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NOTE

from: Presidency

to: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

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Subject: **Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)**

On 17 March 2001 the LIBE Committee had an orientation vote on the above proposal for the amendment of the Frontex Regulation. The text of the draft Regulation contained in the rapporteur's draft report, as amended following the vote in the LIBE Committee, differs both from the original proposal from the Commission, as set out in the first column of the Annex, and from the Council text, as it stands at present, as set out in the second column of the Annex.

At its meeting on 29 March 2011, the Working Party on Frontiers/Mixed Committee examined the amendments 11 to 66 proposed by the LIBE Committee as set out in the third column of the Annex. The outcome of the discussion on amendments 11 to 66 is set out in the fourth column of the Annex, which also includes footnotes, as appropriate. Some of these amendments will require further reflection.

With a view to further discussion at the meeting of the Working Party on Frontiers/Mixed Committee on 13-14 April 2011, the Presidency submits some compromise proposals on certain provisions set out in the second and the fourth columns of the Annex.

For the purpose of negotiations with the European Parliament , which are foreseen to start on 19 April 2011, at the meeting of the Working Party on Frontiers/Mixed Committee on 13-14 April 2011, the Presidency also intends also to examine the LIBE amendments 67 to 103 , which have not been discussed yet, as set out in the third column of the Annex.

The Presidency will submit separate proposals for compromise texts regarding the LIBE Committee amendments on the European Border Guard System and on the respect of fundamental rights by Frontex.

Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

| COMMISSION PROPOSAL | CURRENT COUNCIL DRAFT TEXT | LIBE AMENDMENTS | COUNCIL COMMENTS ¹ |
|--|--|-----------------|-------------------------------|
| <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 74 and 77 (1) (b) and (c) thereof,</p> <p>Having regard to the proposal from the European Commission, Having regard to the Opinion of the European Economic and Social Committee</p> <p>After transmission of the proposal to the national Parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:</p> | <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 74 and 77 (2) (b) and (d) thereof,</p> <p>Having regard to the proposal from the European Commission, Having regard to the Opinion of the European Economic and Social Committee</p> <p>After transmission of the proposal to the national Parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:</p> | | |

¹ The fourth column includes clarifications on Council text and Council comments on LIBE amendments

| | | <i>Amendment 2</i> | |
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| (1) The development of a forward-looking and comprehensive European migration policy, based on solidarity and responsibility, remains a key policy objective for the European Union. | (1) The development of a forward-looking and comprehensive European migration policy, based on solidarity and responsibility, remains a key policy objective for the European Union. | (1) The development of a forward-looking and comprehensive European migration policy, based on <i>human rights</i> , solidarity and responsibility, <i>especially for those Member States facing specific or disproportionate pressures</i> , remains a key policy objective for the European Union. | |
| (2) Union policy in the field of the external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary corollary to the free movement of persons within the European Union and a fundamental component of an Area of Freedom, Security and Justice. To this end, the establishment of common rules on standards and procedures for the control of the external borders is foreseen. | (2) Union policy in the field of the external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary corollary to the free movement of persons within the European Union and a fundamental component of an Area of Freedom, Security and Justice. To this end, the establishment of common rules on standards and procedures for the control of the external borders is foreseen. | | |

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| <p>(3) The efficient implementation of the common rules calls for increased coordination of the operational cooperation between the Member States.</p> | <p>(3) The efficient implementation of the common rules calls for increased coordination of the operational cooperation between the Member States.</p> | | |
| <p>(4) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, notably human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, the rights to the protection of personal data, right to asylum, non-refoulement, non discrimination, the rights of the child and right to an effective remedy. This Regulation should be applied by the Member States in accordance with these rights and principles.</p> | <p>(4) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, notably human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, the rights to the protection of personal data, right to asylum, non-refoulement, non discrimination, the rights of the child and right to an effective remedy. This Regulation should be applied by the Member States in accordance with these rights and principles.</p> | | |

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| <p>(5) In 2004 the Council adopted Regulation (EC) No 2007/2004 establishing the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)² hereinafter referred to as the "Agency" which became operational in May 2005.</p> | <p>(5) In 2004 the Council adopted Regulation (EC) No 2007/2004 establishing the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)³ hereinafter referred to as the "Agency" which became operational in May 2005.</p> | | |
| <p>(6) Regulation (EC) No 2007/2004 was amended in 2007 by Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams⁴.</p> | <p>(6) Regulation (EC) No 2007/2004 was amended in 2007 by Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams⁵.</p> | | |
| | | <i>Amendment 3</i> | |

² OJ L 349, 25.11.2004, p. 1.

³ OJ L 349, 25.11.2004, p. 1.

⁴ OJ L 199, 31.7.2007, p. 30.

⁵ OJ L 199, 31.7.2007, p. 30.

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| <p>(7) Efficient management of the external borders through checks and surveillance contributes to combat illegal immigration and trafficking in human beings and to reduce the threats to the internal security, public policy, public health and international relations of the Member States.</p> | <p>(7) Efficient management of the external borders through checks and surveillance contributes to combat illegal immigration and trafficking in human beings and to reduce the threats to the internal security, public policy, public health and international relations of the Member States.</p> | <p>(7) Efficient management of the external borders through checks and surveillance contributes to <i>combating irregular</i> immigration and trafficking in human beings and to <i>reducing the challenges</i> to the internal security, public policy, public health and international relations of the Member States.</p> | |
| <p>(8) Border control at the external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control.</p> | <p>(8) Border control at the external borders is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control.</p> | | |
| | <p>(8a) A further enhancement of the role of the Agency is in line with the Union's objective to develop a policy with a view to the gradual introduction of the concept of Integrated Border Management. The Agency should, within the limits of its mandate, support the Member States in implementing this concept as defined in the Council conclusions on Integrated Border Management of 4 December 2006.</p> | | |

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| <p>(9) The Multiannual programme for an area of Freedom, Security and Justice serving the citizen adopted by the European Council on 10/11 December 2009 (the Stockholm Programme) calls upon a clarification and enhancement of the role of Frontex regarding the management of the external borders of the European Union.</p> | <p>(9) The Multiannual programme for an area of Freedom, Security and Justice serving the citizen adopted by the European Council on 10/11 December 2009 (the Stockholm Programme) calls upon a clarification and enhancement of the role of the Agency regarding the management of the external borders of the European Union.</p> | | |
| <p>(10) The mandate of the Agency should therefore be revised in order to strengthen in particular the operational capabilities of the Agency while ensuring that all measures taken are proportionate to the objectives pursued and fully respect fundamental rights and the rights of refugees and asylum seekers, including in particular the prohibition of <i>refoulement</i>.</p> | <p>(10) The mandate of the Agency should therefore be revised in order to strengthen in particular the operational capabilities of the Agency while ensuring that all measures taken are proportionate to the objectives pursued, are cost effective and efficient and fully respect fundamental rights and the rights of refugees and asylum seekers, including in particular the prohibition of <i>refoulement</i>.</p> | | |

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| <p>(11) Current possibilities for providing effective assistance to the Member States regarding the operational aspects of external border management should be reinforced as concerns the available technical resources; the Agency must be able to plan with sufficient accuracy the coordination of joint operations or pilot projects.</p> | <p>(11) Current possibilities for providing effective assistance to the Member States regarding the operational aspects of external border management should be reinforced as concerns the available technical resources; the Agency must be able to plan with sufficient accuracy the coordination of joint operations or pilot projects.</p> | | |
| <p>(12) Minimum levels of necessary technical equipment provided on a compulsory basis by the Member States and/or the Agency will largely contribute to a better planning and implementation of the envisaged operations coordinated by the Agency.</p> | <p>(12) Minimum levels of necessary technical equipment provided on a compulsory basis by the Member States on the basis of annual bilateral negotiations and agreements and/or the Agency will largely contribute to a better planning and implementation of the envisaged operations coordinated by the Agency.</p> | | |
| <p>(13) The Agency should manage lists of technical equipment provided by the Member States and by the Agency, thereby contributing to the "pooling" of material resources. These lists should contain the minimum numbers of categories of technical equipment necessary to enable the Agency to conduct its activities.</p> | <p>(13) The Agency should manage lists of technical equipment owned by the Member States and by the Agency, by setting up and keeping centralised records in a technical equipment pool. This pool should contain the minimum numbers of categories of technical equipment necessary to enable the Agency to conduct its activities.</p> | | |

| | | <i>Amendment 4</i> | |
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| (14) To ensure effective operations, Member States should make an appropriate number of skilled border guards available to participate in joint operations and pilot projects. Teams of border guards for deployment by the Agency should therefore be set up. | (14) To ensure effective operations, teams of border guards should be set up by the Agency. Member States should contribute to these teams with an appropriate number of skilled border guards and make them available for deployment, unless they are faced with unforeseen situations which prohibit them from doing so. | (14) To ensure effective operations, Member States should make an appropriate number of skilled border guards available to participate in joint operations, <i>rapid border intervention missions</i> and pilot projects. <i>An EU Border Guard System</i> for deployment by the Agency should therefore be set up. | |
| | | <i>Amendment 5</i> | |
| (15) The Agency should be able to contribute to those teams with border guards seconded by Member States to the Agency on a semi-permanent basis, which shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to the Teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for direct instructions by the host state to the border guards during joint operations and pilot | (15) The Agency should be able to contribute to those teams with the border guards that are seconded by Member States to the Agency on a semi-permanent basis, which shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to the Teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for direct instructions by the host state to the border guards during joint operations and pilot projects. | (15) The Agency should be able to contribute to those teams with border guards seconded by Member States to the Agency on a semi-permanent basis, which shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to the Teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for | |

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| projects. | | direct instructions by the host state to the border guards during joint operations, <i>rapid border intervention missions</i> and pilot projects. | |
| (16) A well defined operational plan, including an evaluation and an obligation to report incidents, agreed prior to the start of the operations amongst participating Member States and the Agency will largely contribute to the objectives of this Regulation with a more harmonised modus operandi regarding the coordination of operations. | (16) A well defined operational plan, including an evaluation and an obligation to report incidents, agreed prior to the start of the operations amongst the Agency and the host Member State, in consultation with the participating Member States will largely contribute to the objectives of this Regulation with a more harmonised modus operandi regarding the coordination of operations. | | |
| (17) The incident reporting scheme shall be used by the Agency to transmit, to the relevant public authorities and the Management Board, any information concerning credible allegations of breaches of, in particular, Regulation (EC) No 2007/2004 or the Schengen Borders Code, including fundamental rights, during joint operations and pilot projects. | (17) The incident reporting scheme shall be used by the Agency to transmit, to the relevant public authorities and the Management Board, any information concerning credible allegations of breaches of, in particular, Regulation (EC) No 2007/2004 or the Schengen Borders Code, including fundamental rights, during joint operations and pilot projects. | | |

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| <p>(18) Risk analysis has demonstrated to be a key element for conducting operations at the external borders. Its quality should be improved by adding a method for evaluating the national structures, equipment and resources that Member States have at their disposal.</p> | <p>(18) Risk analysis has demonstrated to be a key element for conducting operations at the external borders. Its quality should be improved by adding a method for assessing the preparedness of Member States to face upcoming challenges, including present and future threats and pressures at certain sectors of the external borders of the European Union. However, these studies should not constitute an evaluation covered by the content of the Schengen Evaluation Mechanism and overlap with it.⁶</p> | | |
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⁶ See footnote 1 on page 69.

| | | <i>Amendment 6</i> | |
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| <p>(19)The Agency should provide training, including on fundamental rights, at European level for national instructors of border guards and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities in cooperation with Member States on their territory. Member States should integrate the results of the Agency’s work in this perspective in the national training programs of their border guards.</p> | <p>(19) The Agency should provide training, including on fundamental rights, at European level for national instructors of border guards and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities, including an exchange program, in cooperation with Member States on their territory. Member States should integrate the results of the Agency’s work in this perspective in the national training programs of their border guards.</p> | <p>(19) The Agency should provide training, including on fundamental rights, <i>international protection and asylum procedures</i>, at European level for national instructors of border guards and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals <i>irregularly</i> present in the Member States for officers of the competent national services. The Agency may organise training activities in cooperation with Member States on their territory. Member States should integrate the results of the Agency's work in this perspective in the national training programs of their border guards.</p> | |

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| <p>(20) The Agency should monitor and contribute to the developments in scientific research relevant for its field and disseminate this information to the Commission and the Member States.</p> | <p>(20) The Agency should monitor and contribute to the developments in scientific research relevant for its field and disseminate this information to the Commission and the Member States.</p> | | |
| | | <i>Amendment 7</i> | |
| <p>(21) In most Member States, the operational aspects of return of third-country nationals illegally present in the Member States fall within the competencies of the authorities responsible for controlling the external borders. As there is a clear added value in performing these tasks at Union level, the Agency should, in full compliance with the Union's return policy, accordingly provide the necessary assistance and coordination for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and define a Code of Conduct to be followed during the removal of third-country nationals illegally present in the territories of the Member States. No Union</p> | <p>(21) In most Member States, the operational aspects of return of third-country nationals illegally present in the Member States fall within the competencies of the authorities responsible for controlling the external borders. As there is a clear added value in performing these tasks at Union level, the Agency should, in full compliance with the Union's return policy, accordingly ensure the coordination or the organization of joint return operations of Member States and identify best practices on the acquisition of travel documents and define a Code of Conduct to be followed during the removal of third-country nationals illegally present in the territories of the Member States. No Union financial means should be made available for activities and operations that are not carried out in</p> | <p>(21) In most Member States, the operational aspects of return of third-country nationals <i>irregularly</i> present in the Member States fall within the competencies of the authorities responsible for controlling the external borders. As there is a clear added value in performing these tasks at Union level, the Agency should, in full compliance with the Union's return policy, accordingly provide the necessary assistance and coordination for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and define a</p> | |

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| <p>financial means should be made available for activities and operations that are not carried out in conformity with the Charter of Fundamental Rights.</p> | <p>conformity with the Charter of Fundamental Rights.</p> | <p>Code of Conduct to be followed during the removal of third-country nationals <i>irregularly</i> present in the territories of the Member States. <i>The joint return operations should always be monitored by an independent body.</i> No Union financial means should be made available for activities and operations that are not carried out in conformity with the Charter of Fundamental Rights.</p> | |
| | | <p><i>Amendment 8</i></p> | |
| <p>(22) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency and other European Union Agencies and bodies, the competent authorities of third countries and the international organisations competent in matters covered by Regulation (EC) No 2007/2004 in the framework of working</p> | <p>(22) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency and other European Union Agencies and bodies, the competent authorities of third countries and the international organisations competent in matters covered by Regulation (EC) No 2007/2004 in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should</p> | <p>(22) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency and other European Union <i>agencies</i> and bodies, the competent authorities of third countries and the international <i>and other</i> organisations competent in matters covered by</p> | |

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| <p>arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.</p> | <p>facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.</p> | <p>Regulation (EC) No 2007/2004 in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.</p> | |
| | | <p><i>Amendment 9</i></p> | |
| <p>(23) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with relevant third countries the Agency should have the possibility to launch and finance projects of technical assistance and to deploy liaison officers in third countries. The Agency should have the possibility to invite representatives of third countries to participate in its activities, after having provided the necessary training. Establishing cooperation</p> | <p>(23) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with the relevant competent authorities of third countries the Agency should have the possibility to launch and finance projects of technical assistance and to deploy liaison officers in third countries in full cooperation with the competent authorities of these countries, hereby keeping the Management Board informed of this cooperation. The Agency should have the possibility to invite representatives of third countries to participate in its</p> | <p>(23) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with relevant third countries the Agency should have the possibility to launch and finance projects of technical assistance and to deploy liaison officers in third countries. The Agency should <i>also</i> have the possibility to invite representatives of third countries to participate in its</p> | |

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| <p>with third countries is relevant also with regards to promoting the European standards of border management, including the respect of fundamental rights and human dignity.</p> | <p>activities, after having provided the necessary training. Establishing cooperation with third countries is relevant also with regards to promoting the European standards of border management, including the respect of fundamental rights and human dignity.</p> | <p>activities, after having provided the necessary training. Establishing cooperation with third countries is relevant also with regards to promoting the European standards of border management, including the respect of fundamental rights and human dignity.</p> | |
| <p>(24) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities ("the Staff Regulations") should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.</p> | <p>(24) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities ("the Staff Regulations") should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.</p> | | |
| | <p>(24a) Furthermore, specific provisions should be adopted by the Management Board of the Agency to allow national experts from Member States to be seconded to the Agency. Such provisions should, among</p> | | |

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| | others, specify that seconded national border guards to be deployed during joint operations and pilot projects should be considered as guest officers with the tasks and powers set out in Article 10 of Regulation (EC) No 2007/2004. | | |
| (25) 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 data ⁷ applies to the processing of personal data by the Agency. The European Data Protection Supervisor should therefore monitor the processing of personal data by the Agency and have the power to obtain from the Agency access to all information necessary for his or her enquiries. | (25) 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 data ⁸ applies to the processing of personal data by the Agency. The European Data Protection Supervisor should therefore monitor the processing of personal data by the Agency and have the power to obtain from the Agency access to all information necessary for his or her enquiries. | | |

⁷ OJ L 8, 12.1.2001, p. 1.

⁸ OJ L 8, 12.1.2001, p. 1.

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| <p>(26) As far as the Member States are processing personal data, 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 data⁹ fully applies.</p> | <p>(26) As far as the Member States are processing personal data, 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 data¹⁰ fully applies.</p> | | |
| | | <p><i>Amendment 10</i></p> | |
| <p>(27) When ensuring the operational management of IT systems, the Agency should follow European and international standards taking into account the highest professional requirements.</p> | <p>(27) When ensuring the operational management of IT systems, the Agency should follow European and international standards taking into account the highest professional requirements.</p> | <p>(27) When ensuring the operational management of IT systems, the Agency should follow European and international standards, <i>including on data protection</i>, taking into account the highest professional requirements.</p> | |
| <p>(28) Since the objectives of this Regulation, namely the need for creating an integrated management of operational cooperation at the external borders of the Member States of</p> | <p>(28) Since the objectives of this Regulation, namely the need for creating an integrated management of operational cooperation at the external borders of the Member States of the European Union, cannot be sufficiently</p> | | |

⁹ OJ L 281, 23.11.1995, p. 31.

¹⁰ OJ L 281, 23.11.1995, p. 31.

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| <p>the European Union, cannot be sufficiently achieved by the Member States and can therefore 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 on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</p> | <p>achieved by the Member States and can therefore 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 on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</p> | | |
| <p>(29) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC¹¹ on</p> | <p>(29) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC¹² on certain arrangements for the application of that Agreement. Consequently, delegations of the</p> | | |

¹¹ OJ L 176, 10.7.1999, p. 31.

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| <p>certain arrangements for the application of that Agreement. Consequently, delegations of the Republic of Iceland and the Kingdom of Norway should participate as members of the Management Board of the Agency, albeit with limited voting rights.</p> | <p>Republic of Iceland and the Kingdom of Norway should participate as members of the Management Board of the Agency, albeit with limited voting rights.</p> | | |
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¹² OJ L 176, 10.7.1999, p. 31.

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| <p>(30) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of 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 acquis¹³, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement.</p> | <p>(30) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of 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 acquis¹⁴, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement. Consequently, delegations of the Swiss Confederation should participate as members of the Management Board of the Agency, albeit with limited voting rights.</p> | | |
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¹³ OJ L 53, 27.2.2008, p. 52.

¹⁴ OJ L 53, 27.2.2008, p. 52.

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| <p>(31) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of 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 which fall within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 read in conjunction with Article 3 of Council Decision 2008/261/EC¹⁵.</p> | <p>(31) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of 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 which fall within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 read in conjunction with Article 3 of Council Decision 2008/261/EC¹⁶. Consequently, delegations of the Principality of Liechtenstein should participate as members of the Management Board of the Agency, albeit with limited voting rights.</p> | | |
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¹⁵ OJ L 83, 26.3.2008, p. 3.

¹⁶ OJ L 83, 26.3.2008, p. 3.

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| <p>(32) Under the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union, with the exception of “measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas”. This proposal builds on the Schengen acquis, and under Article 4 of the Protocol on the position of Denmark, Denmark shall decide within a period of six months after the Council has decided on a proposal or initiative to build upon the Schengen acquis under the provisions of Title V of Part Three of the Treaty on the Functioning of the European Union whether it will implement this decision in its national law”.</p> | <p>(32) Under the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union, with the exception of “measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas”. This proposal builds on the Schengen acquis, and under Article 4 of the Protocol on the position of Denmark, Denmark shall decide within a period of six months after the Council has decided on a proposal or initiative to build upon the Schengen acquis under the provisions of Title V of Part Three of the Treaty on the Functioning of the European Union whether it will implement this decision in its national law”.</p> | | |
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| <p>(33) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis¹⁷. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.</p> | <p>(33) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis¹⁸. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.</p> | | |
| <p>(34) This Regulation constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis¹⁹. Ireland is therefore not taking part in its adoption and is</p> | <p>(34) This Regulation constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis²⁰. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.</p> | | |

¹⁷ OJ L 131, 1.6.2000, p. 43.

¹⁸ OJ L 131, 1.6.2000, p. 43.

¹⁹ OJ L 64, 7.3.2002, p. 20.

²⁰ OJ L 64, 7.3.2002, p. 20.

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| not bound by it or subject to its application. | | | |
| <p>(35) The Agency should facilitate the organisation of operational actions in which the Member States may avail themselves of the expertise and facilities which Ireland and the United Kingdom may be willing to offer, in accordance with modalities to be decided on a case-by-case basis by the Management Board. To that end, representatives of Ireland and the United Kingdom should be invited to attend all the meetings of the Management Board in order to allow them to participate fully in the deliberations for the preparation of such operational actions.</p> | <p>(35) The Agency should facilitate the organisation of operational actions in which the Member States may avail themselves of the expertise and facilities which Ireland and the United Kingdom may be willing to offer, in accordance with modalities to be decided on a case-by-case basis by the Management Board. To that end, representatives of Ireland and the United Kingdom should be invited to attend all the meetings of the Management Board in order to allow them to participate fully in the deliberations for the preparation of such operational actions.</p> | | |

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| (36) A controversy exists between the Kingdom of Spain and the United Kingdom on the demarcation of the borders of Gibraltar. | (36) A controversy exists between the Kingdom of Spain and the United Kingdom on the demarcation of the borders of Gibraltar. | | |
| (37) The suspension of the applicability of this Regulation to the borders of Gibraltar does not imply any change in the respective positions of the States concerned, | (37) The suspension of the applicability of this Regulation to the borders of Gibraltar does not imply any change in the respective positions of the States concerned. | | |
| HAVE ADOPTED THIS REGULATION: | | | |
| <i>Article 1 Amendment</i> | <i>Article 1 Amendment</i> | | |
| Regulation (EC) No 2007/2004 is amended as follows: | Regulation (EC) No 2007/2004 is amended as follows: | | |
| (1) In Article 1 paragraph 2 is replaced by the following: | (1) In Article 1 paragraph 2 is replaced by the following: | | |
| | | <i>Amendment 11</i> | |
| "2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency shall facilitate and render | "2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency shall facilitate and render more | 2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency, | acceptable |

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| <p>more effective the application of existing and future European Union measures relating to the management of external borders, in particular the Schengen Borders Code²¹, and in accordance with relevant Union law, International law, obligations related to access to international protection, and fundamental rights. It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States."</p> | <p>effective the application of existing and future European Union measures relating to the management of external borders, in particular the Schengen Borders Code, and in accordance with relevant Union law, International law, obligations related to access to international protection, and fundamental rights. It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States."</p> | <p><i>as a body of the Union as defined in Article 15 and in accordance with Article 19 of this Regulation</i>, shall facilitate and render more effective the application of existing and future European Union measures relating to the management of external borders, in particular the Schengen Borders Code [...]. It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States.</p> | |
| | | <p><i>The Agency shall fulfil its tasks in full compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union, international law, including the Convention Relating to</i></p> | <p>reference to Fundamental Rights acceptable <u>only</u> in this provision</p> |

²¹ OJ L 105 13.4.2006, p. 1.

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| | | <i>the Status of Refugees of 28 July 1951 ("the Geneva Convention"), obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights and taking into account the reports and opinions of the Advisory Board on Fundamental Rights referred to in Article 26a.</i> | reference to Advisory Board's activities not acceptable (to be dealt in conjunction with Amendment 35) |
| | | <i>Amendment 12</i> | |
| | | <i>(1a.) In Article 1 paragraph 3 is replaced by the following:</i> | |
| | | "3. The Agency shall also provide the Commission and the Member States with the necessary technical support and expertise in the management of the external borders and promote solidarity between Member States, especially those facing specific and | first sentence acceptable on second sentence further clarification needed |

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| | | <i>disproportionate pressures.</i> | |
| | | The monitoring of the work of the Agency shall take account, inter alia, of this specific assessment element.” | |
| (2) Article 1a is amended as follows: | (2) Article 1a is amended as follows: | | |
| (a) point 2 is replaced by the following: | (a) point 2 is replaced by the following: | | |
| | | Amendment 13 | |
| "2. "host Member State" means a Member State on the territory of which, or adjacent to, a deployment of a Rapid Border Intervention Team or a joint operation or a pilot project takes place;" | "2. "host Member State" means a Member State in which a deployment of a Rapid Border Intervention Team or a joint operation or a pilot project takes place or from which it is launched; " | 2. "host Member State" means a Member State on the territory or from the territory of which a deployment of a rapid border intervention mission or a joint operation or a pilot project takes place; | in principle acceptable with a preference for the Council's text in the second column |
| (b) point 4 is replaced by the following: | (b) point 4 is replaced by the following: | | |

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| | | <i>Amendment 14</i> | |
| "4. "members of the teams" means border guards of Member States serving with the Rapid Border Intervention Team or the Frontex Joint Support Team other than those of the host Member State;" | "4. "members of the teams" means border guards of Member States serving with the Rapid Border Intervention Team or the Frontex Joint Support Team other than those of the host Member State;" | 4. "members of the teams" means border guards of Member States serving with <i>the EU Border Guard System</i> other than those of the host Member State; | to be dealt with at a later stage |
| | | <i>Amendment 15</i> | |
| | | <i>(ba) point 5 is replaced by the following:</i> | |
| | | "5. "requesting Member State" means a Member State whose competent authorities request the Agency to deploy the EU Border Guard System on its territory;" | not acceptable: MS can request to deploy a Rabbit, but not a Joint operation (can make proposals) |
| (c) the following point 7 is added: | | | |

| | | <i>Amendment 16</i> | |
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| "7. "technical equipment" means any kind of technical equipment deployed during joint operations, pilot projects, Rapid Border Intervention Teams, return operations or technical assistance projects." | Point 7 has been deleted | 7. "technical equipment" means any kind of technical equipment deployed during joint operations, pilot projects, <i>rapid border intervention missions</i> , return operations or technical assistance projects. | deletion of point 7 |
| (3) Article 2 is amended as follows: | (3) Article 2 is amended as follows: | | |
| (a) paragraph 1 is amended as follows: | (a) paragraph 1 is amended as follows: | | |
| (i) points (c) and (d) are replaced by the following: | (i) points (c) and (d) are replaced by the following: | | |
| | | <i>Amendment 17</i> | |
| "(c) carry out risk analyses, including the evaluation of the capacity of Member States to face threats and pressure at the external borders; | "(c) carry out risk analyses, including studies of the preparedness of Member States to face threats and pressure at the external borders; | (c) carry out risk analyses <i>as defined in Article 4</i> , including the evaluation of the capacity of Member States to <i>manage control</i> and <i>surveillance</i> at the external borders; | suggestion for Council's text as set out in the second column, which is the result of a compromise |

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| (d) participate in the development of research relevant for the control and surveillance of external borders;" | (d) participate in the development of research relevant for the control and surveillance of external borders;" | | |
| | | <i>Amendment 18</i> | |
| | | <i>(ia) the following point is added:</i> | |
| | | <i>"(da) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, namely for humanitarian emergencies and rescue at sea;"</i> | not acceptable |

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| | | <i>Amendment 19</i> | |
| | | <i>(ib) point (e) is replaced by the following:</i> | |
| | | "(e) assist Member States in circumstances requiring increased technical and operational assistance at external borders, especially those Member States facing specific and disproportionate pressures;" | acceptable |
| (ii) point (f) is replaced by the following: | (ii) point (f) is replaced by the following: | | |
| "(f) provide Member States with the necessary support, including, upon request, coordination regarding organising joint return operations;" | "(f) provide Member States with the necessary support including, upon request, coordination or organization of joint return operations;" | | |
| | | <i>Amendment 20</i> | |
| | | <i>(iia) point (g) is replaced by the following:</i> | |
| | | "(g) deploy border guards from the EU Border Guard System to Member States | to be dealt with at a later stage |

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| | | <i>in joint operations or in rapid border intervention missions in accordance with Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers²².</i> | |
| (iii) the following points (h) and (i) are added: | (iii) the following points (h) and (i) are added: | | |

²² OJ L 199, 31.7.2007, p. 30."

| | | <i>Amendment 21</i> | |
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| "(h) develop and operate information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC ²³ ; | "(h) develop and operate information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC ²⁴ ; | (h) develop and operate <i>in accordance with Regulation (EC) No 45/2001</i> information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC; | acceptable |
| (i) provide the necessary assistance to the development and operation of a European border surveillance system and, as appropriate, to the development of a common information sharing environment, including interoperability of systems." | (i) provide the necessary assistance to the development and operation of a European border surveillance system and, as appropriate, to the development of a common information sharing environment, including interoperability of systems." | | |

²³ OJ L 83, 1.4.2005, p. 48.

²⁴ OJ L 83, 1.4.2005, p. 48.

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| | | <i>Amendment 22</i> | |
| (b) the following paragraph 1a is inserted: | (b) the following paragraph 1a is inserted: | <i>deleted</i> | acceptable |
| "All border guards and other personnel of the Member States, as well as the staff of the Agency shall, prior to their participation in operational activities organised by the Agency, have received training in relevant EU and international law, including fundamental rights and access to international protection." | "All border guards and other personnel of the Member States, as well as the staff of the Agency shall, prior to their participation in operational activities organised by the Agency, have received training in relevant EU and international law, including fundamental rights and access to international protection." | | |
| | | <i>Amendment 23</i> | |
| | | <i>(ba) The following paragraph is inserted:</i> | |
| | | <i>"1b In accordance with Union and international law, no person shall be disembarked in, or otherwise handed over to the authorities of, a country in contravention of the principle of non-refoulement, or from which there is a risk of expulsion or return to another country in contravention of</i> | acceptable |

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| | | <i>that principle. The special needs of children, victims of trafficking, persons in need of medical assistance, persons in need of international protection and other vulnerable persons shall be addressed in accordance with Union and international law."</i> | |
| (c) In paragraph 2 the last subparagraph is replaced by the following: | (c) In paragraph 2 the last subparagraph is replaced by the following: | | |
| "Member States shall report to the Agency on these operational matters at the external borders outside the framework of the Agency. The Executive Director shall inform the Management Board on these matters on a regular basis and at least once a year." | "Member States shall report to the Agency on these operational matters at the external borders outside the framework of the Agency. The Executive Director shall inform the Management Board on these matters on a regular basis and at least once a year." | | |

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| | | <i>Amendment 24</i> | |
| | | <i>(3a) The following article is inserted:</i> | |
| | | <i>"Article 2a" Code of Conduct</i> | |
| | | <p><i>The Agency shall draw up a Code of Conduct applicable to all operations managed jointly and/or coordinated by the Agency, Rapid Border Intervention Team deployments and to pilot projects carried out in cooperation with Member States. The Code shall lay down procedures intended to guarantee respect for fundamental rights, with particular focus on unaccompanied minors and vulnerable persons, as well as practical measures to be taken for the purpose of identifying persons seeking protection and directing them to appropriate facilities.</i></p> <p><i>The Code of Conduct shall be developed in cooperation</i></p> | <p>The Presidency suggests the following compromise text:</p> <p><i>The Agency shall draw up and further develop a Code of Conduct applicable to all operations coordinated by the Agency . The Code of conduct shall aim to promote professional values based on the principles of the rule of law and the respect of fundamental rights applicable to all persons participating in Frontex activities.</i></p> |

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| | | <i>with other competent EU or international bodies and organisations, namely the Fundamental Rights Agency, the European Asylum Support Office, the United Nations High Commissioner for Refugees and the International Organisation for Migration."</i> | |
| (4) Article 3 is replaced by the following: | (4) Article 3 is replaced by the following: | | |
| | | <i>Amendment 25</i> | |
| <i>"Article 3 Joint operations and pilot projects at the external borders</i> | <i>"Article 3 Joint operations and pilot projects at the external borders</i> | <i>Article 3 Joint operations, rapid border intervention missions and pilot projects at external borders</i> | to be dealt with at a later stage |

| | | <i>Amendment 26</i> | |
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| | | <p><i>(-1) The Agency shall constitute a pool of border guards called the EU Border Guard System in accordance with Article 3b for possible deployment during joint operations, rapid border intervention missions and pilot projects referred to in paragraph 1. It shall also decide on the deployment of human resources and technical equipment in accordance with Articles 3a and 7.</i></p> | to be dealt with at a later stage |

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| | | <i>Amendment 27</i> | |
| 1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance. | 1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance. | 1. The Agency shall evaluate, approve and coordinate proposals for joint operations, <i>rapid border intervention missions</i> and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance, <i>especially in cases of specific and disproportionate pressures.</i> | first change to be dealt with at a later stage second change acceptable |
| | | <i>Amendment 28</i> | |
| The Agency may itself initiate joint operations and pilot projects in cooperation with Member States. | The Agency may itself initiate joint operations and pilot projects in cooperation with the Member States concerned and in agreement with the host Member States ". | The Agency may itself initiate <i>and conduct</i> joint operations, <i>rapid border intervention missions</i> and pilot projects in cooperation with Member States. | wording "conducting" not acceptable the rest to be dealt with at a later stage |

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| | | <i>Amendment 29</i> | |
| | | <i>The Agency may itself, and in agreement with the host Member State(s) concerned, launch initiatives for joint operations, pilot projects and rapid border intervention missions in cooperation with Member States.</i> | suggestion for merging 28 and 29 |
| | | <i>Amendment 30</i> | |
| It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects. | It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects | It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations, <i>rapid border intervention missions</i> or pilot projects. | to be dealt with at a later stage |
| Joint operations and pilot projects should be preceded by a thorough risk analysis. | Joint operations and pilot projects should be preceded by a thorough risk analysis. | | |

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| | | <i>Amendment 31</i> | |
| The Agency may also terminate joint operations and pilot projects if the conditions to conduct these initiatives are no longer fulfilled. | The Agency may also terminate, after informing the Member State concerned , joint operations and pilot projects if the conditions to conduct these initiatives are no longer fulfilled. Participating Member States may request the Agency to terminate a joint operation or pilot project. | The Agency may also terminate joint operations, <i>rapid border intervention missions</i> and pilot projects if the conditions to conduct these initiatives are no longer fulfilled. | to be dealt with at a later stage If the EP insists on fundamental right issues in Amendment 32, the following could be offered: "The Agency may also terminate, after informing the Member State concerned , joint operations and pilot projects if the conditions to conduct these initiatives are no longer fulfilled, <u>including if the fundamental rights or international protection obligations have been violated.</u> Participating Member States may request the Agency to terminate a joint operation or pilot project." |
| | | <i>Amendment 32</i> | |
| | | <i>The Agency shall suspend joint operations, rapid border intervention missions and pilot projects where fundamental rights or international protection obligations have been violated.</i> | suspension not acceptable (fundamental rights issues to be dealt with in the context of termination of operational activities) |

| | | <i>Amendment 33</i> | |
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| 2. The Agency shall constitute a pool of border guards called Frontex Joint Support Teams in accordance with the provisions of Article 3b, for possible deployment during joint operations and pilot projects referred to in paragraph 1. It shall decide on the deployment of human resources and technical equipment in accordance with Articles 3a and 7. | 2. The Agency shall constitute a pool of border guards called Frontex Joint Support Teams in accordance with the provisions of Article 3b, for possible deployment during joint operations and pilot projects referred to in paragraph 1. It shall decide on the deployment of human resources and technical equipment in accordance with Articles 3a and 7. | <i>deleted</i> | to be dealt with at a later stage |
| | | <i>Amendment 34</i> | |
| 3. The Agency may operate through its specialised branches provided for in Article 16, for the practical organisation of joint operations and pilot projects. | 3. The Agency may operate through its specialised branches provided for in Article 16, for the practical organisation of joint operations and pilot projects. | 3. The Agency may operate through its specialised branches <i>or regional operational offices as</i> provided for in Article 16, for the practical organisation of joint operations and pilot projects. | further clarification needed ²⁵ |

²⁵ Further clarification is needed from the EP on the distinction between "Fx specialised branches" and "regional operational offices".

| | | <i>Amendment 35</i> | |
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| <p>4. The Agency shall evaluate the results of the joint operations and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and efficiency of future operations and projects to be included in its general report provided for in Article 20(2)(b).</p> | <p>4. The Agency shall evaluate the results of the joint operations and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence, efficiency and effectiveness of future operations and projects to be included in its general report provided for in Article 20(2)(b).</p> | <p>4. The Agency shall evaluate the results of the joint operations, <i>rapid border intervention missions</i> and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board, <i>together with the observations of the Advisory Board referred to in Article 26a</i>. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and efficiency of future operations and projects to be included in its general report provided for in Article 20(2)(b). <i>To ensure that the above-mentioned activities are conducted transparently and evaluated coherently, the observations of the Advisory Board referred to in Article 26a shall also be</i></p> | <p>first change to be dealt with at a later stage</p> <p>provisions on Advisory Board not acceptable as such - the Presidency will propose a compromise text</p> |

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| | | <i>incorporated in an annual reporting mechanism of the type specified in Article 20(2)(b).</i> | |
| | | <i>Amendment 36</i> | |
| 5. The Agency may decide to finance or co-finance the joint operations and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency." | 5. The Agency may decide to finance or co-finance the joint operations and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency." | 5. The Agency <i>shall</i> finance the joint operations, <i>rapid border intervention missions</i> and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency. | further clarification needed reference to rapid border intervention missions to be dealt with at a later stage |
| (5) The following Articles 3a, 3b and 3c are inserted: | (5) The following Articles 3a, 3b and 3c are inserted: | | |

| | | <i>Amendment 37</i> | |
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| <i>"Article 3a Organisational aspects of joint operations and pilot projects</i> | <i>"Article 3a Organisational aspects of joint operations and pilot projects</i> | <i>Article 3a Organisational aspects of joint operations, rapid border intervention missions and pilot projects</i> | to be dealt with at a later stage |
| | | <i>Amendment 38</i> | |
| 1. The Executive Director shall draw up an operational plan for activities referred to in Article 3(1). The Executive Director and the host Member State shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of the activity. | 1. The Executive Director shall draw up an operational plan for activities referred to in Article 3(1). The Executive Director and the host Member State, in consultation with participating Member States , shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of the activity. | 1. The Executive Director shall, at the request of a Member State , draw up an operational plan for activities referred to in Article 3(1) in close cooperation with the host Member State . The Executive Director and the host Member State shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of the activity | first change not acceptable on second change, suggestion for Council's text as set out in the second column, which is the result of a compromise |

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| | | <i>Amendment 39</i> | |
| The operational plan shall include the following | The operational plan shall cover all aspects considered necessary for carrying out the joint operation or the pilot project, including the following: | The operational plan shall <i>cover all aspects considered necessary for conducting joint operations, rapid border intervention missions and pilot projects, including</i> the following: | acceptable in principle, but changing "conducting" into "carrying out" |
| (a) a description of the situation, with modus operandi and objectives of the deployment, including the operational aim; | (a) a description of the situation, with modus operandi and objectives of the deployment, including the operational aim; | | |
| (b) the foreseeable duration of the joint operation or pilot projects; | (b) the foreseeable duration of the joint operation or pilot projects; | | |
| | | <i>Amendment 40</i> | |
| (c) the geographical area where the joint operation or pilot project will take place; | (c) the geographical area where the joint operation or pilot project will take place; | (c) the geographical area where the joint operation, <i>rapid border intervention mission</i> or pilot project will take place; | to be dealt with at a later stage |

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| (d) description of the tasks and special instructions for the guest officers, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State; | (d) description of the tasks and special instructions for the guest officers, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State; | | |
| | | <i>Amendment 41</i> | |
| (e) the composition of the teams of guest officers; | (e) the composition of the teams of guest officers as well as the deployment of other relevant staff; | (e) the composition of the teams of guest officers <i>and of independent observers as referred to in the Code of Conduct;</i> | further clarification needed on independent observers ²⁶ |
| (f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the guest officers and the Agency, in particular those of the border guards who are in command during the period of deployment, and the place of the guest officers in the chain of command; | (f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the guest officers and the Agency, in particular those of the border guards who are in command during the period of deployment, and the place of the guest officers in the chain of command; | | |

²⁶ The Presidency will ask the EP for further explanations on the role of these independent observers and if they will participate in all Frontex operations.

| | | <i>Amendment 42</i> | |
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| (g) the technical equipment to be deployed during the joint operation or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions; | (g) the technical equipment to be deployed during the joint operation or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions; | (g) the technical equipment to be deployed during the joint operation, rapid border intervention mission or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions; | to be dealt with at a later stage |
| | (h1) provisions on immediate incident reporting by the Agency to the Management Board and to relevant national public authorities. | | |
| (h) a reporting and evaluation scheme containing detailed provisions on incident reporting, benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4). | (h2) a reporting and evaluation scheme containing [...] benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4). | | |

| | | <i>Amendment 43</i> | |
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| (i) regarding sea operations, specific requirements regarding the applicable jurisdiction and maritime law provisions concerning the geographical area where the joint operation takes place. | (i) regarding sea operations, information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation takes place. | (i) regarding sea operations, specific <i>information on the application of the relevant jurisdiction and legislation</i> in the geographical area where the joint operation takes place, <i>including reference to international and Union law regarding interception, rescue at sea and disembarkation.</i> | first change compatible with Council's text second change not acceptable |
| | | <i>Amendment 44</i> | |
| | | (ia) <i>specific measures to ensure respect for fundamental rights, including guidelines for the purpose of identifying persons seeking protection and directing them towards the appropriate facilities.</i> | further reflection needed |

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| | (j) modalities of cooperation with representatives of third countries, other European Union agencies and bodies or international organisations²⁷. | | |
| | | <i>Amendment 45</i> | |
| 2. Any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State. A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States. | 2. Any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State. A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States. | 2. <i>The adoption as well as</i> any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State. A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States. | not acceptable |

²⁷ This issue will be dealt with at Coreper.

| | | <i>Amendment 46</i> | |
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| 3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency, of joint operations and pilot projects referred to in this Article. | 3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency, of joint operations and pilot projects referred to in this Article. | 3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency <i>during</i> joint operations and pilot projects referred to in this Article. | acceptable |

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| | | Amendment 47 | |
| <u>Article 3b</u> <i>Composition and deployment of Frontex Joint Support Teams</i> | <u>Article 3b</u> <i>Composition and deployment of Frontex Joint Support Teams</i> | <u>Article 3b</u> <i>Composition and deployment [...]</i> | to be dealt with at a later stage |
| | | Amendment 48 | |
| 1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for the Frontex Joint Support Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to the Frontex Joint Support Teams via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles. | 1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for the Frontex Joint Support Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to the Frontex Joint Support Teams via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles. | 1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for <i>the EU Border Guard System</i> . The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to <i>the EU Border Guard System</i> via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles. | to be dealt with at a later stage |

| | | <i>Amendment 49</i> | |
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| <p>2. The Agency shall also contribute to the Frontex Joint Support Teams with competent border guards seconded by the Member States as national experts pursuant to Article 17(5). To that effect Member States shall contribute by seconding border guards to the Agency as national experts. The maximum duration of such secondments shall not exceed six months in a twelve month period. They shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers referred to in Article 10. The Member State having seconded the border guards in question shall be considered as "home Member State" as defined in Article 1a(3) for the purpose of applying Articles 3c, 10, and 10b. Other staff employed by the Agency on a temporary basis who are not</p> | <p><u>Par. 2 of the Cion proposal would be par 3 in the Council text .</u></p> <p>3. The Agency shall also contribute to the Frontex Joint Support Teams with competent border guards seconded by the Member States as national experts pursuant to Article 17(5)²⁸. To that effect Member States may contribute by seconding border guards to the Agency as national experts. The maximum duration of such secondments shall not exceed six months in a twelve month period. They shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers referred to in Article 10. The Member State having seconded the border guards in question shall be considered as "home Member State" as defined in Article 1a(3) for the purpose of applying Articles 3c, 10, and 10b. Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed during joint operations and pilot projects for coordination tasks.</p> | <p>2. The Agency shall also contribute to <i>the EU Border Guard System</i> with competent border guards seconded by the Member States as national experts pursuant to Article 17(5). To that effect Member States shall contribute by seconding border guards to the Agency as national experts. The maximum duration of such secondments shall not exceed six months in a twelve month period. They shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers referred to in Article 10. The Member State having seconded the border guards in question shall be considered as "home Member State" as defined in Article 1a(3) for the purpose</p> | <p>reference to "EU Border Guard System" to be dealt with at a later stage</p> <p>suggestion for Council's text as set out in the second column ("may" instead of "shall"), which is the result of a compromise</p> |

²⁸ Text agreed on the SCIFA meeting on 1 April

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| <p>qualified to perform border control functions shall only be deployed during joint operations and pilot projects for coordination tasks.</p> | | <p>of applying Articles 3c, 10, and 10b. Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed for coordination tasks.</p> | |
| <p>3. Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such a request shall be made at least thirty days before the intended deployment. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.</p> | <p><i>Par. 3 of the Cion proposal would be par. 2 in the Council text.</i></p> <p>The contribution by Member States as regards their border guards to specific operations for the coming year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with these agreements, Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an unforeseen situation substantially affecting the discharge of national tasks. Such a request shall be made at least forty five days before the intended deployment. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.</p> | | |

| | | <i>Amendment 50</i> | |
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| <p>4. Members of the Frontex Joint Support Teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, members of the teams shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p> | <p>4. Members of the Frontex Joint Support Teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures²⁹, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, members of the teams shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p> | <p>4. Members of the <i>EU Border Guard System</i> shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including the right of asylum, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p> | <p>first change to be dealt with at a later stage</p> <p>third change acceptable</p> |

²⁹ New compromise text suggested by the Presidency.

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| | | <i>Amendment 51</i> | |
| 5. In accordance with Article 8g the Agency will nominate a coordinating officer for each joint operation or pilot project where Frontex Joint Support Team members will be deployed. | 5. In accordance with Article 8g the Agency will nominate a coordinating officer for each joint operation or pilot project where Frontex Joint Support Team members will be deployed. | 5. In accordance with Article 3g the Agency <i>shall</i> nominate a coordinating officer for each joint operation, <i>rapid intervention mission</i> or pilot project where EU Border Guard System members will be deployed. <i>The role of the coordinating officer shall be, inter alia, to monitor the operation of and to foster cooperation and coordination amongst host and participating Member States.</i> | first sentence to be dealt with at a later stage tasks for coordinating officer to be dealt with in the context of Amendment 63-extra tasks proposed in this amendment not acceptable |
| | | <i>Amendment 52</i> | |
| 6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 for the Frontex Joint Support Teams in accordance with Article 8h. | 6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 for the Frontex Joint Support Teams in accordance with Article 8h. | 6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 for the EU Border Guard System in accordance with Article 8h. | to be dealt with at a later stage |

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| | | <i>Amendment 53</i> | |
| | | <i>(6a) The Agency shall publish, on an annual basis, a record of the number of border guards that each Member State has committed to the EU Border Guard System in accordance with this Article.</i> | further clarification needed ³⁰ |
| | | <i>Amendment 54</i> | |
| <i>Article 3c Instructions to the Frontex Joint Support Teams</i> | <i>Article 3c Instructions to the Frontex Joint Support Teams</i> | <i>Article 3c Instructions to the border guards in the EU Border Guard System</i> | to be dealt with at a later stage |

³⁰ Delegations in general can not accept this provision. The Presidency will ask the EP for which purposes and in which cases it would like to receive this information. Cion pointed out that alternative and less costly channels to obtain this information could be used by Members of the EP.

| | | <i>Amendment 55</i> | |
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| 1. During deployment of Frontex Joint Support Teams, instructions to the teams shall be issued by the host Member State in accordance with the operational plan referred to in Article 3a (1). | 1. During deployment of Frontex Joint Support Teams, instructions to the teams shall be issued by the host Member State in accordance with the operational plan referred to in Article 3a (1). | 1. During deployment of <i>border guards in the EU Border Guard System</i> , instructions shall be issued by the host Member State in accordance with the operational plan referred to in Article 3a (1). | to be dealt with at a later stage |

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| | | <i>Amendment 56</i> | |
| 2. The Agency, via its coordinating officer as referred to in Article 3b (5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall take those views into consideration. | 2. The Agency, via its coordinating officer as referred to in Article 3b (5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall take those views into consideration. | 2. The Agency, via its coordinating officer as referred to in Article 3b(5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall, <i>subject to Article 10</i> , take those views into consideration. | not acceptable |
| | | <i>Amendment 57</i> | purely linguistic ? |
| | | <i>Amendment 58</i> | |
| 3. In accordance with Article 8g the host Member State shall give the coordinating officer all necessary assistance, including full access to the Frontex Joint Support Teams at all times throughout the deployment. | 3. In accordance with Article 8g the host Member State shall give the coordinating officer all necessary assistance, including full access to the Frontex Joint Support Teams at all times throughout the deployment. | 3. In accordance with <i>Article 3g</i> the host Member State shall give the coordinating officer all necessary assistance, including full access to <i>the EU Border Guard System</i> at all times throughout the deployment. | to be dealt with at a later stage |

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| | | <i>Amendment 59</i> | |
| 4. Members of the Frontex Joint Support Teams shall, while performing their tasks and exercising their powers, remain subject to the disciplinary measures of their home Member State." | 4. Members of the Frontex Joint Support Teams shall, while performing their tasks and exercising their powers, remain subject to the disciplinary measures of their home Member State." | 4. Members of <i>the EU Border Guard System</i> shall, while performing their tasks and exercising their powers, remain subject to the disciplinary measures of their home Member State. | to be dealt with at a later stage |
| | | <i>Amendment 60</i> | |
| | | <i>(5a) The following article is inserted:</i> | |
| | | <i>"Article 3d Rapid Border Intervention</i> | |
| | | <i>1. At the request of a Member State faced with a situation of urgent and exceptional pressure, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of that Member State irregularly, the Agency may deploy, for a limited period, members of the EU Border Guard System on the territory of the requesting</i> | to be dealt with at a later stage, but shorter deadlines not acceptable |

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| | | <i>Member State for the appropriate duration, in accordance with Article 4 of Regulation (EC) No 863/2007.</i> | |
| | | <i>2. In the event of a situation as described in paragraph 1, Member States shall, at the request of the Agency, immediately communicate the number, names and profiles of border guards from their national component of the EU Border Guard System which they are able to make available within three days to be members of a team. Member States shall make the border guards available for deployment at the request of the Agency unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.</i> | |

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| | | <i>3. When determining the composition of a team for deployment, the Executive Director shall take into account the particular circumstances which the requesting Member State is facing. The team shall be composed in accordance with the operational plan referred to in Article 3a."</i> | |
| | | <i>Amendment 61</i> | |
| | | <i>(5b) The following article is inserted:</i> | further clarification needed, including for the shorter deadlines |
| | | <i>"Article 3e Procedure for deciding on deployment</i> | |
| | | <i>1. A request for deployment of the teams in accordance with Article 3d shall include a description of the situation, possible aims and envisaged needs for the deployment. If required, the Executive Director may send experts from the Agency to assess the situation at the external borders of the requesting</i> | |

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| | | <i>Member State.</i> | |
| | | <i>2. The Executive Director shall immediately inform the Management Board of a Member State's request for deployment of the teams.</i> | |
| | | <i>3. When deciding on the request of a Member State, the Executive Director shall take into account the findings of the Agency's risk analyses as well as any other relevant information provided by the requesting Member State or another Member State.</i> | |
| | | <i>4. The Executive Director shall take a decision on the request for deployment of the teams as soon as possible and in any event no later than two working days from the date of the receipt of the request. The Executive Director shall simultaneously notify the requesting Member State and the Management Board in writing of the</i> | |

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| | | <i>decision. The decision shall state the main reasons on which it is based.</i> | |
| | | <i>5. If the Executive Director decides to deploy one or more teams, an operational plan shall immediately and in any event no later than two working days of the date of the decision be drawn up by the Agency and the requesting Member State in accordance with Article 3a.</i> | |
| | | <i>6. As soon as the operational plan has been agreed, the Executive Director shall inform the Member States of the requested number and profiles of border guards which are to be deployed in the teams. This information shall be provided, in writing, to the national contact points designated under Article 3f and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also</i> | |

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| | | <i>be provided to them.</i> | |
| | | <i>7. If the Executive Director is absent or indisposed, the decisions related to the deployment of the teams shall be taken by the Deputy Executive Director.</i> | |
| | | <i>8. Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.</i> | |
| | | <i>9. Deployment of the teams shall take place no later than three working days after the date on which the operational plan is agreed between the Executive Director and the requesting Member State."</i> | |
| | | <i>Amendment 62</i> | |
| | | <i>(5c) The following article is inserted:</i> | |

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| | | "Article 3f National contact point | |
| | | Member States shall designate a national contact point for communication with the Agency on all matters pertaining to the EU Border Guard System. The national contact point shall be reachable at all times." | acceptable in principle - reference to "EU Border Guard System" to be dealt with at a later stage |
| | | Amendment 63 | |
| | | (5d) The following article is inserted: | |
| | | "Article 3g Coordinating Officer | |
| | | 1. The Executive Director shall appoint one or more experts from the staff of the Agency to be deployed as coordinating officer. The Executive Director shall notify the host Member State of the appointment. | description of tasks of coordinating officer in Article 3g acceptable, but extra tasks proposed in Amendment 51 not acceptable |

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| | | <i>2. The coordinating officer shall act on behalf of the Agency in all aspects of the deployment of the teams. In particular, the coordinating officer shall:</i> | |
| | | <i>(a) act as an interface between the Agency and the host Member State;</i> | |
| | | <i>b) act as an interface between the Agency and the members of the teams, providing assistance, on behalf of the Agency, on all issues relating to the conditions for their deployment with the teams;</i> | |
| | | <i>(c) monitor the correct implementation of the operational plan;</i> | |
| | | <i>(d) report to the Agency on all aspects of the deployment of the teams.</i> | |

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| | | <p>3. In accordance with Article 25(3)f, the Executive Director may authorise the coordinating officer to assist in resolving any disagreement on the execution of the operational plan and deployment of the teams.</p> | |
| | | <p>4. In discharging his duties, the coordinating officer shall take instructions only from the Agency."</p> | |
| (6) Article 4 is replaced by the following: | (6) Article 4 is replaced by the following: | | |
| <i>"Article 4 Risk analysis</i> | <i>"Article 4 Risk analysis</i> | | |
| The Agency shall develop and apply a common integrated risk analysis model. | The Agency shall develop and apply a common integrated risk analysis model. | | |

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| | | <i>Amendment 64</i> | |
| It shall prepare both general and tailored risk analyses to be submitted to the Council and the Commission. For these purposes Member States shall provide the Agency with all necessary information regarding the situation and possible threats at the external borders. | It shall prepare both general and tailored risk analyses to be submitted to the Council and the Commission. For these purposes Member States shall provide the Agency with all necessary information regarding the situation and possible threats at the external borders. | It shall prepare both general and tailored risk analyses to be submitted to <i>the European Parliament</i> , the Council and the Commission. For these purposes Member States shall provide the Agency with all necessary information regarding the situation and possible threats at <i>their</i> external borders. | further clarification needed ³¹ |
| | | <i>Amendment 65</i> | |
| The Agency shall regularly evaluate the capacity of the Member States to face upcoming challenges, including present and future threats and pressures at the external borders of the European Union. Therefore the Agency shall evaluate the national structures, the equipment and the resources of the Member States regarding border control. | The Agency shall regularly carry out studies on the preparedness of the Member States to face upcoming challenges, including present and future threats and pressures at certain sectors of the external borders of the European Union. These studies are without prejudice to the Schengen Evaluation Mechanism. ³² | The Agency <i>may</i> evaluate, <i>after prior consultation with the Member State(s) concerned, their</i> capacity to face upcoming challenges, including present and future threats and pressures at the external borders of the European Union, <i>especially for those Member States facing specific and disproportionate pressures. To this end,</i> the Agency | suggestion for Council's text as set out in the second column, which is the result of a compromise - additional clarification in a recital |

³¹ The Presidency will ask the EP for the reasons justifying that Frontex should send to the EP its risk analysis and on further use.

³² **SI** has a reservation on Article 4.

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| <p>The results of these evaluations shall be presented at least once per year to the Management Board of the Agency.</p> | <p>The results of these studies shall be presented at least once per year to the Management Board of the Agency.</p> | <p><i>may</i> evaluate the national structures, the equipment and the resources of the Member States regarding border control.</p> <p>The results of these evaluations shall be presented at least once per year to the Management Board of the Agency.</p> | |
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| The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curriculum for border guards' training referred to in Article 5." | The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curriculum for border guards' training referred to in Article 5." | | |
| | | Amendment 66 | |
| (7) In Article 5 the first paragraph is replaced by the following: | (7) In Article 5 the first paragraph is replaced by the following: | (7) Article 5 <i>is amended as follows:</i> | |
| | | <i>(a) the following paragraphs are inserted before the first paragraph:</i> | |
| | | <i>"The Agency shall provide border guards who are part of the EU Border Guard System with advanced training relevant to their tasks and powers and shall conduct regular exercises with those border guards in accordance with the advanced training and exercise schedule referred to in the Agency's annual work programme.</i> | reference to "EU Border Guard System" to be dealt with at a later stage reference The rest acceptable |

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| | | <i>The Agency shall also take the necessary initiatives to ensure that all border guards and other personnel of the Member States who participate in the EU Border Guard System, as well as the staff of the Agency shall, prior to their participation in operational activities organised by the Agency, have received training in relevant Union and international law, including fundamental rights and access to international protection</i> | further clarification needed |
| | | (b) the first paragraph is replaced by the following: | |
| "The Agency shall establish and further develop common core curricula for border guards' training and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights and access to international protection. | "The Agency shall establish and further develop common core curricula for border guards' training and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights and access to international protection. | The Agency shall establish and further develop common core curricula for border guards' training and provide <i>initial and in-service</i> training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights and access to international protection <i>and</i> | not acceptable |

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| | | <i>maritime law. Training curricula shall be drawn up after consultation of the Office of the United Nations High Commissioner for Refugees (UNHCR), the European Asylum Support Office (EASO) and the European Union Agency for Fundamental Rights (FRA).</i> | |
| Member States shall integrate the common core curricula in the training of their national border guards." | Member States shall integrate the common core curricula in the training of their national border guards." | Member States shall integrate the common core curricula in the training of their national border guards." | |
| | | <i>(c) the following paragraph is inserted after the last paragraph:</i> | |
| | | <i>"The Agency shall establish an exchange programme enabling national border guards participating in the EU Border Guard System to acquire knowledge or specific know-how from experiences and good practices abroad by working with border guards in a</i> | acceptable |

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| | | <i>Member State other than their own."</i> | |
| (8) Articles 6 and 7 are replaced by the following: | | | |
| <i>"Article 6 Monitor and contribute to research</i> | <i>"Article 6 Monitor and contribute to research</i> | | |
| The Agency shall monitor and contribute to the developments in research relevant for the control and surveillance of the external borders and disseminate this information to the Commission and the Member States. | The Agency shall <u>proactively</u> monitor and contribute to the developments in research relevant for the control and surveillance of the external borders and disseminate this information to the Commission and the Member States. | | |

| <i>Article 7 Technical equipment</i> | <i>Article 7 Technical equipment</i> | <i>Article 7 Technical equipment</i> | |
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| | | <i>Amendment 67</i> | |
| <p>1. The Agency may acquire or lease technical equipment for external border control to be deployed during joint operations, pilot projects, Rapid Border Intervention Teams, return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. In case the Agency acquires or leases important technical equipment such as open sea and coastal patrol vessels or vehicles, to be used in joint operations, the following provisions shall apply:</p> | <p>1. The Agency may acquire or lease technical equipment for external border control to be deployed during joint operations, pilot projects, Rapid Border Intervention Teams, return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition or leasing of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. Any such expenditure shall be provided for in the Agency's budget as adopted by the Management Board in accordance with Article 29(9). In case the Agency acquires or leases important technical equipment such as open sea and coastal patrol vessels or vehicles, to be used in joint operations, the following provisions shall apply:</p> | <p>1. The Agency may acquire or lease technical equipment for external border control to be deployed during joint operations, <i>rapid border intervention missions</i>, pilot projects return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. In case the Agency acquires or leases important technical equipment such as open sea and coastal patrol vessels or vehicles, to be used in joint operations, the following provisions shall apply:</p> | <p>to be dealt with at a later stage</p> |

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| | | <i>Amendment 68</i> | |
| – in case of acquisition, the Agency agrees formally with one Member State that the latter will provide for the registration of the equipment; | - in case of acquisition, the Agency agrees formally with one Member State that the latter will provide for the registration of the equipment in accordance with the applicable legislation of that Member State.; | – in case of acquisition, the Agency agrees formally with one Member State that the latter will provide for the registration of the equipment <i>in accordance with the applicable legislation of that Member State;</i> | |
| – in case of leasing, the equipment must be registered in a Member State. | - in case of leasing, the equipment must be registered in a Member State. | | |
| | | <i>Amendment 69</i> | |
| | Based on a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on the terms of use of the equipment. | <i>On the basis of a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on the terms of use of the equipment.</i> | compatible |
| The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. | The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. | The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. | |

| | | <i>Amendment 70</i> | |
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| <p>2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned by Member States or by the Agency for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment defined in accordance with paragraph 5 of this article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, 8a and 9.</p> | <p>2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned by Member States or by the Agency for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment defined in accordance with paragraph 5 of this Article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, 8a and 9.</p> | <p>2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned by Member States <i>and</i> by the Agency for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment defined in accordance with paragraph 5 of this article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, <i>3d</i> and 9.</p> | |

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| <p>3. Member States shall contribute to the technical equipment pool referred to in paragraph 2. To the extent that it forms part of the minimum number of equipment for a given year, Member States shall make their technical equipment available within 30 days for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Their contributions to the technical equipment pool shall be reviewed annually.</p> | <p>3. Member States shall contribute to the technical equipment pool referred to in paragraph 2. The contribution by Member States to the pool and deployment of the technical equipment for specific operations shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with these agreements and to the extent that it forms part of the minimum number of equipment for a given year, Member States shall make their technical equipment available for deployment [...] at the request of the Agency, unless they are faced with an unforeseen situation substantially affecting the discharge of national tasks. Such request shall be made at least 45 days before the intended deployment. The contributions to the technical equipment pool shall be reviewed annually.</p> | | |
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| 4. The Agency shall manage the records of the technical equipment pool as follows: | 4. The Agency shall manage the records of the technical equipment pool as follows: | | |
| (a) classification by type of equipment and by type of operation; | a) classification by type of equipment and by type of operation; | | |
| (b) classification by owner (Member State, Agency, others); | b) classification by owner (Member State, Agency, others); | | |
| (c) overall numbers of required equipment; | c) overall numbers of required equipment; | | |
| (d) crew requirements if applicable; | d) crew requirements if applicable; | | |
| (e) other information such registration details, transportation and maintenance requirements, national applicable export regimes, technical instructions, or other relevant information to handle the equipment correctly. | (e) other information such registration details, transportation and maintenance requirements, national applicable export regimes, technical instructions, or other relevant information to handle the equipment correctly. | | |

| | | <i>Amendment 71</i> | |
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| <p>5. The Agency shall finance the deployment of the equipment which forms part of the minimum number of equipment provided by a given Member State for a given year. The deployment of equipment which does not form part of the minimum number of equipment shall be co-financed by the Agency up to a maximum of 60% of the eligible expenses.</p> | <p>5. The Agency shall finance [up to 100%] of the eligible costs of the deployment of the equipment provided by a given Member State for a given year³³.</p> | <p>5. The Agency shall finance the deployment [...] of the equipment provided by a given Member State [...] .</p> | <p>support in principle for financing of all types of equipment, subject to further discussion on exact wording of the first paragraph Article 7.5</p> |
| <p>The rules including the required overall minimum numbers per type of equipment, the conditions for deployment and reimbursement of costs shall be decided in accordance with Article 24 on a yearly basis by the Management Board on a proposal by the Executive Director. For budgetary purposes this decision should be taken by the Management Board by 31 March</p> | <p>The rules including the required overall minimum numbers per type of equipment, the conditions for deployment and reimbursement of costs shall be decided in accordance with Article 24 on a yearly basis by the Management Board on a proposal by the Executive Director. For budgetary purposes this decision should be taken by the Management Board by 31 March.</p> | | |

³³ New compromise text suggested by the Presidency after COM agreed at the SCIFA meeting that reimbursement may go beyond 60% provided that in all cases MS's should bear some of their own costs e.g. the salaries of the officers operating the equipment

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| | | <i>Amendment 72</i> | |
| The minimum number of equipment shall be proposed by the Agency in accordance with its needs, notably be able to carry out joint operations, pilot projects and return operations, in accordance with the work programme of the Agency for the year in question. | The minimum number of equipment shall be proposed by the Agency in accordance with its needs, notably be able to carry out joint operations, pilot projects and return operations, in accordance with the work programme of the Agency for the year in question. | The minimum number of equipment shall be proposed by the Agency in accordance with its needs, notably <i>to</i> be able to carry out joint operations, pilot projects, <i>rapid border intervention missions</i> and return operations, in accordance with the work programme of the Agency for the year in question. | to be dealt with at a later stage |
| | | <i>Amendment 73</i> | |
| | If the minimum number of equipment proves to be insufficient to carry out the operational plan agreed for joint operations, pilot projects, Rapid Border Intervention Teams or return operations, it shall be revised by the Agency. | <i>If the minimum number of equipment proves to be insufficient to carry out the operational plan agreed for joint operations, pilot projects, Rapid Border Intervention Teams or return operations, it shall be revised by the Agency on the basis of justified needs and of an agreement between the Agency and the Member States.</i> | |

| | | <i>Amendment 74</i> | |
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| <p>6. The Agency shall report on the composition and the deployment of equipment, which is part of the technical equipment pool, to the Management Board on a monthly basis. In case the minimum number of equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission may subsequently inform the European Parliament and the Council, together with its own assessment."</p> | <p>6. The Agency shall report on the composition and the deployment of equipment, which is part of the technical equipment pool, to the Management Board on a monthly basis. In case the minimum number of equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission may subsequently inform the European Parliament and the Council, together with its own assessment."</p> | <p>6. The Agency shall report on the composition and the deployment of equipment, which is part of the technical equipment pool, to the Management Board on a monthly basis. In case the minimum number of equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission <i>shall</i> subsequently inform the European Parliament and the Council, together with its own assessment."</p> | |

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| | | <i>Amendment 75</i> | |
| | | <i>6a The Agency shall publish, on an annual basis, a record of the technical equipment that each Member State has committed to the pool in accordance with this Article.</i> | |
| | | <i>Amendment 76</i> | |
| (9) Article 8 is deleted. | (9) Article 8 is deleted. | (9) Article 8 is <i>amended as follows:</i> | |
| | | <i>(a) paragraph 1 is replaced by the following:</i> | |
| | | "1. Without prejudice to Article 64(2) of the Treaty, one or more Member States facing specific and disproportionate pressures and confronted with circumstances requiring increased technical and operational assistance when implementing their obligations with regard to control and surveillance of external borders may request the Agency for | |

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| | | assistance. The Agency shall organise the appropriate technical and operational assistance for the requesting Member State(s)." | |
| | | <i>(b) in paragraph 2 the following point is added:</i> | |
| | | <i>"(ba) deploy border guards from the EU Border Guard System."</i> | |
| | | <i>Amendment 77</i> | |
| | | <i>(9) The following article is inserted:</i> | |
| | | <i>"Article 8-a Obligations under maritime law</i> | |
| | | <i>Implementation of this Regulation does not affect and fully complies with obligations of Member States under the UN Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and</i> | |

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| | | <i>Rescue and the Geneva Convention Relating to the Status of Refugees."</i> | |
| | | <i>Amendment 78</i> | |
| | | <i>(9a) Articles 8a, 8b, 8c, 8d, 8e, 8f and 8g are deleted.</i> | |
| (10) In Article 8e paragraph 1 is amended as follows: | (10) In Article 8e paragraph 1 is amended as follows: | | |
| (a) points (f) and (g) are replaced by the following: | (a) points (f) and (g) are replaced by the following: | | |
| "(f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the Rapid Border Interventions teams, in particular those of the border guards who are in command of the teams during the period of deployment, and the place of the teams in the chain of command; | "(f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the Rapid Border Interventions teams, in particular those of the border guards who are in command of the teams during the period of deployment, and the place of the teams in the chain of command; | | |
| (g) the technical equipment to be deployed together with the teams, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial | (g) the technical equipment to be deployed together with the teams, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions." | | |

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| provisions." | | | |
| (b) the following points (h) and (i) shall be added: | (b) the following points (h1) , (h2) , (i) and (j) shall be added: | | |
| | (h1) provisions on immediate incident reporting by the Agency to the Management Board and to relevant national public authorities. | | |
| "(h) a reporting and evaluation scheme containing detailed provisions on incident reporting, benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4). | (h2) a reporting and evaluation scheme containing [...] benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4). | | |
| (i) regarding sea operations, specific requirements regarding the applicable jurisdiction and maritime law provisions concerning the geographical area where the joint operation takes place." | (i) regarding sea operations, information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation takes place. | | |
| | (j) modalities of cooperation with third countries, if relevant." | | |
| (11) In Article 8h paragraph 1 is replaced by the following: | (11) In Article 8h paragraph 1, first subparagraph , is replaced by the following: | | |

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| | | <i>Amendment 79</i> | |
| "1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in Article 3(2), Article 8a and Article 8c:" | "1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in Article 3(2), Article 8a and Article 8c." | 1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in <i>Article 3(-1), Article 3(d)</i> and <i>Article 5:</i> | |
| (12) Article 9 is replaced by the following: | 12) Article 9 is replaced by the following: | | |
| <i>"Article 9 Return cooperation</i> | <i>"Article 9 Return cooperation</i> | | The Council text on Article 9 set out in the second column is subject to further reflection |
| | | <i>Amendment 80</i> | |
| 1. Subject to the return policy of the Union, and in particular Directive 2008/115/EC ³⁴ , the Agency shall provide the necessary assistance, and upon request of the participating Member States ensure the coordination for organising joint return operations of Member States. The Agency may decide to | 1. Subject to the return policy of the Union, and in particular Directive 2008/115/EC ³⁵ the Agency shall provide the necessary assistance, and upon request of the participating Member States ensure the coordination or the organization of joint return operations of Member States. The Agency may decide to finance or co-finance the operations and projects | 1. Subject to the return policy of the Union, in particular Directive 2008/115/EC <i>and without entering into the merits of return decisions,</i> the Agency shall provide the necessary assistance, and upon request of <i>all</i> the participating Member States | |

³⁴ OJ L 348, 24.12. 2008, p.

³⁵ OJ L 348, 24.12. 2008.

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| <p>finance or co-finance the operations and projects referred to in this paragraph, with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use Union financial means available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect of the Charter of Fundamental Rights.</p> | <p>referred to in this paragraph, with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use Union financial means available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect of the Charter of Fundamental Rights.</p> | <p><i>also</i> ensure the coordination for organising joint return operations of Member States, <i>including through the chartering of aircraft for the purpose of such operations</i>. The Agency <i>shall</i> finance or co-finance the operations and projects referred to in this paragraph, with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use the financial means <i>of the European Union</i> available in the field of return, <i>notably in the European Return Fund</i>. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect of the Charter of Fundamental Rights.</p> | |
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| | | <i>Amendment 3 (whole text)</i> | |
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| <p>2. The Agency shall develop a Code of Conduct for the return of illegally present third-country nationals by air which shall apply during all joint return operations coordinated by the Agency, describing common standardized procedures which should simplify the organisation of joint return flights and assure return in a humane manner and in full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, the rights to the protection of personal data and non discrimination.</p> | <p>2. The Agency shall develop a Code of Conduct for the return of illegally present third-country nationals which shall apply during all joint return operations coordinated by the Agency, describing common standardized procedures which should simplify the organisation of joint return operations and assure return in a humane manner and in full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, the rights to the protection of personal data and non discrimination.</p> | <p>2. The Agency shall develop a Code of Conduct for the return of <i>irregularly</i> present third-country nationals by air which shall apply during all joint return operations coordinated by the Agency, describing common standardized procedures which should simplify the organisation of joint return flights and assure return in a humane manner and in full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, the rights to the protection of personal data and non discrimination.</p> | |

| | | <i>Amendment 81</i> | |
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| <p>3. The Code of Conduct will in particular pay attention to the obligation set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system. The monitoring of joint return operations should be carried out independently and should cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return.</p> | <p>3.³⁶ The Code of Conduct will in particular pay attention to the obligation on Member States set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system. The monitoring of joint return operations should be carried out independently in conformity with aforementioned Directive and should cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return.</p> | <p>3. The Code of Conduct <i>shall</i>, in particular, <i>take into account</i> the obligation set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system <i>to ensure that the return is carried out in full respect for fundamental human rights</i>. The monitoring of joint return operations should be carried out independently and should cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return. <i>Member States shall ensure that relevant international organisations are involved during removal procedures in order to guarantee compliance with proper legal procedure. Monitors should have access to all relevant facilities, including</i></p> | |

³⁶ This issue will be dealt with at Coreper.

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| <p>Furthermore, observations of the monitor, which shall cover the compliance with the Code of Conduct and in particular fundamental rights, shall be made available to the Commission and form part of the internal Final Return Operation Report. In order to ensure transparency and a coherent evaluation of the forced-return operations, reports of the monitor shall be included in an annual reporting mechanism.</p> | <p>Furthermore, observations of the monitor, which shall cover the compliance with the Code of Conduct and in particular fundamental rights, shall be made available to the Commission and form part of the internal Final Return Operation Report. In order to ensure transparency and a coherent evaluation of the forced-return operations, reports of the monitor shall be included in an annual reporting mechanism.</p> | <p><i>detention centres and aircraft, and receive the necessary training to perform their duties.</i></p> <p>Furthermore, observations of the monitor, which shall cover the compliance with the Code of Conduct and in particular fundamental rights, shall be made available to the Commission and form part of the internal Final Return Operation Report. In order to ensure transparency and a coherent evaluation of the forced-return operations, reports of the monitor shall be included in an annual reporting mechanism.</p> | |
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| <p>4. Member States shall once a month inform the Agency of their situation with regard to return and indicate to what extent the assistance or coordination of the Agency is required. The Agency shall draw up a rolling operational plan to provide the requesting Member States with the necessary operational support, including technical equipment referred to in Article 7(1). The Management Board shall decide in accordance with Article 24 on a proposal of the Executive Director, on the content and modus operandi of the rolling operational plan.</p> | <p>4. Member States shall, if necessary, inform the Agency of their needs for the assistance or coordination by the Agency [...]. The Agency shall draw up a rolling operational plan to provide the requesting Member States with the necessary operational support, including technical equipment referred to in Article 7(1). The Management Board shall decide in accordance with Article 24 on a proposal of the Executive Director, on the content and modus operandi of the rolling operational plan.</p> | | |
| | | Amendment 3 (whole text) | |
| <p>5. The Agency shall cooperate with competent authorities of the relevant third countries referred to in Article 14, identify best practices on the acquisition of travel documents and the return of illegally present third-country nationals."</p> | <p>5. The Agency shall cooperate with competent authorities of the relevant third countries referred to in Article 14, identify best practices on the acquisition of travel documents and the return of illegally present third-country nationals."</p> | <p>5. The Agency shall cooperate with competent authorities of the relevant third countries referred to in Article 14, identify best practices on the acquisition of travel documents and the return of <i>irregularly</i> present third-country nationals."</p> | |
| <p>(13) In Article 10, paragraph 2 is replaced by the following:</p> | <p>(13) In Article 10, paragraph 2 is replaced by the following:</p> | | |

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| | | <i>Amendment 82</i> | |
| "2. While performing their tasks and exercising their powers guest officers shall comply with Union law, in accordance with fundamental rights, and the national law of the host Member State." | "2. While performing their tasks and exercising their powers guest officers shall comply with Union law, in accordance with fundamental rights, and the national law of the host Member State." | 2. While performing their tasks and exercising their powers guest officers shall comply with Union and international law, in accordance with fundamental rights, and the national law of the host Member State. | |
| | | <i>Amendment 83</i> | |
| | | <i>(13a) In Article 10 paragraph 4 is replaced by the following:</i> | |
| | | "4. Guest officers shall wear their own uniform while performing their tasks and exercising their powers. They shall wear a blue armband with the insignia of the European Union [...] on their uniforms, identifying them as participating in a joint operation or pilot project. For the purposes of identification vis-à-vis the national authorities of the host Member State and its | |

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| | | citizens, guest officers shall at all times carry an accreditation document, as provided for in Article 10a, which they shall present on request." | |
| | | <i>Amendment 84</i> | |
| | | <i>(13b) In Article 10 paragraph 6 is replaced by the following:</i> | |
| | | "6. By way of derogation from paragraph 2, while performing their tasks and exercising their powers, guest officers shall be authorised to use force, including service weapons, ammunition and equipment, with the consent of the home Member State and the host Member State, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State, and with the principles of necessity and proportionality." | |

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| | | <i>Amendment 85</i> | |
| | | <i>(13c) In Article 10 paragraph 7 is replaced by the following:</i> | |
| | | "7. By way of derogation from paragraph 6, service weapons, ammunition and equipment may be used in legitimate self-defence and in legitimate defence of guest officers or of other persons, in accordance with the national law of the host Member State and with the principles of necessity and proportionality." | |
| (14) Article 11 is replaced by the following: | (14) Article 11 is replaced by the following: | | |
| <i>"Article 11 Information exchange systems</i> | <i>Article 11 Information exchange systems</i> | | |
| | | <i>Amendment 86</i> | |
| The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks, with the Commission and the Member | 1. The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks, with the Commission, the Member States, and, where | The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks, with the Commission | |

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| States. It shall develop and operate an information system capable of exchanging classified information with the Commission and the Member States. The exchange of information to be covered by this system shall not include the exchange of personal data." | appropriate, the European Agencies referred to in Article 13. It shall develop and operate an information system capable of exchanging classified information with these actors, including personal data referred to in Articles 11 a), 11 b) and 11 c). | and the Member States. It shall develop and operate an information system capable of exchanging classified information with the Commission and the Member States [...]. | |
| | 2. The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks with UK and Ireland if it relates to the activities in which they participate in accordance with Articles 12 and 20 (5). | | |
| (15) The following Articles 11a and 11b are inserted: | (15) The following Articles 11a) to 11c) are inserted: | | |
| <i>"Article 11a Data protection</i> | <i>"Article 11a Data protection</i> | | |
| | | <i>Amendment 87</i> | |
| The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the | Regulation (EC) No 45/2001³⁷ shall apply to the Agency. The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the | Regulation (EC) No 45/2001 applies to the processing of personal data by the Agency. The Management Board shall | |

³⁷ OJ L 8, 12.1.2001, p. 1.

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| Data Protection Officer of the Agency. | Agency, including those concerning the Data Protection Officer of the Agency. These measures shall be established after the consultation of the European Data Protection Supervisor. Without prejudice to Articles 11b) and 11 c), the Agency may process personal data for administrative purposes. | establish measures for <i>its</i> application by the Agency, including those concerning the Data Protection Officer of the Agency. | |
| | | <i>Amendment 88</i> | |
| | | <i>"Article 11aa Processing of personal data</i> | |
| | | <i>1. The Agency may process personal data where strictly necessary in order to perform its tasks, as defined in Article 2.</i> | support for the inclusion of specific provisions regarding the possibility for Frontex to process personal data for administrative purposes and personal data collected in the context of joint return operations and in the context of joint operations and pilot projects for limited and specific purposes (see below) |
| | | <i>2. The processing of personal data shall respect the principles of necessity and proportionality.</i> | |

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| | <p>3. The processing of personal data by the Agency shall be limited to personal data that are necessary to fulfil its tasks, which are received from other Union agencies or obtained during joint operations or pilot projects or rapid border intervention missions regarding persons who are suspected on reasonable grounds of involvement in cross-border criminal activities, in irregular migration activities or in human trafficking activities as defined in Article 1(1)(a) and (b) of Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence³⁸, persons who are victims of such activities and whose data may lead to the perpetrators of such illegal activities as well as persons who are subject to return operations</p> | <p>Support in principle regarding the processing by the Agency of personal data collected in the context of joint operations for the purpose of their transmission to Europol and other Agencies, subject to further definition of the other Agencies</p> <p>further reflection needed the processing by the Agency of personal data collected in the context of joint operations for the purpose of risk analysis</p> |
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³⁸ OJ L 328, 5.12.2007, p. 17."

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| | | <i>in which the Agency is involved.</i> | |
| | | <i>4. The personal data shall be deleted as soon as the purpose for which they have been collected has been achieved. The term of storage shall in any event not exceed three months after the date of the collection of those data or when the data are received from other Union agencies, from the date of when the data have been received by the Agency.</i> | |
| | | <i>5. Personal data processed by the Agency for the purpose specified in this Article shall, subject to Article 13, be transmitted to Europol, on a case by case basis as specified in the working arrangement concluded between the Agency and Europol.</i> | |
| | | <i>6. Onward transmission or other communication of personal data processed by the Agency to other Union agencies or bodies shall be</i> | |

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| | | <i>subject to specific working agreements regarding the exchange of personal data and subject to the prior approval of the supervisory authorities within the respective agencies.</i> | |
| | | <i>7. Onward transmission or other communication of personal data processed by the Agency to third countries or other third parties shall be prohibited.</i> | |
| | <i>Article 11b) Processing of personal data in the context of joint return operations</i> | | |
| | In accordance with the measures referred to in the second paragraph of Article 11 a: | | |
| | 1. In performing its task of the organization and coordination of joint return operations of Member States referred to in Article 9, the Agency may process personal data of persons who are subject to such joint return operations. | | |
| | 2. The processing of such personal data shall respect the | | |

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| | principles of necessity and proportionality. In particular, it shall be strictly limited to those personal data which are required for the purposes of the joint return operation. | | |
| | 3. The personal data shall be deleted as soon as the purpose for which they have been collected has been achieved and no later than 10 days after the joint return operation. | | |
| | 4. In case the personal data are not transferred to the carrier by a Member State, the Agency may transfer such data. | | |
| | <i>Article 11c)³⁹ Processing of personal data collected during joint operations, pilot projects and the deployment of rapid border intervention teams</i> | | |
| | In accordance with the measures referred to in Article 11 a: | | |
| | 1. Without prejudice to the competence of Member States to collect personal data in the context of joint operations, pilot projects and | | |

³⁹ DE has a reservation on this Article.

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| | <p>the deployment of rapid border intervention teams, and subject to the limitations set out in paragraphs 2 and 3, the Agency may further process personal data collected by the Member States during such operational activities and transmitted to the Agency in order to contribute to the security of the external borders of the Member States of the European Union.</p> | | |
| | <p>2. Such further processing of personal data by the Agency shall be limited to personal data regarding persons who are suspected, by the relevant authorities of Member States, on reasonable grounds of involvement in cross-border criminal activities, in facilitation of illegal migration activities or in human trafficking activities as defined in Article 1(1)(a) and (b) of Council Directive 2002/90/EC1.</p> | | |

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| | 3. Personal data referred to in paragraph 2 shall be further processed by the Agency only for the following purposes: | | |
| | a) Transmission to Europol or other EU law enforcement Agencies, subject to Article 13 of this Regulation. | | |
| | b) Use for the preparation of risk analyses referred to in Article 4⁴⁰. | | |
| | 4. The personal data shall be deleted as soon as they have been transmitted to Europol or other European Agencies or used for the preparation of risk analyses referred to in article 4. The term of storage shall in any event not exceed three months after the date of the collection of those data. | | |
| | 5. The processing of such personal data shall respect the principles of necessity and proportionality. In particular, it shall be strictly limited to those personal data which are required for the purposes referred to in paragraph 3. | | |

⁴⁰ This issue will be dealt with at Coreper.

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| | 6. Without prejudice to (EC) Regulation 1049/2001, onward transmission or other communication of such personal data processed by the Agency to third countries or other third parties is prohibited. | | |
| <i>Article 11b</i> <i>Security rules on the protection of classified information and non-classified sensitive information</i> | <i>Article 11d</i> <i>Security rules on the protection of classified information and non-classified sensitive information</i> | | |
| 1. The Agency shall apply the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom ⁴¹ . This shall cover, inter alia, provisions for the exchange, processing and storage of classified information. | 1. The Agency shall apply the Commission's rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom ⁴² . This shall cover, inter alia, provisions for the exchange, processing and storage of classified information. | | |

⁴¹ OJ L 317, 3.12.2001, p. 1.

⁴² OJ L 317, 3.12.2001, p. 1.

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| | | <i>Amendment 89</i> | |
| 2. The Agency shall apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the European Commission." | 2. The Agency shall apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the European Commission. The Management Board shall establish measures for the application of these security principles." | 2. The Agency shall apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the Commission and develop accordingly its own detailed security policy. | |
| | | <i>Amendment 90</i> | |
| <u><i>"Article 13</i></u> <i>Cooperation with European Union agencies and bodies and international organisations</i> | <u><i>Article 13</i></u> <i>Cooperation with European Union agencies and bodies and international organisations</i> | <u><i>Article 13</i></u> <i>Cooperation with European Union agencies and bodies and international and other relevant organisations</i> | |
| | | <i>Amendment 91</i> | |
| The Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency, other European Union agencies and bodies, and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant | The Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency, other European Union agencies and bodies, and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty and the | The Agency shall cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency, other European Union agencies and bodies, and the international and other organisations competent in matters covered by this Regulation in the framework of working | |

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| <p>provisions of the Treaty and the provisions on the competence of those bodies.</p> | <p>provisions on the competence of those bodies. Onward transmission or other communication of personal data processed by the Agency to other European Union agencies or bodies shall be subject to specific working agreements regarding the exchange of personal data and subject to the prior approval of the European Data Protection Supervisor.</p> | <p>arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty and the provisions on the competence of those bodies. <i>In every case the Agency shall inform the European Parliament of any such arrangements without delay. The Agency may invite representatives of other Union agencies and bodies or international organisations to participate in its activities as referred to in Articles 3, 4 and 5. The participation of representatives of international organisations in the activities referred to in Articles 4 and 5 may take place only with the agreement of the Member States concerned and in those referred to in Article 3 only with the agreement of the host Member State. Such representatives shall receive appropriate training from the Agency prior to their participation.</i></p> | |
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| <p align="center"><u>Article 14</u> <i>Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries</i></p> | <p align="center"><u>Article 14</u> <i>Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries</i></p> | <p align="center"><u>Article 14</u> <i>Facilitation of operational cooperation with third countries and cooperation with competent authorities of third countries</i></p> | |
| | | <p align="center">Amendment 92</p> | |
| <p>1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy, including with regard to human rights.</p> | <p>1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy, including with regard to human rights⁴³.</p> | <p>1 In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall <i>seek to cooperate with the competent authorities of third countries</i> and shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy, <i>in particular through the European Neighbourhood Policy and within the framework of the Union for the Mediterranean,</i> including with regard to human rights. <i>For that reason, no operation may</i></p> | |

⁴³ IT has a reservation on this paragraph.

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| | | <i>take place under the jurisdiction of any third country. The establishment of cooperation with third countries shall serve to promote European border management standards, also covering respect for fundamental rights and human dignity.</i> | |
| | | Amendment 3 (whole text) | |
| <p>2. The Agency may deploy liaison officers, which should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of Member States' liaison officers set up pursuant to Council Regulation No 377/2004⁴⁴. Liaison officers shall only be deployed to third countries in which border management practices respect minimum human rights standards.</p> | <p><u>Par 2 of the Cion proposal would be par 3 in the Council text.</u></p> <p>3. The Agency may deploy its liaison officers, which should enjoy the highest possible protection to carry out their duties in third countries. They shall form part of the local or regional cooperation networks of Member States' immigration liaison officers set up pursuant to Council Regulation No 377/2004⁴⁵. Liaison officers shall only be deployed to third countries in which border management practices respect minimum human rights standards. Their deployment shall be approved</p> | <p>2. The Agency may deploy liaison officers, which should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of Member States' liaison officers set up pursuant to Council Regulation No 377/2004⁴⁶. Liaison officers shall only be deployed to third</p> | |

⁴⁴ OJ L 64, 2.3.2004, p. 1.

⁴⁵ OJ L 64, 2.3.2004, p. 1.

⁴⁶ OJ L 64, 2.3.2004, p. 1.

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| <p>Priority for deployment should be given to those third countries, which on the basis of risk analysis constitute a country of origin or transit regarding illegal migration. On a reciprocal basis the Agency may receive liaison officers posted by those third countries also, for a limited period of time. The Management Board shall adopt, on a proposal of the Executive Director, the list of priorities on a yearly basis in accordance with the provisions of Article 24.</p> | <p>by the Management Board. Within the framework of the European Union external relations policy, priority for deployment should be given to those third countries, which on the basis of risk analysis constitute a country of origin or transit regarding illegal migration. On a reciprocal basis the Agency may receive liaison officers posted by those third countries also, for a limited period of time. The Management Board shall adopt, on a proposal of the Executive Director, the list of priorities on a yearly basis in accordance with the provisions of Article 24.</p> | <p>countries in which border management practices respect minimum human rights standards. Priority for deployment should be given to those third countries, which on the basis of risk analysis constitute a country of origin or transit regarding <i>irregular</i> migration. On a reciprocal basis the Agency may receive liaison officers posted by those third countries also, for a limited period of time. The Management Board shall adopt, on a proposal of the Executive Director, the list of priorities on a yearly basis in accordance with the provisions of Article 24.</p> | |
| | | <p>Amendment 3 (whole text)</p> | |
| <p>3. The tasks of the liaison officers shall include, in compliance with European Union law and in accordance with fundamental rights, the establishment and maintaining of</p> | <p><u><i>Par 3 of the Cion proposal would be par 4 in the Council text.</i></u></p> <p>4. The tasks of the Agency's liaison officers shall include, in compliance with European Union law and in accordance with fundamental rights, the establishment and maintaining of contacts with the competent authorities</p> | <p>3. The tasks of the liaison officers shall include, in compliance with European Union law and in accordance with fundamental rights, the</p> | |

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| <p>contacts with the competent authorities of the third country to which they are assigned to with a view to contribute to the prevention of and fight against illegal immigration and the return of illegal migrants.</p> | <p>of the third country to which they are assigned to with a view to contribute to the prevention of and fight against illegal immigration and the return of illegal migrants.</p> | <p>establishment and maintaining of contacts with the competent authorities of the third country to which they are assigned to with a view to contribute to the prevention of and fight against <i>irregular</i> immigration and the return of <i>irregular</i> migrants.</p> | |
| | | <p><i>Amendment 93</i></p> | |
| <p>4. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the Union's external relations policy. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation.</p> <p>The Agency may also invite representatives of third countries,</p> | <p><u><i>Par 4 of the Cion proposal would be par 5 in the Council text.</i></u></p> <p>5. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the Union's external relations policy. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation.</p> <p><u><i>The last two sentences of par. 4 of the Cion proposal would be par. 6 in the Council text</i></u></p> <p>6⁴⁷. The Agency may also invite representatives of third countries, other European Union agencies and bodies</p> | <p>4. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the Union's external relations policy. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation.</p> <p>The Agency may also invite representatives of third</p> | |

⁴⁷ This issue is to be dealt with at COREPER

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| <p>other European Union agencies and bodies or international organisations to participate in its activities referred to in Articles 3, 4 and 5. These representatives shall receive the appropriate training from the Agency prior to their participation.</p> | <p>or international organisations to participate in its activities referred to in Articles 3, 4 and 5 and in accordance with Article 3a(1)(j). These representatives shall receive the appropriate training from the Agency prior to their participation.</p> | <p>countries to participate in its activities referred to in Articles 4 and 5 <i>with the agreement of the Member States concerned, as well as in those referred to in Article 3, with the agreement of the host Member State</i>. These representatives shall receive the appropriate training from the Agency prior to their participation.</p> | |
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| | | <i>Amendment 94</i> | |
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| <p>5. When concluding bilateral agreements with third countries as referred to in Article 2 (2) Member States shall, where appropriate, include provisions concerning the role and competencies of the Agency, in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the activities referred to in Article 3.</p> | <p><u><i>Par 5 of the Cion proposal would be par 7 in the Council text.</i></u></p> <p>7. When concluding bilateral agreements with third countries as referred to in Article 2 (2) Member States may include provisions concerning the role and competencies of the Agency, in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the activities referred to in Article 3.</p> | <p>5. When concluding bilateral agreements with third countries as referred to in Article 2(2) Member States shall, where appropriate, include provisions concerning the role and competencies of the Agency, in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the activities referred to in Article 3. <i>The provisions of those bilateral agreements shall be compatible with the legal framework governing the Agency. In every case the Agency shall inform the European Parliament of any such provisions without delay.</i></p> | |

| | | <i>Amendment 95</i> | |
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| <p>6. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty.</p> | <p><u>Par 6 of the Cion proposal would be par 2 in the Council text.</u></p> <p>2. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty.</p> | <p>6. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty. <i>Those working arrangements shall be purely operational texts.</i></p> | |
| | | <i>Amendment 96</i> | |
| <p>7. The activities referred to in paragraphs 2 and 6 shall be subject to receiving a prior favourable opinion of the Commission."</p> | <p>deleted.</p> | <p>7. The activities referred to in paragraphs 2 and 6 shall be subject to receiving a prior favourable opinion of the Commission, <i>and the European Parliament shall be immediately and fully informed.</i></p> | |

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| | | <i>Amendment 97</i> | |
| | | <i>(16a) In Article 15, paragraph 1 is replaced by the following:</i> | |
| | | "The Agency shall be a body of the Union. It shall have legal personality." | |
| (17) The following Article 15a is inserted: | (17) The following Article 15a is inserted: | | |
| <i>"Article 15a Headquarters Agreement</i> | <i>"Article 15a Headquarters Agreement</i> | | |
| The necessary arrangements concerning the accommodation to be provided for the Agency in the Member State in which the Agency has its seat and the facilities to be made available by that State, as well as the specific rules applicable to the Executive Director, the Deputy Executive Director, the members of the Management Board, the staff of the Agency and members of their families, in that State shall be laid down in a Headquarters Agreement between the Agency and the Member State in which the Agency has its seat. The | The necessary arrangements concerning the accommodation to be provided for the Agency in the Member State in which the Agency has its seat and the facilities to be made available by that State, as well as the specific rules applicable to the Executive Director, the Deputy Executive Director, the members of the Management Board, the staff of the Agency and members of their families, in that State shall be laid down in a Headquarters Agreement between the Agency and the Member State in which the Agency has its seat. The Headquarters Agreement shall be concluded after obtaining the approval | | |

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| <p>Headquarters Agreement shall be concluded after obtaining the approval of the Management Board. The Member State in which the Agency has its seat should provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections."</p> | <p>of the Management Board. The Member State in which the Agency has its seat should provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections."</p> | | |
| | | <p><i>Amendment 98</i></p> | |
| | | <p><i>(17a) Article 16 is replaced by the following:</i></p> | |
| | | <p><i>"Article 16 Specialised branches and regional operational offices</i></p> | |
| | | <p>The Management Board of the Agency shall evaluate the need for, and decide upon the setting up of, specialised branches and/or regional operational offices in the Member States, subject to their consent, taking into account that due priority should be given to the</p> | |

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| | | <p>operational and training centres already established and specialised in the different aspects of control and surveillance of the land, air and maritime borders respectively.</p> <p>The specialised branches <i>and regional operational offices</i> of the Agency shall develop best practices with regard to the particular types of external borders <i>or the particular geographic region</i> for which they are responsible. The Agency shall ensure the coherence and uniformity of such best practices.</p> <p>Each specialised branch <i>and regional operational office</i> shall submit a detailed annual report to the Executive Director of the Agency on its activities and shall provide any other type of information relevant for the coordination of operational cooperation."</p> | |
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| (18) In Article 17, paragraph 3 is replaced by the following: | (18) In Article 17, paragraph 3 is replaced by the following: | | |
| | | <i>Amendment 99</i> | |
| <p>"3. For the purpose of implementing Article 3b(5) only an Agency's staff member subject to the Staff Regulations of Officials and to Title II of the Conditions of employment of other servants of the European Communities employed by the Agency can be designated as coordinating officer in accordance with Article 8g. For the purpose of implementing Article 3b(2) only national experts seconded by a Member State to the Agency can be designated to be attached to the Frontex Joint Support Teams. The Agency shall designate those national experts that shall be attached to the Frontex Joint Support Teams in accordance with that Article."</p> | <p>"3. For the purpose of implementing Article 3b(5) only an Agency's staff member subject to the Staff Regulations of Officials and to Title II of the Conditions of employment of other servants of the European Communities employed by the Agency can be designated as coordinating officer in accordance with Article 8g. For the purpose of implementing Article 3b (3) only national experts seconded by a Member State to the Agency can be designated to be attached to the Frontex Joint Support Teams. The Agency shall designate those national experts that shall be attached to the Frontex Joint Support Teams in accordance with that Article."</p> | <p>3. For the purpose of implementing Article 3b(5) only an Agency's staff member subject to the Staff Regulations of Officials and to Title II of the Conditions of employment of other servants of the European Communities employed by the Agency can be designated as coordinating officer in accordance with <i>Article 3g</i>. For the purpose of implementing Article 3b(2) only national experts seconded by a Member State to the Agency can be designated to be attached to <i>the EU Border Guard System</i>. The Agency shall designate those national experts who shall be attached to <i>the EU Border Guard System</i> in accordance with that Article.</p> | |

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| (19) In Article 17 the following paragraphs 4 and 5 are added: | (19) In Article 17 the following paragraphs 4 and 5 are added: | | |
| "4. The Management Board shall adopt the necessary implementing measures in agreement with the Commission pursuant to the arrangements provided for in Article 110 of the Staff Regulations of Officials of the Union. | "4. The Management Board shall adopt the necessary implementing measures in agreement with the Commission pursuant to the arrangements provided for in Article 110 of the Staff Regulations of Officials of the Union. | | |
| 5. The Management Board may adopt provisions to allow national experts from Member States to be seconded to the Agency. Those provisions shall take into account the requirements of Article 3b(2), in particular the fact that they are considered as guest officers and have the tasks and powers referred to in Article 10." | 5. The Management Board may adopt provisions to allow national experts from Member States to be seconded to the Agency. Those provisions shall take into account the requirements of Article 3b (3), in particular the fact that they are considered as guest officers and have the tasks and powers referred to in Article 10. They shall include provisions on the conditions of deployment." | | |
| (20) Article 20 is amended as follows: | (20) Article 20 is amended as follows: | | |
| (a) Paragraph 2 is amended as follows: | (a) Paragraph 2 is amended as follows: | | |
| (i) point (h) is replaced by the | (i) point (h) is replaced by the | | |

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| following: | following: | | |
| "(h) establish the organisational structure of the Agency and adopt the Agency's staff policy, in particular the multi-annual staff policy plan and submit the latter, in accordance with the relevant provisions of the framework Financial Regulation for the bodies referred to in Article 185 of the general Financial Regulation ⁴⁸ , to the Commission and the budgetary authority after receiving a favourable opinion of the Commission;" | "(h) establish the organisational structure of the Agency and adopt the Agency's staff policy, in particular the multi-annual staff policy plan [...]. In accordance with the relevant provisions of the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002⁴⁹ the multi-annual staff policy plan shall be submitted to the Commission and the budgetary authority after receiving a favourable opinion of the Commission;" | | |
| (ii) The following point (i) is inserted: | (ii) The following point (i) is inserted: | | |
| "(i) adopt the Agency's Multi Annual Plan aiming at outlining the future long term strategy regarding the activities of the Agency." | "(i) adopt the Agency's Multi Annual Plan aiming at outlining the future long term strategy regarding the activities of the Agency." | | |
| (b) Paragraph 4 is replaced by the following: | (b) Paragraph 4 is replaced by the following: | | |

⁴⁸ Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72), amended by Commission Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.1.2008, p. 23).

⁴⁹ Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72), amended by Commission Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.1.2008, p. 23).

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| "4. The Management Board may advise the Executive Director on any matter strictly related to the development of operational management of the external borders, including activities related to research as defined in Article 6." | "4. The Management Board may advise the Executive Director on any matter strictly related to the development of operational management of the external borders, including activities related to research as defined in Article 6." | | |
| (21) Article 21 is amended as follows: | (21) Article 21 is amended as follows: | | |
| (a) In Paragraph 1 the last sentence is replaced by the following: | (a) In Paragraph 1 the last sentence is replaced by the following: | | |
| | | <i>Amendment 100</i> | |
| "This term of office shall be extendable." | "This term of office shall be extendable." | This term of office shall be <i>renewable.</i> | |
| (b) Paragraph 3 is replaced by the following: | (b) Paragraph 3 is replaced by the following: | | |

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| <p>"3. Countries associated with the implementation, application and development of the Schengen acquis shall participate in the Agency. They shall have one representative and an alternate each in the Management Board. Under the relevant provisions of their association agreements, arrangements have been developed that specify the nature and extent of, and the detailed rules for, the participation by these countries in the work of the Agency, including provisions on financial contributions and staff."</p> | <p>"3. Countries associated with the implementation, application and development of the Schengen acquis shall participate in the Agency. They shall have one representative and an alternate each in the Management Board. Under the relevant provisions of their association agreements, arrangements have been developed that specify the nature and extent of, and the detailed rules for, the participation by these countries in the work of the Agency, including provisions on financial contributions and staff."</p> | | |
| | | <p><i>Amendment 101</i></p> | |
| | | <p><i>(21a) In Article 25, paragraph 2 is replaced by the following:</i></p> | |
| | | <p>"2. The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks, in particular on the general report of the Agency for the previous year, the work</p> | |

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| | | <i>programme for the coming year and the Agency's multi-annual plan referred to in Article 20(i)."</i> | |
| (22) In Article 25 (3) the following point (g) shall be added: | (22) In Article 25 (3) the following point (g) shall be added: | | |
| "(g) to implement the operational plan referred to in Articles 3a and 8g." | "(g) Ensure the implementation of the operational plan referred to in Articles 3a and 8g." | | |
| | | <i>Amendment 102</i> | |
| | | <i>(22a) The following Article is inserted:</i> | |
| | | <i>"Article 26a Advisory Board on Fundamental Rights</i> | |
| | | <i>1. The Director and the Management Board shall be assisted, in matters concerning the Agency's activities having implications for fundamental rights, by an Advisory Board on Fundamental Rights.</i> | |
| | | <i>2. In pursuance of its</i> | |

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| | | <p><i>duties, the Advisory Board shall have the right to make any request for information or investigation in relation to any joint operation, rapid border intervention mission or pilot projects as it may deem necessary. In such cases, it shall be granted full access to information, in particular with regard to joint operations, rapid border intervention missions and pilot projects that shall be suspended where there are cases of violation of fundamental rights and international protection obligations.</i></p> | |
| | | <p><i>3. This Advisory Board shall consist of representatives of the European Asylum Support Office, the Fundamental Rights Agency, the United Nations High Commissioner for Refugees and other relevant organisations. The Advisory Board shall meet on a regular basis.</i></p> | |

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| | | <p>4. The Advisory Board shall have access to the evaluation reports of the joint operations and pilot projects referred to in Article 3(4) and the Return Operation Reports referred to in Article 9(3). It shall also be consulted when the Agency develops the Code of Conduct referred to in Article 9(2) and the common core curricula referred to in Article 5.</p> | |
| | | <p>5 Every year, the Advisory Board shall prepare a report on compliance by the Agency with fundamental rights, notably the relevant Union law, international law and obligations related to international protection.</p> <p>The report shall be transmitted to the Director, the Management Board, the European Parliament, the Council and the Commission and shall be</p> | |

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| | | <i>made public."</i> | |
| (23) In Article 33, the following paragraphs 2a and 2b are inserted: | (23) In Article 33, the following paragraphs 2a and 2b are inserted: | | |
| | | <i>Amendment 103</i> | |
| "2a. The evaluation shall analyse the needs for the Agency to employ independent border guards acting under the instructions of the Agency, including a detailed description of the legal framework that would need to be set in place for that purpose. | 2a⁵⁰. The next evaluation shall also analyse the needs for further increased coordination of the management of the external borders of the Member States, including the feasibility of the creation of a European system of border guards." | 2a. The evaluation shall analyse the need <i>for the further development of the EU Border Guard System and</i> for the Agency to employ independent border guards acting under its instructions and include a detailed description of the legal framework that would need to be set in place for those purposes . | |

⁵⁰ **SI** has a reservation on this Article.

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| 2b. The evaluation shall include a specific analysis on the way the Charter of Fundamental Rights was respected pursuant to the application of the Regulation." | "2b. The evaluation shall include a specific analysis on the way the Charter of Fundamental Rights was respected pursuant to the application of the Regulation." | | |
| <i>Article 2 Entry into force</i> | <i>Article 2 Entry into force</i> | | |
| This regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | This regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | | |
| Done at Brussels, [...] | Done at Brussels, | | |
| <i>For the European Parliament For the Council The President The President [...][...]</i> | <i>For the European Parliament For the Council The President The President</i> | | |