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**A7-0461/2013**

12.12.2013

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union  
(COM(2013)0197 – C7-0098/2013 – 2013/0106(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Carlos Coelho

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout, e.g. 'ABCD'. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union**

**(COM(2013)0197 – C7-0098/2013 – 2013/0106(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0197),
  - having regard to Article 294(2) and Article 77(2)(d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0098/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to its resolution of 23 October 2013 on organised crime, corruption, and money laundering: recommendations on action and initiatives to be taken<sup>1</sup>, with particular reference to the fight against human trafficking and death traffickers,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Transport and Tourism (A7-0461/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 1**

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<sup>1</sup> Texts adopted, P7\_TA(2013)0444.

*Text proposed by the Commission*

(1) The objective of Union policy in the field of the Union external borders is to ensure the efficient monitoring of the crossing of external borders including through border surveillance. The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

**Amendment 2**

**Proposal for a regulation**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

(1) The objective of Union policy in the field of the Union external borders is to ensure the efficient monitoring of the crossing of external borders including through border surveillance, ***in which the saving of lives and the protection of fundamental rights should be a priority.*** The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

*Amendment*

***(1a) Article 80 of the Treaty on the Functioning of the European Union (TFEU) provides that the policies of the Union set out in Chapter 2 on border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial***

*implications, between the Member States, and that, whenever necessary, Union acts under that Chapter are to contain appropriate measures to give effect to that principle.*

*Justification*

*It is important to recall Article 80 of the TFEU and the principle of solidarity between Member States.*

**Amendment 3**

**Proposal for a regulation**

**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*(1b) The lack of a Union burden sharing system contributes to the overburdening of the Member States bordering the Mediterranean Sea.*

**Amendment 4**

**Proposal for a regulation**

**Recital 2**

*Text proposed by the Commission*

*Amendment*

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No 2007/2004 of 26 October 2004<sup>13</sup> is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations *may* involve humanitarian emergencies and rescue at sea. Specific rules with regard to

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No 2007/2004 of 26 October 2004<sup>13</sup> is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations involve humanitarian emergencies and rescue at sea. Specific rules with regard to border

border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.

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<sup>13</sup> OJ L 349, 25.11.2004, p. 1.

surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.

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<sup>13</sup> OJ L 349, 25.11.2004, p. 1.

### *Justification*

*Search-and-rescue operations should be a major component of border surveillance action. The call for greater focus on rescue at sea also follows on from joint resolution 2013/2827(RSP).*

## **Amendment 5**

### **Proposal for a regulation Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*(2a) Cooperation with neighbouring third countries is crucial to prevent unauthorised border crossings, to counter cross-border criminality and to make search and rescue operations more efficient. In accordance with Regulation (EC) No 2007/2004 and insofar as the full respect for the fundamental rights of migrants is ensured, the Agency may cooperate with the competent authorities of third countries, in particular as regards risk analysis and training, and should facilitate operational cooperation between Member States and third countries.*

## **Amendment 6**

### **Proposal for a regulation Recital 3**



*Text proposed by the Commission*

(3) The establishment of the European Border Surveillance System (EUROSUR) established by Regulation (EU) No [...] of the European Parliament and of the Council of [...] should strengthen the information exchange and operational cooperation between Member States and with the Agency. This ensures that the situational awareness and reaction capability of Member States improves considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime and for contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations.

*Amendment*

(3) The establishment of the European Border Surveillance System (EUROSUR) established by Regulation (EU) No **1052/2013** of the European Parliament and of the Council of **22 October 2013** should strengthen the information exchange and operational cooperation between Member States and with the Agency. This ensures that the situational awareness and reaction capability of Member States improves considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime, ***including human trafficking***, and for contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations. ***Member States and the Agency should introduce in EUROSUR all relevant information collected during these operations.***

**Amendment 7**

**Proposal for a regulation**

**Recital 4**

*Text proposed by the Commission*

(4) During border surveillance operations, Member States and the Agency should respect their obligations under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the European

*Amendment*

(4) During border surveillance operations, Member States and the Agency should respect their obligations, ***including the principle of non-refoulement***, under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the

Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant international instruments.

Convention relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *the UN Convention on the Right of the Child* and other relevant international instruments.

## Amendment 8

### Proposal for a regulation Recital 5

#### *Text proposed by the Commission*

(5) In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)<sup>14</sup> and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, non-discriminatory and it should fully respect human dignity, fundamental rights **and** the rights of refugees and asylum seekers, **including** the principle of non-refoulement. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of ***Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status***<sup>15</sup> with regard to applications for ***asylum*** made in the territory, including at the border or in the transit zones of Member States.

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<sup>14</sup> OJ L 105, 13.4.2006, p. 1.

#### *Amendment*

(5) In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)<sup>14</sup> and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, non-discriminatory and it should fully respect human dignity, fundamental rights, the rights of refugees and asylum seekers **and** the principle of non-refoulement. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of ***Directive 2013/32/EU of the European Parliament and of the Council***<sup>14a</sup> with regard to applications for ***international protection*** made in the territory, including at the border, ***in the territorial waters*** or in the transit zones of Member States.

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<sup>14</sup> OJ L 105, 13.4.2006, p. 1.

<sup>14a</sup> ***Directive 2013/32/EU of the European Parliament and of the Council of 26 June***

*2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).*

<sup>15</sup> *OJ L 326, 13.12.2005, p. 13.*

*Justification*

*The principle of non-refoulement doesn't apply only to refugees and asylum seekers and the two issues should be separated. It is necessary also to update the reference to the Procedures Directive, as it was adopted since the Commission made its proposal.*

**Amendment 9**

**Proposal for a regulation**

**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

*(5a) This Regulation should be applied in full compliance with the principle of non-refoulement, according to which no one may be expelled, removed or extradited to, or forced to enter, a country where there is a real risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment or any serious violations of their human rights, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion; or from which there is a serious risk of such an expulsion, removal or extradition to another country.*

**Amendment 10**

**Proposal for a regulation**

**Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

*(5b) The possible existence of an arrangement between a Member State and a third country cannot absolve Member*

*States from their international obligations under international and Union law under the principle of non-refoulement.*

## Amendment 11

### Proposal for a regulation Recital 6

*Text proposed by the Commission*

(6) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from *those* obligations whenever they are aware or ought to be aware that *systemic* deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country *amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment* or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of non-refoulement.

*Amendment*

(6) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from *their* obligations *under international and Union law, in particular as regards compliance with the principle of non-refoulement*, whenever they are aware or ought to be aware that deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country *do not make it possible to conduct an individual, fair and effective assessment* or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of non-refoulement. *Units deployed by Member States or the Agency should also be guided by the provisions of Union law and international law in instances where operations take place in the territorial waters of third countries and those countries apply other rules.*

*Justification*

*Vulnerable persons should not be deported to countries where there is no suitable procedure for requesting international protection.*

## Amendment 12

### Proposal for a regulation Recital 6 a (new)

***(6a) In the spirit of Article 80 of the TFEU, application of Regulation (EU) No 604/2013 of the European Parliament and of the Council<sup>14b</sup> should not prevent Member States from applying, on a voluntary basis, a system of relocation of migrants and asylum seekers.***

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***<sup>14b</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).***

### **Amendment 13**

#### **Proposal for a regulation**

##### **Recital 7**

*Text proposed by the Commission*

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.

*Amendment*

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance ***proactively and without delay*** to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found. ***Accordingly, no measures, including criminal procedures and sanctions, should be taken deterring ship masters***

*from rendering assistance to persons in distress at sea.*

#### **Amendment 14**

##### **Proposal for a regulation**

##### **Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

*(8a) Clear rules should ensure that, when persons in distress at sea are detected, the responsible Rescue Coordination Centre is easily and quickly identified. In case of doubt, e.g. when a boat is floating between different search and rescue regions, the International Coordination Centre should appoint the responsible Rescue Coordination Centre.*

#### **Amendment 15**

##### **Proposal for a regulation**

##### **Recital 8 b (new)**

*Text proposed by the Commission*

*Amendment*

*(8b) When disembarking intercepted or rescued persons in a Member State, the Agency and its Member States should fully respect the principle of solidarity and fair responsibility sharing in accordance with Article 80 of the TFEU.*

#### **Amendment 16**

##### **Proposal for a regulation**

##### **Recital 9**

*Text proposed by the Commission*

*Amendment*

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an

operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation or pilot project takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation. In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency.

operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation, pilot project ***or rapid intervention*** takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation. ***It should also include rules and procedures which ensure that persons with international protection needs, victims of human trafficking, unaccompanied minors and other vulnerable persons are identified during the operation and provided with appropriate assistance, including access to international protection.*** In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency ***in accordance with international law and fundamental rights.***

## Amendment 17

### Proposal for a regulation

#### Recital 11

##### *Text proposed by the Commission*

(11) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, ***notably the right to life, human dignity***, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, non-refoulement, non-discrimination, the right to an effective remedy, ***the right to asylum*** and the rights of the child.

##### *Amendment*

(11) This Regulation respects the fundamental rights and observes the principles recognised by ***Articles 2 and 6 of the Treaty on European Union (TEU) and by*** the Charter of Fundamental Rights of the European Union, ***in particular respect for human dignity, the right to life, the prohibition of trafficking in human beings, the right to liberty and security, the right to the protection of personal data, the right to asylum and to protection against removal and expulsion,*** non-refoulement, non-discrimination, the

right to an effective remedy and the rights of the child. ***This Regulation should be applied by Member States and the Agency in accordance with those rights and principles. This Regulation also respects the human rights and fundamental freedoms laid down by the European Convention for the Protection of Human Rights and Fundamental Freedoms.***

## Amendment 18

### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) This Regulation does not rule out the possibility of determining the details of joint operations at sea in specific operational plans, taking into account the specific requirements and characteristics of the context in which the Member States are operating.***

*Justification*

*This regulation establishes a legal reference framework which should enable Member States to determine, with an appropriate degree of flexibility, the details of operations in operational plans.*

## Amendment 19

### Proposal for a regulation Article 2 – point 4

*Text proposed by the Commission*

*Amendment*

4. ‘participating Member State’ means a Member State which participates in a sea operation by providing ***assets or human resources***, but which is not a host Member State;

4. ‘participating Member State’ means a Member State which participates in a sea operation by providing ***technical equipment or border guards and other staff***, but which is not the host Member State;



### *Justification*

*The vocabulary used should be aligned to that of the Frontex Regulation. It should be ensured that the implementation of the obligations under international refugee and humanitarian law is part of the operational plan.*

## **Amendment 20**

### **Proposal for a regulation Article 2 – point 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. ‘operational plan’ means the operational plan referred to in Article 3a or Article 8e of Regulation (EC) No 2007/2004;***

### *Justification*

*As the term "operational plan" is used in Article 10, it should be made clear what it refers to.*

## **Amendment 21**

### **Proposal for a regulation Article 2 – point 11**

*Text proposed by the Commission*

*Amendment*

11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life ***including as regards*** the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination;

11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life ***as well as*** the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination, ***in compliance with the principle of non-refoulement;***

### *Justification*

*A clear definition of 'place of safety' is necessary as this is one of the central issues in search and rescue obligations under international law.*

## Amendment 22

### Proposal for a regulation Article 3

*Text proposed by the Commission*

Measures taken for the purpose of a sea operation shall be conducted in a way that **does not put at risk** the safety of the persons intercepted or rescued and the safety of the participating units.

*Amendment*

Measures taken for the purpose of a sea operation shall be conducted in a way that, **in all instances, ensures** the safety of the persons intercepted or rescued and the safety of the participating units.

## Amendment 23

### Proposal for a regulation Article 4 – paragraph 1

*Text proposed by the Commission*

1. No person shall be disembarked in, **or** otherwise handed over to the authorities of a country where there is a serious risk that such person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

*Amendment*

1. No person shall be disembarked in, **conducted towards**, otherwise handed over to the authorities of, **or forced to enter**, a country where there is a serious risk that such person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment **or any serious violations of their human rights, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion**, or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

## Amendment 24

### Proposal for a regulation Article 4 – paragraph 2

2. Before ***deciding on disembarkation in a third country, the participating units shall take into account*** the general situation in ***that third country and intercepted*** or rescued persons shall not be disembarked in ***that*** third country when the host Member State or the participating Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.

2. Before ***and during a sea operation, the host Member State and the participating Member States shall examine*** the general situation in ***the neighbouring third countries and the existence of agreements and projects on migration and asylum, carried out in accordance with Union law and through Union funds. Intercepted*** or rescued persons shall not be disembarked in, ***conducted towards, otherwise handed over to the authorities of, or forced to enter, a*** third country when the host Member State, the participating Member States ***or the Agency*** are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1. ***Those Member States shall provide that information to the participating units. For that purpose, they shall use information from a range of sources, including in particular other Member States, the European External Action Service, the European Asylum Support Office, the Agency, the United Nations High Commissioner for Refugees and other relevant international and non-governmental organisations.***

## **Amendment 25**

### **Proposal for a regulation Article 4 – paragraph 3**

3. ***In case of*** disembarkation in a third country, the participating units shall identify the intercepted or rescued persons and assess their personal circumstances ***to the extent possible before disembarkation.*** They shall inform the intercepted or rescued persons of the place of disembarkation ***in an appropriate way*** and they shall give them an opportunity to

3. ***If*** disembarkation in a third country is ***considered or in the cases provided for in point (b) of Article 6(1a) and point (b) of Article 7(1a),*** the participating units shall identify the intercepted or rescued persons and assess their personal circumstances, ***including their medical conditions and other circumstances that might make them vulnerable or subject to***

express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*.

*international protection needs, before a decision is made.* They shall inform the intercepted or rescued persons of the place of disembarkation *in a language which those persons understand or may reasonably be presumed to understand* and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of non-refoulement. *Further details shall be provided for in the operational plan.*

## Amendment 26

### Proposal for a regulation Article 4 – paragraph 4

*Text proposed by the Commission*

4. **The** participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation.

*Amendment*

4. **Throughout the sea operation, the** participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, **disabled persons**, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation. **For this purpose, participating units shall be able to draw on medical doctors, interpreters and other relevant experts.**

## Amendment 27

### Proposal for a regulation Article 4 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. If there are grounds to believe that disembarkation of persons intercepted or rescued at sea in the proposed place would be in violation of the principle of non-refoulement, the participating units shall not share personal information regarding the persons with the authorities of the country of origin or with the**

*authorities of other third countries.*

*Justification*

*The amendment aims at bringing the regulation in line with the joint guidelines on rescue at sea by the International Maritime Organisation, the International Chamber of Shipping and UNHCR.*

**Amendment 28**

**Proposal for a regulation**

**Article 4 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***4b. The participating units shall treat all persons on board in a humane way.***

*Justification*

*The amendment brings the regulation in line with Article 9 of the Protocol against the Smuggling of Migrants.*

**Amendment 29**

**Proposal for a regulation**

**Article 4 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. Border guards *participating* in a sea operation ***shall be trained with regard to relevant provisions of*** fundamental rights, ***refugee law*** and the international legal regime of search and rescue.

***5. All border guards and other personnel of the Member States shall receive, prior to their participation*** in a sea operation, ***training in relevant Union and international law, including*** fundamental rights, ***children's rights and access to international protection and guidelines for the purpose of identifying persons seeking protection and redirecting them towards the appropriate facilities,*** and the international legal regime of search and rescue. ***Each participating unit shall include at least one person with medical training.***

## Amendment 30

### Proposal for a regulation

#### Article 5 – paragraph 1

*Text proposed by the Commission*

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance. The participating units shall communicate information about the ship immediately to the International Coordination Centre.

*Amendment*

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance ***taking all due precautions***. The participating units shall communicate information about the ship immediately to the International Coordination Centre, ***including information about the situation of persons on board, in particular whether there is an imminent risk to their lives or health. It shall transmit the information to the National Coordination Centre of the host Member State.***

## Amendment 31

### Proposal for a regulation

#### Article 5 – paragraph 2

*Text proposed by the Commission*

2. Where the ship is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.

*Amendment*

2. Where the ship is about to enter or it has entered the territorial sea or, ***where formally proclaimed***, the contiguous zone, of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.

## Amendment 32

### Proposal for a regulation

#### Article 5 – paragraph 3

*Text proposed by the Commission*

3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea outside the scope of *a* sea operation to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned.

*Amendment*

3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea, ***which are*** outside the scope of ***the*** sea operation, to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned. ***When necessary and for the purposes laid down in this Regulation, the authorities of the Member States concerned and the Agency shall make use of the EUROSUR framework.***

**Amendment 33**

**Proposal for a regulation**  
**Article 6 – paragraph 1**

*Text proposed by the Commission*

1. In the territorial sea of the host Member State or a participating Member State, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

(b) stopping, boarding and searching the ship, its cargo and persons on board, and

*Amendment*

1. In the territorial sea of the host Member State or a participating Member State, the participating units shall take one or more of the following measures, ***subject to the authorisation of the Member State to which the territorial sea belongs,*** when there are reasonable grounds to suspect that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board, ***including their health conditions, in order to assess if there are persons with special medical needs on board;***

(b) stopping, boarding and searching the ship, its cargo and persons on board, and

questioning persons on board;

(c) making persons on board aware *that* they may not be authorised to cross the border and that persons directing the *craft* may face penalties for facilitating the voyage;

(d) seizing the ship and apprehending persons on board;

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the *vessel* or steaming nearby until *the ship* is heading on such course;

(f) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State.

## Amendment 34

### Proposal for a regulation

#### Article 6 – paragraph 1 b (new)

*Text proposed by the Commission*

questioning persons on board;

(c) making persons on board aware *as to why* they may not be authorised to cross the border and that persons directing the *ship* may face penalties for facilitating the voyage.

***1a. If the suspicions that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea prove to be founded, the host Member State or the participating Member State to which the territorial sea belongs may take one or more of the following measures:***

(a) seizing the ship and apprehending persons on board;

(b) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the *ship* or steaming nearby until *it* is heading on such course;

(c) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State ***in accordance with the operational plan.***

*Amendment*

***1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:***

***(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and***

***(ii) has conducted, if applicable, the measures provided for in Article 4(3) and (4).***



*Article 6 of Directive 2013/32/EU shall apply.*

## **Amendment 35**

### **Proposal for a regulation Article 6 – paragraph 3**

*Text proposed by the Commission*

3. Where there are reasonable grounds to suspect that ***a ship without nationality or one that may be assimilated to a ship without nationality*** is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

*Amendment*

3. Where there are reasonable grounds to suspect that ***a stateless ship*** is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

## **Amendment 36**

### **Proposal for a regulation Article 6 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection with regard to applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of Member States.***

## Amendment 37

### Proposal for a regulation

#### Article 7 – paragraph 1

##### *Text proposed by the Commission*

1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(c) making persons on board aware *that* they *are* may not be authorised to cross the border and that persons directing the *craft* may face penalties for facilitating the voyage;

(d) seizing the ship and apprehending persons on board;

(e) *ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or*

##### *Amendment*

1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board, *including their health conditions, in order to assess if there are persons with special medical needs on board;*

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(c) making persons on board aware *as to why* they may not be authorised to cross the border and that persons directing the *ship* may face penalties for facilitating the voyage;

*1a. If the suspicions that a ship is engaged in the smuggling of migrants by sea prove to be founded, the participating unit may take one or more of the following measures subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:*

(a) seizing the ship and apprehending persons on board;

*steaming nearby until the ship is heading on such course;*

(f) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;

(g) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation.

(b) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;

(c) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation.

## **Amendment 38**

### **Proposal for a regulation**

#### **Article 7 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:***

***(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and***

***(ii) has conducted, if applicable, the activities provided for in Article 4(3) and (4).***

## **Amendment 39**

### **Proposal for a regulation**

#### **Article 7 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***1c. When there are reasonable grounds to suspect that a ship is engaged in trafficking of human beings and illegal immigration, assistance shall be given to victims.***

## Amendment 40

### Proposal for a regulation

#### Article 7 – paragraph 4

##### *Text proposed by the Commission*

4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which **must** be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.

##### *Amendment*

4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which **shall** be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.

##### *Justification*

*Linguistic correction.*

## Amendment 41

### Proposal for a regulation

#### Article 7 – paragraph 8

##### *Text proposed by the Commission*

8. Where there are reasonable grounds to suspect that ***a ship without nationality or one that may be assimilated to a ship without nationality*** is engaged in the smuggling of migrants by sea, the participating unit may board and ***stop*** the ship with a view to verifying its statelessness. If suspicions prove to be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law and international law.

##### *Amendment*

8. Where there are reasonable grounds to suspect that ***a stateless ship*** is engaged in the smuggling of migrants by sea, the participating unit may board and ***search*** the ship with a view to verifying its statelessness. If suspicions prove to be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law, ***Union law*** and international law.

### *Justification*

*Since "stateless ship" is defined in Article 2, it should be used throughout the text. The wording should be aligned with the Palermo Protocol (Article 8(7)), which provides that the ship may be "boarded and searched".*

### **Amendment 42**

#### **Proposal for a regulation Article 7 – paragraph 10**

##### *Text proposed by the Commission*

10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be ***designated under national law as an authority for the*** authorisation to verify the right of a ship to fly ***the flag of the Member State concerned*** or to take any of the measures laid down in paragraph 1.

##### *Amendment*

10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be ***responsible to facilitate communications with the relevant authorities of the Member State concerned in seeking*** authorisation to verify the right of a ship to fly ***its*** flag or to take any of the measures laid down in paragraph 1.

### **Amendment 43**

#### **Proposal for a regulation Article 8 – paragraph 1**

##### *Text proposed by the Commission*

1. In the zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(2).

##### *Amendment*

1. In the ***formally proclaimed*** zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(***1b***) and (***2***) ***and Article 4***.

### *Justification*

*Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal state to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws and regulations.*

## Amendment 44

### Proposal for a regulation Article 9

*Text proposed by the Commission*

1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.
2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.
3. ***A ship or the persons on board shall be considered to be in a situation of uncertainty in particular when:***
  - (a) doubt exists as to the safety of a ship or the persons on board; or***
  - (b) there is lack of information concerning progress or position of a ship.***
4. ***A ship or the persons on board shall be considered to be in a situation of alert in***

*Amendment*

***-1. Before a sea operation, Member States shall ensure that their participating units will comply with the obligation to render assistance to any ship or person in distress at sea, in accordance with applicable provisions of international Conventions governing search and rescue and fundamental rights. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.***

1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.
2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.
3. ***To assist in determining the appropriate operating procedures, the following emergency situations shall be distinguished by the participating units:***
  - (a) situation of uncertainty:***
    - (i) when a person has been reported as missing or a ship is overdue; or***
    - (ii) when a person or a ship has failed to make an expected position or safety report;***
  - (b) situation of alert:***

*particular when:*

*(a) apprehension exists as to the safety of a ship or the persons on board because of information that serious difficulties exist, but not to the extent that a distress situation is likely; or*

**5. A ship or the persons on board shall be considered to be in a situation of distress in particular when:**

*(a) positive information is received that a ship or a person **on board** is in danger and **needs** immediate assistance; or*

*(b) attempts to establish contact with **the ship fail** and unsuccessful inquiries point to the probability that **the ship is in** distress; or*

*(c) information is received which indicates that the operating efficiency of **the** ship has been impaired to the extent that a distress situation is likely.*

**6. When assessing the situation for the purposes of *paragraphs 3 to 5*, participating units shall take all relevant elements into account, including:**

*(a) the existence of a request for assistance;*

*(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;*

*(c) the number of passengers in relation to the type and condition of the ship;*

*(d) the availability of necessary supplies **such as** fuel, water, food to reach a shore;*

*(e) the presence of qualified crew and command of the ship;*

*(f) the availability **and capability** of safety, navigation and communication equipment;*

*(g) the presence of passengers in urgent*

*(ii) when information has been received indicating that the operating efficiency of a ship is impaired, but not to the extent that a distress situation is likely;*

*(c) situation of distress:*

*(i) when positive information is received that a person or a ship is in danger and **in need of** immediate assistance; or*

*(ii) when, following a situation of alert, further unsuccessful attempts to establish contact with **a person or a** ship and **more widespread** unsuccessful inquiries point to the probability that **a** distress situation exists; or*

*(iii) when information is received which indicates that the operating efficiency of **a** ship has been impaired to the extent that a distress situation is likely.*

**4. When assessing the situation for the purposes of *paragraph 3*, participating units shall take all relevant elements into account **and communicate their assessment to the responsible Rescue Coordination Centre**, including *in particular*:**

*(a) the existence of a request for assistance;*

*(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;*

*(c) the number of passengers in relation to the type and condition of the ship (**overloading**);*

*(d) the availability of necessary supplies (fuel, water, food, *etc*) to reach a shore;*

*(e) the presence of qualified crew and command of the ship;*

*(f) the availability of safety, navigation and communication equipment;*

*(g) the presence of passengers in urgent*

need of medical assistance;  
(h) the presence of deceased passengers;  
(i) the presence of pregnant women or children;  
(j) the weather and sea conditions,  
**including weather and marine forecasts.**

**7. Participating units shall promptly communicate their assessment of the situation to the responsible Rescue Coordination Centre.** While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.

**8.** The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. **Where**, despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care **by surveying the ship at a prudent distance and by** taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.

**9. Where** the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State **unless another Rescue Coordination Centre is better placed to assume coordination of the search and rescue situation.**

**10.** The **participating units shall inform the** International Coordination Centre as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by **them.**

**11.** Where the ship cannot or can no longer

need of medical assistance;  
(h) the presence of deceased passengers;  
(i) the presence of pregnant women or children;  
(j) the weather and sea conditions.

**5.** While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.

**6.** The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. **In cases where**, despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care, taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.

**7. In cases where** the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State.

**8.** The International Coordination Centre **shall be informed** as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by **the participating unit.**

**9.** Where the ship cannot or can no longer



be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.

be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.

#### *Justification*

*Paragraph 3 of the compromise amendment is identical to point 4.4 of the Annex to the International Convention on Maritime Search and Rescue as amended in 1998. Paragraphs 4, 5, 6, 7, 8 and 9 are identical to, respectively, points 1.3, 1.2, 1.4, 1.2, 1.5 and 1.6 of Part II of the Council Decision 2010/252/EU, as adopted unanimously in the Council.*

### **Amendment 45**

#### **Proposal for a regulation Article 10 – paragraph 1**

##### *Text proposed by the Commission*

1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan. Those modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2).

##### *Amendment*

1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan ***in accordance with Article 4***. Those modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2). ***Modalities for disembarkation may specify that disembarkation does not necessarily imply sole responsibility for the State on whose territory persons rescued at sea are disembarked.***

### **Amendment 46**

#### **Proposal for a regulation Article 10 – paragraph 2 – subparagraph 1**

##### *Text proposed by the Commission*

In the case of interception in the territorial

##### *Amendment*

In the case of interception in the territorial

sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial *waters* or contiguous zone the interception takes place.

sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial *sea* or contiguous zone the interception takes place.

*Justification*

*The expression "territorial sea" is used throughout the text, and should be used here too.*

**Amendment 47**

**Proposal for a regulation**

**Article 10 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial *waters* or contiguous zone the interception takes place.

*Amendment*

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial *sea* or contiguous zone the interception takes place.

*Justification*

*The expression "territorial sea" is used throughout the text, and should be used here too.*

**Amendment 48**

**Proposal for a regulation**

**Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Before disembarkation, the persons intercepted or rescued in the sea operation shall receive clear information, in a language which they understand or may reasonably be presumed to understand, on where disembarkation will take place. Particular attention shall be given to unaccompanied minors.***

## Amendment 49

### Proposal for a regulation

#### Article 10 – paragraph 4 – subparagraph 1

##### *Text proposed by the Commission*

**In** the case of search and rescue situations as laid down in Article 9, the participating units shall cooperate with the responsible Rescue Coordination Centre to provide a suitable port or place of safety for the rescued persons and to ensure their rapid and effective disembarkation.

##### *Amendment*

**Subject to the application of Article 4, in** the case of search and rescue situations as laid down in Article 9, the participating units shall cooperate with the responsible Rescue Coordination Centre to provide a suitable port or place of safety for the rescued persons and to ensure their rapid and effective disembarkation.

##### *Justification*

*It should be highlighted that the decision on the place of disembarkation after a search and rescue situation should be made also taking into account the principle of non-refoulement.*

## Amendment 50

### Proposal for a regulation

#### Article 10 – paragraph 5

##### *Text proposed by the Commission*

5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of **Article 4(1)**, and the International Coordination Centre shall convey that information to the competent national authorities. On the basis of that information, the operational plan **should** determine which follow-up measures may be taken.

##### *Amendment*

5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of **Article 4**, and the International Coordination Centre shall convey that information to the competent national authorities. On the basis of that information, the operational plan **shall** determine which follow-up measures may be taken.

##### *Justification*

*The reference should not be only to paragraph 1 of Article 4, but to the whole Article 4, so as to cover as well paragraph 4 (persons requiring special attention).*

## **Amendment 51**

### **Proposal for a regulation Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***1. Each Member State requires the master of a ship flying its flag to proceed with all possible speed to the rescue of persons in distress at sea and to render all possible assistance to them regardless of their nationality or state or of the circumstances in which these persons are found, provided that he can do so without serious danger to the ship, the crew or the passengers. Members States will not take any measures, including criminal procedures and sanctions, against ship masters who have rescued persons in distress and brought them to a harbour on their territory.***

***2. The Agency's Fundamental Rights Strategy and the activities of the Fundamental Rights Officer and the Consultative Forum, as provided for in Article 26a of Regulation 2007/2004, shall apply to sea operations as governed by this Regulation.***

## **Amendment 52**

### **Proposal for a regulation Article 10 b (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 10b***

##### ***Specialised branches***

***Pursuant to Article 16 of Regulation (EU) No 2004/2007, the Agency shall evaluate the need to set up specialised branches, for all aspects relating to the surveillance of maritime borders, as operational offices in areas subject to significant migration flows, including irregular migration and in particular in the***

***Mediterranean, to improve coordination between Member States and ensure solidarity and responsibility-sharing between them, thereby strengthening the operational capacity of the Agency.***

*Justification*

*The establishment of an operational office in the Mediterranean is consistent with the provisions set out in Parliament's resolution of 23 October 2013 on 'Migratory flows in the Mediterranean, with particular attention to the tragic events off Lampedusa' and in keeping with the statements on reinforcing the activities of Frontex in the Mediterranean, expressed in the Conclusions of the European Council of 24-25 October 2013.*

**Amendment 53**

**Proposal for a regulation  
Article 10 c (new)**

*Text proposed by the Commission*

*Amendment*

***Article 10c***

***Solidarity mechanisms***

***1. A Member State faced with a situation of urgent and exceptional pressure at its external border shall be able to request:***

***– the deployment of European Border Guard Teams in accordance with Article 8a of Regulation (EC) No 2007/2004 to provide rapid operational assistance to the Member State;***

***– the Agency for technical and operational assistance in accordance with Article 8 of Regulation (EC) No 2007/2004 in order to obtain assistance on matters of coordination between Member States and/or the deployment of experts to support the competent national authorities;***

***– emergency assistance under Article 14 of Regulation XXXX [ISF borders] to address urgent and specific needs in the event of an emergency situation.***

***2. A Member State subject to strong migratory pressure which places urgent***

*demands on its reception facilities and asylum systems shall be able to request:*

*– the European Asylum Support Office for the deployment of an asylum support team in accordance with Article 13 of Regulation (EU) No 439/2010 of the European Parliament and of the Council to provide expertise, in particular in relation to interpreting services, information on countries of origin and knowledge of the handling and management of asylum cases;*

*– emergency assistance under Article 22 of Regulation XXX ([Asylum and Migration Fund] to address urgent and specific needs in the event of an emergency situation;*

*– the Commission to check the willingness of the Member States to accommodate asylum seekers.*

*3. With a view to the proper implementation of this Article, the Commission shall continuously monitor the facilities used for the reception of asylum seekers in the Member States and, in the cases described in this article, once it has verified how many places are actually available in such facilities, shall propose a fair redistribution of asylum seekers between Member States, in accordance with Article 80 of the TFEU.*

## **Amendment 54**

### **Proposal for a regulation Article 10 d (new)**

*Text proposed by the Commission*

*Amendment*

*Article 10d*

*Report*

*1. The Agency shall submit a report to the European Parliament, the Council and the Commission on the implementation of this Regulation by ...\* and every two years*

*thereafter.*

***2. The report shall include a description of the procedures put in place by the Agency to implement this Regulation during sea operations and an assessment of the practical application of this Regulation, including any incidents which may have taken place. It shall provide detailed information on compliance with fundamental rights, and on the impact on those rights, and shall contain an overview of any reasons expressed by intercepted persons, under Article 4(3), and of measures taken subsequently.***

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***\* OJ: please insert date: two years after entry into force of this Regulation.***

#### *Justification*

*The Agency's reports to Parliament, the Council and the Commission - an important addition made by the rapporteur - should also go into the key issue, i.e. the objections raised by intercepted persons.*

## EXPLANATORY STATEMENT

### **Background:**

During the last decade, the Mediterranean region has been affected by a number of international and regional geopolitical and economic developments, leading to political instability and contributing to increase migration flows and asylum pressure from the Southern shores of the Mediterranean to its Northern shores, notably the Southern EU Member States located at the geographical periphery of the EU, such as Greece, Italy, Spain, Malta and Cyprus.

The southern EU Members States were suddenly confronted with a large number of individuals, coming from the Mediterranean region in an attempt to flee conflict, persecution, or just to improve their economic opportunities, using the maritime route to cross international borders clandestinely. The number of persons crossing Europe's southern sea borders using unseaworthy boats amounted to around 10.000 people in 2010, increased to over 70.000 people in 2011, to drop again to around 20.000 people in 2012, where most of these crossings were organised by smugglers.

Although the phenomenon is not widespread through the EU, it affects the EU as a whole. This situation resulted in prompt calls for more solidarity and sustainable responses from the EU to support those countries most affected by irregular arrivals by sea. Responsibility-sharing and solidarity became indispensable factors to ensure that the fundamental rights of asylum seekers and refugees are fully respected in the EU.

The Commission's proposal seems to be well-balanced and follows the same objective as the annulled Decision, to incorporate within a single legal instrument existing provisions of EU and international law, aiming to overcome the different interpretations of international law adopted by Member States and their diverging practices to ensure the efficiency of sea operations coordinated by Frontex.

But it tries to go further, where the Part II of the annulled Decision - non-binding guidelines for search and rescue situations and for disembarkation of rescued or intercepted persons - will become now a legally binding instrument and directly applicable in the Member States, setting up rules on how to deal with these situations in all sea operations coordinated by Frontex. It tries, in this way, to answer to the critics made against Frontex operations, where some questions were raised regarding search and rescue situations.

### **Conclusions**

#### **Legally Binding Instrument:**

The European Court of Justice decision in case C-355/10, among other things, confirmed that the EU is competent to legislate in the field covered by Council Decision 2010/252. It is also clear that the scope of the proposal does not go beyond the current 2010/252 Decision and that the additional binding elements are in line with the European Court of Justice case-law.



### Legal and Judicial developments on the protection of fundamental rights:

The proposal takes into account the legal and judicial developments, such as the amendment to Regulation EC No 2007/2004 and the judgment of the European Court of Human Rights in *Hirsi Jamaa and Others v. Italy*, concerning the protection of fundamental rights as well as the principle of non-refoulement in sea operations.

The need to protect our borders and to have an efficient system of border surveillance is not detrimental to the fundamental rights of migrants arriving at European shores. The right to life and respect for the principle of non-refoulement are core fundamental rights and the European Union and its Member States have to ensure their full implementation and respect.

It is essential to provide further legal clarity on the respect for fundamental rights in the context of maritime surveillance and on the disembarkation of persons intercepted or rescued at sea, including the full respect of the principle of non-refoulement. In that sense, several amendments were presented aiming to reinforce the Principle of non-refoulement and the protection of Human Rights and highlighting that all Member States which participate in those operations are bound by the International and EU acquis, including the relevant case-law, regarding their obligations.

### Reinforcement of the Principle of Solidarity:

With due respect to Member States' sovereignty on their territorial seas, a primary objective of this proposal is to achieve an increased degree of cooperation among Member States in the context of the Frontex coordinated operations, always subject to the authorisation of the Member State concerned for action on their territorial sea.

While the primary responsibility for ensuring that adequate asylum systems and border management systems are in place lies with the States, the TFEU as well as the Stockholm Programme requires an increased level of solidarity and fair responsibility sharing between the EU institutions as well as the Member States in the development of the Common European Asylum System and the gradual establishment of an integrated management system for external borders. Currently, the EU legal framework already offers a variety of solidarity and responsibility-sharing tools and instruments that can assist in addressing the protection gaps and flaws in Member States' asylum systems and border management systems and enhance the overall quality of the Common European Asylum System.

It is up to the Member State concerned to activate that range of tools at its disposal, including human, technical and financial resources. The intra-EU system of relocation of persons who have obtained a legal status after disembarkation still has to be further developed. The 2010 EUREMA - EU relocation Malta project involving 10 EU Member States, is a good example of enhancing solidarity.

11.10.2013

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union (COM(2013)0197 – C7-0098/2013 – 2013/0106(COD))

Rapporteur: Norica Nicolai

### **SHORT JUSTIFICATION**

The Subcommittee for Security and Defence considers that the proposed Regulation needs only certain improvements, meant to underline those specific areas in the work of the Agency that concern security challenges or that can indirectly be related to the dynamics of EU relations with third countries. Intra-EU communication is promoted, notably to the EEAS, on security-related information which may be obtained by the Agency. The fact that sensitive maritime areas where conflict and security challenges are an issue are also highlighted as this can be a leading source of problems for the surveillance of external sea borders. The opinion also wants to promote the rights and protection accorded to nationals of third countries who may find themselves in distress during the Agency's operations, and ensure a level of protection for those EU nationals who have responsibility to assist. Finally, the fact that an enlargement of the Schengen Area is envisaged, it is put forward that this should also be part of this Regulation, in order to avoid future blockages.

### **AMENDMENTS**

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

## Amendment 1

### Proposal for a regulation Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) Particular attention should be given to sea areas which constitute natural maritime borders of the EU but, because of their geographic location, pose specific security challenges and require, therefore, strategically comprehensive measures. This is the case of the Black Sea and Baltic Sea maritime regions, where not only criminal activities such as illegal crossing and smuggling but also the proximity of frozen conflict areas can raise serious security concerns.***

## Amendment 2

### Proposal for a regulation Recital 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(1 b) This regulation is without prejudice to the obligations under international law of all civilian, military and commercial vessels flying the flag of a Member State to protect people in distress at sea.***

## Amendment 3

### Proposal for a regulation Recital 2

*Text proposed by the Commission*

*Amendment*

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No

2007/2004 of 26 October 2004 is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations may involve humanitarian emergencies and rescue at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.

2007/2004 of 26 October 2004 is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations may involve humanitarian emergencies and rescue at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation. ***To this end, the Agency shall endeavour to use innovative applications of existing technologies in order to improve and simplify information gathering as well as information sharing especially for those maritime areas facing the greatest pressure of unauthorised crossings and having the greater difficulty, because of geographical and climatic reasons, to adequately monitor such traffic.***

#### **Amendment 4**

##### **Proposal for a regulation Recital 7**

###### *Text proposed by the Commission*

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to

###### *Amendment*

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to

the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.

the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found; ***accordingly, no measures, including criminal procedures and sanctions, should be taken discouraging ship masters from rendering assistance to any person in distress at sea.***

## Amendment 5

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation or pilot project takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation. ***In turn,*** this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency.

*Amendment*

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation or pilot project takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation, ***including rules and procedures which ensure that persons with international protection needs including potential victims of trafficking, unaccompanied minors and other vulnerable persons are identified during the operation, and that they are provided with the adequate assistance.*** This Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency.

## Amendment 6

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

(11) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably the right to life, human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, *non-refoulement*, non-discrimination, the right to an effective remedy, the right to asylum and the rights of the child.

*Amendment*

(11) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably the right to life, human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, right to liberty and security, *non-refoulement*, non-discrimination, the right to an effective remedy ***and protection of personal data***, the right to asylum and the rights of the child.

**Amendment 7**

**Proposal for a regulation  
Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18 a) As regards those countries which are candidates to the Schengen Area, namely Bulgaria, Cyprus and Romania and which are either members and cooperating with the Agency, or have already implemented all standards for inclusion in the Area programs and actions, provisions should be made for their inevitable joining of the Schengen zone to the Agency planning and budgeting, taking into account the high level of standards for implementing the acquis and their bordering maritime areas of particular problematic nature for the security of the European Union.***

**Amendment 8**

**Proposal for a regulation  
Article 2 – point 11**

*Text proposed by the Commission*

*Amendment*

11. ‘place of safety’ means a location

11. ‘place of safety’ means a location

where rescue operations are considered to terminate and where the survivors' safety of life including as regards the protection of their fundamental rights is *not threatened*, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination;

where rescue operations are considered to terminate and where the survivors' safety of life including as regards the protection of their fundamental *and human* rights is *ensured*, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination;

## Amendment 9

### Proposal for a regulation

#### Article 2 – paragraph 12 a (new)

*Text proposed by the Commission*

*Amendment*

*(12a) ‘operational plan’ has the meaning provided for by articles 3a and 8e of Regulation (EC) 2007/2004.*

## Amendment 10

### Proposal for a regulation

#### Article 4 - paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Before deciding on disembarkation in a third country, *the participating units* shall take into account the general situation in that third country and intercepted or rescued persons shall not be disembarked in that third country when *the host Member State or the participating Member States are aware or ought to be aware* that this third country is engaged in practices as described in paragraph 1.

2. Before deciding on disembarkation in a third country, *the Agency, the host and other participating Member States* shall take into account the general situation in that third country and intercepted or rescued persons shall not be disembarked in that third country when *they are aware* that this third country is engaged in practices as described in paragraph 1. *In this regard, a list of third countries shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation 182/2011.*

## Amendment 11

### Proposal for a regulation

#### Article 4 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Persons intercepted or rescued who are not in need of international protection, according to the participating units, or who do not claim such protection may be returned to their country of origin or to any other country in which they are normally resident or of which they are nationals.***

## **Amendment 12**

### **Proposal for a regulation Article 4 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. In case of disembarkation in a third country, the participating units shall identify the intercepted or rescued persons and assess their personal circumstances ***to the extent possible before disembarkation.*** They shall inform the intercepted or rescued persons of the place of disembarkation in an appropriate way and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*.

3. In case of disembarkation in a third country, the participating units shall identify the intercepted or rescued persons and assess their personal circumstances. They shall inform the intercepted or rescued persons of the place of disembarkation in an appropriate way and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*.

## **Amendment 13**

### **Proposal for a regulation Article 5 - paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. This information shall also be conveyed to the INTCEN of the EU External Action Service which shall act as central information point between the Member States, the European Council and the relevant services, according to***



*each specific need for information exchange.*

## **Amendment 14**

### **Proposal for a regulation Article 5 - paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall endeavour to increase cooperation with the EU Agency using also FRONTEX assets mainly in highly strategic maritime areas facing both increased criminal trafficking and security and defence challenges.***

## **Amendment 15**

### **Proposal for a regulation Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. In the territorial sea of the host Member State or a participating Member State, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea:

1. In the territorial sea of the host Member State or a participating Member State, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the ***illegal*** smuggling of migrants by sea:

## **Amendment 16**

### **Proposal for a regulation Article 6 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The host Member State ***or the participating Member State*** on whose territorial sea the interception takes place shall authorise the measures referred to in paragraph 1 and it shall instruct the

2. The host Member State on whose territorial sea the interception takes place shall authorise the measures referred to in paragraph 1 and it shall instruct the participating unit appropriately through the

participating unit appropriately through the International Coordination Centre. The participating unit shall inform the host Member State, through the International Coordination Centre, whenever the master of the ship requests that a diplomatic agent or a consular officer of the flag State be notified.

International Coordination Centre. The participating unit shall inform the host Member State, through the International Coordination Centre, whenever the master of the ship requests that a diplomatic agent or a consular officer of the flag State be notified.

## Amendment 17

### Proposal for a regulation

#### Article 6 – paragraph 3

##### *Text proposed by the Commission*

3. Where there are reasonable grounds to suspect that a ship without nationality or one that may be assimilated to a ship without nationality is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State ***or the participating Member State*** in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

##### *Amendment*

3. Where there are reasonable grounds to suspect that a ship without nationality or one that may be assimilated to a ship without nationality is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

## Amendment 18

### Proposal for a regulation

#### Article 7 – paragraph 1 – introductory part

##### *Text proposed by the Commission*

1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:

##### *Amendment*

1. On the high seas, the participating units ***and, as required, representatives of the Consultative Forum***, shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of

Migrants:

## **Amendment 19**

### **Proposal for a regulation Article 9 – paragraph 7**

*Text proposed by the Commission*

7. Participating units shall promptly communicate their assessment of the situation to the responsible Rescue Coordination Centre. While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.

*Amendment*

7. Participating units shall promptly communicate their assessment of the situation to the responsible Rescue Coordination Centre. While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety **and respect of human rights** of the persons concerned.

## **Amendment 20**

### **Proposal for a regulation Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***1. Each Member State requires the master of a ship flying its flag to proceed with all possible speed to the rescue of persons in distress at sea and to render all possible assistance to them regardless of their nationality or state or of the circumstances in which these persons are found, provided that he can do so without serious danger to the ship, the crew or the passengers. Members States will not take any measures, including criminal procedures and sanctions, against ship masters who have rescued persons in distress and brought them to a harbour on their territory.***

***2. The Agency's Fundamental Rights Strategy and the activities of the Fundamental Rights Officer and the Consultative Forum, as provided for in Article 26a of Regulation 2007/2004, shall***

*apply to sea operations as governed by  
this Regulation.*

## PROCEDURE

<b>Title</b>	Surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States
<b>References</b>	COM(2013)0197 – C7-0098/2013 – 2013/0106(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 18.4.2013
<b>Opinion by</b> Date announced in plenary	AFET 18.4.2013
<b>Rapporteur</b> Date appointed	Norica Nicolai 30.5.2013
<b>Discussed in committee</b>	18.9.2013
<b>Date adopted</b>	10.10.2013
<b>Result of final vote</b>	+: 34 –: 8 0: 5
<b>Members present for the final vote</b>	Bastiaan Belder, Elmar Brok, Jerzy Buzek, Tarja Cronberg, Arnaud Danjean, Mark Demesmaeker, Marietta Giannakou, Ana Gomes, Andrzej Grzyb, Richard Howitt, Liisa Jaakonsaari, Jelko Kacin, Tunne Kelam, Nicole Kiil-Nielsen, Maria Eleni Koppa, Andrey Kovatchev, Eduard Kukan, Vytautas Landsbergis, Krzysztof Lisek, Sabine Lösing, Marusya Lyubcheva, Willy Meyer, Francisco José Millán Mon, Annemie Neyts-Uyttebroeck, Alojz Peterle, Tonino Picula, Mirosław Piotrowski, Bernd Posselt, Hans-Gert Pöttering, Cristian Dan Preda, Tokia Saïfi, György Schöpflin, Werner Schulz, Sophocles Sophocleous, Laurence J.A.J. Stassen, Davor Ivo Stier, Nikola Vuljanić, Sir Graham Watson, Karim Zéribi
<b>Substitute(s) present for the final vote</b>	Charalampos Angourakis, Andrew Duff, Hélène Flautre, Dominique Vlasto, Paweł Zalewski
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Vojtěch Mynář, Andreas Pitsillides, Vilja Savisaar-Toomast

18.9.2013

## **OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union (COM(2013)0197 – C7-0098/2013 – 2013/0106(COD))

Rapporteur: Nathalie Griesbeck

### **SHORT JUSTIFICATION**

#### **1. Introduction**

Following an action brought by the European Parliament, the Court of Justice, in its judgment of 5 September 2012, annulled Council Decision 2010/252/EU supplementing the Schengen Borders Code as regards the surveillance of the external borders. Parliament had considered that the decision exceeded the implementing powers conferred under Article 12(5) of the code as it altered or added essential elements to such powers.

The scope and content of this proposal are similar to those of the aforementioned annulled decision. The proposal also reflects amendments made to Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the European Union, as well as developments in the law relating to fundamental rights.

The proposal is underpinned by numerous legal instruments including the UN Convention on the Law of the Sea, the International Convention on Maritime Search and Rescue, the International Convention for the Safety of Life at Sea and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime, known as the Palermo Convention.

#### **2. The ‘transport’ dimension of the proposal**

The proposal broadens the concept of border surveillance to make it possible to intercept vessels if there are grounds to suspect they are carrying persons intending to circumvent checks at border crossing points or are engaged in smuggling migrants by sea. Its scope also encompasses search and rescue activities at sea.

### 3. Rapporteur's comments

The rapporteur welcomes the proposal for a regulation establishing rules for the surveillance of the external sea borders, which broadens the concept of monitoring to include search and rescue operations, as the two are clearly linked.

She believes, however, that, with regard to the interception of seagoing vessels, safeguard clauses along similar lines to those set out in Annex III of the Palermo Convention should be inserted to address issues such as the safety and treatment of passengers and the safety of the ship and any cargo it may be carrying.

The rapporteur takes the view that the legal training of border guards should be supplemented by a practical component on helping people in distress, particularly the provision of humanitarian assistance and emergency medical care.

With a view to providing an urgent response to humanitarian needs, vessels used in joint border surveillance operations should have standardised medical and humanitarian kits, and if possible medical personnel, on board.

Given the dangers inherent in transfers between vessels during rescue operations, the rapporteur calls on the Commission to consider providing funding from the Horizon 2020 Framework Programme for Research and Innovation for research projects that aim to make such operations safer, particularly in rough sea conditions, or to improve the equipment of ships engaged in surveillance missions.

The rapporteur stresses the high cost of maritime surveillance, and therefore calls for increased cooperation and more effective exchanges of information between maritime surveillance agencies, as the Commission has itself advocated in its integrated maritime policy. It is for this reason that the rapporteur would like to see the rapid implementation of the Common Information Sharing Environment (CISE) for the surveillance of the EU maritime domain, taking due account of the findings of the Marsuno and BlueMassMed pilot projects. She calls for the Agency's role in this area to be defined in the Regulation as a complement to the provisions laid down in the proposal for a regulation of the European Parliament and of the Council establishing the European border surveillance system (Eurosur).

She is also fully aware that the obligation for all ships to render assistance to any person in danger at sea sometimes runs counter to the provisions of Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence. Private vessels may, albeit on rare occasions, be deterred from saving people in distress out of fear of prosecution for having rescued migrants. The rapporteur therefore calls on the Commission to review Directive 2002/90/EC to take account of such sea-rescue situations.

Lastly, the rapporteur welcomes the initiative<sup>1</sup> of March 2012 by the European Ombudsman, P. Nikiforos Diamandouros, to open an investigation into the European Borders Agency's compliance with its obligations in terms of fundamental rights.

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<sup>1</sup> Own-initiative enquiry OI/5/2012/BEH-MHZ.

## AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) During search and rescue operations, vessels should carry at least minimum safety equipment and should ensure that the staff on board have received training so as to guarantee the safety of both the persons intercepted and the staff, in accordance with Directive 2012/35/EU on the minimum level of training of seafarers in safety rules and standards for passenger ships (Annex I, chapter V, regulation V/2 paragraph 6).***

*Justification*

*An emergency plan should be drawn up, clearly stipulating the division of responsibilities among the staff.*

### Amendment 2

#### Proposal for a regulation Recital 7

*Text proposed by the Commission*

*Amendment*

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being lost

(7) When conducting a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being



and to proceed with all possible speed to the rescue of persons in distress. Such assistance *should* be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.

lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance *must* be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.

### Amendment 3

#### Proposal for a regulation Recital 8

##### *Text proposed by the Commission*

(8) That obligation *should* be carried out by Member States in accordance with the applicable provisions of international instruments governing search and rescue situations and in accordance with the requirements concerning the protection of fundamental rights. This Regulation *should* not affect the responsibilities of search and rescue authorities, including for ensuring that coordination and cooperation is carried out in such a way that the persons rescued can be delivered to a port or a place of safety.

##### *Amendment*

(8) That obligation *must* be carried out by Member States in accordance with the applicable provisions of international instruments governing search and rescue situations and in accordance with the requirements concerning the protection of fundamental rights. This Regulation *does* not affect the responsibilities of search and rescue authorities, including for ensuring that coordination and cooperation is carried out in such a way that the persons rescued can be delivered to a port or a place of safety.

### Amendment 4

#### Proposal for a regulation Recital 8 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

*(8a) In interception operations at sea where the priority is to protect or provide assistance to the persons on board, due attention should also be paid to protecting the vessel and any cargo it may hold, in accordance with the UN Protocol against the Smuggling of Migrants. When ships are searched, due attention should be paid to the conservation of the marine environment, provided that environmental considerations do not pose a danger to*

*persons on board.*

## Amendment 5

### Proposal for a regulation Recital 10 a (new)

*Text proposed by the Commission*

*Amendment*

*(10a) In its Communication on the Integrated Maritime Policy for the European Union, the Commission undertook to ‘take steps towards a more interoperable surveillance system to bring together existing monitoring and tracking systems used for maritime safety and security, protection of the marine environment, fisheries control, control of external borders and other law enforcement activities’. Surveillance authorities must therefore carry out their operations in a more efficient and cost-effective manner. In this context, with a view to facilitating surveillance and rescue operations at sea, the Agency should help pave the way for the Common Information Sharing Environment (CISE) for the surveillance of the EU maritime domain. As soon as the CISE becomes operational, the Agency should be given responsibility for managing the access rights of the participating units.*

## Amendment 6

### Proposal for a regulation Article 3

*Text proposed by the Commission*

*Amendment*

Measures taken for the purpose of a sea operation shall ***be conducted in a way that does not put at risk*** the safety of the persons intercepted or rescued and the safety of the participating units.

Measures taken for the purpose of a sea operation shall ***be in full compliance with the EU legislation applying to the equipment, as well as to the training of staff, on board a vessel, in order to ensure*** the safety of the persons intercepted or rescued and the safety of the participating

units.

## **Amendment 7**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Vessels used for border surveillance by the participating units should have standardised medical and humanitarian kits – containing a sufficient amount of water, food and blankets – to provide an urgent response in emergency situations, taking account of the fact that many intercepted ships will be neither seaworthy nor flagged. The presence of medical personnel in border surveillance units should be encouraged.***

## **Amendment 8**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. No person shall be disembarked in, or otherwise handed over to the authorities of a country where there is a serious risk that such person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

*(Does not affect English version.)*

*Justification*

*(Does not affect English version.)*

## Amendment 9

### Proposal for a regulation

#### Article 4 – paragraph 2

*Text proposed by the Commission*

2. Before deciding on disembarkation in a third country, the participating units shall take into account the general situation in that third country and intercepted or rescued persons shall not be disembarked in that third country when the host Member State or the participating Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.

*Amendment*

2. Before deciding on disembarkation in a third country, the participating units shall take into account the general situation in that third country and ***the possible existence of bilateral agreements on migration between that country and one or more Member States, in accordance with international law.*** After this analysis, intercepted or rescued persons shall not be disembarked in that third country when the host Member State or the participating Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.

*Justification*

*In line with existing international law, it is important to introduce this parameter in order to give substance to the bilateral agreements and thus further strengthen the position of third countries.*

## Amendment 10

### Proposal for a regulation

#### Article 4 – paragraph 5

*Text proposed by the Commission*

5. Border guards participating in a sea operation shall be trained with regard to relevant provisions of fundamental rights, refugee law and the international legal regime of search and rescue.

*Amendment*

5. Border guards participating in a sea operation shall be trained with regard to relevant provisions of fundamental rights, refugee law and the international legal regime of search and rescue, ***and provided with specialised practical training in on-the-spot assistance to people in distress, particularly the provision of humanitarian assistance and emergency medical care.***

### *Justification*

*States which separate their coastguard and border guard services generally do not train their border guards to provide humanitarian assistance and emergency medical care. In dealing with humanitarian crises, it is important to ensure that humanitarian aid and medical care are provided as soon as possible, even before the arrival of rescue teams.*

## **Amendment 11**

### **Proposal for a regulation Article 5 – paragraph 1**

#### *Text proposed by the Commission*

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance. The participating units shall communicate information about the ship immediately to the International Coordination Centre.

#### *Amendment*

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance ***taking all due precautions***. The participating units shall communicate information about the ship immediately to the International Coordination Centre.

### *Justification*

*Those taking part in maritime detection operations must not be put at risk. Prevailing and forecast sea and weather conditions must be among the factors taken into account.*

## **Amendment 12**

### **Proposal for a regulation Article 5 – paragraph 2**

#### *Text proposed by the Commission*

2. Where the ship is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the

#### *Amendment*

2. Where the ship is about to enter or it has entered the territorial sea or, ***where formally proclaimed***, the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination

Member State concerned.

Centre of the Member State concerned.

### *Justification*

*Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal state to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws and regulations.*

## **Amendment 13**

### **Proposal for a regulation**

#### **Article 5 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The Agency shall help pave the way for the Common Information Sharing Environment (CISE) for the surveillance of the EU maritime domain and shall ensure its interoperability. As soon as the CISE becomes operational, the Agency shall be given responsibility for managing the access rights of the participating units, with a view to facilitating surveillance and rescue operations at sea and to ensuring the confidentiality and security of the data exchanged.***

### *Justification*

*As part of its integrated maritime policy, the Commission published in 2010 a communication on a Draft Roadmap towards establishing the Common Information Sharing Environment for the surveillance of the EU maritime domain (COM(2010)584), which stressed the added value of an integrated approach to maritime surveillance. Ensuring the exchange and interoperability of data would be greatly advantageous in terms of both efficiency and cost-effectiveness.*

## **Amendment 14**

### **Proposal for a regulation**

#### **Article 7 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) requesting information and documentation on ownership, registration

(a) requesting information and documentation on ownership, registration,

*and* elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

*provenance, point of departure and other* elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

*Justification*

*Comprehensive and more detailed checks to identify the principal illegal migration routes used by traffickers.*

## **Amendment 15**

### **Proposal for a regulation**

#### **Article 7 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

*Amendment*

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or, *where formally proclaimed*, the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

*Justification*

*Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal State to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws and regulations.*

## **Amendment 16**

### **Proposal for a regulation**

#### **Article 8 – paragraph 1**

*Text proposed by the Commission*

1. In the zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(2).

*Amendment*

1. In the *formally proclaimed* zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(2).

### *Justification*

*Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal State to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws and regulations.*

### **Amendment 17**

#### **Proposal for a regulation**

#### **Article 9 – paragraph 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***10a. Vessels used for border surveillance by the participating units should have standardised medical and humanitarian kits – containing a sufficient amount of water, food and blankets – to provide an urgent response in emergency situations. The presence of medical personnel in border surveillance units should be encouraged.***

### *Justification*

*Vessels used for external border surveillance are, to a greater or lesser degree, under-equipped with emergency kit and supplies for providing urgent medical and humanitarian assistance, a situation chiefly attributable to the differences in rules and standards from Member State to Member State.*

### **Amendment 18**

#### **Proposal for a regulation**

#### **Article 9 – paragraph 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***11a. The provisions of this Article shall apply exclusively during the course of operations coordinated by the Agency and shall be without prejudice to Member States' responsibilities under the International Convention on Maritime Search and Rescue.***



## *Justification*

*Maritime search and rescue rules are not an EU competence, so it should be noted that Article 9 provides rules for the specific context of sea border surveillance operations coordinated by the Agency, due to their particular characteristics.*

### **Amendment 19**

#### **Proposal for a regulation Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 10a**

##### **Protection clauses**

**1. When the participating units take any measure pursuant to Articles 6, 7, 8 and 10, they must:**

**(a) ensure the safety and humane treatment of those on board, in accordance with the Charter of Fundamental Rights of the European Union;**

**(b) take due account of the need not to endanger the security of the vessel or any cargo it may have;**

**(c) ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.**

**2. Where the grounds for measures taken pursuant to Articles 6, 7, 8 and 10 prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.**

## *Justification*

*In its proposal, the Commission refers to the Protocol against the Smuggling of Migrants, supplementing the United Nations Convention against Transnational Organised Crime. The Commission fails, however, to include the provisions on protection clauses. It would seem wise to include in the regulation the provisions on the protection of the vessel and on the safety and humane treatment of those on board.*

## Amendment 20

### Proposal for a regulation Article 11 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 11a*

##### *Reporting*

*The Commission shall monitor and review the application of this Regulation and submit an overall progress report to the European Parliament and the Council, for the first time by 31 December 2016 and again after two years, on the effectiveness of the measures adopted to prevent unauthorised cross-border movements and combat cross-border crime.*

*The report shall cover at least the following:*

- procedures followed for exchanges of information and cooperation in practice between the Member States and the European border surveillance system (Eurosur);*
- compliance by the Member States and the Agency with their obligations under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant international instruments;*

*– measures to be taken in future to  
improve maritime safety and enhance  
external border security.*

## PROCEDURE

<b>Title</b>	Surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union
<b>References</b>	COM(2013)0197 – C7-0098/2013 – 2013/0106(COD)
<b>Committee responsible</b> Date announced in plenary	
<b>Opinion by</b> Date announced in plenary	TRAN 18.4.2013
<b>Rapporteur</b> Date appointed	Nathalie Griesbeck 3.6.2013
<b>Discussed in committee</b>	9.7.2013
<b>Date adopted</b>	17.9.2013
<b>Result of final vote</b>	+: 39 –: 4 0: 0
<b>Members present for the final vote</b>	Magdi Cristiano Allam, Erik Bánki, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Philippe De Backer, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Franco Frigo, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, David-Maria Sassoli, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Keith Taylor, Giommaria Uggias, Patricia van der Kammen, Dominique Vlasto, Artur Zasada, Roberts Zile
<b>Substitute(s) present for the final vote</b>	Spyros Danellis, Eider Gardiazábal Rubial, Nathalie Griesbeck, Bogdan Kazimierz Marcinkiewicz, Geoffrey Van Orden

## PROCEDURE

<b>Title</b>	Surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States			
<b>References</b>	COM(2013)0197 – C7-0098/2013 – 2013/0106(COD)			
<b>Date submitted to Parliament</b>	12.4.2013			
<b>Committee responsible</b> Date announced in plenary	LIBE 18.4.2013			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 18.4.2013	DEVE 18.4.2013	TRAN 18.4.2013	
<b>Not delivering opinions</b> Date of decision	DEVE 22.4.2013			
<b>Rapporteur(s)</b> Date appointed	Carlos Coelho 29.5.2013			
<b>Discussed in committee</b>	6.6.2013	5.9.2013	17.10.2013	9.12.2013
<b>Date adopted</b>	9.12.2013			
<b>Result of final vote</b>	+ : 36 - : 8 0 : 10			
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Roberta Angelilli, Edit Bauer, Mario Borghezio, Arkadiusz Tomasz Bratkowski, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Ioan Enciu, Frank Engel, Cornelia Ernst, Tanja Fajon, Monika Flašíková Beňová, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Lívía Járóka, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Véronique Mathieu Houillon, Roberta Metsola, Louis Michel, Claude Moraes, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Rui Tavares, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Renate Weber, Josef Weidenholzer, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra			
<b>Substitute(s) present for the final vote</b>	Michael Cashman, Mariya Gabriel, Jean Lambert, Marian-Jean Marinescu, Jan Mulder, Hubert Pirker, Marco Scurria, Salvador Sedó i Alabart, Joanna Senyszyn, Janusz Wojciechowski			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Georgios Koumoutsakos, Olle Schmidt			
<b>Date tabled</b>	13.12.2013			