and may include the following tasks requiring executive powers:⁵
 - a. verification of the identity and nationality of persons, including consultation of relevant EU and national databases;
 - b. authorisation of entry upon border check carried out at the border crossing points (in case that entry conditions laid down in Article 6 of the Schengen Borders Code are fulfilled;

⁵ Clarifications regarding the supportive role of the Agency are made in Article 55(3).

- c. refusal of entry upon border check carried out at the border crossing points are fulfilled; in accordance with Article 14 of the Schengen Border Code;
- d. stamping of travel documents in accordance with Article 11 of the Schengen Border Code;
- e. issuing or refusing of visas at the border in accordance with Article 35 of the Visa Code and introduce the relevant data in VIS;
- f. border surveillance including patrolling between border crossing points to prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally, including interception/apprehension;
- g. register fingerprints of persons apprehended in connection with the irregular crossing of an external border in EURODAC (category 2) in accordance with Chapter III of the EURODAC Regulation;
- h. liaising with third countries in view of identification of and obtaining travel documents for third country nationals subject to return;
- i. escorting third country nationals subject to forced return procedures.

Article 57

Member States' participation in the European Border and Coast Guard standing corps through long-term secondment

1. The Member States shall contribute to the European Border and Coast Guard standing corps operational staff seconded as team members to the Agency (Category 2). The duration of individual secondments shall be ~~36-24 months determined in accordance with Article 93(7). The~~ With the agreement of the home Member State and the Agency, the individual secondment can may be renewed once once. In order to facilitate the implementation of the financial support system referred to in Article 61, the secondment shall, as a general rule, start at the beginning of a calendar year.
2. Each Member State shall be responsible to ensure continuous contributions of operational staff as seconded team members in accordance with Annex III. The payment of the costs incurred by staff deployed under this Article shall be made in accordance with Article 94(7).
3. The operational staff seconded to the Agency shall have the ~~same~~ tasks and powers of the members of the teams in accordance with Article 83. The Member State that has seconded those operational staff shall be considered to be their home Member State. During the secondment, the location(s) and duration of the deployment(s) of seconded team members shall be decided by the executive director according to the operational needs.

4. By 30 June each year, each Member State shall ~~nominate~~ indicate the candidates for secondment among their operational staff in accordance with the specific numbers and profiles decided by the Management Board for the following year as referred to in Article 55(4). The Agency may verify whether the operational staff proposed by Member States correspond to the defined profiles and possess the necessary language skills. By 15 September, the Agency shall accept the proposed candidates or request that a Member State propose another candidate for secondment in case of incompliance with the required profiles, insufficient language skills, misconduct or infringement of the applicable rules during previous deployments.
5. Where, due to force majeure, an individual operational staff member cannot be seconded or is unable to continue their secondment, the Member State concerned shall ensure a replacement with another operational staff member having the required profile.

Article 58

Member States' participation in the European Border and Coast Guard standing corps through short-term deployments

1. In addition to the secondments in accordance with Article 57, by 30 June of each year, the Member States shall also contribute to the European Border and Coast Guard standing corps by nominating border guards and other relevant staff to the national preliminary list of available operational staff for short-term deployments (Category 3) in accordance with the ~~contributions capacities~~ indicated in Annex IV and in accordance with the specific numbers of profiles decided by the Management Board for the following year as referred to in Article 55(4). The preliminary national lists of nominated operational staff shall be communicated to the Agency. The final composition of the annual list shall be confirmed to the Agency after the conclusion of the annual bilateral negotiations, as referred in paragraph 4. The payment of the costs incurred by staff deployed under this Article shall be made in accordance with the provisions of Article 46(2).
2. Each Member State shall be responsible to ensure that operational staff nominated are available upon request of the Agency in accordance with the arrangements defined in this Article. Each operational staff member shall be available for a period of up to a maximum of 4 months within a calendar year. Member States may decide to deploy the individual staff member beyond 4 months. Such extension shall be counted as a separate contribution of this Member State.⁶ The payment of the costs incurred by staff deployed under this Article shall be made in accordance with Article 46(2).
- 2a. The operational staff ~~seconded to the Agency~~ deployed under this article shall have the tasks and powers of the members of the teams in accordance with Article 83.

⁶ **Reasoning: to accommodate the possible deployment of individual border guards beyond 4 months, especially technical crew, and to ensure that this extension is counted separately.**

3. The Agency may verify whether operational staff nominated for short-term deployments by Member States correspond to the defined profiles and possess the necessary language skills. The Agency may request that a Member State remove an operational staff member from the national list in case of incompliance with the required profiles, insufficient linguistic skills, misconduct or infringement of the applicable rules during previous deployments. The Member State concerned shall ensure a replacement with another operational staff member having the required profile.
4. By 31 July of each year, the Agency shall request the contribution by Member States of their individual operational staff members to joint operations for the following year within the required numbers and profiles. The periods of individual deployment shall be decided in the annual bilateral negotiations and agreements between the Agency and Member States.
 - 4a. However, as a final result of the the annual bilateral negotiations, Member States shall make the operational staff from the national lists referred to in paragraph 1 available for specific deployments within the numbers and profiles specified in the request of the Agency. However, as a final result Member States shall make the operational staff available for deployment within the numbers and profiles specified in the request of the Agency.
5. Where, due to force majeure, an individual operational staff member cannot be deployed in accordance with the agreements, the Member State concerned shall ensure a replacement with an operational staff member from the list having the required profile.
6. In case of increased needs for the reinforcement of an ongoing joint operation, ~~or~~ a need to launch a rapid border intervention or a new joint operation not specified in the respective annual work programme, and nor the corresponding result of annual bilateral negotiations, the deployment shall be carried out within the capacities set out in Annex IV. The Executive Director shall inform without delay the Member States about the additional needs by indicating possible numbers of operational staff and profiles to be provided by each Member State. Once an amended operational plan or, where relevant, a new operational plan is agreed upon by the executive director and the host Member State, the formal request for the number and profiles of operational staff shall be made by the Executive Director. The respective team members shall be deployed from each Member State within 20 working days from that formal request without prejudice to Article 40.
7. Where the risk analysis or any available vulnerability assessment show that a Member State is faced with a situation that would substantially affect the discharge of national tasks, its respective contribution shall be up to half of its contribution for that year established in Annex IV. If a Member State invokes such an exceptional situation, it shall provide comprehensive reasons and information on the situation to the Agency in writing, the content of which shall be included in the report referred to in Article 65.

8. The duration of the deployment for a specific operation shall be determined by the home Member State but in any event shall not be less than 30 days ~~and not exceed 4 months~~, except if the operation of which the deployment is a part, has a shorter duration than 30 days.

Article 59

Mid-term review of the functioning of the EUROPEAN BORDER AND COAST GUARD European Border and Coast Guard standing corps

1. ~~(By 31 June 2024~~ Three years after the ~~first~~ **deployments referred to in Article 120(4),**⁷ ~~Based~~ in particular on the reports referred to in Article 65, the Commission shall carry out a mid-term review on the functioning of European Border and Coast Guard standing corps, assessing its overall number and composition. The review shall take into account **existing and potential operational needs for the standing corps including rapid reaction capacities, the evolution of the statutory staff for the Agency's contributions or** any significant changes in the individual Member States' capabilities affecting their abilities to contribute to the standing corps, **or the evolution of the statutory staff for the Agency's contributions.**
2. This mid-term review shall be transmitted to the Council and the European Parliament and accompanied, where necessary, by appropriate proposals to amend in particular Annexes I, III and IV. **Such proposals shall be based on an impact assessment taking into account the mid-term review.**

Article 61

Financial support for the development of the European Border and Coast Guard standing corps

1. Member States are entitled to receive funding in the form of financing not linked to costs on yearly basis in order to support the development of human resources to secure their contributions to the European ~~and~~ **Border and Coast** Guard standing corps in accordance with Annexes III and IV, in accordance with Article 125 (1) (a) of Regulation (EU, Euratom) 2018/1046 which shall be payable after the end of the year concerned and upon fulfilment of conditions laid down in accordance with paragraphs 3 and 4. That financing shall be based on a reference amount as set in paragraph 2 and shall amount to:
- (a) 100% of the reference amount multiplied by the number ~~of border guards or other officers~~ **operational staff** indicated ~~for the year n+2~~⁸ ~~annually~~ for secondment in accordance with Annex III;
- (b) ~~330%~~ 330% of the reference amount multiplied by the number of ~~border guards or other officers~~ **operational staff** effectively deployed in accordance with Article 58 within the limit set by Annex IV.

⁷ **To be decided in the context of a final decision on the entry into force / operationalisation of the capabilities of the standing corps.**

⁸ **Add new recital explaining that the year n+2 refers to the recruitment and training period.**

2. The reference amount referred in paragraph 1 shall be equivalent to the annual basic salary for a contract agent Function Group III grade 8 step 1 defined in accordance with Article 93 of the the Conditions of Employment of Other Servants of the Union (CEOS) and subject to a correction co-efficient applicable in the Member State concerned.
3. The annual payment of the ammount referred to in paragraph 1(a) shall be due on condition that the Member States increase accordingly their respective overall national border guards staffing through the recruitment of new ~~border guards or other officers~~ operational staff in the period concerned. The relevant information for the purpose of reporting shall be provided to the Agency in the annual bilateral negotiations and verified through the vulnerability assessment in the following year. The annual payment of the ammount referred to in paragraph 1(b) shall be due in relation to the number of ~~border guards or other officers~~ operational staff effectively deployed for ~~at least~~ up to 4 months in accordance with Article 58 within the limit set by Annex IV. **For effective deployments referred to in paragraph 1(b) of less or more than 4 months, the payments shall be calculated on pro rata basis. In certain cases, pPro rata payments for amounts referred to in paragraph 1(b) may be considered where applicable.**
4. The Commission shall adopt detailed rules for the modalities of annual payment and the monitoring of the applicable conditions provided in paragraph 3 by means of an implementing act in accordance with the procedure referred to in Article 117(3). **These rules shall include modalities for advanced payments upon fullfilment of the conditions set out in paragraph 3.**

Article 62
Training²

1. The Agency shall, taking into account the capability roadmap referred to in Article 9(4), where available, and in cooperation with the appropriate training entities of the Member States, and, where appropriate, EASO, eu LISA, CEPOL and the European Union Agency for Fundamental Rights, develop specific training tools, including specific training in the protection of children and other persons in a vulnerable situation. Training content shall take into account relevant research outcomes and best practices. ~~‡~~ The Agency shall provide border guards, return specialists and other relevant staff who are members of the European Border and Coast Guard standing corps with advanced-specialised training relevant to their tasks and powers. ~~Experts from the staff of †~~ The Agency shall conduct regular exercises with those border guards and other team members in accordance with the advanced-specialised training and exercise ~~exercise~~ schedule referred to in the annual work programme of the Agency.

² **The nature of different types of trainings will†** ~~be clarified in a recital~~

2. The Agency shall ensure that all the staff members recruited to act as operational staff of the European Border and Coast Guard standing corps to be deployed as team members have received adequate training, in line with article 56(2) and (3), in relevant Union and international law, including on fundamental rights, access to international protection and, where appropriate, search and rescue, prior to their initial deployment in operational activities organised by the Agency. This training shall also cover the use of force in line with Annex V. For that purpose, the Agency shall, based on agreements with selected Member States, implement the necessary training programmes in their specialised institutions for training and education~~national academies~~, including the Agency's partnership academies in Member States. The cost of training shall be entirely covered by the Agency.
3. The Agency shall take the necessary initiatives to ensure that all operational staff of the Member States who participate in the teams from the European Border and Coast Guard standing corps, have received training in relevant Union and international law, including on fundamental rights, access to international protection and where appropriate search and rescue, prior to their participation in operational activities organised by the Agency.
4. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks who are allocated to the European Border and Coast Guard standing corps and the pool referred to in Article 52. The Agency shall ensure that its staff and all staff who participate in return operations and in return interventions have received training in relevant Union and international law, including on fundamental rights and access to international protection, prior to their participation in operational activities organised by the Agency.
5. The Agency shall establish and further develop common core curricula for the training of border guards and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights, access to international protection and relevant maritime law, as well as a common curriculum for the training of staff involved in return-related tasks. The common core curricula shall aim to promote the highest standards and best practices in the implementation of Union border management and return legislation. The Agency shall draw up the common core curricula after consulting the consultative forum and the fundamental rights officer. Member States shall integrate the common core curricula into the training they provide to their national border guards and staff involved in return-related tasks.
6. The Agency shall also offer additional training courses and seminars on subjects related to the control of the external borders and return of third-country nationals for officers of the competent national services of Member States and where appropriate of third countries.
7. The Agency may organise training activities in cooperation with Member States and third countries on their territory.

8. The Agency shall establish an exchange programme enabling border guards participating in its teams and staff participating in the European return intervention teams to acquire knowledge or specific know-how from experiences and good practices abroad by working with border guards and staff involved in return-related tasks in a Member State other than their own.

Article 83

Tasks and powers of the members of the teams

1. Members of the teams deployed from the European Border and Coast Guard standing corps shall have the capacity to perform ~~all~~ tasks and exercise ~~all~~ powers for border control and return as well as those which are necessary for the realisation of the objectives of Regulation (EU) 2016/399 and Directive 2008/115/EC.
- 1a. The performance of the tasks and the exercise of powers, in particular those requiring executive powers, shall be subject to the ~~consent~~ authorisation of the host Member State on its territory as well as to applicable Union, national or international law, in particular Regulation (EU) 2014/656, and described in the operational plan referred to in Article 39.
2. While performing their tasks and exercising their powers, members of the teams shall comply with Union and international law ~~and shall observe~~ as well as with the fundamental rights and the national law of the host Member State.
3. Without prejudice to Article 94(1) as regards statutory staff of the Agency, members of the teams may only perform tasks and exercise powers ~~under instructions from and, as a general rule, in the presence of border guards or staff involved in return-related tasks of the host Member State.~~ The host Member State may authorise members of the teams to act on its behalf.
4. Members of the teams deployed from the Agency's statutory ~~operational staff or deployed following secondment for a long term duration to the Agency by the Member States~~ shall wear, where appropriate, the uniform of the European Border and Coast Guard standing corps while performing their tasks and exercising their powers. Members of the teams ~~deployed~~ **seconded** from Member States for a **long duration** or **deployed for a** short duration shall wear, where appropriate, their own uniform while performing their tasks and exercising their powers.

All the members of the teams shall also wear visible personal identification and a blue armband with the insignias of the Union and of the Agency on their uniforms, identifying them as participating in a joint operation, migration management support team deployment, pilot project, rapid border intervention, return operation or return intervention. For the purposes of identification *vis-à-vis* the national authorities of the host Member State, members of the teams shall at all times carry an accreditation document, which they shall present upon request.

The design and specifications for uniforms of the European Border and Coast guards standing corps shall be established by a decision of the Management Board Commission implementing decision adopted in accordance with the examination procedure referred to in Article 117(3).

5. **While performing their tasks and exercising their powers, members of the teams may carry service weapons, ammunition and equipment as authorised accordingly by the host Member State.**

For staff seconded to the Agency, ~~whether or~~ deployed from a Member State for a short ~~or long~~-term duration, the **ability to carrying** and use ~~of~~ service weapons, ammunition and equipment shall be subject to the home Member State's national law.

The **ability to carrying** and use ~~of~~ service weapons, ammunition and equipment by the Agency's statutory ~~operational~~ staff shall be subject to the framework and detailed rules laid down in Annex V.

For the purpose of implementing this paragraph, the Agency shall ensure that its statutory staff obtain the licence for carrying and use of weapons from the competent national authorities of either the Member State of nationality, or the Member State of residence, or the Member State of the initial training.

However, the host Member State may prohibit the carrying of certain service weapons, ammunition and equipment, provided that its own legislation applies the same prohibition to its own border guards or staff involved in return related tasks. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the permissible service weapons, ammunition and equipment and of the conditions for their use. The Agency shall make this information available to Member States.

6. **WhileThe performing of their tasks and exercising their powers, by** members of the teams **during the deployment requiring shall be authorised to the** use of force, including **carrying and use of** service weapons, ammunition and equipment, ~~with the consent of~~ **shall be authorised by** the ~~home~~host Member State **and be subject to the consent of either the home Member State or, for statutory staff, of the Agency. The use of force, including carrying and use of service weapons, ammunition and equipment shall be exercised in accordance with the national law of the host Member State and in the presence of border guards of the host Member State. and either of the host home Member State or, for the Agency's statutory staff, with the consent of the Agency, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State.** The host Member State may, with the consent of the home Member State or the Agency where appropriate authorise members of the teams to use force in the absence of border guards of the host Member State.

~~6a. For the purpose of implementing this article, the Agency's statutory staff shall obtain the licence for carrying and use of weapons, and a security clearance by the competent national authority. The host Member State may prohibit the carrying of certain service weapons, ammunition and equipment, provided that its own legislation applies the same prohibition to its own border guards or staff involved in return-related tasks. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the permissible service weapons, ammunition and equipment and of the conditions for their use. The Agency shall make this information available to Member States.~~

7. Service weapons, ammunition and equipment may be used in legitimate self-defence and in legitimate defence of members of the teams or of other persons in accordance with the national law of the host Member State.

8. For the purpose of this Regulation, the host Member State shall authorise members of the teams to consult European databases and systems the consultation of which is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. The host Member State may also authorise them to consult its national databases where necessary for the same purpose. Member States shall ensure that they provide such database access in an efficient and effective manner. The members of the teams shall consult only those data which are required for performing their tasks and exercising their powers. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.

That consultation shall be carried out in accordance with Union data protection law and the national data protection law of the host Member State.

9. Decisions to refuse entry in accordance with Article 14 of Regulation (EU) 2016/399 and decisions refusing visas at the border in accordance with Article 35 of the Visa Code Regulation (EC) 810/2009 shall be taken only by border guards of the host Member State or by the members of the teams if authorised by the host Member State to act on its behalf.

Article 94

Staff

1. The Staff Regulations of Officials of the European Union ('Staff Regulations') and the Conditions of Employment of Other Servants of the Union ('Conditions of Employment'), laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68¹⁰, and the rules adopted in agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment shall apply to the statutory staff.

¹⁰ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ L 287, 29.10.2013, p.15).

2. The place of employment shall in principle be fixed in the Member State where the Agency's seat is located.
3. Staff members subject to the Conditions of Employment shall in principle be initially engaged for a fixed period of five years. Their contracts may in principle be renewed only once, for a fixed period of maximum five years. Any further renewal shall be for an indefinite period.
4. The Management Board may grant a monthly differential payment to Agency statutory staff members. This differential payment shall be calculated as a percentage of the remuneration of each staff member concerned. That percentage shall not exceed the difference between 100% and the correction coefficient applicable in the place of employment and shall regularly be reviewed. Before granting this benefit, due account shall be taken of the overall remuneration received by individual staff members, including reimbursements of mission expenses.

The Management Board shall lay down the rules for implementing this paragraph, with prior approval of the Commission. By 2024, the Management Board shall review these rules, with prior approval of the Commission.

5. For the purpose of implementing 32, Article 45 and Article 53 (2), only a staff member of the Agency subject to the Staff Regulations or to Title II of the Conditions of Employment may be appointed as a coordinating officer or a liaison officer. For the purpose of implementing Article 56 only a staff member of the Agency subject to the Staff Regulations or of the Conditions of Employment may be deployed as team member.
6. The management board shall adopt implementing rules for giving effect to the Staff Regulations and Conditions of Employment in agreement with the Commission pursuant to Article 110(2) of the Staff Regulations.
7. Following prior approval by the Commission, the management board shall adopt, rules related to operational staff from Member States to be seconded to the Agency in accordance with Article 57 and update them as necessary. These rules shall include in particular the financial arrangements related to these secondments, including insurance, and training. Those provisions shall take into account the fact that the operational staff are seconded to be deployed as members of the teams and have the tasks and powers provided for in Article 83. They shall include provisions on the conditions of deployment. Where relevant, the Management Board shall aim at ensuring consistency with the rules applicable to reimbursement of mission expenses of the statutory staff.

Article 116
Evaluation

1. Without prejudice to Article 59, Bby [31 May 2023] and every four years thereafter, the Commission shall carry-out an evaluation of this Regulation. The evaluation will assess in particular:
 - (a) the results achieved by the Agency having regard to its objectives, mandate and tasks;
 - (b) the impact, effectiveness and efficiency of the Agency's performance and its working practices in relation to its objectives, mandate and tasks;
 - (c) inter-agency cooperation at the European level, including the implementation of European cooperation on coast guard functions;
 - (d) the possible need to modify the mandate of the Agency;
 - (e) the financial implications of any such modification.

The evaluation shall include a specific analysis on the way the Charter and other relevant Union law has been complied with in the application of this Regulation.

2. The Commission shall send the evaluation report together with its conclusions on the report to the European Parliament, to the Council and to the management board. The management board may issue recommendations regarding changes to this Regulation to the Commission. The evaluation report and the conclusions on the report shall be made public. The evaluation report shall be based as much as possible on the reports referred to in Article 98(2)(j). If necessary, tThe Member States and the Agency shall provide the Commission with additionalthe information necessary to draft this report.
3. The Agency shall submit a report to the European Parliament and to the Council on the functioning of EUROSUR by 1 December 2021 and every two years thereafter.

Member States shall provide the Agency with the information necessary to draft thatis report.
4. As part of the evaluation referred to in paragraph 1, the Commission shall provide an overall evaluation of EUROSUR accompanied, where necessary, by appropriate proposals to improve its functioning.

The Member States and the Agency shall provide the Commission with the information necessary to produce the evaluation referred to in paragraph 3.

Article 120
*Entry into force and applicability*¹¹

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. [Article 12(4), 71 and 98 (5), as far as they concern the cooperation with the United Kingdom, shall be applicable until the date of withdrawal of the United Kingdom from the Union or, provided an agreement between the Union and the United Kingdom based on Article 50 of the Treaty on European Union enters into force, until the end of the transition period set therein].
- ~~3. By way of derogation duringFor the year ~~2021~~2019, the decisions referred to Article 55 (4) and 64 (6) shall be adopted by the Management Board by 31 March 2020~~within six weeks of the entry into force of the Regulation~~].~~
- ~~4. By way of derogation during the year 2019, the candidates for secondments nominations referred to in Article 57 (4) and national lists referred to in and Article 58 (1) shall be communicated made by the Members States within 12 weeks of the entry into force of the Regulation].~~
- ~~4a.3. By way of derogation, Member States may continue to apply on a voluntary basis the provisions of Articles 19 and corresponding provisions on EUROSUR related to border checks and air border surveillance shall be applicable up to two years after the entry into force of this Regulation.~~
- ~~5.4. Deployments in accordance with Article 55 to 58 shall take place as of [1 January ~~July~~ 2020~~January 2021~~].¹²~~
- ~~5. For the deployments in 2021, the decisions referred to Article 55 (4) and 64 (6) shall be adopted by the Management Board by 31 March 2020.~~
- ~~6. For the purpose of supporting the development of human resources to secure the contributions of the Member States to the European Border and Coast Guard standing corps, Member States are entitled to receive funding in the year 2020 in accordance with Article 61(1)(a). The numbers in Annex III for the year 2022 shall be used as a reference for the funding in 2020.~~

¹¹ A new recital will be added to explain the transitional arrangements and in particular the need to start the preparation for the deployments under the new Regulation expeditiously.

¹² Article 119(2) will be amended accordingly to reflect the date of 1 January 2021.

7. For the purpose of building the capacity of category I staff, the Agency shall launch the preparation to comply with the necessary capabilities as of the entry into force of this Regulation in accordance with the budgetary rules.

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 I

Composition of the European Border and Coast Guard standing corps per year and category in accordance with Article ~~XX~~55 in order to establish gradually the capacity of 10 000^{13*}

| Category Year | Category 1 Agency Staff | Category 2 Operational staff for long term secondments | Category 3 Operational staff for short term deployments | Total for the European Border and Coast Guard standing Corps |
|-----------------|-------------------------|--|---|--|
| 2020 | 1500 1000 | 1500 300 | 7000 3700 | 10000 5000 |
| 2021 | <u>2000</u> 1000 | <u>2000</u> 400 | <u>6000</u> 3600 | <u>10000</u> 5000 |
| 2022 | <u>2000</u> 1000 | <u>500</u> 2000 | <u>6000</u> 3500 | <u>10000</u> 5000 |
| 2023 | <u>2500</u> 1500 | <u>2500</u> 500 | <u>5000</u> 4000 | <u>10000</u> 6000 |
| 2024 | <u>2500</u> 1500 | <u>2500</u> 750 | <u>5000</u> 4750 | <u>10000</u> 7000 |
| 2025 | <u>3000</u> 2000 | <u>3000</u> 1000 | <u>4000</u> 5000 | <u>10000</u> 8000 |
| 2026 | <u>3000</u> 2500 | <u>3000</u> 1250 | <u>4000</u> 5250 | <u>10000</u> 9000 |
| 2027 | 3000 | <u>3000</u> 1500 | <u>4000</u> 5500 | 10000 |

^{13*}

The composition of the European Border and Coast Guard standing corps is subject to the mid-term review carried out three years after the deployments of the standing corps referred to in Article 120(4).

ANNEX II

List of tasks to be carried out by the Agency's statutory staff as team members deployed from the European Border and Coast Guard standing corps and requiring executive powers

1. ~~verification of the identity and nationality of persons, including consultation of relevant EU and national databases;~~
2. ~~authorisation of entry upon border check carried out at the border crossing points (in case that entry conditions laid down in Article 6 of the Schengen Borders Code;~~
3. ~~refusal of entry upon border check carried out at the border crossing points are fulfilled; in accordance with Article 14 of the Schengen Border Code;~~
4. ~~stamping of travel documents in accordance with Article 11 of the Schengen Border Code;~~
5. ~~issuing or refusing of visas at the border in accordance with Article 35 of the Visa Code and introduce the relevant data in VIS;~~
6. ~~border surveillance including patrolling between border crossing points to prevent unauthorised border crossings, to counter cross border criminality and to take measures against persons who have crossed the border illegally, including interception/apprehension;~~
7. ~~register fingerprints of persons apprehended in connection with the irregular crossing of an external border in EURODAC (category 2) in accordance with Chapter III of the EURODAC Regulation;~~
8. ~~liaising with third countries in view of identification of and obtaining travel documents for third country nationals subject to return;~~
9. ~~escorting third country nationals subject to forced return.~~

ANNEX III

Table with annual contributions of Member States to be provided to the European Border and Coast Guard standing corps through the long term secondment of operational staff in accordance with Article 57

| Country / Year | <u>2020</u> | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
|------------------|-------------------|------|------|------|------|------|------|------|
| Belgium | <u>6</u> | 8 | 10 | 10 | 15 | 20 | 25 | 30 |
| Bulgaria | <u>8</u> | 11 | 13 | 13 | 20 | 27 | 33 | 40 |
| Czech Republic | <u>4</u> | 5 | 7 | 7 | 10 | 13 | 17 | 20 |
| Denmark | <u>6</u> | 8 | 10 | 10 | 15 | 19 | 24 | 29 |
| Germany | <u>44</u> | 61 | 73 | 73 | 110 | 152 | 187 | 225 |
| Estonia | <u>4</u> | 5 | 6 | 6 | 9 | 12 | 15 | 18 |
| Greece | <u>10</u> | 13 | 17 | 17 | 25 | 33 | 42 | 50 |
| Spain | <u>22</u> | 30 | 37 | 37 | 56 | 74 | 93 | 111 |
| France | <u>34</u> | 46 | 56 | 56 | 83 | 114 | 141 | 170 |
| Croatia | <u>13</u> | 17 | 22 | 22 | 33 | 43 | 54 | 65 |
| Italy | <u>25</u> | 33 | 42 | 42 | 63 | 83 | 104 | 125 |
| Cyprus | <u>2</u> | 2 | 3 | 3 | 4 | 5 | 7 | 8 |
| Latvia | <u>6</u> | 8 | 10 | 10 | 15 | 20 | 25 | 30 |
| Lithuania | <u>8</u> | 10 | 13 | 13 | 20 | 26 | 33 | 39 |
| Luxembourg | <u>2</u> | 2 | 3 | 3 | 4 | 5 | 7 | 8 |
| Hungary | <u>13</u> | 17 | 22 | 22 | 33 | 43 | 54 | 65 |
| Malta | <u>1</u> | 2 | 2 | 2 | 3 | 4 | 5 | 6 |
| Netherlands | <u>10</u> | 13 | 17 | 17 | 25 | 33 | 42 | 50 |
| Austria | <u>7</u> | 9 | 11 | 11 | 17 | 23 | 28 | 34 |
| Poland | <u>20</u> | 27 | 33 | 33 | 50 | 67 | 83 | 100 |
| Portugal | <u>6</u> | 8 | 10 | 10 | 15 | 20 | 25 | 30 |
| Romania | <u>15</u> | 20 | 25 | 25 | 38 | 50 | 63 | 75 |
| Slovenia | <u>7</u> | 9 | 12 | 12 | 18 | 23 | 29 | 35 |
| Slovakia | <u>7</u> | 9 | 12 | 12 | 18 | 23 | 29 | 35 |
| Finland | <u>6</u> | 8 | 10 | 10 | 15 | 20 | 25 | 30 |
| Sweden | <u>7</u> | 9 | 11 | 11 | 17 | 23 | 28 | 34 |
| [Switzerland] | <u>3</u> | 4 | 5 | 5 | 8 | 11 | 13 | 16 |
| [Iceland] | <u>0</u> | 1 | 1 | 1 | 1 | 1 | 2 | 2 |
| [Liechtenstein]* | <u>0</u> | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| [Norway] | <u>4</u> | 5 | 7 | 7 | 10 | 13 | 17 | 20 |
| TOTAL | <u>300</u> | 400 | 500 | 500 | 750 | 1000 | 1250 | 1500 |

(*) Liechtenstein will contribute through proportional financial support

ANNEX IV

Annual contributions of Member States to the EBCG standing corps for short term deployments of operational staff in accordance with Article 58

| Country / Year | <u>2020</u> | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
|------------------|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Belgium | <u>74</u> | 72 | 70 | 80 | 95 | 100 | 105 | 110 |
| Bulgaria | <u>99</u> | 96 | 93 | 107 | 127 | 133 | 140 | 147 |
| Czech Republic | <u>49</u> | 48 | 47 | 53 | 63 | 67 | 70 | 73 |
| Denmark | <u>72</u> | 70 | 68 | 77 | 92 | 97 | 102 | 106 |
| Germany | <u>556</u> | 540 | 523 | 602 | 712 | 748 | 785 | 827 |
| Estonia | <u>44</u> | 43 | 42 | 48 | 57 | 60 | 63 | 66 |
| Greece | <u>123</u> | 120 | 117 | 133 | 158 | 167 | 175 | 183 |
| Spain | <u>274</u> | 266 | 259 | 296 | 352 | 370 | 389 | 407 |
| France | <u>420</u> | 408 | 396 | 454 | 537 | 566 | 593 | 624 |
| Croatia | <u>160</u> | 156 | 152 | 173 | 206 | 217 | 228 | 238 |
| Italy | <u>308</u> | 300 | 292 | 333 | 396 | 417 | 438 | 458 |
| Cyprus | <u>20</u> | 19 | 19 | 21 | 25 | 27 | 28 | 29 |
| Latvia | <u>74</u> | 72 | 70 | 80 | 95 | 100 | 105 | 110 |
| Lithuania | <u>96</u> | 94 | 91 | 104 | 124 | 130 | 137 | 143 |
| Luxembourg | <u>20</u> | 19 | 19 | 21 | 25 | 27 | 28 | 29 |
| Hungary | <u>160</u> | 156 | 152 | 173 | 206 | 217 | 228 | 238 |
| Malta | <u>15</u> | 14 | 14 | 16 | 19 | 20 | 21 | 22 |
| Netherlands | <u>123</u> | 120 | 117 | 133 | 158 | 167 | 175 | 183 |
| Austria | <u>84</u> | 82 | 79 | 91 | 108 | 113 | 119 | 125 |
| Poland | <u>247</u> | 240 | 233 | 267 | 317 | 333 | 350 | 367 |
| Portugal | <u>74</u> | 72 | 70 | 80 | 95 | 100 | 105 | 110 |
| Romania | <u>185</u> | 180 | 175 | 200 | 238 | 250 | 263 | 275 |
| Slovenia | <u>86</u> | 84 | 82 | 93 | 111 | 117 | 123 | 128 |
| Slovakia | <u>86</u> | 84 | 82 | 93 | 111 | 117 | 123 | 128 |
| Finland | <u>74</u> | 72 | 70 | 80 | 95 | 100 | 105 | 110 |
| Sweden | <u>84</u> | 82 | 79 | 91 | 108 | 113 | 119 | 125 |
| [Switzerland] | <u>39</u> | 38 | 37 | 43 | 51 | 53 | 56 | 59 |
| [Iceland] | <u>5</u> | 5 | 5 | 5 | 6 | 7 | 7 | 7 |
| [Liechtenstein]* | <u>0</u> | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| [Norway] | <u>49</u> | 48 | 47 | 53 | 63 | 67 | 70 | 73 |
| TOTAL | <u>3700</u> | 3600 | 3500 | 4000 | 4750 | 5000 | 5250 | 5500 |

(*) Liechtenstein will contribute through proportional financial support.