



Plenary sitting

A8-0200/2016

3.6.2016

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM(2015)0671 – C8-0408/2015 – 2015/0310(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Artis Pabriks

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. 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 on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM(2015)0671 – C8-0408/2015 – 2015/0310(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0671),
 - having regard to Article 294(2), and Article 77(2)(b) and (d) and Article 79(2)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0408/2015),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 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, the Committee on Budgets and the Committee on Fisheries (A8-0200/2016),
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

Text proposed by the Commission

(1) On 25 and 26 June 2015,¹² the European Council called for wider efforts in resolving the **migrant crisis** in a comprehensive manner, including through the reinforcement of the management of borders to better manage growing mixed migratory flows. Furthermore, on 23 September 2015,¹³ the European Council

Amendment

(1) On 25 and 26 June 2015,¹² the European Council called for wider efforts in resolving the **unprecedented migratory flows** in a comprehensive manner, including through the reinforcement of the management of borders to better manage growing mixed migratory flows. Furthermore, on 23 September 2015,¹³ the

stressed the need to tackle the dramatic situation at the external borders as well as to strengthen the controls at those borders, notably through additional resources for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, the European Asylum Support Office and Europol, with human resources and technical contributions from Member States.

¹² Meeting of the European Council, Conclusions of 25 and 26 June 2015.

¹³ Informal meeting of EU Heads of State or Government on migration, Statement of 23 September 2015.

European Council stressed the need to tackle the dramatic situation at the external borders as well as to strengthen the controls at those borders, notably through additional resources for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, the European Asylum Support Office and Europol, with human resources and technical contributions from Member States.

¹² Meeting of the European Council, Conclusions of 25 and 26 June 2015.

¹³ Informal meeting of EU Heads of State or Government on migration, Statement of 23 September 2015.

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The objective of Union policy in the field of external border management is to develop and implement European integrated border management at national and Union level, which is a necessary corollary to the free movement of persons within the Union and is a fundamental component of an area of freedom, security and justice. ***European integrated border management is central to improving migration management and*** ensuring a high level of internal security within the Union.

Amendment

(2) The objective of Union policy in the field of external border management is to develop and implement European integrated border management at national and Union level, which is a necessary corollary to the free movement of persons within the Union and is a fundamental component of an area of freedom, security and justice, ***with a view to monitoring efficiently the crossing of the external borders and to addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension and to*** ensuring a high level of internal security within the Union, ***in full respect for fundamental rights, while safeguarding the free movement of persons therein.***

Amendment 3

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) When implementing European integrated border management, coherence with other policy objectives should be ensured including the proper functioning of cross-border transport.

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) To ensure the effective implementation of the European integrated border management, a European Border and Coast Guard should be established. The European Border and Coast Guard, which comprises the European Border and Coast Guard Agency and national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, relies upon the common use of information, capabilities and systems at national level and the response of the European Border and Coast Guard Agency at Union level.

(4) To ensure the effective implementation of the European integrated border management, a European Border and Coast Guard should be established ***and should be provided with the requisite financial and human resources and equipment.*** The European Border and Coast Guard, which comprises the European Border and Coast Guard Agency and national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, relies upon the common use of information, capabilities and systems at national level and the response of the European Border and Coast Guard Agency at Union level.

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) European integrated border management is a shared responsibility of the European Border and Coast Guard Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks. While Member States retain the primary responsibility for the management of their section of the external borders in their interest and in the interest of all Member States which have abolished internal border control, the European Border and Coast Guard Agency should ensure the application of Union measures relating to the management of the external borders by reinforcing, assessing and coordinating the actions of Member States which implement those measures.

Amendment

(5) European integrated border management is a shared responsibility of the European Border and Coast Guard Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out ***maritime border surveillance operations and any other*** border control tasks. While Member States retain the primary responsibility for the management of their section of the external borders in their interest and in the interest of all Member States which have abolished internal border control, the European Border and Coast Guard Agency should ensure the application of Union measures relating to the management of the external borders by reinforcing, assessing and coordinating the actions of Member States which implement those measures. ***The Commission should present a legislative proposal for a European integrated border management strategy setting out general guidelines, the objectives to be met and the key actions to be taken in order to establish a fully functioning European integrated border management system.***

Amendment 6

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, commonly referred to as Frontex, was established by Council Regulation (EC) No 2007/2004.¹⁴ Since taking up its responsibilities on 1 May 2005, it has been successful in assisting

Amendment

(7) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, commonly referred to as Frontex, was established by Council Regulation (EC) No 2007/2004.¹⁴ Since taking up its responsibilities on 1 May 2005, it has been successful in assisting

Member States with implementing the operational aspects of external border management through joint operations and rapid border interventions, as well as risk analysis, information exchange, relations with third countries and the return of third-country nationals *illegally staying on the territory of Member States*.

¹⁴ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

Member States with implementing the operational aspects of external border management through joint operations and rapid border interventions, as well as risk analysis, information exchange, relations with third countries and the return of third-country nationals *who are the subject of a return decision issued by a Member State in accordance with Directive 2008/115/EC of the European Parliament and of the Council*^{14a}.

¹⁴ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

^{14a} *Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals (OJ L 348, 21.12.2008, p. 98).*

Amendment 7

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) *Having regard to the increasing migratory pressures* at the external borders, *to the necessity of ensuring* a high level of internal security within the Union *and to* safeguard the functioning of the Schengen area *as well as* the overarching principle of solidarity, it is necessary to reinforce the management of the external borders by building on the work of Frontex and further *develop* it into an Agency with a shared responsibility for the management

Amendment

(8) *It is necessary to monitor the crossing of the external borders efficiently, address migratory challenges and potential future threats* at the external borders, *ensure* a high level of internal security within the Union, safeguard the functioning of the Schengen area *and respect* the overarching principle of solidarity. *In light of this*, it is necessary to reinforce the management of the external borders by building on the work of Frontex

of the external borders.

and further *developing* it into an Agency with a shared responsibility for the management of the external borders.

Amendment 8

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) The tasks of Frontex should therefore be expanded and to reflect those changes, it should be renamed European Border and Coast Guard Agency. The key role of the ***European Border and Coast Guard*** Agency should be to establish an operational and technical strategy for the implementation of an integrated border management at Union level, to oversee the effective functioning of border control at the external borders, to provide increased operational and technical assistance to Member States through joint operations and rapid border interventions, ***and to*** ensure the practical execution of measures in case of a situation requiring urgent action at the external borders, as well as to organise, coordinate and conduct return operations and return interventions.

Amendment

(9) The tasks of Frontex should therefore be expanded and to reflect those changes, it should be renamed European Border and Coast Guard Agency (***the Agency***). The key role of the Agency should be to establish an operational and technical strategy for the implementation of an integrated border management at Union level, to oversee the effective functioning of border control at the external borders, to provide increased operational and technical assistance to Member States through joint operations and rapid border interventions, ensure the practical execution of measures in case of a situation requiring urgent action at the external borders ***and technical and operational assistance to Member States and third countries in the context of search and rescue operations for persons in distress at sea***, as well as to organise, coordinate and conduct return operations and return interventions.

Amendment 9

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Given its activity at the external borders, the Agency should contribute to preventing and detecting serious crime

with a cross-border dimension, such as the criminal smuggling of persons, trafficking in human beings and terrorism, where it is appropriate for it to act and where it has obtained relevant information through its activities. It should coordinate its activities with Europol as the agency responsible for supporting and strengthening Member States' actions and their cooperation in preventing and combating serious crime affecting two or more Member States.

Amendment 10

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) The Agency should carry out its tasks without prejudice to the competence of the Member States with regard to defence.

Amendment 11

Proposal for a regulation Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) The extended tasks and competence of the Agency should be balanced with strengthened fundamental rights safeguards and increased accountability.

Amendment 12

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) The ***European Border and Coast***

(11) The Agency should prepare general

Guard Agency should prepare general and tailored risk analysis based on a common integrated risk analysis model, to be applied by the Agency itself and by Member States. The **European Border and Coast Guard** Agency should, based also on information provided by Member States, provide adequate information and intelligence covering all aspects relevant to European integrated border management, *especially border control, return, irregular secondary movements of third-country nationals within the Union, prevention of cross-border crime including facilitation of irregular immigration, trafficking in human beings and terrorism*, as well as the situation at neighbouring third countries, so as to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of external borders.

and tailored risk analysis based on a common integrated risk analysis model, to be applied by the Agency itself and by Member States. The Agency should, based also on information provided by Member States, provide adequate information and intelligence covering all aspects relevant to European integrated border management, as well as the situation at neighbouring third countries, so as to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of *the* external borders.

Amendment 13

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) In a spirit of shared responsibility, the role of the **European Border and Coast Guard** Agency should be to regularly monitor the management of the external borders. The Agency should ensure proper and effective monitoring not only through risk analysis, information exchange and Eurosur, but also through presence of experts from its own staff in Member States. The Agency should therefore be able to deploy liaison officers to *specific* Member States for a period of time during which the liaison officer reports to the Executive Director. The report of the liaison officers should form part of the vulnerability assessment.

Amendment

(12) In a spirit of shared responsibility, the role of the Agency should be to regularly monitor the management of the external borders. The Agency should ensure proper and effective monitoring not only through risk analysis, information exchange and Eurosur, but also through presence of experts from its own staff in Member States. The Agency should therefore be able to deploy liaison officers to *all* Member States for a period of time during which the liaison officer reports to the Executive Director. The report of the liaison officers should form part of the vulnerability assessment.

Amendment 14

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The **European Border and Coast Guard** Agency should carry out a vulnerability assessment to assess the capacity of the Member States to face challenges at their external borders, including by assessing the equipment and resources of Member States as well as their contingency plans to address possible crises at the external borders. Member States should take corrective action to address any deficiencies identified in that assessment. The Executive Director, on the advice of **a Supervisory Board** created within the **European Border and Coast Guard** Agency, should identify the measures to be taken by the Member State concerned and should set a time-limit within which those measures should be taken. That decision should be binding on that Member State and where the necessary measures are not taken within the set time-limit, the matter needs to be referred to the Management Board **for a further decision**.

Amendment

(13) The Agency should carry out a vulnerability assessment, **based on objective criteria**, to assess the capacity of the Member States to face challenges at their external borders, including by assessing the equipment, **infrastructure, staff, budget and financial** resources of Member States as well as their contingency plans to address possible crises at the external borders. Member States should take corrective action to address any deficiencies identified in that assessment. The Executive Director, on the advice of **an Advisory Board** created within the Agency, should identify the measures to be taken by the Member State concerned and should set a time-limit within which those measures should be taken. That decision should be binding on that Member State and where the necessary measures are not taken within the set time-limit, the matter needs to be referred to the Management Board **and to the Commission**.

Amendment 15

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) The vulnerability assessment should be a preventive measure carried out by the Agency on a continuous basis, complementing the Schengen evaluation and monitoring mechanism set up pursuant to Council Regulation (EU) No

1053/2013^{1a}. The information obtained during the vulnerability assessment should also be used for the purposes of that mechanism, in particular when deciding on the multiannual and the annual evaluation programme.

^{1a} Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

Amendment 16

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The ***European Border and Coast Guard*** Agency should organise the appropriate technical and operational assistance to Member States so as to reinforce their capacity to implement their obligations with regard to the control of the external borders, and to face challenges at the external border resulting from irregular ***immigration*** or cross-border crime. In this respect, the ***European Border and Coast Guard*** Agency should, at the request of a Member State or on its own initiative, organise and coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams as well as the necessary technical equipment, and it may deploy experts from its own staff.

Amendment

(14) The Agency should organise the appropriate technical and operational assistance to Member States so as to reinforce their capacity to implement their obligations with regard to the control of the external borders, and to face challenges at the external border resulting from irregular ***migration*** or cross-border crime. In this respect, the Agency should, at the request of a Member State or on its own initiative, organise and coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams as well as the necessary technical equipment, and it may deploy experts from its own staff.

Amendment 17

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) In cases where there is a specific and disproportionate pressure at the external borders, the **European Border and Coast Guard** Agency should, at the request of a Member State or on its own initiative, organise and coordinate rapid border interventions and deploy European Border and Coast Guard Teams from a rapid **reserve** pool as well as technical equipment. Rapid border interventions should provide reinforcement in situations where immediate response is required and where such an intervention would provide an effective response. To ensure the effective operation of such intervention, Member States should make border guards and other relevant staff available to the rapid **reserve** pool.

Amendment

(15) In cases where there is a specific and disproportionate pressure at the external borders, the Agency should, at the request of a Member State or on its own initiative, organise and coordinate rapid border interventions and deploy European Border and Coast Guard Teams from a rapid **reaction** pool as well as technical equipment. Rapid border interventions should provide reinforcement in situations where immediate response is required and where such an intervention would provide an effective response. To ensure the effective operation of such intervention, Member States should make border guards and other relevant staff available to the rapid **reaction** pool **and provide the necessary technical equipment. The Agency and the Member State concerned should agree upon an operational plan.**

Amendment 18

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) **At particular areas of the external borders where** Member States face disproportionate migratory **pressures** characterised by large influxes of mixed migratory flows, **referred to as hotspot areas**, the Member States should be able to rely on the increased operational and technical reinforcement by the migration management support teams composed of teams of experts deployed from Member States by the **European Border and Coast**

Amendment

(16) **Where** Member States face disproportionate migratory **challenges** characterised by large influxes of mixed migratory flows the Member States should be able to rely on the increased operational and technical reinforcement **in hotspot areas** by the migration management support teams composed of teams of experts deployed from Member States by the Agency and the European Asylum Support Office, and from Europol or other

Guard Agency and the European Asylum Support Office, and from Europol or other relevant Union Agencies, as well as experts from the staff of the **European Border and Coast Guard** Agency. The **European Border and Coast Guard** Agency should assist the Commission in the coordination among the different agencies on the ground.

relevant Union Agencies, as well as experts from the staff of the Agency. The Agency should assist the Commission in the coordination among the different agencies on the ground.

Amendment 19

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In hotspot areas the different agencies and Member States should operate within their respective mandates and powers. While the Agency should facilitate the application of Union measures relating to the management of external borders and return, the European Asylum Support Office should help to improve the implementation of the Common European Asylum System and support Member States in asylum-related matters, Europol should provide expertise, strategic and operational analysis relating to cross-border organised crime and dismantling smuggling networks, and Eurojust should support cooperation between national investigating and prosecuting authorities. Member States remain responsible for taking substantive decisions regarding asylum applications and return.

Amendment 20

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) In cases where a Member State does not take the necessary corrective action in line with the vulnerability assessment or in the event of disproportionate migratory pressure at the external borders, rendering the control at the external border ineffective to an extent which risks putting in jeopardy the functioning of the Schengen area, a unified, rapid and effective response should be delivered at Union level. For this purpose, and to ensure better coordination at Union level, the Commission should identify the measures to be implemented by the **European Border and Coast Guard Agency** and require the Member State concerned to cooperate with the Agency in the implementation of those measures. The **European Border and Coast Guard Agency** should then determine the actions to be taken for the practical execution of the measures indicated in the **Commission** decision, and an operational plan should be **drawn up** with the Member State concerned.

Amendment

(17) In cases where a Member State does not take the necessary corrective action in line with the vulnerability assessment or in the event of disproportionate migratory pressure at the external borders, rendering the control at the external border ineffective to an extent which risks putting in jeopardy the functioning of the Schengen area **as an area without internal border control**, a unified, rapid and effective response should be delivered at Union level. For this purpose, and to ensure better coordination at Union level, the Commission should identify the measures to be implemented by the Agency. **For the adoption of such measures, taking into account sovereignty-related aspects and the political sensitivity thereof, which touch on national executive and enforcement powers, implementing powers should be conferred on the Council, which should act on a proposal from the Commission.** The Member State concerned **should** cooperate with the Agency in the implementation of those measures. The Agency should then determine the actions to be taken for the practical execution of the measures indicated in the **Council** decision, and an operational plan should be **agreed** with the Member State concerned.

Amendment 21

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) The **European Border and Coast Guard Agency** should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching

Amendment

(18) The Agency should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions

rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the **European Border and Coast Guard** Agency should be able to deploy European Border and Coast Guard Teams from a rapid **reserve** pool which should be a standing corps composed of a **small** percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. The deployment of the European Border and Coast Guard Teams from the rapid **reserve** pool should be immediately complemented by additional European Border and Coast Guard Teams **as appropriate**.

at the request of a Member State or in the context of a situation requiring urgent action, the Agency should be able to deploy European Border and Coast Guard Teams from a rapid **reaction** pool which should be a standing corps composed of a percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. The deployment of the European Border and Coast Guard Teams from the rapid **reaction** pool should be immediately complemented by additional European Border and Coast Guard Teams **where necessary**.

Amendment 22

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) On 8 October 2015, the European Council called for enlarging the mandate of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union to assist Member States in ensuring the effective return of illegally staying third-country nationals, including by organising return operations on its own initiative and enhancing its role regarding the acquisition of travel documents. For this purpose, the European Council called for the establishment of a Return Office within the European Border and Coast Guard Agency which should be tasked with the coordination of the Agency's activities in the field of return.

Amendment

deleted

Amendment 23

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) The **European Border and Coast Guard** Agency should step up its assistance to Member States for returning **illegally** staying third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC **of the European Parliament and of the Council**.¹⁵ In particular, it should coordinate and organise return operations from one or more Member States and it should organise and conduct return interventions to reinforce the return system of Member States requiring increased technical and operational assistance when complying with their obligation to return **illegally** staying third-country nationals in accordance with that Directive.

¹⁵ **Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals (OJ L 348, 21.12.2008, p. 98).**

Amendment 24

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21) The Agency should step up its assistance to Member States for returning **irregularly** staying third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC. In particular, it should coordinate and organise return operations from one or more Member States and it should organise and conduct return interventions to reinforce the return system of Member States requiring increased technical and operational assistance when complying with their obligation to return **irregularly** staying third-country nationals in accordance with that Directive.

(21a) The Agency should provide the necessary assistance to Member States in organising joint return operations and return interventions of irregular migrants, without entering into the merits of return decisions issued by the Member States,

and in full respect for fundamental rights. In addition, the Agency should assist Member States in the acquisition of travel documents for return, in cooperation with the authorities of the relevant third countries.

Amendment 25

Proposal for a regulation Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) The possible existence of an arrangement between a Member State and a third country does not absolve the Agency or the Member States from their obligations under Union or international law, in particular as regards compliance with the principle of non-refoulement, where 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 serious risk of being subjected to inhuman or degrading treatment or where they are aware or ought to be aware that that third country engages in practices in contravention of the principle of non-refoulement.

Justification

In the context of return operations and interventions, it is imperative to reiterate the guiding principles on which any return of a third-country national may be carried out. Based on Recital 13 of Regulation (EU) No 656/2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by Frontex.

Amendment 26

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) The **European Border and Coast Guard** Agency should establish pools of forced return monitors, forced return experts and return specialists made available by Member States, who should be deployed during return operations and that should form part of tailor-made European Return Intervention Teams deployed in return interventions. The **European Border and Coast Guard** Agency should provide them with the necessary training.

Amendment

(22) The Agency should establish pools of forced return monitors, forced return experts and return specialists made available by Member States, who should be deployed during return operations and that should form part of tailor-made European Return Intervention Teams deployed in return interventions. ***The pools should include staff with specific expertise in child protection.*** The Agency should provide them with the necessary training.

Amendment 27

Proposal for a regulation

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Special provision should be made for staff involved in activities relating to returns to specify their tasks, powers and responsibilities. Special instructions should also be issued with regard to the power of the pilots in charge of aircraft and the extension of the criminal jurisdiction of the country of registration of the aircraft under international aviation law.

Amendment 28

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The **European Border and Coast Guard** Agency should develop specific training tools and it should provide training at Union level for national instructors of border guards and additional training and seminars related to ***control at external***

Amendment

(23) The Agency should develop specific training tools, ***including specific training in the protection of children***, and it should provide training at Union level for national instructors of border guards and additional training and seminars related to

borders and return of third-country nationals illegally staying on the territory of Member States for officers of the competent national bodies. The Agency should be authorised to organise training activities in cooperation with Member States and third countries on their territory.

integrated border management tasks, including for officers of the competent national bodies. The Agency should be authorised to organise training activities in cooperation with Member States and third countries on their territory.

Amendment 29

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) The ***European Border and Coast Guard*** Agency should monitor and contribute to the developments in research relevant for ***the control of the external borders, including the use of advanced surveillance technology***, and it should disseminate this information to the Member States ***and to*** the Commission.

Amendment

(24) The Agency should monitor and contribute to the developments in research relevant for ***European integrated border management*** and it should disseminate this information to ***the European Parliament, the Member States, the Commission, relevant Union agencies, bodies and offices, and the public.***

Amendment 30

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) Effective implementation of an integrated management of the external borders necessitates regular, swift and reliable exchange of information among the Member States regarding the management of the external borders, irregular ***immigration*** and return. The ***European Border and Coast Guard*** Agency should develop and operate information systems facilitating such exchange in accordance with Union data protection legislation.

Amendment

(25) Effective implementation of an integrated management of the external borders necessitates regular, swift and reliable exchange of information among the Member States regarding the management of the external borders, irregular ***migration*** and return. The Agency should develop and operate information systems facilitating such exchange in accordance with Union data protection legislation. ***It is important that Member States provide the Agency promptly with complete and accurate information necessary for the Agency to***

perform its tasks.

Amendment 31

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) National authorities carrying out coast guard functions are responsible for a wide range of tasks, including but not limited to maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection. The ***European Border and Coast Guard*** Agency, the European Fisheries Control Agency established by Council Regulation (EC) No 768/2005¹⁶ and the European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹⁷ should therefore strengthen their cooperation both with each other and with the national authorities carrying out coast guard functions to increase maritime situational awareness as well as to support coherent and cost-efficient action.

¹⁶ Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p.1).

¹⁷ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p.1).

Amendment

(27) National authorities carrying out coast guard functions are responsible for a wide range of tasks, including but not limited to maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection. The Agency, the European Fisheries Control Agency established by Council Regulation (EC) No 768/2005¹⁶ and the European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹⁷ should therefore strengthen their cooperation both with each other and with the national authorities carrying out coast guard functions to increase maritime situational awareness as well as to support coherent and cost-efficient action. ***Synergies between the various actors in the maritime environment should be in line with the Europeans integrated border management and maritime security strategy.***

¹⁶ Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p.1).

¹⁷ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p.1).

Amendment 32

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Cooperation on coast guard functions, in particular by means of enhanced collaboration between national authorities, the Agency, the European Fisheries Control Agency and the European Maritime Safety Agency, should not affect the division of powers between the agencies as regards the definition of their missions and should not impinge on their autonomy or independence in respect of their initial assignments. That cooperation is also intended to enable the creation of synergies between them, without changing their mission statements.

Justification

European cooperation on coast guard functions does not seek to reduce the powers of the EMSA or the EFCA. The aim of cooperation is to strengthen the agencies' primary missions while establishing synergies, in such a way as to improve knowledge of the maritime situation and the EU's offshore response capability.

Amendment 33

Proposal for a regulation Recital 28

Text proposed by the Commission

Amendment

(28) The ***European Border and Coast Guard*** Agency should facilitate and encourage operational cooperation between Member States and third countries in the framework of the external relations policy of the Union, including by coordinating operational cooperation between Member States and third countries in the field of management of external borders and by deploying liaison officers to third

(28) The Agency should facilitate and encourage ***technical and*** operational cooperation between Member States and third countries in the framework of the external relations policy of the Union, including by coordinating operational cooperation between Member States and third countries in the field of management of ***the*** external borders and by deploying liaison officers to third countries, as well as

countries, as well as by cooperating with the authorities of third countries on return, including as regards the acquisition of travel documents. In their cooperation with third countries, the *European Border and Coast Guard* Agency and Member States should comply with *norms and standards at least equivalent to those set by Union legislation* also when the cooperation with third countries takes place on the territory of those countries.

by cooperating with the authorities of third countries on return, including as regards the acquisition of travel documents. In their cooperation with third countries, the Agency and Member States should comply with *Union law, including with regard to the protection of fundamental rights and the principle of non-refoulement at all times and* also when the cooperation with third countries takes place on the territory of those countries. *In order to increase transparency and accountability, the Agency should report on cooperation with third countries in its annual report.*

Amendment 34

Proposal for a regulation Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) The European Border and Coast Guard and the Agency should fulfil their tasks in full respect for fundamental rights, in particular the Charter of Fundamental Rights of the European Union (the Charter), the Convention Relating to the Status of Refugees and obligations related to access to international protection, in particular the principle of non-refoulement, the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, and the International Convention on Maritime Search and Rescue. In accordance with Union law and those provisions the Agency should assist Member States in conducting search and rescue operations in order to protect and save lives whenever and wherever so required.

Amendment 35

Proposal for a regulation Recital 28 b (new)

Text proposed by the Commission

Amendment

(28b) Given the increased number of its tasks, the Agency should further develop and implement a strategy to monitor and ensure the protection of fundamental rights. To that end it should provide its Fundamental Rights Officer with adequate resources and staff corresponding to its mandate and size. The Agency should use its role to actively promote the application of the Union acquis relating to the management of the external borders, including with regard to respect for fundamental rights and international protection.

Amendment 36

Proposal for a regulation Recital 28 c (new)

Text proposed by the Commission

Amendment

(28c) In accordance with the Charter and the 1989 United Nations Convention on the Rights of the Child, a child's best interests are to be a primary consideration in the activities of the Agency.

Amendment 37

Proposal for a regulation Recital 30

Text proposed by the Commission

Amendment

(30) This Regulation establishes *a* complaint mechanism for the *European Border and Coast Guard* Agency, in

(30) This Regulation establishes *an independent* complaint mechanism for the Agency, in cooperation with the

cooperation with the Fundamental Rights Officer, to monitor and ensure the respect for fundamental rights in all the activities of the Agency. This should be an administrative mechanism whereby the Fundamental Rights Officer should be responsible for handling complaints received by the Agency in accordance with the right to good administration. The Fundamental Rights Officer should review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning border guards to the home Member State and register the follow-up by the Agency or that Member State. Criminal investigations should be conducted by the Member States.

Fundamental Rights Officer, to monitor and ensure the respect for fundamental rights in all the activities of the Agency. This should be an administrative mechanism whereby the Fundamental Rights Officer should be responsible for handling complaints received by the Agency in accordance with the right to good administration. The Fundamental Rights Officer should review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning border guards to the home Member State and register the follow-up by the Agency or that Member State. Criminal investigations should be conducted by the Member States. ***The mechanism should be effective, ensuring that complaints are properly followed up and lead to penalties in cases of fundamental rights violations. In order to increase transparency and accountability, the Agency should report on the complaints mechanism in its annual report.***

Amendment 38

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) In order to ensure the uniform conditions for the implementation of this Regulation, in particular as regards situations requiring urgent action at the external borders, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

Amendment

deleted

Amendment 39

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) The **Commission and the Member States should be represented within a** Management Board **to exercise *policy and political*** oversight over the **European Border and Coast Guard** Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the **European Border and Coast Guard Agency and appoint the Executive Director and the Deputy Executive Director**. The Agency should be governed and operated ***in line with*** the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European Commission.

Amendment 40

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) In order to guarantee the autonomy of the **European Border and Coast Guard** Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The

Amendment

(33) The Management Board ***should*** exercise oversight over the Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency. The Agency should be governed and operated ***taking into account*** the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European Commission. ***This should include conclusion of a headquarters agreement between the Agency and the Member State in which it has its seat.***

Amendment

(34) In order to guarantee the autonomy of the Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken

auditing of accounts should be undertaken by the Court of Auditors.

by the Court of Auditors. ***The budget adopted by the Management Board should be balanced in terms of addressing different aspects of the Agency's activities, including ensuring respect for fundamental rights.***

Amendment 41

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ²¹ should apply to the ***European Border and Coast Guard*** Agency.

²¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Amendment

(36) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ²¹ should apply to the Agency. ***The Agency should be as transparent as possible about its activities, without jeopardising the attainment of the objective of its operations. It should make public all relevant information on all of its activities, and should ensure that the public and any interested party are rapidly given information with regard to its work.***

²¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Amendment 42

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) Since the objectives of this Regulation, namely the development and

Amendment

(39) Since the objectives of this Regulation, namely the development and

implementation of a system of integrated management of the external borders, thus also ensuring the proper functioning of the Schengen area, cannot be sufficiently achieved by the Member States acting in an uncoordinated manner but can rather, because of the absence of controls at internal borders and in view of the significant migratory *pressures* at the external borders and the need *to safeguard* a high level of internal security within the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

implementation of a system of integrated management of the external borders, thus also ensuring the proper functioning of the Schengen area, cannot be sufficiently achieved by the Member States acting in an uncoordinated manner but can rather, because of the absence of controls at internal borders and in view of the significant migratory *challenges* at the external borders and the need *to monitor efficiently the crossing of those borders, thereby contributing to* a high level of internal security within the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Amendment 43

Proposal for a regulation Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise related to, the Schengen acquis within the meaning of Article 4(1) of the 2005 Act of Accession.

Amendment 44

Proposal for a regulation Recital 46 b (new)

Text proposed by the Commission

Amendment

(46b) As regards Croatia, this Regulation constitutes an act building

upon, or otherwise related to, the Schengen acquis within the meaning of Article 4(1) of the 2011 Act of Accession.

Amendment 45

Proposal for a regulation Recital 46 c (new)

Text proposed by the Commission

Amendment

(46c) As regards Cyprus, this Regulation constitutes an act building upon, or otherwise related to, the Schengen acquis within the meaning of Article 3(1) of the 2003 Act of Accession.

Amendment 46

Proposal for a regulation Article 1

Text proposed by the Commission

Amendment

A European Border and Coast Guard *is hereby set up* to ensure a European integrated border management at the external borders with a view to *managing migration effectively and* ensuring a high level of internal security within the Union, while safeguarding the free movement of persons therein.

This Regulation establishes a European Border and Coast Guard to ensure a European integrated border management at the external borders with a view to *monitoring efficiently the crossing of the external borders, and to addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension and to* ensuring a high level of internal security within the Union, *in full respect for fundamental rights*, while safeguarding the free movement of persons therein.

Amendment 47

Proposal for a regulation Article 2 - paragraph 1 – point 1

Text proposed by the Commission

(1) ‘external borders’ means ***the land and sea borders of the Member States and their airports and seaports***, to which ***the provisions of Title II of Regulation (EC) No 562/2006 of the European Parliament and of the Council***³⁸ apply;

³⁸ 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)*** (OJ L 105, 13.4.2006, p. 1).

Amendment 48

Proposal for a regulation Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment 49

Proposal for a regulation Article 2 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘returnee’ means an ***illegally*** staying third-country national ***subject*** to a return decision;

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Amendment

(1) ‘external borders’ means ***external borders as defined in point (2) of Article 2 of Regulation (EU) 2016/399 of the European Parliament and of the Council***, to which Title II ***thereof***³⁸ applies;

³⁸ Regulation (EU) No 2016/399 of the European Parliament and of the Council of 9 March 2016 ***on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)*** (OJ L 77, 23.3.2016, p. 1).

Amendment

(9a) ‘hotspot area’ means ***an area at an external border where a Member State faces disproportionate migratory pressures and where relevant Union Agencies assist the Member State in an integrated manner***;

Amendment

(12) ‘returnee’ means an ***irregularly*** staying third-country national ***who is the subject of a return decision issued by a Member State in accordance with Directive 2008/115/EC***;

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Amendment 50

Proposal for a regulation

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘return operation’ means an operation to return ***illegally staying*** third-country nationals, ***that*** is coordinated by the Agency and involves technical and operational reinforcement being provided by one or more Member States under which returnees from one or more Member States are returned either through forced return or in voluntary compliance with an obligation to return;

Amendment

(13) ‘return operation’ means an operation to return third-country nationals ***who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC, which*** is coordinated by the Agency and involves technical and operational reinforcement being provided by one or more Member States under which returnees from one or more Member States are returned either through forced return or in voluntary compliance with an obligation to return;

Amendment 51

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘return intervention’ means an operation to return ***illegally staying*** third-country nationals ***providing*** for enhanced technical and operational assistance consisting of the deployment of European Return Intervention Teams to Member States and the organisation of return operations.

Amendment

(14) ‘return intervention’ means an operation to return third-country nationals ***who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC, which provides*** for enhanced technical and operational assistance consisting of the deployment of European Return Intervention Teams to Member States and the organisation of return operations;

Amendment 52

Proposal for a regulation

Article 2 – paragraph 1 – point 14 a (new)

Text proposed by the Commission

Amendment

(14a) ‘coast-guard functions’ means fact-finding, monitoring, planning and organising missions and operations entrusted to a local, regional, national or Union authority with the necessary powers to perform maritime surveillance involving, in particular, safety, security, search and rescue, border control and border surveillance, fisheries control, customs control, general law enforcement and environmental protection;

Amendment 53

Proposal for a regulation

Article 2 – paragraph 1 – point 14 b (new)

Text proposed by the Commission

Amendment

(14b) ‘child’ means a natural person below the age of 18 years unless under the law applicable to the child majority is attained earlier;

Amendment 54

Proposal for a regulation

Article 2 – paragraph 1 – point 14 c (new)

Text proposed by the Commission

Amendment

(14c) ‘third party’ means a legal entity recognised as such by a Member State or an international organisation.

Amendment 55

Proposal for a regulation

Article 3

1. The European Border and Coast Guard Agency and the national authorities of Member States which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall constitute the European Border and Coast Guard.

2. The ***European Border and Coast Guard*** Agency shall establish an operational and technical strategy for the European integrated border management. It shall promote and ensure the implementation of European integrated border management in all Member States.

3. The national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall establish their national strategies for integrated border management. Those national strategies shall be coherent with the strategy referred to in paragraph 2.

1. The European Border and Coast Guard Agency (***the Agency***) and the national authorities of Member States which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall constitute the European Border and Coast Guard.

1a. If appropriate, the Commission shall, after consulting the Agency, present a legislative proposal for a European integrated border management strategy. The strategy shall set out general guidelines, the objectives to be met and the key actions to be taken to establish a fully functioning European integrated border management system. The European integrated border management strategy shall be revised whenever circumstances so warrant.

2. The Agency shall establish an operational and technical strategy for the European integrated border management, ***taking into account, where appropriate, the specific situation of the Member States***. It shall promote and ensure the implementation of European integrated border management in all Member States.

2a. The European Border and Coast Guard Agency shall ensure the continuous and uniform application of Union law, including the Union acquis on fundamental rights, at all external borders.

3. The national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall establish their national strategies for integrated border management. Those national strategies shall be coherent with the strategy referred to in ***paragraphs 1a and 2***.

Amendment 56

Proposal for a regulation Article 4

Text proposed by the Commission

European integrated border management shall consist of the following components:

(a) border control, including measures related to the prevention, detection **and investigation** of cross-border crime, where appropriate;

(b) analysis of the risks for internal security and analysis of the threats that may affect the functioning or security of the external borders;

(c) inter-agency cooperation among the national authorities in each Member State which are responsible for border control or for other tasks carried out at the border and among the relevant Union institutions, agencies, bodies and offices; including the regular exchange of information through existing information exchange tools, and in particular, the European Border Surveillance System ('Eurosur') established by Regulation (EU) No 1052/2013 of the European Parliament and of the Council;³⁹

(d) cooperation with third countries in the areas of covered by this Regulation, focusing in particular on neighbouring

Amendment

European integrated border management shall consist of the following components:

(a) border control, including measures **to facilitate legitimate border crossings and measures** related to the prevention **and** detection of cross-border crime, **such as the criminal smuggling of persons, trafficking in human beings and terrorism**, where appropriate;

(aa) search and rescue operations for persons in distress at sea in accordance with Regulation (EU) No 656/2014 and with international law;

(ab) the identification, provision of initial information to and onward referral of persons arriving at the external borders who are in need of, or wish to apply for, international protection;

(b) analysis of the risks for internal security and analysis of the threats that may affect the functioning or security of the external borders;

(c) inter-agency cooperation among the national authorities in each Member State which are responsible for border control or for other tasks carried out at the border and among the relevant Union institutions, agencies, bodies and offices; including the regular exchange of information through existing information exchange tools, and in particular, the European Border Surveillance System ('Eurosur') established by Regulation (EU) No 1052/2013 of the European Parliament and of the Council;³⁹

(d) cooperation with third countries in the areas of covered by this Regulation, focusing in particular on neighbouring

countries and on those third countries which have been identified through risk analysis as being countries of origin and transit for irregular *immigration*;

(e) technical and operational measures within the area of free movement which are related to border control and designed to *prevent irregular immigration* and to counter cross-border crime;

(f) return of third-country nationals *illegally staying on the territory of the Member States*;

(g) use of state-of-the-art technology including large-scale information systems;

(h) a quality control mechanism to ensure the implementation of Union legislation in the area of border management.

³⁹ Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

countries and on those third countries which have been identified through risk analysis as being countries of origin and transit for irregular *migration in cooperation with Member States, the Commission and the EEAS*;

(e) technical and operational measures within the area of free movement which are related to border control and designed to *better manage irregular migration* and to counter cross-border crime;

(f) return of third-country nationals *who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC*;

(g) use of state-of-the-art technology including large-scale information systems;

(h) a quality control mechanism to ensure the implementation of Union legislation in the area of border management.

³⁹ Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

Amendment 57

Proposal for a regulation Article 5

Text proposed by the Commission

1. The European Border and Coast Guard shall implement the European integrated border management as a shared responsibility of the ***European Border and Coast Guard*** Agency and of the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks.

Amendment

1. The European Border and Coast Guard shall implement the European integrated border management as a shared responsibility of the Agency and of the national authorities responsible for border management, including coast guards to the extent that they carry out ***maritime border surveillance operations and any other*** border control tasks. ***Nonetheless, Member***

States shall retain primary responsibility for the management of their section of the external border.

2. The ***European Border and Coast Guard*** Agency shall facilitate the application of Union measures relating to the management of external borders by reinforcing, assessing and coordinating the actions of Member States in the implementation of those measures, and in return. Member States shall ensure the management of their section of the external borders, in their interests and in interest of all Member States which have abolished internal border control, in full compliance with Union law and in accordance with the technical and operational strategy referred to in Article 3(2), and in close cooperation with the Agency.

3. The ***European Border and Coast Guard*** Agency shall be responsible for the management of the external borders in the cases foreseen in this Regulation, in particular where the necessary corrective measures based on the vulnerability assessment are not taken or in the event of disproportionate migratory pressure, rendering the control of the external borders ineffective to such an extent that it risks putting in jeopardy the functioning of the Schengen area.

2. The Agency shall facilitate the application of Union measures relating to the management of external borders by reinforcing, assessing and coordinating the actions of Member States in the implementation of those measures, and in return. Member States shall ensure the management of their section of the external borders, in their interests and in interest of all Member States which have abolished internal border control, in full compliance with Union law and in accordance with the technical and operational strategy referred to in Article 3(2), and in close cooperation with the Agency. ***Member States shall also, in their own interests and in the interests of other Member States, enter data into the European databases and ensure that the data are accurate, up-to-date and obtained and entered lawfully.***

3. The Agency shall be responsible for the management of the external borders in the cases foreseen in this Regulation, in particular where the necessary corrective measures based on the vulnerability assessment are not taken or in the event of disproportionate migratory pressure, rendering the control of the external borders ineffective to such an extent that it risks putting in jeopardy the functioning of the Schengen area;

3a. This Regulation shall be without prejudice to the Schengen evaluation mechanism and the powers of the Commission, in particular under Article 258 TFEU, to ensure compliance with Union law.

Amendment 58

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. To ensure a coherent European integrated border management at all external borders, the Agency shall facilitate and render more effective the application of existing and future Union measures relating to the management of external borders, in particular the Schengen Borders Code established by Regulation (EC) No 562/2006.

Amendment

1. To ensure a coherent European integrated border management at all external borders, the Agency shall facilitate and render more effective the application of existing and future Union measures relating to the management of external borders, in particular the Schengen Borders Code established by Regulation (EC) No 2016/399. ***It shall also contribute to the identification, development and exchange of good practices and promote Union border management law and standards.***

Amendment 59

Proposal for a regulation

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Accountability

The Agency shall be accountable to the European Parliament and to the Council, in accordance with this Regulation.

Amendment 60

Proposal for a regulation

Article 7

Text proposed by the Commission

1. In view of contributing to an efficient, high and uniform level of border control and return, the Agency shall

Amendment

1. In view of contributing to an efficient, high and uniform level of border control and return, the Agency shall

perform the following tasks:

- (a) **establish a monitoring and risk analysis centre with the capacity to** monitor migratory flows and to carry out risk analysis as regards all aspects of integrated border management;
- (b) carry out a vulnerability assessment including the assessment of the capacity of Member States to face threats and **pressures** at the external borders;
- (c) assist Member States in circumstances requiring increased technical and operational assistance at the external borders by coordinating and organising joint operations, taking into account that some situations may involve humanitarian emergencies and rescue at sea;
- (d) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, by launching rapid border interventions at the external borders of those Member States facing specific and disproportionate **pressures**, taking into account that some situations may involve humanitarian emergencies and rescue at sea;
- (e) set up and deploy European Border and Coast Guard Teams, including a rapid **reserve** pool, that are to be deployed during joint operations and rapid border interventions and in the framework of the

perform the following tasks:

- (a) monitor migratory flows and to carry out risk analysis as regards all aspects of integrated border management;
- (b) carry out a vulnerability assessment including the assessment of the capacity **and preparedness** of Member States to face threats and **challenges** at the external borders;
- (ba) **ensure regular monitoring of the management of the external borders through liaison officers of the Agency in Member States;**
- (c) assist Member States in circumstances requiring increased technical and operational assistance at the external borders by coordinating and organising joint operations, taking into account that some situations may involve humanitarian emergencies and rescue at sea **in accordance with Union and international law;**
- (d) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, by launching rapid border interventions at the external borders of those Member States facing specific and disproportionate **challenges**, taking into account that some situations may involve humanitarian emergencies and rescue at sea **in accordance with Union and international law;**
- (da) **provide technical and operational assistance to Member States and third countries, in the context of search and rescue operations for persons in distress at sea in accordance with Regulation (EU) No 656/2014 and international law;**
- (e) set up and deploy European Border and Coast Guard Teams, including a rapid **reaction** pool, that are to be deployed during joint operations and rapid border interventions and in the framework of the

migration management support teams;

(f) set up a technical equipment pool to be deployed in joint operations, rapid border interventions and in the framework of migration management support teams, as well as in return operations and return interventions;

(g) deploy European Border and Coast Guard Teams and technical equipment to provide assistance in screening, identification and fingerprinting in the framework of the migration management support teams at hotspot areas;

(h) support the development of technical standards for equipment, especially for tactical level command, control and communication as well as technical surveillance to ensure interoperability at Union and national level;

(i) deploy the necessary equipment and staff for the rapid *reserve* pool for the practical execution of the measures needed to be taken in a situation requiring urgent action at the external borders;

(j) assist Member States in circumstances requiring increased technical assistance and operational assistance for implementing the obligation to return *illegally staying* third-country nationals, including through the coordination or organisation of return operations;

migration management support teams;

(f) set up a technical equipment pool to be deployed in joint operations, rapid border interventions and in the framework of migration management support teams, as well as in return operations and return interventions;

(g) deploy European Border and Coast Guard Teams and technical equipment to provide assistance in screening, identification and fingerprinting *and establish mechanisms for the identification, provision of initial information to and onward referral of persons who are in need of, or wish to apply for, international protection* in the framework of the migration management support teams at hotspot areas, *in cooperation with the European Asylum Support Office (EASO) and national authorities*;

(h) support the development of *common* technical standards for equipment, especially for tactical level command, control and communication as well as technical surveillance to ensure interoperability at Union and national level;

(i) deploy the necessary equipment and staff for the rapid *reaction* pool for the practical execution of the measures needed to be taken in a situation requiring urgent action at the external borders;

(j) assist Member States in circumstances requiring increased technical assistance and operational assistance for implementing the obligation to return *those* third-country nationals, *who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC*, including through the coordination or organisation of return operations;

(ja) support Member States in circumstances requiring increased technical and operational assistance at

the external borders in the fight against organised cross-border crime and terrorism, in cooperation with Europol and Eurojust;

- (k) set up pools of forced return monitors, forced return escorts and return specialists;
- (l) set up and deploy European Return Intervention Teams during return interventions;
- (m) assist Member States on training of national border guards and experts on return, including the establishment of common training standards;
- (n) participate in the development and management of research and innovation activities relevant for the control and surveillance of external borders, ***including the use of advanced surveillance technology such as remotely piloted aircraft systems*** and develop pilot projects regarding matters covered by this Regulation;
- (o) develop and operate, in accordance with Regulation (EC) No 45/2001 and Framework Decision 2008/977/JHA, information systems that enable swift and reliable exchanges of information regarding emerging risks at the management of the external borders, irregular ***immigration*** and return, in close cooperation with the Commission, Union agencies, bodies and offices as well as the European Migration Network established by Council Decision 2008/381/EC;
- (p) provide the necessary assistance for the development and operation of a European border surveillance system and, as appropriate, to the development of a common information-sharing environment, including interoperability of systems, in particular by developing, maintaining and coordinating the Eurosur framework in accordance with Regulation (EU) No 1052/2013;

- (k) set up pools of forced return monitors, forced return escorts and return specialists;
- (l) set up and deploy European Return Intervention Teams during return interventions;
- (m) assist Member States on training of national border guards and experts on return, including the establishment of common training standards;
- (n) ***monitor and*** participate in the development and management of research and innovation activities relevant for the control and surveillance of external borders, and develop pilot projects regarding matters covered by this Regulation;
- (o) develop and operate, in accordance with Regulation (EC) No 45/2001 and Framework Decision 2008/977/JHA, information systems that enable swift and reliable exchanges of information regarding emerging risks at the management of the external borders, irregular ***migration*** and return, in close cooperation with the Commission, Union agencies, bodies and offices as well as the European Migration Network established by Council Decision 2008/381/EC;
- (p) provide the necessary assistance for the development and operation of a European border surveillance system and, as appropriate, to the development of a common information-sharing environment, including interoperability of systems, in particular by developing, maintaining and coordinating the Eurosur framework in accordance with Regulation (EU) No 1052/2013;

(q) cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency to support the national authorities carrying out coast guard functions by providing services, information, equipment and training, as well as by coordinating multipurpose operations;

(r) assist Member States and third countries in the context of operational cooperation between them in *the fields of external border management and return*.

2. Member States may continue cooperation at an operational level with other Member States *and/or third countries at external borders, including military operations on a law enforcement mission and in the field of return*, where such cooperation is compatible with the *action* of the Agency. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on that operational cooperation with other Member States and/or third countries at the external borders and in the field of return. The Executive Director of the Agency ('the Executive Director') shall inform the Management Board of the Agency ('the Management Board') on those matters on a

(pa) adopt and promote the highest standards for border management practices, allowing for transparency and public scrutiny and ensuring respect for and protection and promotion of fundamental rights and rule of law;

(q) cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency, *each within their mandate*, to support the national authorities carrying out coast guard functions by providing services, information, equipment and training, as well as by coordinating multipurpose operations;

(r) assist Member States and third countries in the context of *technical and operational cooperation between them in matters covered by its activities and to the extent required for the fulfilment of its tasks*;

(ra) assist in sharing the information, equipment and all other capabilities of the European Fisheries Control Agency and the European Maritime Safety Agency, if their support is needed in order to perform specific tasks like, but not limited to, search and rescue.

2. Member States may continue cooperation at an operational level with other Member States, where such cooperation is compatible with the *tasks* of the Agency. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on that operational cooperation with other Member States and/or third countries at the external borders and in the field of return. The Executive Director of the Agency ('the Executive Director') shall inform the Management Board of the Agency ('the Management Board') on those matters on a

regular basis and at least once a year.

3. The Agency *may* engage in communication activities *on its own initiative* in the fields within its mandate. Communication activities shall not be detrimental to the tasks referred to in paragraph 1 *and* shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

regular basis and at least once a year.

3. The Agency *shall* engage in communication activities in the fields within its mandate. *It shall provide the public with accurate and detailed information about its activities.* Communication activities shall not be detrimental to the tasks referred to in paragraph 1 *in particular by revealing operational information which, if made public, would jeopardise attainment of the objective of operations.* Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

Amendment 61

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

The Agency and the national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall be subject to a duty to cooperate in good faith, and an obligation to exchange information.

Amendment

The Agency and the national authorities which are responsible for border management *and for returns*, including coast guards to the extent that they carry out border control tasks, shall be subject to a duty to cooperate in good faith, and an obligation to exchange information.

Amendment 62

Proposal for a regulation Article 9

Text proposed by the Commission

The national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall provide the Agency in a timely and accurate manner with all the information

Amendment

Pursuant to Article 4(3) of the Treaty on European Union, the national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, shall provide the Agency in a timely

necessary for the Agency to perform the tasks conferred on it by this Regulation, in particular for the Agency to monitor the migratory flows towards and within the Union, to carry out risk analysis and to perform the vulnerability assessment.

and accurate manner with all the information necessary for the Agency to perform the tasks conferred on it by this Regulation, in particular for the Agency to monitor the migratory flows towards and within the Union, to carry out risk analysis ***in accordance with Article 10 of this Regulation*** and to perform the vulnerability assessment ***in accordance with Article 12 of this Regulation***.

If the Agency is not provided with accurate and speedy information, it may take that fact into account when performing the vulnerability assessment, unless duly justified reasons are provided for withholding the data.

Amendment 63

Proposal for a regulation Article 10

Text proposed by the Commission

1. The Agency shall ***establish a monitoring and risk analysis centre with the capacity to*** monitor migratory flows towards and within the Union. For this purpose, the Agency shall develop a common integrated risk analysis model, which shall be applied by the Agency and the Member States.
2. The Agency shall prepare general and tailored risk analyses and submit ***it*** to the Council and the Commission.
3. The risk analysis prepared by the Agency shall cover all aspects relevant to the European integrated border management, ***in particular border control,***

Amendment

1. The Agency shall monitor migratory flows towards and within the Union ***and forecast situations, trends and other possible challenges at the external border of the Union***. For this purpose, the Agency shall develop a common integrated risk analysis model, which shall be applied by the Agency and the Member States, ***and carry out the vulnerability assessment in accordance with Article 12***.
2. The Agency shall prepare general and tailored risk analyses and submit ***them*** to the ***European Parliament, the*** Council and the Commission. ***Where appropriate, such risk analyses shall be carried out in cooperation with other relevant Union agencies, such as the EASO and Europol.***
3. The risk analysis prepared by the Agency shall cover all aspects relevant to the European integrated border management with a view to developing a

return, irregular secondary movements of third-country nationals within the Union, the prevention of cross-border crime including facilitation of irregular immigration, trafficking in human being and terrorism, as well as the situation in neighbouring third countries with a view to developing a pre-warning mechanism which analyses the migratory flows towards the Union.

4. Member States shall provide the Agency with all necessary information regarding the situation, trends and possible threats at the external borders and in the field of return. Member States shall regularly or upon the request of the Agency provide it with all relevant information such as statistical and operational data collected in relation to the implementation of the Schengen acquis as well as information and intelligence derived from the analysis layer of the national situational picture established in accordance with Regulation (EU) No 1052/2013.

5. The results of the risk analysis shall be submitted to the **Supervisory** Board and to the Management Board.

6. Member States shall take results of the risk analysis into account when planning their operations and activities at the external **borders** as well as their activities with regard to return.

7. The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curricula for the training of border guards and of staff involved *in return-related tasks*.

pre-warning mechanism.

4. Member States shall provide the Agency with all necessary information regarding the situation, trends and possible threats at the external borders and in the field of return. Member States shall regularly or upon the request of the Agency provide it with all relevant information such as statistical and operational data collected in relation to the implementation of the Schengen acquis as well as information and intelligence derived from the analysis layer of the national situational picture established in accordance with Regulation (EU) No 1052/2013.

5. The results of the risk analysis shall be submitted to the **Advisory** Board and to the Management Board.

6. Member States shall take results of the risk analysis into account when planning their operations and activities at the external **border** as well as their activities with regard to return.

7. The Agency shall incorporate the results of a common integrated risk analysis model in its development of the common core curricula for the training of border guards and of staff involved.

Amendment 64

Proposal for a regulation Article 11

Text proposed by the Commission

1. The Agency shall ensure regular monitoring of the management of the external borders through liaison officers of the Agency in Member States.
2. The Executive Director shall appoint experts from the staff of the Agency to be deployed as liaison officers. The Executive Director shall, based on risk analysis and in consultation with the Management Board, determine the nature of the deployment, ***the Member State to which a liaison officer may be deployed and the duration of the deployment***. The Executive Director shall notify the Member State concerned of the appointment and shall determine, together with the Member State, the location of deployment.
3. The liaison officers shall act on behalf of the Agency and their role shall be to foster cooperation and dialogue between the Agency and the national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks. The liaison officers shall, in particular:
 - (a) act as an interface between the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks;
 - (b) support the collection of information required by the Agency for carrying out the vulnerability assessment referred to in Article 12;
 - (c) monitor the measures taken by the Member State at border sections to which a high impact level has been attributed in accordance with Regulation (EU) No

Amendment

1. The Agency shall ensure regular monitoring of the management of the external borders through liaison officers of the Agency in ***all*** Member States.
2. The Executive Director shall appoint experts from the staff of the Agency to be deployed as liaison officers. The Executive Director shall, based on risk analysis and in consultation with the Management Board, determine the nature of the deployment. The Executive Director shall notify the Member State concerned of the appointment and shall determine, together with the Member State, the location of deployment.
3. The liaison officers shall act on behalf of the Agency and their role shall be to foster cooperation and dialogue between the Agency and the national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks. The liaison officers shall, in particular:
 - (a) act as an interface between the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks;
 - (aa) ***support the collection of information required by the Agency for the monitoring of irregular migration and risk analyses referred in Article 10;***
 - (b) support the collection of information required by the Agency for carrying out the vulnerability assessment referred to in Article 12;
 - (c) monitor the measures taken by the Member State at border sections to which a high impact level has been attributed in accordance with Regulation (EU)

1052/2013;

(d) assist the Member States in preparing their contingency plans;

(e) report regularly to the Executive Director on the situation at the external border and the capacity of the Member State concerned to deal effectively with the situation at the external borders;

(f) monitor the measures taken by the Member State with regard to a situation requiring urgent action at the external borders as referred to in Article 18;

4. For the purposes of paragraph 3, the liaison officer shall, inter alia:

(a) have *unlimited* access to the national coordination centre and the national situational picture established in accordance with Regulation (EU) No 1052/2013;

(b) have access to *national and* European information systems available in the national coordination centre, on condition that he or she complies with the national and EU security and data protection rules;

(c) keep regular contacts with national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, whilst informing the head of the national coordination centre.

5. The report of the liaison officer

No 1052/2013;

(ca) observe and promote the application of the Union acquis relating to the management of external borders, including with regard to respect for fundamental rights and international protection;

(d) assist the Member States in preparing their contingency plans;

(da) facilitate the communication between the Member State and the Agency, share relevant information from the Agency with the Member State, including information about ongoing operations;

(e) report regularly to the Executive Director on the situation at the external border and the capacity of the Member State concerned to deal effectively with the situation at the external borders;

(f) monitor the measures taken by the Member State with regard to a situation requiring urgent action at the external borders as referred to in Article 18;

4. For the purposes of paragraph 3, the liaison officer shall, inter alia:

(a) have access to the national coordination centre and the national situational picture established in accordance with Regulation (EU) No 1052/2013;

(b) have access, *where necessary*, to European information systems available in the national coordination centre, on condition that he or she complies with the national and EU security and data protection rules;

(c) keep regular contacts with national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, whilst informing the head of the national coordination centre.

5. The report of the liaison officer

shall form part of the vulnerability assessment referred to in Article 12.

6. In carrying out their duties, the liaison officers shall take instructions only from the Agency.

Amendment 65

Proposal for a regulation Article 12

Text proposed by the Commission

1. *The Agency shall assess the technical equipment, systems, capabilities, resources and contingency plans of the Member States regarding border control. That assessment shall be based on information provided by the Member State and by the liaison officer, on information derived from Eurosur, in particular the impact levels attributed to the external land and sea border sections of each Member State in accordance with Regulation (EU) No 1052/2013, and on the reports and evaluations of joint operations, pilot projects, rapid border interventions and other activities of the Agency.*

shall form part of the vulnerability assessment *as* referred to in Article 12. ***The report shall be transmitted to the Member State concerned.***

6. In carrying out their duties, the liaison officers shall take instructions only from the Agency.

Amendment

1. *As a preventative measure complementary to the Schengen evaluation mechanism, the Agency shall, on a continuous basis, monitor the preparedness and contingency plans of the Member States with regard to border control.*

The vulnerability assessment is intended to allow the Agency to assess the capacity and preparedness of Member States to tackle upcoming challenges, including present and future threats and pressures at the external borders, to identify, especially for those Member States facing specific and disproportionate pressures, possible immediate consequences at the external borders and subsequent consequences on the functioning of the Schengen area, and to assess their capacity to contribute to the rapid reaction pool referred to in Article 19(5).

Elements to be monitored shall include the capacity to handle the potential arrival of large numbers of persons, many of whom may be in need of international protection, humanely and with full respect for fundamental rights, and the availability of technical equipment, systems, capabilities, resources, infrastructure and adequately skilled and trained personnel in sufficient numbers.

On the basis of the risk analysis prepared in accordance with Article 10(3), the Executive Director shall present to the Management Board a proposal for a decision laying down objective criteria against which the Agency shall carry out the vulnerability assessment. The Management Board shall decide on the criteria based on this proposal.

1a. The vulnerability assessment shall be based on information provided by the Member State and by the liaison officer, on information derived from Eurosur, in particular the impact levels attributed to the land and sea sections of the external borders of each Member State in accordance with Regulation (EU) No 1052/2013, and on the reports and evaluations of joint operations, pilot projects, rapid border interventions and other activities of the Agency.

2. Member States shall, at the request of the Agency, provide information as regards technical equipment, staff *and* financial resources available at national level to carry out border control and they shall submit their contingency plans.

3. *The aim of the vulnerability assessment is for the Agency to assess the capacity and readiness of Member States to face upcoming challenges, including present and future threats and pressures at the external borders, to identify, especially for those Member States facing specific and disproportionate pressures,*

2. Member States shall, at the request of the Agency, provide information as regards technical equipment, staff, financial resources *and the elements referred to in the third subparagraph of paragraph 1* available at national level to carry out border control and they shall submit their contingency plans.

possible immediate consequences at the external borders and subsequent consequences on the functioning of the Schengen area, and to assess their capacity to contribute to the rapid reserve pool referred to in Article 19(5). That assessment is without prejudice to the Schengen evaluation mechanism.

4. The results of the vulnerability assessment shall be submitted to the **Supervisory** Board, which shall advise the Executive Director on the measures to be taken by the Member States based on the results of the vulnerability assessment, and taking into account the Agency's risk analysis and the results of the Schengen evaluation mechanism.

5. The Executive Director shall adopt a decision setting out the necessary corrective measures to be taken by the Member State concerned, including by using resources under the Union financial instruments. The decision of the Executive Director shall be binding on the Member State and shall lay down the time-limit within which the measures are to be taken.

6. Where a Member State does not adopt the necessary corrective measures within the time-limit set, the Executive Director shall *refer the matter to* the Management Board and *notify* the Commission. ***The Management Board shall adopt a decision setting out the necessary corrective measures to be taken by the Member State concerned, including the time-limit within which such measures shall be taken. If the Member State does not take the measures within the time-limit foreseen in that decision, further*** action may be taken by the Commission in accordance with Article 18.

4. The results of the vulnerability assessment shall be submitted to the **Advisory** Board, which shall advise the Executive Director on the measures to be taken by the Member States based on the results of the vulnerability assessment, and taking into account the Agency's risk analysis and the results of the Schengen evaluation mechanism.

5. The Executive Director shall adopt a decision setting out the necessary corrective measures to be taken by the Member State concerned including by using resources under the Union financial instruments. The decision of the Executive Director shall be binding on the Member State and shall lay down the time-limit within which the measures are to be taken.

6. Where a Member State does not adopt the necessary corrective measures within the time-limit set, the Executive Director shall *notify* the Management Board and the Commission. ***Further*** action may be taken by the Commission in accordance with Article 18.

6a. The results of the vulnerability assessment shall be transmitted on a regular basis and at least every six months to the European Parliament and the Council.

Amendment 66

Proposal for a regulation Article 13

Text proposed by the Commission

1. Member States may request the Agency for assistance in implementing their obligations with regard to the control of the external borders. The Agency shall also carry out measures as referred to in Article 18.

2. The Agency shall organise the appropriate technical and operational assistance for the host Member State and it may take one or more of the following measures:

(a) coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams;

(b) organise rapid border interventions and deploy European Border and Coast Guard Teams from the rapid *reserve* pool, and additional European Border and Coast Guards Teams as appropriate;

(c) coordinate activities for one or more Member States and third countries at the external borders, including joint operations with neighbouring third countries;

(d) deploy European Border and Coast Guard Teams in the framework of the migration management support teams at hotspot areas;

(e) deploy its own experts as well as

Amendment

1. Member States may request the Agency for assistance in implementing their obligations with regard to the control of the external borders. The Agency shall also carry out measures as referred to in Article 18.

2. The Agency shall organise the appropriate technical and operational assistance for the host Member State and it may, ***acting in accordance with the relevant Union and international law, including the principle of non-refoulement***, take one or more of the following measures:

(a) coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams;

(b) organise rapid border interventions and deploy European Border and Coast Guard Teams from the rapid *reaction* pool, and additional European Border and Coast Guards Teams as appropriate;

(c) coordinate activities for one or more Member States and third countries at the external borders, including joint operations with neighbouring third countries;

(d) deploy European Border and Coast Guard Teams in the framework of the migration management support teams at hotspot areas;

(da) provide technical and operational assistance to Member States and third countries, in the context of search and rescue operations for persons in distress at sea in accordance with Regulation (EU) No 656/2014 and international law ;

(e) deploy its own experts as well as

members of the teams who had been seconded by the Member States to the Agency to support the competent national authorities of the Member States involved for the appropriate duration;

(f) deploy technical equipment.

3. The Agency shall finance or co-finance the activities set out in paragraph 2 **with grants** from its budget in accordance with the financial rules applicable to the Agency.

members of the teams who had been seconded by the Member States to the Agency to support the competent national authorities of the Member States involved for the appropriate duration;

(f) deploy technical equipment.

3. The Agency shall finance or co-finance the activities set out in paragraph 2 from its budget **and through contracts** in accordance with the financial rules applicable to the Agency.

3a. If there is an increased financial need due to a situation at the external borders, the Agency shall inform the European Parliament, the Council and the Commission thereof without delay.

Amendment 67

Proposal for a regulation

Article 14

Text proposed by the Commission

Initiating joint operations **and rapid border interventions** at the external borders

1. Member States may request the Agency to launch joint operations to face upcoming challenges, including present or future threats at the external borders **resulting from irregular immigration** or cross-border crime, or to provide increased technical and operational assistance when implementing their obligations with regard to the control of the external borders.

2. ***At the request of a Member State faced with a situation of specific and disproportionate pressures, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of that Member State illegally, the Agency may deploy a rapid border intervention for a***

Amendment

Initiating joint operations at the external borders

1. Member States may request the Agency to launch joint operations to face upcoming challenges, including **irregular migration**, present or future threats at the external borders or cross-border crime, **such as the criminal smuggling of persons, trafficking in human beings and terrorism**, or to provide increased technical and operational assistance when implementing their obligations with regard to the control of the external borders.

limited period of time on the territory of that host Member State.

3. The Executive Director shall evaluate, approve and coordinate proposals for joint operations made by Member States. Joint operations ***and rapid border interventions*** shall be preceded by a thorough, reliable and up-to-date risk analysis, thereby enabling the Agency to set an order of priority for the proposed joint operations ***and rapid border interventions***, taking into account the impact level to external border sections in accordance with Regulation (EU) No 1052/2013 and the availability of resources.

4. The Executive Director shall, on the advice of the ***Supervisory*** Board based on the results of the vulnerability assessment, and taking into account the Agency's risk analysis and the analysis layer of the European situational picture established in accordance with Regulation (EU) No 1052/2013, recommend to the Member State concerned to initiate and carry out joint operations ***or rapid border interventions***. The Agency shall put its technical equipment at the disposal of the host or participating Member States.

5. The objectives of a joint operation ***or rapid border intervention*** may be achieved as part of a multipurpose operation which may involve the rescue of persons in distress at sea or other coast guard functions, the fight against ***migrant*** smuggling or trafficking in human beings, drug trafficking control operations, and migration management including identification, registration, debriefing and return.

3. The Executive Director shall evaluate, approve and coordinate proposals for joint operations made by Member States. Joint operations shall be preceded by a thorough, reliable and up-to-date risk analysis, thereby enabling the Agency to set an order of priority for the proposed joint operations taking into account the impact level to external border sections in accordance with Regulation (EU) No 1052/2013 and the availability of resources.

4. The Executive Director shall, on the advice of the ***Advisory*** Board based on the results of the vulnerability assessment, and taking into account the Agency's risk analysis and the analysis layer of the European situational picture established in accordance with Regulation (EU) No 1052/2013, recommend to the Member State concerned to initiate and carry out joint operations. The Agency shall put its technical equipment at the disposal of the host or participating Member States.

5. The objectives of a joint operation may be achieved as part of a multipurpose operation which may involve the rescue of persons in distress at sea or other coast guard functions, the fight against ***the criminal*** smuggling ***of persons***, trafficking in human beings, drug trafficking control operations, ***in cooperation with Europol***, and migration management including identification, registration, debriefing and return.

Amendment 68

Proposal for a regulation Article 15 – paragraph 3 – point d

Text proposed by the Commission

(d) a description of the tasks and special instructions for the European Border and Coast Guard Teams, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State;

Amendment

(d) a description of the tasks, ***responsibilities*** and special instructions for the European Border and Coast Guard Teams, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State;

Amendment 69

Proposal for a regulation

Article 15 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) a description of the fundamental rights implications and risks of the joint operation;

Amendment 70

Proposal for a regulation

Article 15 – paragraph 3 – point i

Text proposed by the Commission

Amendment

(i) a reporting and evaluation scheme containing benchmarks for the evaluation report and final date of submission of the final evaluation report;

(i) a reporting and evaluation scheme containing benchmarks for the evaluation report, ***including with regard to the protection of fundamental rights***, and final date of submission of the final evaluation report;

Amendment 71

Proposal for a regulation

Article 16

1. A request by a Member State to launch a rapid border intervention shall include a description of the situation, possible aims and envisaged needs. If required, the Executive Director may immediately send experts from the Agency to assess the situation at the external borders of the Member State concerned.
2. The Executive Director shall immediately inform the Management Board of a Member State's request to launch a rapid border intervention.
3. When deciding on the request of a Member State, the Executive Director shall take into account the findings of the Agency's risk analyses and the analysis layer of the European situational picture established in accordance with Regulation (EU) No 1052/2013 as well as the outcome of the vulnerability assessment referred to in Article 12 and any other relevant information provided by the Member State concerned or another Member State.
4. The Executive Director shall take a decision on the request for launching a rapid border intervention within two working days from the date of the receipt of the request. The Executive Director shall simultaneously notify the Member State concerned and the Management Board in writing of the decision. The decision shall state the main reasons on which it is based.
5. If the Executive Director decides to launch a rapid border intervention, he or

-1. At the request of a Member State faced with a situation of specific and disproportionate pressures, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of that Member State irregularly, the Agency may deploy a rapid border intervention for a limited period of time on the territory of that host Member State.

1. A request by a Member State to launch a rapid border intervention shall include a description of the situation, possible aims and envisaged needs. If required, the Executive Director may immediately send experts from the Agency to assess the situation at the external borders of the Member State concerned.
2. The Executive Director shall immediately inform the Management Board of a Member State's request to launch a rapid border intervention.
3. When deciding on the request of a Member State, the Executive Director shall take into account the findings of the Agency's risk analyses and the analysis layer of the European situational picture established in accordance with Regulation (EU) No 1052/2013 as well as the outcome of the vulnerability assessment referred to in Article 12 and any other relevant information provided by the Member State concerned or another Member State.
4. The Executive Director shall take a decision on the request for launching a rapid border intervention within two working days from the date of the receipt of the request. The Executive Director shall simultaneously notify the Member State concerned and the Management Board in writing of the decision. The decision shall state the main reasons on which it is based.
5. If the Executive Director decides to launch a rapid border intervention, he or

she shall deploy European Border and Coast Guard Teams from the rapid *reserve* pool in accordance with Article 19(5), and where necessary, he or she shall decide on the immediate reinforcement by one or more European Border and Coast Guard Teams, in accordance with Article 19(6).

6. The Executive Director together with the host Member State shall draw up an operational plan as referred to in Article 15(3) immediately and in any event no later than three working days from the date of the decision.

7. As soon as the operational plan has been agreed upon, the Executive Director shall request the Member States to immediately deploy the border guards that form part of the rapid *reserve* pool. The Executive Director shall indicate the profiles and numbers of border guards, required from each Member State from among those identified in the existing rapid *reserve* pool.

8. In parallel, and where necessary, to secure the immediate reinforcement of the European Border and Coast Guard Teams deployed from the rapid *reserve* pool, the Executive Director shall inform the Member States of the requested number and profiles of border guards which are to be additionally deployed. This information shall be provided, in writing to the national contact points and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also be provided to them.

9. If the Executive Director is absent or indisposed, the decisions related to the deployment of the rapid *reserve* pool and any additional deployment of European Border and Coast Guard Teams shall be taken by the Deputy Executive Director.

10. Member States shall ensure that the border guards assigned to the rapid *reserve* pool are immediately and without exception made available to the Agency.

she shall deploy European Border and Coast Guard Teams from the rapid *reaction* pool in accordance with Article 19(5), and where necessary, he or she shall decide on the immediate reinforcement by one or more European Border and Coast Guard Teams, in accordance with Article 19(6).

6. The Executive Director together with the host Member State shall draw up an operational plan as referred to in Article 15(3) immediately and in any event no later than three working days from the date of the decision.

7. As soon as the operational plan has been agreed upon, the Executive Director shall request the Member States to immediately deploy the border guards that form part of the rapid *reaction* pool. The Executive Director shall indicate the profiles and numbers of border guards, required from each Member State from among those identified in the existing rapid *reaction* pool.

8. In parallel, and where necessary, to secure the immediate reinforcement of the European Border and Coast Guard Teams deployed from the rapid *reaction* pool, the Executive Director shall inform the Member States of the requested number and profiles of border guards which are to be additionally deployed. This information shall be provided, in writing to the national contact points and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also be provided to them.

9. If the Executive Director is absent or indisposed, the decisions related to the deployment of the rapid *reaction* pool and any additional deployment of European Border and Coast Guard Teams shall be taken by the Deputy Executive Director.

10. Member States shall ensure that the border guards assigned to the rapid *reaction* pool are immediately and without exception made available to the Agency *to*

Member States shall also make additional border guards available for the deployment of European Border and Coast Guard Teams at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.

11. Deployment of the rapid *reserve* pool shall take place no later than three working days after the date on which the operational plan is agreed between the Executive Director and the host Member State. Additional deployment of European Border and Coast Guard Teams, shall take place where necessary, within five working days of the deployment of the rapid *reserve* pool.

Amendment 72

Proposal for a regulation Article 17

Text proposed by the Commission

1. Where a Member State faces disproportionate migratory pressures at particular hotspot areas of its external **border** characterised by large influxes of mixed migratory flows, that Member State may request the operational and technical reinforcement by migration management support teams. That Member State shall submit a request for reinforcement and an assessment of its needs to the Agency and other relevant Union Agencies in particular **the European Asylum Support Office** and Europol.

2. The Executive Director, in coordination with other relevant Union Agencies, shall assess the request for assistance of a Member State and the assessment of its needs for the purpose of

guarantee a complete deployment within three working days after the date on which the operational plan is agreed.

Member States shall also make additional border guards available for the deployment of European Border and Coast Guard Teams at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.

11. Deployment of the rapid *reaction* pool shall take place no later than three working days after the date on which the operational plan is agreed between the Executive Director and the host Member State. Additional deployment of European Border and Coast Guard Teams, shall take place where necessary, within five working days of the deployment of the rapid *reaction* pool.

Amendment

1. Where a Member State faces disproportionate migratory pressures at particular hotspot areas of its external **borders** characterised by large influxes of mixed migratory flows, that Member State may request the operational and technical reinforcement by migration management support teams. That Member State shall submit a request for reinforcement and an assessment of its needs to the Agency and other relevant Union Agencies in particular **EASO** and Europol.

2. The Executive Director, in coordination with other relevant Union Agencies, shall assess the request for assistance of a Member State and the assessment of its needs for the purpose of

defining a comprehensive reinforcement package consisting of various activities coordinated by the relevant Union Agencies to be agreed upon by the Member State concerned.

3. The operational and technical reinforcement provided by the European Border and Coast Guard Teams, the European Return Intervention Teams and experts from the Agency's staff in the framework of the migration management support teams, may include:

(a) the screening of third-country nationals arriving at the external borders, including the identification, registration, and debriefing of those third-country nationals and, where requested by the Member State, the fingerprinting of third-country nationals;

(b) the provision of information to persons in clear need of international protection or to applicants or potential applicants for relocation;

(c) technical and operational assistance in the field of return, including the preparation and organisation of return operations.

defining a comprehensive reinforcement package consisting of various activities coordinated by the relevant Union Agencies to be agreed upon by the Member State concerned.

2a. The Commission shall be responsible for coordinating swift cooperation between the different agencies and migration management support teams.

3. The operational and technical reinforcement provided by the European Border and Coast Guard Teams, the European Return Intervention Teams and experts from the Agency's staff in the framework of the migration management support teams, may include:

(a) **providing assistance in** the screening of third-country nationals arriving at the external borders, including the identification, registration, and debriefing of those third-country nationals and, where requested by the Member State, the fingerprinting of third-country nationals **in full respect for fundamental rights and providing information regarding the purpose and outcome of all procedures;**

(ba) the referral of persons who wish to apply for international protection to asylum experts of the national authorities of the Member State concerned or EASO;

(c) technical and operational assistance in the field of return, including the preparation and organisation of return operations.

3a. Migration management support teams shall include experts in child protection, trafficking in human beings, protection against gender-based persecution and fundamental rights.

4. The Agency shall assist the Commission in the coordination of the activities of the migration management support teams, in cooperation with the other relevant Union Agencies.

4. The Agency shall assist the Commission in the coordination of the activities of the migration management support teams, in cooperation with the other relevant Union Agencies.

4a. The Agency, in cooperation with EASO, the Fundamental Rights Agency and other relevant Union agencies and under the coordination of the Commission, shall ensure the compliance of those activities with the Common European Asylum System and fundamental rights. This includes the provision of shelter, hygienic conditions and facilities respecting the needs of women and children in the hotspot areas.

Amendment 73

Proposal for a regulation Article 18

Text proposed by the Commission

1. Where a Member State does not take the necessary corrective measures in accordance with a decision ***of the Management Board*** referred to in Article 12(6) or in the event of disproportionate migratory pressure at the external border, rendering the control of the external borders ineffective to such an extent that it risks putting in jeopardy the functioning of the Schengen area, the Commission, after consulting the Agency, may ***adopt a decision by means of an implementing act***, identifying the measures to be implemented by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures. ***Those implementing acts*** shall be adopted ***in accordance with the examination procedure referred to in Article 79(2)***.

On duly justified imperative grounds of urgency relating to the functioning of the

Amendment

1. Where a Member State does not take the necessary corrective measures in accordance with a decision referred to in Article 12(5) or in the event of disproportionate migratory pressure at the external border rendering the control of the external borders ineffective to such an extent that it risks putting in jeopardy the functioning of the Schengen area ***as an area without internal border control***, the Commission, after consulting the Agency, may ***present to the Council a proposal for an implementing decision***, identifying the measures to be implemented by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures. ***That implementing decision*** shall be adopted ***by the Council with a qualified majority vote***.

Schengen area, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 79(5).

2. For the purposes of paragraph 1, the Commission shall provide for one or more of the following measures to be taken by the Agency:

- (a) organise and coordinate rapid border interventions and deploy European Border and Coast Guard Teams from the rapid **reserve** pool, and additional European Border and Coast Guards Teams as appropriate;
- (b) deploy European Border and Coast Guard Teams in the framework of the migration management support teams at hotspot areas;
- (c) coordinate activities for one or more Member States and third countries at the external borders, including joint operations with neighbouring third countries;
- (d) deploy technical equipment;
- (e) organise return interventions.

3. The Executive Director shall, within two working days from the date of adoption of the **Commission** decision, and on the advice of the **Supervisory** Board, **determine the actions needed to be taken for the practical execution of the measures identified in the Commission decision, including the technical equipment as well as the number and profiles of the border guards and other relevant staff needed to meet the**

The Council shall meet immediately following receipt of the Commission proposal.

1a. If a situation requiring urgent action arises, the European Parliament shall be informed of that situation without delay and shall be informed of all subsequent measures and decisions taken in response.

2. For the purposes of paragraph 1, the Commission shall provide for one or more of the following measures to be taken by the Agency:

- (a) organise and coordinate rapid border interventions and deploy European Border and Coast Guard Teams from the rapid **reaction** pool, and additional European Border and Coast Guards Teams as appropriate;
- (b) deploy European Border and Coast Guard Teams in the framework of the migration management support teams at hotspot areas;
- (c) coordinate activities for one or more Member States and third countries at the external borders, including joint operations with neighbouring third countries;
- (d) deploy technical equipment;
- (e) organise return interventions.

3. The Executive Director shall, within two working days from the date of adoption of the **Council** decision, and on the advice of the **Advisory** Board:

objectives of that decision.

4. *In parallel and within the same two working days, the Executive Director shall submit a draft operational plan to the Member State concerned.* The Executive Director and the Member State concerned shall *draw up* the operational plan within two working days from the date of its submission.

5. The Agency shall, without delay and in any case within three working days from establishment of the operational plan, deploy the necessary technical equipment and staff from the rapid *reserve* pool referred to in Article 19(5) for the practical execution of the measures set out in the *Commission* decision. Additional technical equipment and European Border and Coast Guard Teams shall be deployed as necessary at a second stage and in any case within five working days from the deployment of the rapid *reserve* pool.

6. The Member State concerned shall comply with the *Commission* decision and for that purpose it shall immediately cooperate with the Agency and take the necessary action to facilitate the implementation of that decision and the practical execution of the measures set out in that decision and in the operational plan agreed upon with the Executive Director.

7. The Member States shall make available the border guards and other relevant staff determined by the Executive Director in accordance with paragraph 2. The Member States may not invoke the

(a) *determine the actions needed to be taken for the practical execution of the measures identified in the Commission decision, including the technical equipment as well as the number and profiles of the border guards and other relevant staff needed to meet the objectives of that decision;*

(b) *submit a draft operational plan to the Member State concerned.*

4. The Executive Director and the Member State concerned shall *agree upon* the operational plan within two working days from the date of its submission.

5. The Agency shall, without delay and in any case within three working days from establishment of the operational plan, deploy the necessary technical equipment and staff from the rapid *reaction* pool referred to in Article 19(5) for the practical execution of the measures set out in the *Council* decision. Additional technical equipment and European Border and Coast Guard Teams shall be deployed as necessary at a second stage and in any case within five working days from the deployment of the rapid *reaction* pool.

6. The Member State concerned shall comply with the *Council* decision and for that purpose it shall immediately cooperate with the Agency and take the necessary action to facilitate the implementation of that decision and the practical execution of the measures set out in that decision and in the operational plan agreed upon with the Executive Director.

7. The Member States shall make available the border guards and other relevant staff determined by the Executive Director in accordance with paragraph 2. The Member States may not invoke the

exceptional situation referred to in Article 19(3) and (6).

exceptional situation referred to in Article 19(3) and (6).

7a. *The Commission shall monitor the proper implementation of the measures identified in the Council decision and the actions taken, for that purpose, by the Agency and Member States in order to ensure a proper European border management.*

Amendment 74

Proposal for a regulation Article 19

Text proposed by the Commission

1. The Agency shall deploy border guards and other relevant staff as members of the European Border and Coast Guard Teams to joint operations, rapid border interventions and in the framework of the migration management support teams. The Agency may also deploy experts from its own staff.
2. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for the European Border and Coast Guard Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to the European Border and Coast Guard Teams through a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.
3. The contribution by Member States as regards their border guards to specific joint operations for the following year shall be planned on the basis of annual bilateral

Amendment

1. The Agency shall deploy border guards and other relevant staff as members of the European Border and Coast Guard Teams to joint operations, rapid border interventions and in the framework of the migration management support teams. The Agency may also deploy experts from its own staff.
2. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for the European Border and Coast Guard Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to the European Border and Coast Guard Teams through a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.
3. The contribution by Member States as regards their border guards to specific joint operations for the following year shall be planned on the basis of annual bilateral

negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such a request shall be made at least 21 working days before the intended deployment.

4. As regards rapid border interventions, on a proposal by the Executive Director of the Agency, the Management Board shall decide by a three-quarter majority on the profiles and the minimum number of border guards to be made available for a rapid *reserve* pool of European Border and Coast Guard Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall number of border guards of the rapid *reserve* pool. Member States shall contribute to the rapid *reserve* pool via a national expert pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.

5. The rapid *reserve* pool shall be a standing corps placed at the immediate disposal of the Agency and which can be deployed from each Member State within three working days from when the operational plan is agreed upon by the Executive Director and the host Member State. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders, and which shall amount to a minimum of 1

negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such a request shall be made at least 21 working days before the intended deployment. ***If a Member State invokes such an exceptional situation, it shall provide detailed reasons and information on the situation in a letter to the Agency, the content of which shall be included in the report referred to in paragraph 9.***

4. As regards rapid border interventions, on a proposal by the Executive Director of the Agency, the Management Board shall decide by a three-quarter majority on the profiles and the minimum number of border guards to be made available for a rapid *reaction* pool of European Border and Coast Guard Teams. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall number of border guards of the rapid *reaction* pool. Member States shall contribute to the rapid *reaction* pool via a national expert pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.

5. The rapid *reaction* pool shall be a standing corps placed at the immediate disposal of the Agency and which can be deployed from each Member State within three working days from when the operational plan is agreed upon by the Executive Director and the host Member State. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders, and which shall amount to a minimum of 1

500 border guards, corresponding to the profiles identified by the decision of the Management Board.

6. Where necessary, the deployment of European Border and Coast Guard Teams from the rapid *reserve* pool shall be immediately complemented by additional European Border and Coast Guard Teams. For that purpose, Member States shall, at the request of the Agency, immediately communicate the number, names and profiles of border guards from their national pool which they are able to make available within five working days from the start of the rapid border intervention. Member States shall make the border guards available for deployment at the request of the Agency unless they are faced with an exceptional situation substantially affecting the discharge of national tasks.

7. Member States shall ensure that the border guards and other relevant staff which they contribute match the profiles and the numbers decided upon by the Management Board. The duration of the

500 border guards, corresponding to the profiles identified by the decision of the Management Board. ***The Agency shall evaluate whether the border guards proposed by Member States correspond to the defined profiles and shall decide on the border guards to be chosen for the rapid reaction pool. The Agency shall have the power to remove a border guard from the pool in case of misconduct or infringement of the applicable rules.***

6. Where necessary, the deployment of European Border and Coast Guard Teams from the rapid *reaction* pool shall be immediately complemented by additional European Border and Coast Guard Teams. For that purpose, Member States shall, at the request of the Agency, immediately communicate the number, names and profiles of border guards from their national pool which they are able to make available within five working days from the start of the rapid border intervention. Member States shall make the border guards available for deployment at the request of the Agency unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. ***If a Member State invokes such an exceptional situation, it shall provide detailed reasons and information on the situation in a letter to the Agency, the content of which shall be included in the report referred to in paragraph 9.***

6a. If a situation arises in which more border guards are required than provided for under paragraph 5 and 6, the Executive Director shall immediately inform the European Parliament, the European Council, the Council and the Commission. In such cases the European Council shall seek commitments from Member States to meet the shortage.

7. Member States shall ensure that the border guards and other relevant staff which they contribute match the profiles and the numbers decided upon by the Management Board. The duration of the

deployment shall be determined by the home Member State but in any case it shall not be less than 30 days.

8. The Agency shall contribute to the European Border and Coast Guard Teams with competent border guards seconded by the Member States as national experts to the Agency. The contribution by Member States as regards the secondment of their border guards to the Agency for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for secondment, unless that would seriously affect the discharge of national tasks. In such situations Member States may recall their seconded border guards.

Such secondments may be for 12 months or more but in any case it shall not be less than three months. The seconded border guards shall be considered as members of the teams and they shall have the tasks and powers of the members of the teams. The Member State having seconded the border guards shall be considered as the home Member State.

Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed during joint operations for coordination tasks and shall not form part of the European Border and Coast Guard Teams.

9. The Agency shall inform the European Parliament on an annual basis of the number of border guards that each Member State has committed to the European Border and Coast Guard Teams in accordance with this Article.

deployment shall be determined by the home Member State but in any case it shall not be less than 30 days.

8. The Agency shall contribute to the European Border and Coast Guard Teams with competent border guards seconded by the Member States as national experts to the Agency. The contribution by Member States as regards the secondment of their border guards to the Agency for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for secondment, unless that would seriously affect the discharge of national tasks. In such situations Member States may recall their seconded border guards.

Such secondments may be for 12 months or more but in any case it shall not be less than three months. The seconded border guards shall be considered as members of the teams and they shall have the tasks and powers of the members of the teams. The Member State having seconded the border guards shall be considered as the home Member State. ***The disciplinary procedure of the Agency shall also apply to seconded border guards.***

Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed during joint operations for coordination tasks and shall not form part of the European Border and Coast Guard Teams.

9. The Agency shall inform the European Parliament on an annual basis of the number of border guards that each Member State has committed ***and the number of border guards actually deployed to*** the European Border and Coast Guard Teams in accordance with this Article. ***This report shall list the Member States that invoked the exceptional***

situation referred to in paragraphs 3 and 6 in the previous year and include the reasons and information provided by the Member State concerned.

Amendment 75

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

2. The Agency, through its Coordinating Officer, may communicate its views to the host Member State on the instructions given to European Border and Coast Guard Teams. ***In that case***, the host Member State shall take ***those views*** into consideration and follow ***them*** to the extent possible.

Amendment

2. The Agency, through its Coordinating Officer, may communicate its views to the host Member State on the instructions given to European Border and Coast Guard Teams. ***If the Agency has concerns as regards the instructions issued to the European Border and Coast Guard Teams it shall communicate its views, which*** the host Member State shall take into consideration and follow to the extent possible.

Amendment 76

Proposal for a regulation Article 20 – paragraph 4

Text proposed by the Commission

4. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons on grounds of ***sex***, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Amendment

4. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons on grounds of ***gender***, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Amendment 77

Proposal for a regulation

Article 21 – paragraph 3 – point b

Text proposed by the Commission

(b) monitor the correct implementation of the operational plan;

Amendment

(b) monitor the correct implementation of the operational plan, ***including on the protection of fundamental rights***;

Amendment 78

Proposal for a regulation

Article 21 – paragraph 3 – point d

Text proposed by the Commission

(d) report to the Agency on aspects relating to the provision of sufficient guarantees by the host Member State to ensure the protection of fundamental rights throughout the joint operation or rapid border intervention;

Amendment

(d) ***observe and promote the application of existing and future Union measures relating to the management of external borders and respect for fundamental rights in border management activities, report to the Agency on aspects relating to the provision of sufficient guarantees by the host Member State to ensure the protection of fundamental rights throughout the joint operation or rapid border intervention, and*** report to the Agency on aspects relating to the provision of sufficient guarantees by the host Member State to ensure the protection of fundamental rights throughout the joint operation or rapid border intervention;

Amendment 79

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. Detailed rules concerning the payment of the daily subsistence allowance of members of the European Border and

Amendment

2. Detailed rules concerning the payment of the daily subsistence allowance of members of the European Border and

Coast Guard Teams shall be established and updated as necessary by the Management Board.

Coast Guard Teams shall be established and updated as necessary by the Management Board *on a proposal from the Commission.*

Amendment 80

Proposal for a regulation Article 24 - Title

Text proposed by the Commission

Amendment

Suspension or termination of *joint operations and rapid border interventions*

Suspension or termination of *activities*

Amendment 81

Proposal for a regulation Article 24 - paragraph 3

Text proposed by the Commission

Amendment

3. The Executive Director shall withdraw the financing of a joint operation or a rapid border intervention, or suspend or terminate, in whole or in part, *a joint operation or rapid border intervention* if he or she considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist.

3. The Executive Director shall, *in close cooperation with the Fundamental Rights Officer*, withdraw the financing of a joint operation, or a rapid border intervention, *a pilot project, migration management support teams, return operation, return intervention or working arrangement* or suspend or terminate, in whole or in part *such activities*, if he or she considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist. *For this purpose, the Agency shall establish and publish the criteria leading to a decision on the suspension, termination or withdrawal of financing for the above mentioned activities.*

Amendment 82

Proposal for a regulation Article 25

Text proposed by the Commission

Evaluation of *joint operations and rapid border interventions*

The Executive Director shall evaluate the results of the joint operations and rapid border interventions and transmit the detailed evaluation reports within 60 days following the end of those *operations and projects* to the Management Board, together with the observations of the Fundamental Rights Officer. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future *joint operations and rapid border interventions*, and it shall include it in its *consolidated* annual activity report.

Amendment

Evaluation of *activities*

The Executive Director shall evaluate the results of the joint operations and rapid border interventions, *pilot projects, migration management support teams, return operations, return interventions and operational cooperation with third countries* and transmit the detailed evaluation reports within 60 days following the end of those *activities* to the Management Board, together with the observations of the Fundamental Rights Officer. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future *activities*, and it shall include it in its annual activity report.

Amendment 83

Proposal for a regulation Article 26

Text proposed by the Commission

Return *Office*

1. *The Return Office shall be responsible for carrying out the return-related activities of the Agency*, in accordance with the respect of fundamental rights and general principles of Union law as well as international law, including refugee protection and *human rights obligations*. *The Return Office shall*, in particular:

(a) coordinate at technical and

Amendment

Return

1. *With regard to return, the Agency shall*, in accordance with the respect of fundamental rights and general principles of Union law as well as international law, including refugee protection and *fundamental rights, including children's rights*, in particular:

(a) coordinate at technical and

operational level the return activities of the Member States, to achieve an integrated system of return management among competent authorities of the Member States, with the participation of relevant authorities of third countries and other relevant stakeholders;

(b) provide operational support to Member States subject to particular pressure on their return systems;

(c) coordinate the use of relevant IT systems and provide support on consular cooperation for the identification of third-country nationals and the acquisition of travel documents, organise and coordinate return operations and provide support to voluntary departure;

(d) coordinate the return-related activities of the Agency as set out in this Regulation;

(e) organise, promote and coordinate activities enabling the exchange of information and the identification and pooling of best practices in return matters between the Member States;

(f) finance or co-finance the operations, interventions and activities referred to in this Chapter **with grants** from its budget, in accordance with the financial rules applicable to the Agency.

2. The operational support referred to in point (b) of paragraph 1 shall include action to help Member States carry out return procedures by the competent national authorities by providing, in particular:

(a) interpreting services;

(b) information on third countries of return;

operational level the return activities of the Member States, **including voluntary returns**, to achieve an integrated system of return management among competent authorities of the Member States with the participation of relevant authorities of third countries and other relevant stakeholders;

(b) provide **technical and** operational support to Member States subject to particular pressure on their return systems;

(c) coordinate the use of relevant IT systems and provide support **to the Member States** on consular cooperation for the identification of third-country nationals and the acquisition of travel documents, **without disclosing whether the third-country nationals have requested asylum**, organise and coordinate return operations and provide support to voluntary departure **in cooperation with the Member States**;

(e) organise, promote and coordinate activities enabling the exchange of information and the identification and pooling of best practices in return matters between the Member States;

(f) finance or co-finance the operations, interventions and activities referred to in this Chapter, from its budget, **and through contracts**, in accordance with the financial rules applicable to the Agency.

2. The operational support referred to in point (b) of paragraph 1 shall include action to help Member States carry out return procedures by the competent national authorities by providing, in particular:

(a) interpreting services;

(b) information on third countries of return, **in cooperation with other Union bodies, offices and agencies including EASO**;

- (c) advice on the handling and management of return procedures in compliance with Directive 2008/115/EC;
- (d) assistance on measures necessary to ensure the availability of returnees for return purposes and avoid that returnees abscond.

3. The **Return Office** shall aim at building synergies and connecting Union-funded networks and programmes in the field of return in close cooperation with the European Commission and the European Migration Network.

4. The Agency may make use of the financial means of the Union which are available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect for the Charter *of Fundamental Rights*.

Amendment 84

Proposal for a regulation Article 27

Text proposed by the Commission

1. In accordance with Directive 2008/115/EC, and without entering into the merits of return decisions, the Agency shall provide the necessary assistance and, at the request of one or several participating Member States, ensure the coordination or the organisation of return operations, including through the chartering of aircraft for the purpose of such operations. ***The Agency may, on its own initiative, propose to Member States to coordinate or organise return operations.***

2. Member States shall at least on a monthly basis inform the Agency of their planned national return operations, as well as of their needs for assistance or

- (c) advice on the handling and management of return procedures in compliance with Directive 2008/115/EC;

- (d) assistance on measures necessary to ensure the availability of returnees for return purposes and avoid that returnees abscond, ***in accordance with Directive 2008/115/EC and international law.***

3. The **Agency** shall aim at building synergies and connecting Union-funded networks and programmes in the field of return in close cooperation with the European Commission and the European Migration Network.

4. The Agency may make use of the financial means of the Union which are available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect for the Charter.

Amendment

1. In accordance with Directive 2008/115/EC, and without entering into the merits of return decisions, the Agency shall provide the necessary assistance and, at the request of one or several participating Member States, ensure the coordination or the organisation of return operations, including through the chartering of aircraft for the purpose of such operations.

2. Member States shall at least on a monthly basis inform the Agency of their planned national return operations, as well as of their needs for assistance or

coordination by the Agency. The Agency shall draw up a rolling operational plan to provide the requesting Member States with the necessary operational reinforcement, including technical equipment. The Agency may, on its own initiative, include in the rolling operational plan the dates and destinations of return operations it considers necessary, based on a needs assessment. The Management Board shall decide, on a proposal of the Executive Director, on the *modus operandi* of the rolling operational plan.

3. The Agency may provide the necessary assistance and ensure, at the request of the participating Member States, or propose on its own initiative, the coordination or the organisation of return operations, for which the means of transport and forced return escorts are made available by a third country of return ('collecting return operations'). The participating Member States and the Agency shall ensure that the respect of fundamental rights and the proportionate use of means of constraints are guaranteed during the entire removal operation. At least a Member State representative and a forced return monitor from the pool established under Article 28 shall be present throughout the entire return operation until arrival at the third country of return.

4. *The Agency may provide the necessary assistance and ensure, at the request of the participating Member States or a third country, or propose on its own initiative, the coordination or the organisation of return operations, during which a number of returnees subject to a third-country return decision are passed from this third country to another third country of return ('mixed return operations'), provided that the third country that issued the return decision is bound by the European Convention on Human Rights. The participating Member States and the Agency must ensure that*

coordination by the Agency. The Agency shall draw up a rolling operational plan to provide the requesting Member States with the necessary operational reinforcement, including technical equipment. The Agency may, on its own initiative, include in the rolling operational plan the dates and destinations of return operations it considers necessary, based on a needs assessment. The Management Board shall decide, on a proposal of the Executive Director, on the *modus operandi* of the rolling operational plan.

3. The Agency may provide the necessary assistance and ensure, at the request of the participating Member States, or propose on its own initiative, the coordination or the organisation of return operations, for which the means of transport and forced return escorts are made available by a third country of return ('collecting return operations'). The participating Member States and the Agency shall ensure that the respect of fundamental rights, ***the principle of non-refoulement***, and the proportionate use of means of constraints are guaranteed during the entire removal operation. At least a Member State representative and a forced return monitor from the pool established under Article 28 shall be present throughout the entire return operation until arrival at the third country of return.

the respect of fundamental rights and the proportionate use of means of constraints are guaranteed during the whole removal operation, notably with the presence of forced return monitors and of third-country forced return escorts.

5. Every return operation shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. The monitoring of return operations shall be carried out on the basis of objective and transparent criteria and shall cover the whole return operation from the pre-departure phase until the hand-over of the returnees in the third country of return.

6. The Agency shall finance or co-finance return operations *with grants* from its budget, in accordance with the financial rules applicable to the Agency, giving priority to those conducted by more than one Member State, or from hotspot areas.

5. Every return operation shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. The monitoring of *forced* return operations shall be carried out *by the forced return monitor* on the basis of objective and transparent criteria and shall cover the whole return operation from the pre-departure phase until the hand-over of the returnees in the third country of return. *The forced return monitor shall submit a report on an operation to the Executive Director, the Fundamental Rights Officer and to the competent national authorities of all the Member States involved in that operation. Any appropriate follow-up shall be ensured by the Executive Director and competent national authorities respectively.*

6. The Agency shall finance or co-finance return operations from its budget *and through contracts*, in accordance with the financial rules applicable to the Agency, giving priority to those conducted by more than one Member State, or from hotspot areas.

6a. The Agency shall not coordinate, organise or propose return operations or return interventions to any third country where risks of fundamental rights violations or serious deficiencies have been identified through risk analysis or reports from Union institutions, EEAS or Union agencies.

Amendment 85

Proposal for a regulation Article 28

Text proposed by the Commission

1. The Agency shall constitute a pool of forced return escorts from national competent bodies who carry out return operations in accordance with the requirements referred to in Article 8(4) and (5) of Directive 2008/115/EC and who have been trained in accordance with Article 35.

2. The Executive Director shall determine the profile and the number of the forced return escorts to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the forced return escorts corresponding to the defined profile.

3. The Agency shall make available these escorts, upon request, to participating Member States to escort returnees on their behalf and to take part in return interventions.

Amendment

1. The Agency shall, ***after consulting the European Agency on Fundamental Rights***, constitute a pool of forced return monitors from national competent bodies who carry out forced return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 35.

2. The Executive Director shall determine the profile and the number of the forced return monitors to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the forced return monitors corresponding to the defined profile. ***Forced return monitors with specific expertise in child protection shall be included in the pool.***

3. The Agency shall make available the forced return monitors, upon request, to participating Member States to monitor, on their behalf, the correct implementation of the return operation and to take part in return interventions. ***It shall make available forced return monitors with specific expertise in child protection for any return operation involving children.***

3a. Forced return monitors shall remain subject to the disciplinary measures of their home Member State in the course of a return operation or return intervention.

Amendment 86

**Proposal for a regulation
Article 29**

Text proposed by the Commission

1. The Agency shall constitute a pool

Amendment

1. The Agency shall constitute a pool

of forced return escorts from national competent bodies who carry out return operations in accordance with the requirements referred to in Article 8(4) and (5) of Directive 2008/115/EC and who have been trained in accordance with Article 35.

2. The Executive Director shall determine the profile and the number of the forced return escorts to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the forced return escorts corresponding to the defined profile.

3. The Agency shall make available these escorts, upon request, to participating Member States to escort returnees on their behalf and to take part in return interventions.

of forced return escorts from national competent bodies who carry out return operations in accordance with the requirements referred to in Article 8(4) and (5) of Directive 2008/115/EC and who have been trained in accordance with Article 35.

2. The Executive Director shall determine the profile and the number of the forced return escorts to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the forced return escorts corresponding to the defined profile. ***Forced return escorts with specific expertise in child protection shall be included in the pool.***

3. The Agency shall make available these escorts, upon request, to participating Member States to escort returnees on their behalf and to take part in return ***operations and*** interventions. ***It shall make available forced return escorts with specific expertise in child protection for any return operation involving children.***

3a. Forced return escorts shall remain subject to the disciplinary measures of their home Member State in the course of a return operation or return intervention.

Amendment 87

Proposal for a regulation Article 30

Text proposed by the Commission

1. The Agency shall constitute a pool of return specialists from national competent bodies and from the staff of the Agency, who have the skills and expertise required for carrying out return-related activities and who have been trained in

Amendment

1. The Agency shall constitute a pool of return specialists from national competent bodies and from the staff of the Agency, who have the skills and expertise required for carrying out return-related activities and who have been trained in

accordance with Article 35. Those specialists shall be made available to carry out specific tasks, such as identification of particular groups of third-country nationals, the acquisition of travel documents from third countries and facilitation of consular cooperation.

2. The Executive Director shall determine the profile and the number of the forced return escorts to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the specialists corresponding to the defined profile.

3. The Agency shall make available the specialists, upon request, to Member States *participating in return operations and to take part in return interventions*.

accordance with Article 35. Those specialists shall be made available to carry out specific tasks, such as identification of particular groups of third-country nationals, the acquisition of travel documents from third countries and facilitation of consular cooperation.

2. The Executive Director shall determine the profile and the number of the forced return escorts to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and the number. Member States shall contribute to the pool by nominating the specialists corresponding to the defined profile.

Return specialists with specific expertise in child protection shall be included in the pool.

3. The Agency shall make available the specialists, upon request, to Member States. ***It shall make available return specialists with specific expertise in child protection for any return operation involving children.***

3a. Return specialists shall remain subject to the disciplinary measures either of the Agency or of their home Member State in the course of a return operation or return intervention.

Amendment 88

Proposal for a regulation Article 32

Text proposed by the Commission

1. In circumstances where Member States are facing a heavy burden when implementing the obligation to return ***illegally staying*** third-country nationals in accordance with Directive 2008/115/EC, the Agency shall, upon request of one or more Member States, provide the

Amendment

1. In circumstances where Member States are facing a heavy burden when implementing the obligation to return third-country nationals ***who are the subject of return decisions issued by a Member State*** in accordance with Directive 2008/115/EC, the Agency shall, upon request of one or

appropriate technical and operational assistance in the form of a return intervention. Such intervention may consist in the deployment of European Return Intervention Teams to the host Member States and the organisation of return operations from the host Member States. Member States shall regularly inform the Agency of their needs for technical and operational assistance, and the Agency shall draw up a rolling plan for return interventions on this basis.

2. *In circumstances where Member States are facing specific and disproportionate pressure when implementing their obligation to return illegally staying third-country nationals in accordance with Directive 2008/115/EC, the Agency shall, upon the request of one or more Member States, provide the appropriate technical and operational assistance in the form of a rapid return intervention. The Agency may propose on its own initiative to provide to the Member States such technical and operational assistance. A rapid return intervention may consist in the rapid deployment of European Return Intervention Teams to the host Member States and the organisation of return operations from the host Member States.*

3. The Executive Director shall draw up an operational plan without delay, in agreement with the host Member States and the Member States willing to participate in a return intervention.

4. The operational plan shall be binding on the Agency, the host Member States and the participating Member States, and it shall cover all aspects that are necessary for carrying out the return intervention, in particular the description of the situation, objectives, the start and foreseeable duration of the intervention,

more Member States, provide the appropriate technical and operational assistance in the form of a return intervention ***or a rapid return intervention***. Such intervention may consist in the deployment ***or rapid deployment*** of European Return Intervention Teams to the host Member States and the organisation of return operations from the host Member States. Member States shall regularly inform the Agency of their needs for technical and operational assistance, and the Agency shall draw up a rolling plan for return interventions on this basis.

3. The Executive Director shall draw up an operational plan without delay, in agreement with the host Member States and the Member States willing to participate in a return intervention. ***Article 15 shall apply mutatis mutandis.***

4. The operational plan shall be binding on the Agency, the host Member States and the participating Member States, and it shall cover all aspects that are necessary for carrying out the return intervention, in particular the description of the situation, objectives, the start and foreseeable duration of the intervention,

geographical coverage and possible deployment to third countries, composition of the European Return Intervention Team, logistics, financial provisions, modalities of cooperation with third countries, other Union agencies and bodies, relevant international and non-governmental organisations. Any amendment to or adaptation of the operational plan shall require the agreement of the Executive Director, the host Member State and the participating Member States. A copy of the amended or adapted operational plan shall be immediately sent by the Agency to the Member States concerned and the Management Board.

5. The Executive Director shall take a decision on the operational plan as soon as possible and, in the case referred to in paragraph 2, within five working days. The decision shall be immediately notified in writing to the Member States concerned and to the Management Board.

6. The Agency shall finance or co-finance return interventions *with grants* from its budget in accordance with the financial rules applicable to the Agency.

geographical coverage and possible deployment to third countries, composition of the European Return Intervention Team, logistics, financial provisions, modalities of cooperation with third countries, other Union agencies and bodies, relevant international and non-governmental organisations. Any amendment to or adaptation of the operational plan shall require the agreement of the Executive Director, the host Member State and the participating Member States. A copy of the amended or adapted operational plan shall be immediately sent by the Agency to the Member States concerned and the Management Board.

5. The Executive Director shall take a decision on the operational plan as soon as possible and, in the case referred to in paragraph 2, within five working days. The decision shall be immediately notified in writing to the Member States concerned and to the Management Board.

6. The Agency shall finance or co-finance return interventions from its budget *and through contracts* in accordance with the financial rules applicable to the Agency.

Amendment 89

Proposal for a regulation

Article 33

Text proposed by the Commission

1. The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter *of Fundamental Rights of the European Union*, relevant international law, including the Convention Relating to the Status of Refugees and obligations related to access to

Amendment

1. The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter, *the European Convention for the Protection of Human Rights and Fundamental Freedoms*, relevant international law, including the *United Nations Convention on the Rights*

international protection, in particular the principle of *non-refoulement*. ***For that purpose, the Agency shall draw up and further develop and implement a Fundamental Rights Strategy.***

2. In the performance of its tasks the European Border and Coast Guard shall ensure that no person is disembarked in, forced to enter, conducted to or otherwise handed over or returned to the authorities of a country in contravention of the principle of *non-refoulement*, or from which there is a risk of expulsion or return to another country in contravention of that principle.

3. The European Border and Coast Guard shall, in the performance of its tasks, take into account the special needs of children, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

4. In the performance of its tasks, in its relations with Member States and in its cooperation with third countries, the Agency shall take into account the reports of the Consultative Forum and the Fundamental Rights Officer.

of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women, the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol thereto and obligations related to access to international protection, in particular the principle of *non-refoulement*.

For that purpose, the Agency shall draw up and further develop and implement a Fundamental Rights Strategy including an effective mechanism to monitor the respect for fundamental rights in all the activities of the Agency.

It shall pay particular attention to children's rights so as to ensure that the best interests of the child are respected in all its activities.

2. In the performance of its tasks the European Border and Coast Guard shall ensure that no person is disembarked in, forced to enter, conducted to or otherwise handed over or returned to the authorities of a country in contravention of the principle of *non-refoulement*, or from which there is a risk of expulsion or return to another country in contravention of that principle.

3. The European Border and Coast Guard shall, in the performance of its tasks, take into account the special needs of children, ***unaccompanied minors, persons with disabilities***, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

4. In the performance of its tasks, in its relations with Member States and in its cooperation with third countries, the Agency shall take into account the reports of the Consultative Forum and the Fundamental Rights Officer.

Amendment 90

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

1. The Agency shall draw up and further develop a Code of Conduct applicable to all border control operations coordinated by the Agency. The Code of Conduct shall lay down procedures intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on unaccompanied minors and persons in a vulnerable situation, as well as on persons seeking international protection, applicable to all persons participating in the activities of the Agency.

Amendment

1. The Agency shall draw up and further develop a Code of Conduct applicable to all border control operations coordinated by the Agency. The Code of Conduct shall lay down procedures intended to guarantee the principles of the rule of law and respect for fundamental rights with particular focus on ***vulnerable persons, including children,*** unaccompanied minors and ***other*** persons in a vulnerable situation, as well as on persons seeking international protection, applicable to all persons participating in the activities of the Agency.

Amendment 91

Proposal for a regulation

Article 34 – paragraph 2

Text proposed by the Commission

2. The Agency shall develop and regularly update a Code of Conduct for the return of ***illegally staying*** third-country nationals which shall apply during all return operations and return interventions coordinated or organised by the Agency. That Code of Conduct shall describe common standardised procedures to simplify the organisation of return operations and return interventions, and assure return in a humane manner and with full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, the right to liberty and security and the right to the protection of personal data and non-

Amendment

2. The Agency shall develop and regularly update a Code of Conduct for the return of third-country nationals ***who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC,*** which shall apply during all return operations and return interventions coordinated or organised by the Agency. That Code of Conduct shall describe common standardised procedures to simplify the organisation of return operations and return interventions, and assure return in a humane manner and with full respect for fundamental rights, in particular the principles of human dignity, prohibition of torture and of inhuman or degrading treatment or punishment, the

discrimination.

right to liberty and security and the right to the protection of personal data and non-discrimination.

Amendment 92

Proposal for a regulation Article 35 – paragraph 1

Text proposed by the Commission

1. The Agency shall, in cooperation with the appropriate training entities of the Member States, develop specific training tools and provide border guards and other relevant staff who are members of the European Border and Coast Guard Teams with advanced training relevant to their tasks and powers. Experts from the staff of the Agency shall conduct regular exercises with those border guards in accordance with the advanced training and exercise schedule referred to in the annual work programme of the Agency.

Amendment

1. The Agency shall, in cooperation with the appropriate training entities of the Member States, ***EASO and the European Union Agency for Fundamental Rights***, develop specific training tools, ***including specific training in the protection of children and other persons in a vulnerable situation***, and provide border guards and other relevant staff who are members of the European Border and Coast Guard Teams with advanced training relevant to their tasks and powers. Experts from the staff of the Agency shall conduct regular exercises with those border guards in accordance with the advanced training and exercise schedule referred to in the annual work programme of the Agency.

Amendment 93

Proposal for a regulation Article 35 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Agency shall finance 100 % of the necessary training for border guards included in the rapid reaction pool referred to in Article 19(5), insofar as this training is required for the purposes of their participation in this pool.

Amendment 94

Proposal for a regulation

Article 35 – paragraph 3

Text proposed by the Commission

3. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks to be part of the pools referred to in Articles 28, 29 and 30. The Agency shall ensure that all staff who participate in return operations and in return interventions, as well as the staff of the Agency, have received, prior to their participation in operational activities organised by the Agency, training in relevant Union and international law, including fundamental rights and access to *international protection*.

Amendment

3. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks to be part of the pools referred to in Articles 28, 29 and 30. The Agency shall ensure that all staff who participate in return operations and in return interventions, as well as the staff of the Agency, have received, prior to their participation in operational activities organised by the Agency, training in relevant Union and international law, including fundamental rights, *access to international protection* and access to *referral mechanisms for vulnerable persons*.

Amendment 95

Proposal for a regulation

Article 35 – paragraph 4

Text proposed by the Commission

4. The Agency shall establish and further develop common core curricula for the training of border guards and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights, access to international protection and relevant maritime law. The Agency shall draw up the common core curricula after consulting the Consultative Forum. Member States shall integrate the common core curricula in the training of their national border guards and staff involved in return-related tasks.

Amendment

4. The Agency shall establish and further develop common core curricula for the training of border guards and provide training at European level for instructors of the national border guards of Member States, including with regard to fundamental rights, access to international protection and relevant maritime law. *The core curricula shall aim to promote the highest standards and best practices in the implementation of Union border management legislation.* The Agency shall draw up the common core curricula after consulting the Consultative Forum. Member States shall integrate the common core curricula in the training of their national border guards and staff involved

in return-related tasks.

Amendment 96

Proposal for a regulation Article 36 – paragraph 1

Text proposed by the Commission

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for ***the control of the external borders, including the use of advanced surveillance technology such as remotely piloted aircraft systems, and for return***. The Agency shall disseminate the results of that research to the Commission and ***the Member States***. It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

Amendment

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for ***European integrated border management***. The Agency shall disseminate the results of that research to the ***European Parliament, to the Member States and to the*** Commission and ***make them publicly available***. It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

Amendment 97

Proposal for a regulation Article 36 – paragraph 2

Text proposed by the Commission

2. The Agency shall assist the Member States and the Commission in identifying key research themes. The Agency shall assist the Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities.

Amendment

2. The Agency shall assist the Member States and the Commission in identifying key research themes. The Agency shall assist ***Member States and the*** Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities.

Amendment 98

Proposal for a regulation Article 37 – paragraph 2

Text proposed by the Commission

2. The Agency may acquire technical equipment, ***such as fingerprinting equipment***, by decision of the Executive Director in consultation with the Management Board. Any acquisition or leasing of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. Any such expenditure shall be provided for in the Agency's budget as adopted by the Management Board.

Amendment

2. The Agency may acquire technical equipment by decision of the Executive Director in consultation with the Management Board. Any acquisition or leasing of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis ***and be decided upon by the Management Board***. Any such expenditure shall be provided for in the Agency's budget as adopted by the Management Board.

Amendment 99

Proposal for a regulation

Article 37 – paragraph 3 – introductory part

Text proposed by the Commission

3. Where the Agency acquires or leases major technical equipment, ***such as open sea and coastal patrol vessels, helicopters or other aircraft or vehicles*** the following conditions shall apply:

Amendment

3. Where the Agency acquires or leases major technical equipment the following conditions shall apply:

Amendment 100

Proposal for a regulation

Article 37 – paragraph 4

Text proposed by the Commission

4. On the basis of a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on modalities ensuring the periods of full availability of the co-owned assets for the Agency, as well as on the terms of use of the equipment. Technical equipment owned solely by the Agency shall be made available to the Agency upon its request and the Member State of registration may

Amendment

4. On the basis of a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on modalities ensuring the periods of full availability of the co-owned assets for the Agency, as well as on the terms of use of the equipment. Technical equipment owned solely by the Agency shall be made available to the Agency upon its request ***at any time*** and the Member State of

not invoke the exceptional situation referred to in Article 38(4).

registration may not invoke the exceptional situation referred to in Article 38(4).

Amendment 101

Proposal for a regulation Article 38 – paragraph 1

Text proposed by the Commission

1. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned either by the Member States or by the Agency and equipment co-owned by the Member States and the Agency for external border control or return purposes.

Amendment

1. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned either by the Member States or by the Agency and equipment co-owned by the Member States and the Agency for external border control, ***border surveillance, search and rescue*** or return purposes.

Amendment 102

Proposal for a regulation Article 38 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Equipment owned by the Agency shall be fully available for deployment at any time as referred to in Article 37(4).

Amendment 103

Proposal for a regulation Article 38 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Equipment co-owned by the Agency at a share of more than 50% shall also be fully available for deployment at any time.

Amendment 104

Proposal for a regulation

Article 38 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. The Agency shall ensure the compatibility and interoperability of the equipment listed in the technical equipment pool.

To that end it shall define technical standards to be met by equipment to be acquired, totally or partially, by the Agency and of the equipment owned by Member States which is listed in the technical equipment pool.

Amendment 105

Proposal for a regulation

Article 38 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Equipment included in the technical equipment pool shall be made available at any time for rapid border interventions. Member States may not invoke the exceptional situation referred to in paragraph 4.

Amendment 106

Proposal for a regulation

Article 38 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall contribute to the technical equipment pool. The contribution by Member States to the pool

4. Member States shall contribute to the technical equipment pool. The contribution by Member States to the pool

and deployment of the technical equipment for specific operations shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements and to the extent that it forms part of the minimum number of technical equipment for a given year, Member States shall make their technical equipment available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such request shall be made at least 30 days before the intended deployment. The contributions to the technical equipment pool shall be reviewed annually.

and deployment of the technical equipment for specific operations shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements and to the extent that it forms part of the minimum number of technical equipment for a given year, Member States shall make their technical equipment available for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. ***If a Member State invokes such an exceptional situation, it shall provide detailed reasons and information on the situation in a letter to the Agency, the content of which shall be included in the report referred to in paragraph 7.*** Such a request shall be made at least 30 days before the intended deployment. The contributions to the technical equipment pool shall be reviewed annually.

Amendment 107

Proposal for a regulation

Article 38 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. If unexpected needs for technical equipment for a joint operation or a rapid border intervention arise after the minimum amount of technical equipment has been set and those needs cannot be met from the technical equipment pool, Member States shall on an ad hoc basis make the necessary technical equipment available for deployment to the Agency upon its request.

Amendment 108

Proposal for a regulation Article 38 – paragraph 7

Text proposed by the Commission

7. The Agency shall **inform** the European Parliament on an annual basis of the number of technical equipment that each Member State has committed to the technical equipment pool in accordance with this Article.

Amendment

7. The Agency shall **submit a report to** the European Parliament on an annual basis of the number of technical equipment that each Member State has committed to the technical equipment pool in accordance with this Article. ***That report shall list the Member States that invoked the exceptional situation referred to in paragraph 4 in the previous year and include the reasons and information provided by the Member State concerned.***

Amendment 109

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

1. Members of the teams shall have the capacity to perform all tasks and exercise all powers for border control and return as well as those which are necessary for the realisation of the objectives of Regulation (EC) No **562/2006** and Directive 2008/115/EC, respectively.

Amendment

1. Members of the teams shall have the capacity to perform all tasks and exercise all powers for border control and return as well as those which are necessary for the realisation of the objectives of Regulation (EC) No **2016/399** and Directive 2008/115/EC, respectively.

Amendment 110

Proposal for a regulation Article 39 – paragraph 4

Text proposed by the Commission

4. Members of the teams shall wear their own uniform while performing their tasks and exercising their powers. They

Amendment

4. Members of the teams shall wear their own uniform while performing their tasks and exercising their powers. They

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

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

Amendment 111

Proposal for a regulation

Article 39 – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. For the purpose of this Regulation, the host Member State shall authorise members of the teams to consult its national and European databases the consultation of which is necessary for border checks, border surveillance and return. The members of the teams shall consult only those data which are required for performing their tasks and exercising their powers. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.

Amendment

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

Amendment 112

Proposal for a regulation

Article 39 – paragraph 9

Text proposed by the Commission

9. Decisions to refuse entry in accordance with Article **13** of Regulation (EC) No **562/2006** shall be taken only by border guards of the host Member State or by the members of the teams if authorised by the host Member State to act on its behalf.

Amendment 113

Proposal for a regulation
Article 41

Text proposed by the Commission

1. Where members of the teams are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

2. Where such damage is caused by gross negligence or willful misconduct, the host Member State may approach the home Member State in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the home Member State.

3. Without prejudice to the exercise of its rights vis-à-vis third parties, each Member State shall waive all its claims against the host Member State or any other Member State for any damage it has sustained, except in cases of gross negligence or **willful** misconduct.

4. Any dispute between Member States relating to the application of paragraphs 2 and 3 which cannot be resolved by negotiations between them shall be submitted by them to the Court of Justice of the European Union in accordance with **Article 273 TFEU**.

Amendment

9. Decisions to refuse entry in accordance with Article **14** of Regulation (EC) No **2016/399** shall be taken only by border guards of the host Member State or by the members of the teams if authorised by the host Member State to act on its behalf.

Amendment

1. Where members of the teams are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

2. Where such damage is caused by gross negligence or wilful misconduct **or in excess of duty**, the host Member State may approach the home Member State **or the Agency** in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the home Member State **or by the Agency**.

3. Without prejudice to the exercise of its rights vis-à-vis third parties, each Member State shall waive all its claims against the host Member State or any other Member State for any damage it has sustained, except in cases of gross negligence or **wilful** misconduct.

4. Any dispute between Member States **or between a Member State and the Agency** relating to the application of paragraphs **1**, 2 and 3 which cannot be resolved by negotiations between them shall be submitted by them to the Court of Justice of the European Union in

accordance with *the Treaties*.

4a. *Where members of the teams are operating on the territory of a third country the Agency shall be liable for any damage caused by them during their operations. Paragraphs 2, 3 and 4 shall apply mutatis mutandis.*

5. Without prejudice to the exercise of its rights vis-à-vis third parties, the Agency shall meet costs related to damage caused to the Agency's equipment during deployment, except in cases of gross negligence or willful misconduct.

5. Without prejudice to the exercise of its rights vis-à-vis third parties, the Agency shall meet costs related to damage caused to the Agency's equipment during deployment, except in cases of gross negligence or willful misconduct.

Amendment 114

Proposal for a regulation Article 44 – paragraph 2

Text proposed by the Commission

2. *The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the Data Protection Officer of the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.*

Amendment

2. *A Data Protection Officer shall be appointed in accordance with Regulation (EC) No 45/2001. The Management Board shall establish measures for the implementation of that Regulation by the Agency. Those measures shall be established after consultation of the European Data Protection Supervisor.*

Amendment 115

Proposal for a regulation Article 44 – paragraph 4

Text proposed by the Commission

4. Without prejudice to Article 47, the transfer of personal data processed by the Agency and the onward transfer by Member States to authorities of third countries or third parties of personal data processed in the framework of this

Amendment

4. Without prejudice to Article 47, the transfer of personal data processed by the Agency and the onward transfer by Member States to authorities of third countries or third parties, *including international organisations*, of personal data processed in the framework of this

Regulation shall be prohibited.

Regulation shall be prohibited.

Amendment 116

Proposal for a regulation Article 45 – paragraph 3

Text proposed by the Commission

3. A Member State or other Union Agency providing personal data to the Agency shall determine the purpose or the purposes for which it shall be processed as referred to in paragraph 1. ***If it has not done so, the Agency in consultation with the provider of personal data concerned shall process it in order to determine its necessity in relation to the purpose or the purposes as referred to in paragraph 1 for which it shall be further processed. The Agency may process information for a different purpose than the one in paragraph 1 only*** if authorised by the data provider of the information.

Amendment

3. A Member State or other Union Agency providing personal data to the Agency shall determine the purpose or the purposes for which it shall be processed as referred to in paragraph 1. ***The Agency may process such personal data for a different purpose which also falls under paragraph 1 only*** if authorised by the data provider of the information.

Amendment 117

Proposal for a regulation Article 46 – paragraph 1

Text proposed by the Commission

1. The use by the Agency of personal data collected and transmitted to it by the Member States or by its own staff in the context of joint operations, pilot projects and rapid border interventions, and by migration management support ***teamsshall*** be limited to:

(a) personal data regarding persons who are suspected, on reasonable grounds, by the competent authorities of the Member States of involvement in cross-border criminal activities, ***including in***

Amendment

1. The use by the Agency of personal data collected and transmitted to it by the Member States or by its own staff in the context of joint operations, pilot projects and rapid border interventions, and by migration management support ***teams shall*** be limited to:

(a) personal data regarding persons who are suspected, on reasonable grounds, by the competent authorities of the Member States of involvement in cross-border criminal activities, ***such as the***

facilitating irregular immigration activities, in trafficking in human beings or terrorism;

(b) personal data regarding persons who cross the external borders ***illegally*** and whose data is collected by the European Border and Coast Guard Teams, including when acting in the framework of the migration management support teams;

(c) license plate numbers, telephone numbers or ship identification numbers, which are necessary for investigating and analysing routes and methods used for irregular ***immigration*** and cross-border criminal activities.

criminal smuggling of persons, trafficking in human beings or terrorism;

(b) personal data regarding persons who cross the external borders ***irregularly*** and whose data is collected by the European Border and Coast Guard Teams, including when acting in the framework of the migration management support teams;

(c) license plate numbers, telephone numbers or ship identification numbers, which are ***linked to the persons referred to in (a) and (b), and which are*** necessary for investigating and analysing routes and methods used for irregular ***migration*** and cross-border criminal activities;

Personal data regarding persons referred to in paragraph 1(b) shall not be transferred to law enforcement agencies or processed for the purpose of preventing, detecting, investigating or prosecuting criminal offences.

Amendment 118

Proposal for a regulation Article 46 – paragraph 2 – point a

Text proposed by the Commission

(a) where transmission to ***the European Asylum Support Office***, Europol or Eurojust is necessary for use in accordance with their respective mandates and in accordance with Article 51;

Amendment

(a) where transmission to ***EASO***, Europol or Eurojust is necessary for use in accordance with their respective mandates and in accordance with Article 51;

Amendment 119

Proposal for a regulation Article 46 – paragraph 2 – point b

Text proposed by the Commission

(b) where transmission to the authorities of the relevant Member States which are responsible for border control, migration, asylum or law enforcement is necessary for use in accordance with national legislation and national and **EU** data protection rules;

Amendment

(b) where transmission to the authorities of the relevant Member States which are responsible for border control, migration, asylum or law enforcement is necessary for use in accordance with national legislation and national and **Union** data protection rules;

Amendment 120

Proposal for a regulation Article 46 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be allowed only where strictly necessary, subject to appropriate safeguards for the rights and freedoms of the data subject, and only to protect the vital interests of the data subject or of another natural person.

Amendment 121

Proposal for a regulation Article 49 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Classification shall not preclude information being made available to the European Parliament. The transmission and handling of information and documents transmitted to the European

Parliament in accordance with this Regulation shall comply with rules concerning the forwarding and handling of classified information which are applicable between the European Parliament and the Commission.

Amendment 122

Proposal for a regulation

Article 51 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The Agency shall cooperate with the Commission, other Union institutions, the European External Action Service, Europol, ***the European Asylum Support Office***, the European Union Agency for Fundamental Rights, Eurojust, the European Union Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency as well as other Union, agencies, bodies, offices in matters covered by this Regulation, and in particular with the objectives of ***preventing and combating*** irregular immigration and cross-border crime ***including the facilitation of irregular immigration***, trafficking in human being and terrorism.

Amendment

1. The Agency shall cooperate with the Commission, other Union institutions, the European External Action Service, ***EASO***, Europol, the European Union Agency for Fundamental Rights, Eurojust, the European Union Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency as well as other Union, agencies, bodies, offices in matters covered by this Regulation, and in particular with the objectives of ***better managing*** irregular immigration and ***preventing and detecting*** cross-border crime ***such as the criminal smuggling of persons***, trafficking in human being and terrorism.

Amendment 123

Proposal for a regulation

Article 51 – paragraph 4

Text proposed by the Commission

4. The Union institutions, agencies, bodies, offices and international organisations referred to in paragraph 1, shall use information received by the Agency only within the limits of their competences and in compliance with fundamental rights, including data

Amendment

4. The Union institutions, agencies, bodies, offices and international organisations referred to in paragraph 1, shall use information received by the Agency only within the limits of their competences and in compliance with fundamental rights, including data

protection requirements. Onward transmission or other communication of personal data processed by the Agency to other Union agencies or bodies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior approval of the European Data Protection Supervisor. As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office, agency or international organisation concerned shall comply with security rules and standards equivalent to those applied by the Agency.

protection requirements. Onward transmission or other communication of personal data processed by the Agency to other Union agencies or bodies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior approval of the European Data Protection Supervisor. ***Any transfer of personal data shall be in line with the data protection provisions laid down in Articles 44 to 48.*** As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office, agency or international organisation concerned shall comply with security rules and standards equivalent to those applied by the Agency.

Amendment 124

Proposal for a regulation Article 51 – paragraph 5

Text proposed by the Commission

5. The Agency may also, with the agreement of the Member States concerned, invite observers of Union institutions, agencies, bodies, offices or international organisations to participate in its activities in particular, joint operations and pilot projects, risk analysis and training, to the extent that their presence is in accordance with the objectives of those activities, may contribute to the improvement of cooperation and the exchange of best practices, and does not affect the overall safety and security of those activities. The participation of those observers in risk analysis and training may take place only with the agreement of the Member States concerned. As regards joint operations and pilot projects the participation of observers is subject to agreement of the host Member State. Detailed rules on the participation of observers shall be included in the

Amendment

5. The Agency may also, with the agreement of the Member States concerned, invite ***non-military*** observers of Union institutions, agencies, bodies, offices or international organisations to participate in its activities in particular, joint operations and pilot projects, risk analysis and training, to the extent that their presence is in accordance with the objectives of those activities, may contribute to the improvement of cooperation and the exchange of best practices, and does not affect the overall safety and security of those activities. The participation of those observers in risk analysis and training may take place only with the agreement of the Member States concerned. As regards joint operations and pilot projects the participation of observers is subject to agreement of the host Member State. Detailed rules on the participation of observers shall be included in the

operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation.

operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation.

Amendment 125

Proposal for a regulation Article 52 – paragraph 1 – point b

Text proposed by the Commission

(b) providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure and sensors mounted on any kind of platform, ***such as remotely piloted aircraft systems***;

Amendment

(b) providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure and sensors mounted on any kind of platform;

Amendment 126

Proposal for a regulation Article 52 – paragraph 1 – point c

Text proposed by the Commission

(c) capacity building by elaborating guidelines, recommendations and best practices as well as by ***supporting the*** training and exchange of staff, ***with a view to enhancing the exchange of information and cooperation on coast guard functions***;

Amendment

(c) capacity building by elaborating guidelines, recommendations and best practices as well as by ***providing*** training and exchange of staff;

Amendment 127

Proposal for a regulation Article 52 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) enhancing the exchange of information and cooperation on coast guard functions including by discussing operational challenges and emerging

risks in the maritime domain;

Amendment 128

Proposal for a regulation Article 52 – paragraph 2

Text proposed by the Commission

2. The modalities of the cooperation on coast guard functions of the **European Border and Coast Guard** Agency with the European Fisheries Control Agency and the European Maritime Safety Agency shall be determined in a working arrangement, in accordance with the financial rules applicable to the Agencies.

Amendment

2. The modalities of the cooperation on coast guard functions of the Agency with the European Fisheries Control Agency and the European Maritime Safety Agency shall be determined in a working arrangement, in accordance with **their respective mandates and** the financial rules applicable to the Agencies.

Amendment 129

Proposal for a regulation Article 53 – paragraph 1

Text proposed by the Commission

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate and encourage operational cooperation between Member States and third countries, within the framework of the external relations policy of the Union, including with regard to the protection of fundamental rights. The Agency and the Member States shall comply with norms and standards **at least equivalent to those set by Union legislation** also when cooperation with third countries takes place on the territory of those countries. The establishment of cooperation with third countries shall serve to promote European border management and return standards.

Amendment

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate and encourage **technical and** operational cooperation between Member States and third countries, within the framework of the external relations policy of the Union, including with regard to the protection of fundamental rights **and the principle of non-refoulement**. The Agency and the Member States shall comply with **Union law, including** norms and standards **which form part of the Union acquis** also when cooperation with third countries takes place on the territory of those countries. The establishment of cooperation with third countries shall serve to promote European border management and return standards.

Amendment 130

Proposal for a regulation

Article 53 – paragraph 2

Text proposed by the Commission

2. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation with the support of and in coordination with Union delegations, as well as within the framework of working arrangements concluded with those authorities in accordance with Union law and policy. Those working arrangements shall be related to the management of operational cooperation. Such arrangements shall **have received** the Commission's prior approval.

Amendment

2. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation with the support of and in coordination with Union delegations. **When doing so, it shall act within the framework of the external relations policy of the Union, including with regard to the protection of fundamental rights and the principle of non-refoulement** as well as within the framework of working arrangements concluded with those authorities in accordance with Union law and policy. Those working arrangements shall **specify the scope, nature and purpose of the cooperation and** be related to the management of operational cooperation. Such **draft** arrangements shall **be sent to the European Parliament and shall subsequently require** the Commission's prior approval. **The Agency shall comply with Union law, including norms and standards which form part of the Union acquis.**

Amendment 131

Proposal for a regulation

Article 53 – paragraph 3

Text proposed by the Commission

3. In circumstances requiring increased technical and operational assistance, the Agency may coordinate operational cooperation between Member States and third countries in the field of management of external borders, and it shall have the possibility of carrying out

Amendment

3. In circumstances requiring increased technical and operational assistance, the Agency may coordinate operational cooperation between Member States and third countries in the field of management of external borders, and it shall have the possibility of carrying out

joint operations at the external borders involving one or more Member States and a third country neighbouring at least one of those Member States, subject to the agreement of that neighbouring third country, including on the territory of that third country. The Commission shall be informed of such activities.

joint operations at the external borders involving one or more Member States and a third country neighbouring at least one of those Member States, subject to the agreement of that neighbouring third country, including on the territory of that third country ***subject to the agreement of an operational plan between the Agency, the host Member State and the third country concerned. Article 15 shall apply mutatis mutandis.*** The Commission shall be informed of such activities.

Amendment 132

Proposal for a regulation Article 53 – paragraph 5

Text proposed by the Commission

5. The Agency may also, with the agreement of the Member States concerned invite observers from third countries to participate in its activities at the external borders referred to in Article 13, return operations referred to in Article 27, return interventions referred to in Article 32 and training referred to in Article 35, to the extent that their presence is in accordance with the objectives of those activities, may contribute to improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member States concerned regarding the activities referred to in Articles 13, 27 and 35 and only with the agreement of the host Member State regarding those referred to in Article 13 and 32. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation.

Amendment

5. The Agency may also, with the agreement of the Member States concerned invite ***non-military*** observers from third countries to participate in its activities at the external borders referred to in Article 13, return operations referred to in Article 27, return interventions referred to in Article 32 and training referred to in Article 35, to the extent that their presence is in accordance with the objectives of those activities, may contribute to improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member States concerned regarding the activities referred to in Articles 13, ***18***, 27 and 35 and only with the agreement of the host Member State regarding those referred to in Article 13 and 32. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation ***and shall be required to adhere to the Codes of Conduct of the***

Amendment 133

**Proposal for a regulation
Article 53 – paragraph 8 a (new)**

Text proposed by the Commission

Amendment

8a. Member States shall not be obliged to participate in activities on the territory of third countries.

Amendment 134

**Proposal for a regulation
Article 53 – paragraph 9**

Text proposed by the Commission

Amendment

9. The Agency shall inform the European Parliament of the activities referred to in paragraphs 2 and 3.

9. The Agency shall inform the European Parliament of the activities referred to in this Article and shall include an assessment of the cooperation with third countries in its annual reports.

Amendment 135

**Proposal for a regulation
Article 54**

Text proposed by the Commission

Amendment

1. The Agency may deploy experts of its own staff as liaison officers, who should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States, including the network set up pursuant to Council Regulation (EC) No

1. The Agency may deploy experts of its own staff as liaison officers, who should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States, including the network set up pursuant to Council Regulation (EC) No

2. Within the framework of the external relations policy of the Union, priority for deployment of liaison officers shall be given to those third countries which, on the basis of risk analysis, constitute a country of origin or transit regarding irregular *immigration*. On a reciprocal basis the Agency may receive liaison officers posted by those third countries. The Management Board shall adopt, on a proposal of the Executive Director the list of priorities on a yearly basis. The deployment of liaison officers shall be approved by the Management Board.

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in accordance with fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against irregular *immigration* and the return of *illegally staying* third-country nationals. Those liaison officers shall coordinate closely with Union delegations.

4. The decision to deploy liaison officers to third countries shall be subject to receiving a prior opinion of the Commission, and the European Parliament shall be fully informed of those activities *as soon as possible*.

Liaison officers shall only be deployed to third countries in which border management practices comply with minimum human rights standards.

2. Within the framework of the external relations policy of the Union, priority for deployment of liaison officers shall be given to those third countries which, on the basis of risk analysis, constitute a country of origin or transit regarding irregular *migration*. On a reciprocal basis the Agency may receive liaison officers posted by those third countries. The Management Board shall adopt, on a proposal of the Executive Director the list of priorities on a yearly basis. The deployment of liaison officers shall be approved by the Management Board.

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in accordance with fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against irregular *migration* and the return of third-country nationals ***who are the subject of return decisions issued by a Member State in accordance with Directive 2008/115/EC***. Those liaison officers shall coordinate closely with Union delegations.

4. The decision to deploy liaison officers to third countries shall be subject to receiving a prior opinion of the Commission, and the European Parliament shall be fully informed of those activities *without delay*.

Amendment 136

Proposal for a regulation Article 59 – paragraph 4

Text proposed by the Commission

4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.

Amendment

4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3 *of this Article and in Article 41(4a)*.

Amendment 137

Proposal for a regulation Article 60 – paragraph 1 – point c

Text proposed by the Commission

(c) *a Supervisory* Board;

Amendment

(c) *an Advisory* Board;

Amendment 138

Proposal for a regulation Article 61 – paragraph 1 – point a

Text proposed by the Commission

(a) *appoint the Executive Director on a proposal from the Commission in accordance with Article 68;*

Amendment

deleted

Amendment 139

Proposal for a regulation Article 61 – paragraph 1 – point b

Text proposed by the Commission

(b) appoint the members of the *Supervisory* Board in accordance with

Amendment

(b) appoint the members of the *Advisory* Board in accordance with Article

Article 69(2);

69(2);

Amendment 140

Proposal for a regulation

Article 61 – paragraph 1 – point d

Text proposed by the Commission

(d) adopt ***a consolidated*** annual activity report of the Agency for the previous year and forward it by 1 July at the latest to the European Parliament, the Council, the Commission and the Court of Auditors; the ***consolidated*** annual activity report shall be made public;

Amendment

(d) adopt ***an*** annual activity report of the Agency for the previous year and forward it by 1 July at the latest to the European Parliament, the Council, the Commission and the Court of Auditors; the annual activity report shall be made public;

Amendment 141

Proposal for a regulation

Article 61 – paragraph 1 – point e

Text proposed by the Commission

(e) before 30 November each year, and after taking into account the opinion of the Commission, adopt, by a majority of two-thirds of the members entitled to vote, ***a single programming document containing the Agency's multiannual programming*** and its work programme for the following year and forward it to the European Parliament, the Council and the Commission;

Amendment

(e) before 30 November each year, and after taking into account the opinion of the Commission, adopt, by a majority of two-thirds of the members entitled to vote and its work programme for the following year and forward it to the European Parliament, the Council and the Commission;

Amendment 142

Proposal for a regulation

Article 61 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) decide on any acquisition or leasing of equipment entailing significant costs to the Agency referred to in Article 37;

Amendment 143

Proposal for a regulation

Article 61 – paragraph 1 – point p

Text proposed by the Commission

Amendment

(p) adopt and regularly update the communication and dissemination plans referred to in Article 7(3) *based on an analysis of needs*;

(p) adopt and regularly update the communication and dissemination plans referred to in Article 7(3);

Amendment 144

Proposal for a regulation

Article 61 – paragraph 1 – point q a (new)

Text proposed by the Commission

Amendment

(qa) decide on the objective criteria of the vulnerability assessment and on enhanced assessment and monitoring of a Member State referred to in Article 12 (1).

Amendment 145

Proposal for a regulation

Article 61 – paragraph 2

Text proposed by the Commission

Amendment

2. Proposals for decisions on specific activities of the Agency to be carried out at, or in the immediate vicinity of, the external border of any particular Member

deleted

State shall require a vote in favour of their adoption by the Member of the Management Board representing that Member State.

Amendment 146

Proposal for a regulation Article 61 – paragraph 6

Text proposed by the Commission

6. The Management Board may establish a small-sized Executive Board composed of the Chairperson of the Management Board, one representative of the Commission and three members of the Management Board, to assist it and the Executive Director with regard to the preparation of the decisions, programmes and activities to be adopted by the Management Board and when necessary, because of urgency, to take certain provisional decisions on behalf of the Management Board.

Amendment

6. The Management Board may establish a small-sized Executive Board composed of the Chairperson of the Management Board, one representative of the Commission and three members of the Management Board, to assist it and the Executive Director with regard to the preparation of the decisions, programmes and activities to be adopted by the Management Board and when necessary, because of urgency, to take certain provisional decisions on behalf of the Management Board. ***The Management Board may provide for the delegation of certain clearly defined tasks to the Executive Board, in particular where this improves the efficiency of the Agency.***

Amendment 147

Proposal for a regulation Article 62 – paragraph 1

Text proposed by the Commission

1. Without prejudice to paragraph 3, the Management Board shall be composed of one representative of each Member State **and** two representatives of the Commission, all with voting rights. To this effect, each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his or her absence. The

Amendment

1. Without prejudice to paragraph 3, the Management Board shall be composed of one representative of each Member State, two representatives of the Commission **and one representative of the European Parliament**, all with voting rights. To this effect, each Member State shall appoint a member of the Management Board as well as an alternate who will

Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. The terms of office shall be extendable.

represent the member in his or her absence. The Commission shall appoint two members and their alternates. ***The European Parliament shall appoint one member and his or her alternate.*** The duration of the terms of office shall be four years. The terms of office shall be extendable.

Justification

The joint statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies of 19 July 2012 clearly states that where appropriate one member of the management board should be designated by the European Parliament. Given the important role of this agency, and given that this principle has been applied recently for instance with regards to the European Union Intellectual Property Office it would be reasonable to apply this principle also for this agency. The inclusion of a member of the management board designated by the European Parliament would also increase transparency with regards to the proceedings of the board.

Amendment 148

Proposal for a regulation Article 63 – title

Text proposed by the Commission

Multiannual programming and annual work programmes

Amendment

Annual work programmes

Amendment 149

Proposal for a regulation Article 63 – paragraph 1

Text proposed by the Commission

1. The Management Board shall, by 30 November each year, adopt ***a programming document containing the Agency's multiannual programming and annual programming for the following year, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and, as regards***

Amendment

1. The Management Board shall, by 30 November each year, adopt the Agency's annual programming for the following year, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission. The Management Board shall, ***without delay***, forward that

the multiannual programming, after having consulted the European Parliament. The Management Board shall forward that document to the European Parliament, the Council and the Commission.

document to the European Parliament, the Council and the Commission.

Amendment 150

Proposal for a regulation Article 63 – paragraph 3

Text proposed by the Commission

Amendment

3. *The multiannual programming shall set out overall strategic programming in the medium and long term, including the objectives, expected results and performance indicators, as well as resource planning, including the multiannual budget and staff. The multiannual programming shall set the strategic areas of interventions and explain what needs to be done to achieve the objectives. It shall include a strategy for relations with third countries and international organisations, as well as the actions linked to that strategy.*

deleted

Amendment 151

Proposal for a regulation Article 63 – paragraph 4

Text proposed by the Commission

Amendment

4. *The multiannual programming shall be implemented by means of annual work programmes and shall, where appropriate, be updated following the outcome of the evaluation referred to in Article 80. The conclusion of those evaluations shall also be reflected, where appropriate, in the annual work*

deleted

programme for the following year.

Amendment 152

Proposal for a regulation Article 63 – paragraph 5

Text proposed by the Commission

5. The annual work programme shall contain a description of the activities to be financed comprising detailed objectives and expected results including performance indicators. It shall also contain an indication of the financial and human resources allocated to each activity, in accordance with the principles of activity-based budgeting and management. ***The annual work programme shall be consistent with the multiannual programming.*** It shall clearly indicate tasks that have been added, changed or deleted compared to the previous financial year.

Amendment

5. The annual work programme shall contain a description of the activities to be financed comprising detailed objectives and expected results including performance indicators. It shall also contain an indication of the financial and human resources allocated to each activity, in accordance with the principles of activity-based budgeting and management. It shall clearly indicate tasks that have been added, changed or deleted compared to the previous financial year.

Amendment 153

Proposal for a regulation Article 65 – paragraph 5

Text proposed by the Commission

5. The Management Board may invite a representative of the European External Action Service.

Amendment

5. The Management Board may invite a representative of the European External Action Service ***or of any other body, agency or institution of the Union.***

Amendment 154

Proposal for a regulation Article 67 – paragraph 1

Text proposed by the Commission

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his or her duties. Without prejudice to the respective competencies of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.

Amendment

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his or her duties ***and neither seek nor take instructions from anybody***. Without prejudice to the respective competencies of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.

Amendment 155

**Proposal for a regulation
Article 67 – paragraph 2**

Text proposed by the Commission

2. The European Parliament or the Council may invite the Executive Director to report on the carrying out of his or her tasks, ***in particular*** on the implementation and monitoring of the Fundamental Rights Strategy, the ***consolidated*** annual activity report of the Agency for the previous year, the work programme for the following year ***and the Agency's multiannual programming***.

Amendment

2. The European Parliament or the Council may invite the Executive Director to report on the carrying out of his or her tasks, ***including*** on the implementation and monitoring of the Fundamental Rights Strategy, the annual activity report of the Agency for the previous year, the work programme for the following year ***or any other matter related to the activities of the Agency. The Executive Director shall make a statement before the European Parliament and report to it regularly***.

Amendment 156

**Proposal for a regulation
Article 67 – paragraph 3 – point d**

Text proposed by the Commission

(d) to prepare each year the ***consolidated*** annual activity report on the Agency's activities and submit it to the

Amendment

(d) to prepare each year the annual activity report on the Agency's activities and submit it to the Management Board;

Management Board;

Amendment 157

Proposal for a regulation

Article 67 – paragraph 3 – point k

Text proposed by the Commission

(k) to ensure the implementation of the *Commission* decision referred to in Article 18;

Amendment

(k) to ensure the implementation of the *Council* decision referred to in Article 18;

Amendment 158

Proposal for a regulation

Article 67 – paragraph 3 – point l

Text proposed by the Commission

(l) to withdraw financing of *a joint operation or rapid border intervention or to suspend or terminate such operations* in accordance with Article 24;

Amendment

(l) to withdraw financing of *activities* in accordance with Article 24;

Amendment 159

Proposal for a regulation

Article 67 – paragraph 3 – point m

Text proposed by the Commission

(m) to evaluate the results of *joint operations and rapid border interventions* in accordance with Article 25;

Amendment

(m) to evaluate the results of *activities* in accordance with Article 25;

Amendment 160

Proposal for a regulation

Article 68

1. The **Commission shall propose candidates for the post of** the Executive Director and the Deputy Executive Director based on a list following publication of the post in the Official Journal of the European Union and other press or internet sites as appropriate.

2. The Executive Director shall be **appointed by the Management Board** on the grounds of merit and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return. **The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.**

Power to dismiss the Executive Director shall lie with the Management Board, acting on a proposal from the Commission, according to the same procedure.

3. The Executive Director shall be assisted by a Deputy Executive Director. If the Executive Director is absent or indisposed, the Deputy Executive Director shall take his or her place.

4. The Deputy Executive Director shall be **appointed by the Management Board** on the grounds of merit and documented appropriate administrative and management skills, as well as relevant professional experience in the field of management of the external borders and return **on the proposal of the Commission, after having consulted the Executive Director. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.**

Power to dismiss the Deputy Executive Director shall be with the Management Board, according to the same procedure.

1. The **European Parliament and the Council shall, by common accord, appoint** the Executive Director and the Deputy Executive Director based on a list **drawn up by the Commission** following publication of the post in the Official Journal of the European Union and other press or internet sites as appropriate.

2. The Executive Director shall be **chosen** on the grounds of merit, **independence** and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return.

3. The Executive Director shall be assisted by a Deputy Executive Director. If the Executive Director is absent or indisposed, the Deputy Executive Director shall take his or her place.

4. The Deputy Executive Director shall be **chosen** on the grounds of merit and documented appropriate administrative and management skills, as well as relevant professional experience in the field of management of the external borders and return. **The Deputy Executive Director shall be appointed for five years.**

5. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

6. *The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 5, may extend the term of office of the Executive Director once, for no more than five years.*

7. *The term of the office of the Deputy Executive Director shall be five years. It may be extended by the Management Board once for another period of up to five years.*

5. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

7a. *The Executive Director and the Deputy Executive Director shall be eligible for reappointment.*

7b. *Apart from normal replacement or death, the duties of the Executive Director and the Deputy Executive Director shall end in the event of resignation. The Executive Director and the Deputy Executive Director may be dismissed by the Court of Justice at the request of the European Parliament, the Council or the Commission, if he or she no longer fulfils the conditions required for the performance of his or her duties or if he or she is guilty of serious misconduct.*

Amendment 161

Proposal for a regulation Article 69

Text proposed by the Commission

Supervisory Board

1. The *Supervisory* Board shall advise the Executive Director:

Amendment

Advisory Board

1. The *Advisory* Board shall advise the Executive Director:

(a) on the recommendations to be made by the Executive Director to a Member State concerned to initiate and carry out joint operations or rapid border interventions in accordance with Article 14(4);

(b) on the decisions to be taken by the Executive Director to Member States based on the outcome of the vulnerability assessment carried out by the Agency in accordance with Article 12;

(c) on the measures needed to be taken for the practical execution of the **Commission** decision related to a situation requiring urgent action at the external borders, including the technical equipment and staff needed to meet the objectives of that decision in accordance with Article 18(3).

2. The **Supervisory** Board shall be composed of the Deputy Executive Director, **four** other senior officials of the Agency to be appointed by the Management Board and one of the representatives of the Commission to the Management Board. The **Supervisory** Board shall be chaired by the Deputy Executive Director.

3. The **Supervisory** Board shall report to the Management Board.

(a) on the recommendations to be made by the Executive Director to a Member State concerned to initiate and carry out joint operations or rapid border interventions in accordance with Article 14(4);

(b) on the decisions to be taken by the Executive Director to Member States based on the outcome of the vulnerability assessment carried out by the Agency in accordance with Article 12;

(c) on the measures needed to be taken for the practical execution of the **Council** decision related to a situation requiring urgent action at the external borders, including the technical equipment and staff needed to meet the objectives of that decision in accordance with Article 18(3).

2. The **Advisory** Board shall be composed of the Deputy Executive Director, **three** other senior officials of the Agency to be appointed by the Management Board, **the Fundamental Rights Officer** and one of the representatives of the Commission to the Management Board. The **Advisory** Board shall be chaired by the Deputy Executive Director.

3. The **Advisory** Board shall report to the Management Board.

Amendment 162

Proposal for a regulation Article 70

Text proposed by the Commission

1. **A Consultative** Forum shall be established by the Agency to assist the Executive Director and the Management Board in fundamental rights matters.

2. The Agency shall invite **the**

Amendment

1. **An independent consultative** Forum shall be established by the Agency to assist the Executive Director and the Management Board in fundamental rights matters.

2. The Agency shall invite **EASO**, the

European Asylum Support Office, the European Union Agency for Fundamental Rights, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the Consultative Forum. On a proposal by the Executive Director, the Management Board shall decide on the composition **and the working methods of the Consultative Forum** and the modalities of the transmission of information to the Consultative Forum.

3. The Consultative Forum shall be consulted on the further development and implementation of the Fundamental Rights Strategy, Codes of Conduct and common core curricula.

4. The Consultative Forum shall prepare an annual report of its activities. That report shall be made publicly available.

5. The Consultative Forum shall have access to all information concerning the respect for fundamental rights, including by carrying out on spot visits to joint operations **or** rapid border interventions **subject to the agreement of the host Member State**.

Amendment 163

Proposal for a regulation Article 71

Text proposed by the Commission

1. A Fundamental Rights Officer shall

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European Union Agency for Fundamental Rights, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the Consultative Forum. On a proposal by the Executive Director, the Management Board shall decide on the composition and the modalities of the transmission of information to the Consultative Forum. ***The Consultative Forum shall define its working methods and set up its work programme.***

3. The Consultative Forum shall be consulted on the further development and implementation of the Fundamental Rights Strategy, ***on the setting-up of the complaints mechanism***, Codes of Conduct and common core curricula.

3a. The Agency shall inform the Consultative Forum whether, and if so how, it has altered its activities as a response to reports and recommendations of the Consultative Forum. The Agency shall include details of such alterations in its annual report.

4. The Consultative Forum shall prepare an annual report of its activities. That report shall be made publicly available.

5. The Consultative Forum shall have ***effective*** access to all information concerning the respect for fundamental rights, including by carrying out on spot visits to joint operations, rapid border interventions, ***hotspot areas, return operations and return interventions***.

Amendment

1. A Fundamental Rights Officer ***with***

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be designated by the Management Board and shall have the necessary qualifications and experience in the field of fundamental rights.

2. The Fundamental Rights Officer shall be independent in the performance of his or her duties as a Fundamental Rights Officer, he or she shall report directly to the Management Board and *cooperate with* the Consultative Forum. The Fundamental Rights Officer shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

3. The Fundamental Rights Officer shall be consulted on the operational plans drawn up in accordance with Articles 15, 16 and 32(4) and shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency.

Amendment 164

Proposal for a regulation Article 72

Text proposed by the Commission

1. The Agency, in cooperation with the Fundamental Rights Officer, shall take the necessary measures to set up a complaint mechanism in accordance with this Article to monitor and ensure the respect for fundamental rights in all the activities of the Agency.

the task of monitoring and promoting the respect of fundamental rights within the Agency shall be designated by the Management Board and shall have the necessary qualifications and experience in the field of fundamental rights.

1a. The Fundamental Rights Officer shall have adequate resources and staff at her or his disposal, corresponding to the mandate and the size of the Agency and shall have access to all information necessary to fulfil her or his task.

2. The Fundamental Rights Officer shall be independent in the performance of his or her duties as a Fundamental Rights Officer, he or she shall report directly to the Management Board and *to* the Consultative Forum. The Fundamental Rights Officer shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

3. The Fundamental Rights Officer shall be consulted on the operational plans drawn up in accordance with Articles 15, 16, **27** and 32(4) and shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency.

Amendment

1. The Agency, in cooperation with the Fundamental Rights Officer, shall take the necessary measures to set up *an independent, accessible, transparent and effective* complaint mechanism in accordance with this Article to monitor and ensure the respect for fundamental rights in all the activities of the Agency.

2. Any person who is directly affected by the actions of staff involved in a joint operation, pilot project, rapid border intervention, return operation or return intervention, and who considers him or herself to have been the subject of a **breach** of his or her fundamental rights due to those actions, or any third parties intervening on behalf of such a person, may submit a complaint, in writing, to the Agency.

3. Only substantiated complaints involving concrete fundamental rights **violations** shall be admissible. Complaints which are anonymous, malicious, frivolous, vexatious, hypothetical **or inaccurate** shall be excluded from the complaint mechanism.

4. The Fundamental Rights Officer shall be responsible for handling complaints received by the Agency in accordance with the right to good administration. For this purpose, the Fundamental Rights Officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, **forward** complaints concerning border guards to the home Member State **and** register the follow-up by the Agency or that Member State.

2. Any person who is directly affected by the actions of staff involved in a joint operation, pilot project, rapid border intervention, **migration management support team**, return operation or return intervention, and who considers him or herself to have been the subject of a **violation** of his or her fundamental rights, **as protected by Union law**, due to those actions, or any third parties intervening on behalf of such a person, may submit a complaint, in writing, to the Agency.

3. Only substantiated complaints involving concrete fundamental rights **violations** shall be admissible. Complaints which are **manifestly unfounded**, anonymous, malicious, frivolous, vexatious, **or** hypothetical shall be excluded from the complaint mechanism. **Complaints may be submitted by third parties acting in good faith in the interests of a complainant who may wish to keep his or her identity undisclosed.**

4. The Fundamental Rights Officer shall be responsible for handling complaints received by the Agency in accordance with the **Charter, including the** right to good administration. For this purpose, the Fundamental Rights Officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director **and** complaints concerning border guards to the home Member State, **including the relevant authority or body competent for fundamental rights in Member State, within a determined time period. The Fundamental Rights Officer shall also register and ensure** the follow-up by the Agency or that Member State. **Any decision shall be in written form and reasoned. The Fundamental Rights Officer shall inform the complainant of the decision on admissibility, and of the national authorities to which his or her complaint was forwarded.**

If a complaint is not admissible, complainants shall be informed of the reasons and provided with further options for addressing their concerns.

5. In case of a registered complaint concerning a staff member of the Agency, the Executive Director shall ensure appropriate follow-up, including disciplinary measures as necessary. The Executive Director shall report back to the Fundamental Rights Officer ***as to the findings and follow-up given by the Agency to a complaint.***

6. In case of a registered complaint concerning a border guard of a host Member State or a member of the teams, including seconded members of the teams or seconded national experts, the home Member State shall ensure appropriate follow-up, including disciplinary measures as necessary or other measures in accordance with national law. The relevant Member State shall report back to the Fundamental Rights Officer as to the findings and follow-up to a complaint.

7. The Fundamental Rights Officer shall report to the Executive Director and to the Management Board as to the

5. In ***the*** case of a registered complaint concerning a staff member of the Agency, the Executive Director shall ensure appropriate follow-up, ***in consultation with the Fundamental Rights Officer***, including disciplinary measures as necessary. The Executive Director shall report back to the Fundamental Rights Officer ***regarding the implementation of disciplinary measures within a determined time period, and if necessary, at regular intervals thereafter.***

6. In case of a registered complaint concerning a border guard of a host Member State or a member of the teams, including seconded members of the teams or seconded national experts, the home Member State shall ensure appropriate follow-up, including disciplinary measures as necessary or other measures in accordance with national law. The relevant Member State shall report back to the Fundamental Rights Officer as to the findings and follow-up to a complaint ***within a determined time period, and if necessary, at regular intervals thereafter. Where the relevant Member State does not report back, the Agency shall send a warning letter indicating the actions which the Agency can take if no follow-up is received to the letter.***

6a. Where a border guard or a seconded national expert is found to have violated fundamental rights or international protection obligations, the Agency shall request the Member State to remove that border guard or seconded national expert immediately from the activity of the Agency or the rapid reaction pool.

7. The Fundamental Rights Officer shall report to the Executive Director and to the Management Board as to the

findings and follow-up given to complaints by the Agency and the Member States.

8. *In accordance with the right to good administration, if a complaint is admissible, complainants shall be informed that a complaint has been registered, that an assessment has been initiated and that a response may be expected as soon as it becomes available. If a complaint is not admissible, complainants shall be informed of the reasons and provided with further options for addressing their concerns.*

9. The Fundamental Rights Officer shall, after consulting the Consultative Forum, draw up a standardized complaint form requiring detailed and specific information concerning the alleged **breach of** fundamental rights. The Fundamental Rights Officer shall submit that form to the Executive Director and to the Management Board.

The Agency shall ensure that *the* standardized complaint form *is* available in **most common** languages **and that it shall be made available** on the Agency's website and in hardcopy during all activities of the Agency. Complaints shall be considered by the Fundamental Rights Officer even when they are not submitted in the standardized complaint form.

findings and follow-up given to complaints by the Agency and the Member States. ***The Agency shall include in its annual report information on the complaints mechanism, indicating the number of complaints received, the types of fundamental rights violation, the operation concerned and the follow-up measures taken by the Agency and Member States.***

9. The Fundamental Rights Officer shall ***establish the procedure for the complaints mechanism on the basis of Article 41 of the Charter and in accordance with the provisions set out above***, after consulting the Consultative Forum, ***and*** draw up a standardized complaint form requiring detailed and specific information concerning the alleged fundamental rights ***violation***. The Fundamental Rights Officer shall submit that form ***and all the other detailed procedures*** to the Executive Director and to the Management Board.

The Agency shall ensure that ***information about the possibility and procedure for making a complaint is readily available***. ***The*** standardized complaint form ***shall be made*** available in languages ***that third-country nationals understand or are reasonably believed to understand*** on the Agency's website and in hardcopy during all activities of the Agency. ***Further guidance and assistance on the complaints procedure shall be provided to alleged victims and on request. Information tailored to children and other***

10. Any personal data contained in a complaint shall be handled and processed by the Agency and the Fundamental Rights Officer in accordance with Regulation (EC) No 45/2001 and by Member States in accordance with Directive 95/46/EC and Council Framework Decision 2008/977/JHA.

The submission of the complaint is understood as the complainant consenting to the processing of his or her personal data in the meaning of point (d) of Article 5 of Regulation (EC) No 45/2001 by the Agency and the Fundamental Rights Officer.

In order to safeguard the interest of the complainants, complaints shall be dealt with confidentially unless the complainant waives his or her right to confidentiality. For complainants who waive their right to confidentiality, it is understood that he or she consents to the Fundamental Rights Officer or the Agency disclosing his or her identity in relation to the matter under complaint.

vulnerable groups shall be provided to facilitate their access to the complaints mechanism. Complaints shall be considered by the Fundamental Rights Officer even when they are not submitted in the standardized complaint form.

10. Any personal data contained in a complaint shall be handled and processed by the Agency and the Fundamental Rights Officer in accordance with Regulation (EC) No 45/2001 and by Member States in accordance with Directive 95/46/EC and Council Framework Decision 2008/977/JHA.

The submission of the complaint is understood as the complainant consenting to the processing of his or her personal data in the meaning of point (d) of Article 5 of Regulation (EC) No 45/2001 by the Agency and the Fundamental Rights Officer.

In order to safeguard the interest of the complainants, complaints shall be dealt with confidentially unless the complainant waives his or her right to confidentiality. For complainants who waive their right to confidentiality, it is understood that he or she consents to the Fundamental Rights Officer or the Agency disclosing his or her identity ***to the competent authority and where relevant or necessary, the relevant authority or body competent for fundamental rights of the relevant Member State*** in relation to the matter under complaint.

10a. Data protection rights and related complaints submitted by data subjects shall be dealt with separately by the Data Protection Officer established in accordance with Article 44(1) of this Regulation. The Fundamental Rights Officer and the Data Protection Officer shall establish, in writing, a memorandum of understanding specifying their division of tasks as regards complaints received.

Amendment 165

Proposal for a regulation Article 74 – paragraph 2

Text proposed by the Commission

2. The Agency *may* communicate on its own initiative in the fields within its mission. It shall make public the **consolidated** annual activity report referred to in Article 61(1)(d) and ensure in particular that the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

Amendment

2. The Agency **shall** communicate on its own initiative in the fields within its mission. It shall make public **relevant information including** the annual activity report referred to in Article 61(1)(d) and ensure in particular that the public and any interested party are rapidly given objective, **detailed**, reliable and easily understandable information with regard to its work **without revealing operational information which, if made public, would jeopardise attainment of the objective of operations.**

Amendment 166

Proposal for a regulation Article 75 – paragraph 1 – introductory part

Text proposed by the Commission

1. The revenue of the Agency shall consist, **without prejudice to other types of income**, of:

Amendment

1. The revenue of the Agency shall consist of:

Amendment 167

Proposal for a regulation Article 75 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to increase budgetary transparency the operational expenditure shall be presented in the Union budget through separate budget items per activity area.

Amendment 168

Proposal for a regulation Article 75 – paragraph 7

Text proposed by the Commission

7. *The* estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) **together with the preliminary draft budget of the European Union.**

Amendment

7. **Upon receipt, the** estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority).

Amendment 169

Proposal for a regulation Article 75 – paragraph 13

Text proposed by the Commission

13. In the view of financing the deployment of rapid border interventions and return interventions, the budget of the Agency adopted by the Management Board shall include a financial operational reserve amounting at least to 4% of the allocation foreseen for the operational activities. **The reserve should be maintained throughout the year.**

Amendment

13. In the view of financing the deployment of rapid border interventions and return interventions, the budget of the Agency adopted by the Management Board shall include a financial operational reserve amounting at least to 4% of the allocation foreseen for the operational activities. **On 1 October each year, at least one-quarter of the reserve should remain available in order to cover needs arising until the end of the year.**

Amendment 170

Proposal for a regulation Article 77 a (new)

Text proposed by the Commission

Amendment

Article 77a

**Prevention of conflicts of interest
The Agency shall adopt internal rules**

requiring the members of their bodies and their staff members to avoid any situation liable to give rise to a conflict of interest during their employment or term of office and to report such situations.

Amendment 171

Proposal for a regulation Article 79

Text proposed by the Commission

Amendment

Article 79

deleted

Committee Procedure

- 1. The Commission shall be assisted by the committee established by Article 33a of Regulation (EC) No 562/2006. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.*
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.*
- 3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or two-thirds of the committee members so request.*
- 4. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.*
- 5. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.*

Amendment 172

Proposal for a regulation Article 80

Text proposed by the Commission

1. By three years from the date of entry into force of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation to assess particularly the impact, effectiveness and efficiency of the Agency's performance and its working practices in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.

The evaluation shall include a specific analysis on the way the Charter was complied with in the application of this Regulation.

2. The Commission shall send the evaluation report together with its conclusions on the report, to the European Parliament, the Council and the Management Board. The evaluation report and the conclusions on the report shall be made public.

3. ***On the occasion of every second evaluation, the Commission shall assess the results achieved by the Agency having regard to its objectives, mandate and tasks.***

Amendment

1. By ... [three years from the date of entry into force of this Regulation], and every three years thereafter, the Commission shall carry out an ***independent*** evaluation to assess particularly ***the results achieved by the Agency having regard to its objectives, mandate and tasks***, the impact, effectiveness and efficiency of the Agency's performance and its working practices in relation to its objectives, mandate and tasks ***and the implementation of the European cooperation on coast guard functions***. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.

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

2. The Commission shall send the evaluation report together with its conclusions on the report, to the European Parliament, the Council and the Management Board. The evaluation report and the conclusions on the report shall be made public.

Amendment 173

Proposal for a regulation Article 82 – paragraph 2

Text proposed by the Commission

Article 19(5) and Articles 28, 29, 30 and 31 shall apply from three months after the entry into force of this Regulation.

Amendment

Articles 28, 29, 30 and 31 shall apply from ... [three months after the entry into force of this Regulation].

EXPLANATORY STATEMENT

Introduction

The Schengen area as an area of 26 countries without internal border control in which persons may move freely is rightly by many considered as among the biggest and most visible achievements of European integration. Its very idea - the absence of controls at internal borders - is however currently challenged in an unprecedented way: eight Schengen states (Belgium, Denmark, Germany, Hungary, Austria, Slovenia, Sweden and Norway) have reintroduced border controls at internal borders as reaction to secondary movements of irregular migrants considered as serious threat to internal security and public policy. In addition, Malta and France have reintroduced internal border control for security considerations.

This shows that the tools and mechanisms which have been developed over time for the effective functioning of the Schengen area are not sufficient given the magnitude of the current migration crisis as well the threats posed by terrorist activities.

Work is on-going to address the challenges caused by the migration crisis, to encourage greater solidarity among Member States and to strengthen the exchange of information and cooperation of law enforcement authorities in the fight against terrorism.

The proposal for a European Border and Coast Guard (EBCG) addresses the need to ensure the proper control of the Schengen external border as a precondition to manage migration effectively, to ensure high level of security within while safeguarding free movement of persons within the Union. It is thus in the current context a key element to address the weaknesses identified but not the universal remedy.

Background

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (known as Frontex) started operations on 1 May 2005. The underlying idea of Frontex was to improve the integrated management of the external borders and the implementation of the common rules to promote, coordinate and develop the concept of European border management.

The mandate of Frontex was already revised two times. Regulation 863/2007 introduced the concept of rapid border interventions and Regulation 1168/2011 highlighted the responsibility of Frontex as regards the protection of fundamental rights.

In 2013 Regulation 1052/2013 furthermore established the European Border Surveillance System (Eurosur) which is managed by Frontex and can be described as a map of the situational picture at the border which serves to exchange information. In addition, following a court case brought by Parliament, Regulation 656/2014 established rules for the surveillance of the external sea borders in the context of sea operations coordinated by Frontex.

At the time of the adoption of the latest review of the Frontex Regulation in 2011 the Commission committed in a declaration to launch a feasibility study regarding the creation of a European system of border guards.¹ Also the European Council in the Stockholm Programme invited the Commission "to initiate a debate on the long-term development of Frontex" [including] [...] the feasibility of the creation of a European system of border guards". This study has been prepared and presented to the LIBE Committee.²

In parallel, Frontex underwent an evaluation which was foreseen in its legal basis the result of which has been published.³ In its Agenda on Migration the Commission announced that "on the basis of the ongoing evaluation [...], the Commission will propose to amend the Frontex legal basis to strengthen its role on return."

Parliament has been discussing the future development of Frontex on many occasions, including during a debate in plenary held on 11 February 2015 and while preparing its resolution of 2 December 2015 on the Special Report of the European Ombudsman in own-initiative inquiry OI/5/2012/BEH-MHZ concerning Frontex (2014/2215(INI)). In this resolution it recommended the inclusion of provisions on an individual complaints mechanism when the Frontex mandate would be reviewed.

This proposal on a EBCG

On the basis of the above mentioned preparatory work and faced with an unprecedented migration crisis the Commission presented last December this proposal. It foresees a complete revision of the Frontex mandate by significantly enhancing its competences.

The Commission proposes the creation of the concept of the EBCG which would be composed of the new EBCG Agency, replacing Frontex, and the national Member State authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks. The Commission also proposes to include the concept of European integrated border management for the first time in legislation.

Among the innovative elements of the proposal are the establishment of a vulnerability assessment as a preventive mechanism to avoid ineffective control of the external border, the deployment of liaison officers to Member States, the procedure for situations at the border requiring urgent action and the setting up of a pool of 1500 border guards which would have to be made available by Member States for rapid deployment without exception. The proposal also foresees a much stronger role of the Agency in the field of return, the strengthening of its capacity (staff, budget, equipment), increased cooperation with third countries, the establishment of a European cooperation on coast guard functions.

Position of the Rapporteur

¹ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-344>

² http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/docs/20141016_home_esbg_frp_001_esbg_final_report_3_00_en.pdf

³ http://frontex.europa.eu/assets/Publications/General/Final_Report_on_External_Evaluation_of_Frontex.pdf

The rapporteur welcomes and supports the proposal as a further element which, once adopted, will enhance solidarity between the Member States, reinforce integration regarding border management and contribute to preventing crisis situations at the external border. The proposal is a response to the weaknesses identified by them: the unwillingness or inability of Member States to make border guards and equipment available for deployment by the Agency when so requested, the lack of an effective monitoring and preventive measures, or the fact that mechanisms created were not activated by Member States (there were only two rapid border interventions since the mechanism was established). In an area of free movement without internal borders, managing the Union's external borders must be a shared responsibility among all Member States. The amendments proposed by the rapporteur aim to further strengthen the proposal by increasing the Agency's effectiveness, as well as its efficiency and accountability.

The rapporteur proposes a number of amendments which should enable the Agency to better achieve its objectives. It is crucial that the Agency in the future has the necessary border guards and equipment at its disposal whenever this is needed and especially that it is able to deploy them within a short timeframe when necessary.

As regards the proposed procedure for situations at the border requiring urgent action (Article 18) the rapporteur considers that the proposal respects Member States' sovereignty as it also foresees that the Member State concerned has to agree with the Agency on the operational plan and is also the one who has to issue instructions to the teams. The rapporteur, however, believes that decisions to act should be taken by the Council to strengthen the decision making process and further emphasise the sovereignty of the Member States. There also has to be a realistic procedure for action in case a Member State does not follow a decision of Council. In such cases it is no option to wait for the outcome of a court procedure. Instead, as a last resort in certain well described circumstances reintroducing control at certain internal borders might be necessary in order to protect the Schengen area as such.

The rapporteur also considers that deploying liaison officers to all Member States with an external land or sea border will enable the Agency to better achieve its objectives and facilitate information exchange between the Member State and the Agency. In principle liaison officers should be deployed to all Member States as all Member States should participate in the further building-up of a common culture of high standards regarding border management. In recognition of the fact that Member States with only air borders are exposed to less risk, liaison officers do not necessarily have to be deployed to these Member States. The external borders will be constantly monitored with periodic risk analyses and mandatory vulnerability assessments to identify and address the weakness at the external borders. The rapporteur proposes to strengthen the provisions regarding the equipment for operations. A rapid reaction pool of border guards and a technical equipment pool will be at the disposal of the Agency aiming at their deployment in rapid border interventions within days.

Given the increased role of the Agency in returns, the rapporteur clarifies that in this regard the objective of the agency is to assist the Member States with practical organisation of the return operations, without entering into the merits of return decisions issued by the Member States. Furthermore, given the stronger role and enhanced operational tasks of the Agency the rapporteur supports the establishment of a number of fundamental rights safeguards for the Agency.

The rapporteur also considers that the Regulation should be "future proof". With the focus currently being on contributing to the effective management of migration at the external borders of the Union, its role involves addressing potential threats at the Union's external borders, including crime with cross-border dimension.

As regards efficiency, the rapporteur proposes to delete the concept of the supervisory board and the multiannual programming exercise as both bear the inherent risk of being an obstacle to efficient action. Also the rapporteur considers that instead of operating through grants the Agency should use contracts when financing or co-financing activities. Grant schemes lack flexibility and are lengthy while contractual relation could be more efficient.

The rapporteur also considers necessary to increase the accountability of the future Agency by providing for more information to be made available to Parliament and the general public. More transparency is necessary to increase legitimacy and to avoid false impressions as to the role of the Agency.

Finally, the rapporteur subscribes to the view that adopting this Regulation is urgent in order to strengthen the control of the external border and thus return to a situation without border controls within the Schengen area.

17.5.2016

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 on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM(2015)0671 – C8-0408/2015 – 2015/0310(COD))

Rapporteur: Javier Nart

SHORT JUSTIFICATION

The proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard has as the objective the setting up of a European Border and Coast Guard, to ensure an integrated management of the EU's external border.

The proposal is welcomed and corresponds to the challenges the European Union has faced in the on-going refugee and migration crisis. It is estimated that only between January and November 2015, approximately 1,5 million persons have crossed the borders illegally.

Article 77 TFEU sets out an objective of a 'gradual introduction of an integrated management system for external borders' and this proposal should be adopted as a first and important step in that direction.

However, the proposed European Border and Coast Guard Agency will be based on the current Frontex and have to rely on the cooperation and contributions from the Member States in carrying out the practical work.

The regulation needs further amendments as to clarify the concept of 'shared responsibilities' between the Member States and the EU Border and Coast Guard Agency.

While the added competences constitute a significant step forward, it is necessary to see these steps as the first in a process towards a fully independent, integrated and EU-led and EU-wide Border and Coast Guard, financed from the EU budget and with operational autonomy. The final adoption of this regulation should be accompanied by a clear political commitment from the Member States and all EU institutions to such a development.

It is worth noting the stipulations contained in Article 18 of the proposed regulation, which

will allow for an independent intervention decided by the Commission, even against the will of a Member State.

It is imperative that the Agency establish good relations with Border and Coast Guards in third countries and that the Agency has the operational independence and capability for such external links.

The assessment of the budgetary impact foresees at least €31,5 million in 2017, but this sum, along with a preliminary estimation of staffing seems to be somewhat low.

Among the amendments proposed by the Foreign Affairs committee are also clarifications on the role of the European Parliament to scrutinize the Agency and on the Agency's cooperation with third countries.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments

Amendment 1

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6 a) The European Border and Coast Guard is intended to replace Frontex in order to ensure a European integrated border management at the external borders with a view to managing migration effectively and ensuring a high level of internal security within the Union, while safeguarding the free movement of persons therein. In accordance with the Treaties and their Protocols, the Member States to which provisions of the Schengen acquis on lifting border controls are yet to apply should be able to participate in and/or benefit from all the actions under this Regulation.

Amendment 2

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) The tasks of Frontex should therefore be expanded and to reflect those changes, it should be renamed European Border and Coast Guard Agency. The key role of the European Border and Coast Guard Agency should be to establish an operational and technical strategy for the implementation of an integrated border management at Union level, to oversee the effective functioning of border control at the external borders, to provide increased operational and technical assistance to Member States through joint operations and rapid border interventions, and to ensure the practical execution of measures in case of a situation requiring urgent action at the external borders, as well as to organise, coordinate and conduct return operations and return interventions.

Amendment

(9) The tasks of Frontex should therefore be expanded and to reflect those changes, it should be renamed European Border and Coast Guard Agency. The key role of the European Border and Coast Guard Agency should be to establish an operational and technical strategy for the implementation of an integrated border management at Union level, to oversee the effective functioning of border control at the external borders, to provide increased operational and technical assistance to Member States through joint operations and rapid border interventions, and to ensure the practical execution of measures in case of a situation requiring urgent action at the external borders, ***including search and rescue operations at sea***, as well as to organise, coordinate and conduct return operations and return interventions.

Amendment 3

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) ***In a spirit of*** shared responsibility, the role of the European Border and Coast Guard Agency should be to regularly monitor the management of the external borders. The Agency should ensure proper and effective monitoring not only through risk analysis, information exchange and Eurosur, but also through presence of experts from its own staff ***in*** Member States. The Agency should therefore be able to deploy liaison officers to specific Member States for a period of time during which the liaison officer reports to the

Amendment

(12) ***Undertaking a*** shared responsibility ***with the Member States***, the role of the European Border and Coast Guard Agency should be to regularly monitor the management of the ***EU*** external borders. The Agency should ensure proper and effective monitoring not only through risk analysis, information exchange and Eurosur, but also through ***the*** presence of experts from its own staff ***on the ground, in full cooperation with*** Member States ***and respecting the rights of non-Schengen countries***. The Agency

Executive Director. The report of the liaison officers should form part of the vulnerability assessment.

should therefore be able to deploy liaison officers to specific Member States for a period of time during which the liaison officer reports to the Executive Director. The report of the liaison officers should form part of the vulnerability assessment.

Amendment 4

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The European Border and Coast Guard Agency should organise *the* appropriate technical and operational assistance to Member States so as to reinforce their capacity to implement their obligations with regard to the control of the external borders, and to face challenges at the external border *resulting from irregular immigration or cross-border crime*. In this respect, the European Border and Coast Guard Agency should, at the request of a Member State or on its own initiative, organise and coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams as well as the necessary technical equipment, and it may deploy experts from its own staff.

Amendment

(14) The European Border and Coast Guard Agency should organise *and offer* appropriate *additional* technical and operational assistance to Member States so as to reinforce their capacity to implement their obligations with regard to the control of the external borders and to face challenges at the external border, *including through search and rescue operations at sea, without prejudice to the responsible national authorities' competence to initiate criminal investigations*. In this respect, the European Border and Coast Guard Agency should, at the request of a Member State or on its own initiative, organise and coordinate joint operations for one or more Member States and deploy European Border and Coast Guard Teams as well as the necessary technical equipment, and it may deploy experts from its own staff.

Amendment 5

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) At particular areas of the external borders where Member States face disproportionate migratory pressures characterised by large influxes of mixed

Amendment

(16) At particular areas of the external borders where Member States face disproportionate migratory pressures characterised by large influxes of mixed

migratory flows, referred to as hotspot areas, the Member States should be able to rely on the increased operational and technical reinforcement by the migration management support teams composed of teams of experts deployed from Member States by the European Border and Coast Guard Agency and the European Asylum Support Office, and from Europol or other relevant Union Agencies, as well as experts from the staff of the European Border and Coast Guard Agency. The European Border and Coast Guard Agency should assist the Commission in the coordination among the different agencies on the ground.

migratory flows, referred to as hotspot areas, the Member States should be able to rely on the increased operational and technical reinforcement by the migration management support teams composed of teams of experts deployed from Member States by the European Border and Coast Guard Agency and the European Asylum Support Office, and from Europol or other relevant Union Agencies, as well as experts from the staff of the European Border and Coast Guard Agency. The European Border and Coast Guard Agency should assist the Commission in the coordination among the different agencies on the ground. ***The Agency should have an autonomous right to intervene so that it may deploy its agents and equipment based on the complexity of a border protection situation and the specificities of the external border areas where Member States face disproportionate migration pressures.***

Amendment 6

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) The European Border and Coast Guard Agency should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the European Border and Coast Guard Agency should be able to deploy European Border and Coast Guard Teams from a rapid reserve pool which should be a standing corps composed of ***a small*** percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. The deployment of the European Border and Coast Guard Teams

Amendment

(18) The European Border and Coast Guard Agency should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the European Border and Coast Guard Agency should be able to deploy European Border and Coast Guard Teams from a rapid reserve pool which should be a standing corps composed of ***an appropriate*** percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. The deployment of the European Border and

from the rapid reserve pool should be immediately complemented by additional European Border and Coast Guard Teams as appropriate.

Coast Guard Teams from the rapid reserve pool should be immediately complemented by additional European Border and Coast Guard Teams as appropriate.

Amendment 7

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) The European Border and Coast Guard Agency should step up its assistance to Member States for returning illegally staying third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC of the European Parliament and of the Council¹. In particular, it should coordinate and organise return operations **from one or more Member States** and it should organise and conduct return interventions to reinforce the return system of Member States requiring increased technical and operational assistance when complying with their obligation to return illegally staying third-country nationals in accordance with that Directive.

¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals (OJ L 348, 21.12.2008, p. 98).

Amendment

(21) The European Border and Coast Guard Agency should step up its assistance to Member States for returning illegally staying third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC of the European Parliament and of the Council¹. In particular, **following the request of one or more Member States** it should coordinate and organise return operations and it should organise and conduct return interventions to reinforce the return system of Member States requiring increased technical and operational assistance when complying with their obligation to return illegally staying third-country nationals in accordance with that Directive.

¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in member states for returning illegally staying third-country nationals (OJ L 348, 21.12.2008, p. 98).

Amendment 8

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) The European Border and Coast Guard Agency should facilitate and

Amendment

(28) The European Border and Coast Guard Agency, **in agreement with the**

encourage operational cooperation between Member States and third countries in the framework of the external relations policy of the Union, including by coordinating operational cooperation between Member States and third countries *in the field of management of* external borders and by deploying liaison officers to third countries, as well as by cooperating with the authorities of third countries on return, including as regards the acquisition of travel documents. In their cooperation with third countries, the European Border and Coast Guard Agency and Member States should comply with norms and standards at least equivalent to those set by Union legislation also when the cooperation with third countries takes place on the territory of those countries.

Member State(s) concerned, should facilitate and encourage operational cooperation between Member States and third countries in the framework of the external relations policy of the Union *in cooperation with the Commission and EEAS*, including by coordinating operational cooperation between Member States and third countries *after risk assessment of the* external borders and by deploying liaison officers to third countries, as well as by cooperating with the authorities of third countries on return, including as regards the acquisition of travel documents. In their cooperation with third countries, the European Border and Coast Guard Agency and Member States should comply with norms and standards at least equivalent to those set by Union legislation also when the cooperation with third countries takes place on the territory of those countries.

Amendment 9

Proposal for a regulation Recital 29 a (new)

Text proposed by the Commission

Amendment

(29 a) During operations carried out by the European Border and Coast Guard, no person shall, in contravention of the principle of non-refoulement, be conducted to or otherwise handed over to the authorities of a third country where, inter alia, there is a serious risk that he or she would be subjected to the death penalty, torture, persecution or other inhuman or degrading treatment or punishment, 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 an expulsion, removal or extradition to another country in

contravention of the principle of non-refoulement.

Amendment 10

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) This Regulation establishes a complaint mechanism for the European Border and Coast Guard Agency, in cooperation with the Fundamental Rights Officer, to monitor and ensure the respect for fundamental rights in all the activities of the Agency. This should be an administrative mechanism whereby the Fundamental Rights Officer ***should be responsible for handling complaints received by the Agency*** in accordance with the right to good administration. The Fundamental Rights Officer should review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning border guards to the home Member State and register the follow-up by the Agency or that Member State. Criminal investigations should be conducted by the Member States.

Amendment

(30) This Regulation establishes a complaint mechanism for the European Border and Coast Guard Agency, in cooperation with the Fundamental Rights Officer, to monitor and ensure the respect for fundamental rights in all the activities of the Agency ***and its staff***. This should be an ***effective and accessible*** administrative mechanism whereby the ***Agency's*** Fundamental Rights Officer ***participates*** in accordance with the right to good administration ***and is operationally independent***. The Fundamental Rights Officer should review the admissibility of a complaint, register ***and deal accordingly with all*** admissible complaints, forward all registered complaints to the Executive Director, forward complaints concerning border ***and coast*** guards to the home Member State and register the follow-up by the Agency or that Member State. ***This data should be included in the annual report of the Agency***. Criminal investigations should be conducted by the Member States.

Amendment 11

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) In order to ensure the uniform conditions for the implementation of this Regulation, in particular as regards situations requiring urgent action at the

Amendment

(31) In order to ensure the uniform conditions for the implementation of this Regulation, in particular as regards situations requiring urgent action at the

external borders, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.¹⁸

¹⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

external borders, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁸ ***and so as to respect the principle of non-refoulement and human right declarations and standards.***

¹⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 12

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The Commission and the **Member States** should be represented within a Management Board to exercise policy and political oversight over the European Border and Coast Guard Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the European Border and Coast Guard Agency and appoint the Executive Director and the Deputy Executive Director. The Agency should be governed and operated in line with the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European

Amendment

(33) The Commission, **the Member States** and the **European Parliament** should be represented within a Management Board to exercise policy and political oversight over the European Border and Coast Guard Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the European Border and Coast Guard Agency and appoint the Executive Director and the Deputy Executive Director. The Agency should be governed and operated in line with the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European

Commission.

Parliament, the Council and the European Commission.

Amendment 13

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

(1) ‘external borders’ means the land and sea borders of the Member States and their airports and *seaports*, to which the provisions of Title II of Regulation (EC) No **562/2006** of the European Parliament and of the Council¹ apply;

¹ 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) (OJ L **105**, **13.4.2006**, p. 1).

Amendment 14

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

2. The European Border and Coast Guard Agency shall establish an operational and technical strategy for the European integrated border management. It shall promote and ensure the implementation of European integrated border management in all Member States.

Amendment

(1) ‘external borders’ means the land and sea borders of the Member States and their airports and *maritime ports*, to which the provisions of Title II of Regulation (EC) No **2016/399** of the European Parliament and of the Council¹ apply, ***including those Member States to which provisions of the Schengen acquis on lifting internal borders are yet to apply;***

¹ Regulation (EC) No **2016/399** of the European Parliament and of the Council of **9 March 2016 on a Union Code on the rules governing the movement of persons across borders** (Schengen Borders Code) (OJ L **77**, **23.3.2016**, p. 1).

Amendment

2. The European Border and Coast Guard Agency shall establish an operational and technical strategy for the European integrated border management, ***with clear objectives and measurable targets for improved border security and management and taking into account, where justified, the specific situation of the Member States, in particular their geographical location. This strategy shall be regularly updated in order to take into***

account new developments on the ground.
It shall promote and ensure the implementation of European integrated border management in all Member States.

Amendment 15

Proposal for a regulation

Article 4 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) conduct and coordination of search and rescue operations at sea and support to civil society organisations and initiatives conducting search and rescue operations at sea;

Amendment 16

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) analysis of the risks for internal security and analysis of the threats that may affect the functioning or security of the external borders;

(b) analysis of the risks for internal security and analysis of the threats that may affect the functioning or security of the external borders;

Amendment 17

Proposal for a regulation

Article 4 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) cooperation with third countries in the areas of covered by this Regulation, focusing in particular on neighbouring countries and on those third countries which have been identified through risk analysis as being countries of origin and transit for irregular immigration;

(d) cooperation with third countries in the areas of covered by this Regulation, focusing in particular on neighbouring countries and on those third countries which have been identified through risk analysis as being countries of origin and transit for irregular immigration *in cooperation with the Commission, the*

Amendment 18

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Those Member States whose borders constitute the external borders shall ensure the management of the external borders, in their interests and in the interest of all Member States, in full compliance with Union law and in line with the technical and operational strategy referred to in Article 3(2), and in close cooperation with the Agency.

Amendment 19

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. The European Border and Coast Guard Agency shall facilitate the application of Union measures relating to the management of external borders by reinforcing, assessing and coordinating the actions of Member States in the implementation of those measures, and in return, Member States shall ensure the management of their section of the external borders, in their interests and in interest of all Member States which have abolished internal border control, in full compliance with Union law and in accordance with the technical and operational strategy referred to in Article 3(2), and in close cooperation with the Agency.

2. The European Border and Coast Guard Agency shall facilitate the application of Union measures relating to the management of ***the*** external borders by reinforcing, assessing and coordinating the actions of Member States in the implementation of those measures, and in return, Member States shall ensure the management of their section of the external borders, in their interests and in interest of all Member States which have abolished internal border control, in full compliance with Union law and in accordance with the technical and operational strategy referred to in Article 3(2), and in close cooperation with the Agency.

Amendment 20

Proposal for a regulation

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States hold primary responsibility for the implementation of the relevant international, Union and national legislation and law enforcement actions undertaken in the context of joint operations coordinated by the European Border and Coast Guard and therefore also for the respect of fundamental rights during these activities. The European Border and Coast Guard is also responsible, as the coordinator, and remains fully accountable for all actions and decisions under its mandate. The Commission, in cooperation with the Agency, the Council and relevant stakeholders, shall further analyse provisions related to accountability and liability and redress any potential or actual gaps connected to activities of the Agency.

Amendment 21

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. To ensure a coherent European integrated border management at all external borders, the Agency shall facilitate and render more effective the application of existing and future Union measures relating to the management of external borders, ***in particular*** the Schengen Borders Code established by Regulation (EC) No 562/2006.

1. To ensure a coherent European integrated border management at all external borders, the Agency shall facilitate and render more effective the application of existing and future Union measures relating to the management of external borders, ***including*** the Schengen Borders Code established by Regulation (EU) No 2016/399.

Amendment 22

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. In view of contributing to an efficient, high and uniform level of border control and **return**, the Agency shall perform the following tasks:

Amendment

1. In view of contributing to an efficient, high and uniform level of border control and **uniform application of international standards for returns**, the Agency shall perform the following tasks:

Amendment 23

Proposal for a regulation

Article 7 – paragraph 1 – point a

Text proposed by the Commission

(a) **establish a monitoring and risk analysis centre and analyse risks with the capacity to monitor** migratory flows and **to** carry out risk analysis as regards all aspects of integrated border management;

Amendment

(a) **monitor** migratory flows and carry out risk analysis as regards all aspects of integrated border management **by making use of available resources such as the Union satellite centre and situation centre**;

Amendment 24

Proposal for a regulation

Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) carry out **a** vulnerability assessment including the assessment of the capacity of Member States to face threats and pressures at **the** external borders;

Amendment

(b) carry out **regular** vulnerability assessment including the assessment of the capacity of Member States to face threats and pressures at **their** external borders;

Amendment 25

Proposal for a regulation

Article 7 – paragraph 1 – point c

Text proposed by the Commission

(c) *assist* to Member States in circumstances requiring increased technical and operational assistance at the external borders by coordinating and organising joint operations, taking into account that some situations may involve humanitarian emergencies and rescue at sea;

Amendment

(c) *provide support* to Member States in circumstances requiring increased technical and operational assistance at the external borders by coordinating and organising joint operations, taking into account that some situations may involve humanitarian emergencies and rescue at sea;

Amendment 26

Proposal for a regulation

Article 7 – paragraph 1 – point f

Text proposed by the Commission

(f) set up a technical equipment pool to be deployed in joint operations, rapid border interventions and in the framework of migration management support teams, as well as in return operations and return interventions;

Amendment

(f) set up a technical equipment pool to be deployed in joint operations, rapid border interventions, *search and rescue operations*, and in the framework of migration management support teams, as well as in return operations and return interventions;

Amendment 27

Proposal for a regulation

Article 7 – paragraph 1 – point h

Text proposed by the Commission

(h) support the development of technical standards for equipment, especially for tactical level command, control and communication as well as technical surveillance to ensure interoperability at Union and national level;

Amendment

(h) support the development of *common* technical standards for equipment, especially for tactical level command, control and communication as well as technical surveillance to ensure interoperability at Union and national level;

Amendment 28

Proposal for a regulation

Article 7 – paragraph 1 – point n

Text proposed by the Commission

(n) participate in the development and management of research and innovation activities relevant for the control and surveillance of external borders, including the use of advanced surveillance technology such as remotely piloted aircraft systems and develop pilot projects regarding matters covered by this Regulation;

Amendment

(n) **monitor and** participate in the development and management of research and innovation activities relevant for the control and surveillance of external borders, including the use of advanced surveillance technology such as remotely piloted aircraft systems and develop pilot projects regarding matters covered by this Regulation;

Amendment 29

Proposal for a regulation

Article 7 – paragraph 1 – point q

Text proposed by the Commission

(q) cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency to support the national authorities carrying out coast guard functions by providing services, information, equipment and training, as well as by coordinating multipurpose operations;

Amendment

(q) cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency to support the national authorities carrying out coast guard functions by providing services, information **and, where necessary,** equipment and training, as well as by coordinating multipurpose operations;

Amendment 30

Proposal for a regulation

Article 7 – paragraph 1 – point r

Text proposed by the Commission

(r) assist Member States and third countries in **the context of operational** cooperation **between them** in the fields of external border management and return.

Amendment

(r) assist **and provide support to** Member States and third countries in **their** cooperation in the fields of external border management and return.

Amendment 31

Proposal for a regulation

Article 7 – paragraph 1 – point r a (new)

Text proposed by the Commission

Amendment

(r a) adopt and promote the highest standards for border management practices, allowing for transparency and public scrutiny and ensuring the respect and promotion of fundamental rights and rule of law.

Amendment 32

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States may continue cooperation at an operational level with other Member States and/or third countries at external borders, including military operations on a law enforcement mission and in the field of return, where such cooperation is ***compatible*** with the action of the Agency. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States may continue cooperation at an operational level with other Member States and/or third countries at external borders, including military operations on a law enforcement mission and in the field of return, where such cooperation ***does not contradict*** the action of the Agency ***and CSDP and NATO missions***. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Amendment 33

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. The Agency shall establish a monitoring and risk analysis centre with the capacity to monitor migratory flows ***towards and within the Union***. For this purpose, the Agency shall develop a common integrated risk analysis model, which shall be applied by the Agency and

1. The Agency shall establish a monitoring and risk analysis centre with the capacity to monitor migratory flows. ***It shall ensure that all already available Union resources (intelligence, risk analyses, satellite, etc.) are fully and comprehensively utilised.*** For this purpose,

the Member States.

the Agency shall, **by a decision of the Management Board**, develop a common integrated risk analysis model, which shall be applied by the Agency and the Member States.

Amendment 34

Proposal for a regulation Article 10 – paragraph 3

Text proposed by the Commission

3. The risk analysis prepared by the Agency shall cover all aspects relevant to the European integrated border management, in particular border control, return, irregular secondary movements of third-country nationals within the Union, the prevention of cross-border crime **including facilitation of irregular immigration**, trafficking in human being and terrorism, as well as the situation in neighbouring third countries with a view to developing a pre-warning mechanism which analyses the migratory flows towards the Union.

Amendment

3. The risk analysis prepared by the Agency shall cover all aspects relevant to the European integrated border management, in particular border control, **the protection of fundamental rights**, return, irregular secondary movements of third-country nationals within the Union, the prevention of cross-border crime, trafficking in human being and terrorism, as well as the situation in neighbouring third countries **and countries of origin and transit for irregular migration** with a view to developing a pre-warning mechanism which analyses the migratory flows towards the Union **and the respect for fundamental rights in the countries they come from**.

Amendment 35

Proposal for a regulation Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Agency shall make its methodology and criteria for the risk analysis public.

Amendment 36

Proposal for a regulation Article 11 – paragraph 3 – point e

Text proposed by the Commission

(e) report regularly to the Executive Director on the situation at the external border and the capacity of the Member State concerned to deal effectively with the situation *at the external borders*;

Amendment

(e) report regularly to the Executive Director *and to the head of the relevant national authority* on the situation at the external border and the capacity of the Member State concerned to deal effectively with the situation;

Amendment 37

Proposal for a regulation

Article 11 – paragraph 4 – point a

Text proposed by the Commission

(a) have *unlimited* access to the national coordination centre and the national situational picture established in accordance with Regulation (EU) No 1052/2013;

Amendment

(a) have access to the national coordination centre and the national situational picture established in accordance with Regulation (EU) No 1052/2013

Amendment 38

Proposal for a regulation

Article 12 – paragraph 4

Text proposed by the Commission

4. The results of the vulnerability assessment shall be submitted to the *Supervisory Board, which shall advise* the Executive Director *on* the measures to be *taken by* the Member States *based* on the results of the vulnerability assessment, *and* taking into account the Agency's risk analysis and the results of the Schengen evaluation mechanism.

Amendment

4. The results of the vulnerability assessment shall be submitted to the *Member States concerned. The Member State concerned may comment on the assessment.* The Executive Director *shall base* the measures to be *recommended to* the Member States *concerned* on the results of the vulnerability assessment, taking into account the Agency's risk analysis, *the comments of the Member State concerned* and the results of the Schengen evaluation mechanism.

Amendment 39

Proposal for a regulation

Article 13 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a a) exchange information on migration flows with civil society organisations and initiatives conducting search and rescue operations;

Amendment 40

Proposal for a regulation

Article 14 – title

Text proposed by the Commission

Amendment

Initiating joint operations and rapid border interventions at the external borders

Initiating joint operations and rapid border interventions at the external borders

Amendment 41

Proposal for a regulation

Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. The objectives of a joint operation or rapid border intervention may be achieved as part of a multipurpose operation which may involve the rescue of persons in distress at sea or other coast guard functions, the fight against migrant smuggling or trafficking in human beings, drug trafficking control operations, and migration management including identification, registration, debriefing and return.

5. The objectives of a joint operation or rapid border intervention may be achieved as part of a multipurpose operation which may involve the rescue of persons in distress at sea or other coast guard functions , the fight against migrant smuggling or trafficking in human beings, drug trafficking control operations, and migration management including identification, registration, debriefing and return. ***Any operation involving coast guard functions shall be conducted in a way that, in all instances, ensures the safety of the persons intercepted or rescued, the safety of the participating units and that of third parties.***

Amendment 42

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. In preparation of a joint operation the Executive Director, in cooperation with the host Member State, shall draw up a list of technical equipment and staff needed taking into account the host Member State's available resources. On the basis of those elements, the Agency shall define a package of operational and technical reinforcement as well as capacity building activities to be included in the operational plan.

Amendment

1. In preparation of a joint operation the Executive Director, in cooperation with the host Member State **or third country**, shall draw up a list of technical equipment and staff needed taking into account the host Member State's available resources. On the basis of those elements, the Agency shall define a package of operational and technical reinforcement as well as capacity building activities to be included in the operational plan.

Amendment 43

Proposal for a regulation

Article 15 – paragraph 3 – point f

Text proposed by the Commission

(f) command and control provisions, including the names and ranks of the border guards of the host Member State responsible for cooperating with the members of the teams and the Agency, in particular the names and ranks of those border guards who are in command during the period of deployment, and the place of the members of the teams in the chain of command;

Amendment

(f) command and control provisions, including the names and ranks of the border guards of the host Member State responsible for cooperating with the members of the teams and the Agency, in particular the names and ranks of those border **and coast** guards who are in command during the period of deployment, and the place of the members of the teams in the chain of command;

Amendment 44

Proposal for a regulation

Article 15 – paragraph 3 – point j

Text proposed by the Commission

(j) regarding sea operations, specific information on the application of the relevant jurisdiction and legislation in the

Amendment

(j) regarding sea operations, specific information on the application of the relevant jurisdiction and legislation in the

geographical area where the joint operation takes place, including references to international and Union law regarding interception, rescue at sea and disembarkation. In that regard the operational plan shall be established in accordance with Regulation (EU) No 656/2014 of the European Parliament and of the Council;⁴²

geographical area where the joint operation takes place, including references to international and Union law regarding interception, *search*, rescue at sea and disembarkation. In that regard the operational plan *defining the role of the Agency in search and rescue activities* shall be established in accordance with *international law and* Regulation (EU) No 656/2014 of the European Parliament and of the Council;⁴²

⁴² Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 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 (OJ L 189, 27.6.2014, p. 93).

⁴² Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 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 (OJ L 189, 27.6.2014, p. 93).

Amendment 45

Proposal for a regulation Article 15 – paragraph 3 – point k

Text proposed by the Commission

(k) modalities of cooperation with third countries, other Union agencies, bodies and offices or international organisations;

Amendment

(k) modalities of cooperation with third countries, other Union agencies, bodies and offices or international organisations *in close synergy with the Commission and EEAS. The European Parliament shall be regularly informed about this cooperation;*

Amendment 46

Proposal for a regulation Article 17 – paragraph 3 – point c

Text proposed by the Commission

(c) technical and operational assistance

Amendment

(c) technical and operational assistance

in the field of return, including the preparation and organisation of return operations.

in the field of return, including the preparation and organisation of return operations *in full respect of fundamental rights, due process and the principle of non-refoulement.*

Amendment 47

Proposal for a regulation Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Agency in cooperation with the European Asylum Support Office, the Fundamental Rights Agency and other relevant Union Agencies and under the coordination of the Commission shall ensure the compliance of these activities with the Common European Asylum System and fundamental rights. This includes the provision of shelter, hygienic conditions and facilities respecting gender based and children's needs in the hotspot areas.

Amendment 48

Proposal for a regulation Article 19 – paragraph 5

Text proposed by the Commission

Amendment

5. The rapid reserve pool shall be a standing corps placed at the immediate disposal of the Agency and which can be deployed from each Member State within three working days from when the operational plan is agreed upon by the Executive Director and the host Member State. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders,

5. The rapid reserve pool shall be a standing corps placed at the immediate disposal of the Agency and which can be deployed from each Member State within three working days from when the operational plan is agreed upon by the Executive Director and the host Member State. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders,

and which shall amount to a minimum of 1 500 border guards, corresponding to the profiles identified by the decision of the Management Board.

and which shall amount to a minimum of 1 500 border guards, corresponding to the profiles identified by the decision of the Management Board. ***The Agency shall draw on Union expertise developed through common security and defence policy missions and headline goals.***

Amendment 49

Proposal for a regulation

Article 19 – paragraph 8 – subparagraph 1

Text proposed by the Commission

The Agency shall contribute to the European Border and Coast Guard Teams with competent border guards seconded by the Member States as national experts to the Agency. The contribution by Member States as regards the secondment of their border guards to the Agency for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for secondment, unless that would seriously affect the discharge of national tasks. In such situations Member States may recall their seconded border guards.

Amendment

The Agency shall contribute to the European Border and Coast Guard Teams with competent border guards seconded by the Member States as national experts to the Agency. The contribution by Member States as regards the secondment of their border guards to the Agency for the following year shall be planned on the basis of annual bilateral negotiations and agreements between the Agency and Member States. In accordance with those agreements, Member States shall make the border guards available for secondment, unless that would seriously affect the discharge of national tasks. In such situations Member States may recall their seconded border guards. ***In order to respond to eventual shortages, the Agency may employ staff on a temporary basis in order to perform border control function in line with its mandate.***

Amendment 50

Proposal for a regulation

Article 19 – paragraph 8 – subparagraph 2

Text proposed by the Commission

Such secondments may be for 12 months or more but in any case it shall not be less than three months. The seconded border

Amendment

The secondments may be for 12 months or more but in any case it shall not be less than three months. The seconded border

guards shall be considered as members of the teams and they shall have the tasks and powers of the members of the teams. The Member State having seconded the border guards shall be considered as the home Member State.

guards shall be considered as members of the teams and they shall have the tasks and powers of the members of the teams. The Member State having seconded the border guards shall be considered as the home Member State.

Amendment 51

Proposal for a regulation

Article 26 – paragraph 1 – point a

Text proposed by the Commission

(a) coordinate at technical and operational level the return activities of the Member States, to achieve an integrated system of return management among competent authorities of the Member States, with the participation of relevant authorities of third countries and other relevant stakeholders;

Amendment

(a) coordinate at technical and operational level the return activities of the Member States, ***including voluntary returns***, to achieve an integrated system of return management among competent authorities of the Member States, with the participation of relevant authorities of third countries and other relevant stakeholders;

Amendment 52

Proposal for a regulation

Article 26 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a a) cooperate with third countries in order to facilitate the return activities of the Member States;

Amendment 53

Proposal for a regulation

Article 26 – paragraph 2 – point d

Text proposed by the Commission

(d) assistance on measures necessary to ensure the availability of returnees for return purposes and avoid that returnees abscond.

Amendment

(d) assistance on measures ***that are legitimate, proportionate and*** necessary to ensure the availability of returnees for return purposes and avoid that returnees abscond ***and advice on alternatives to***

immigration detention in line with Directive 2008/115/EC and international law.

Amendment 54

Proposal for a regulation Article 26 – paragraph 3

Text proposed by the Commission

3. The Return Office shall aim at building synergies and connecting Union-funded networks and programmes in ***the field of return in*** close cooperation with the European Commission and the European Migration Network.⁴³

⁴³ OJ L 131, 21.5.2008, p. 7.

Amendment

3. The Return Office shall aim at building synergies and connecting Union-funded networks and programmes in close cooperation with the European Commission and the European Migration Network,⁴³ ***as well as with other organisations and the Member States concerned.***

⁴³ OJ L 131, 21.5.2008, p. 7.

Amendment 55

Proposal for a regulation Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Agency shall not coordinate, organise or propose return operations to any third country where risks of fundamental rights violations or serious deficiencies in relevant civil and criminal laws and procedures have been identified through its risk analyses, or established in reports from the Fundamental Rights Officer, Union agencies, human rights bodies, intergovernmental and non-governmental organisations.

Amendment 56

Proposal for a regulation

Article 33 – paragraph 1

Text proposed by the Commission

1. The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter of Fundamental Rights of the European Union, relevant international law, including the Convention Relating to the Status of Refugees and obligations related to access to international protection, in particular the principle of *non-refoulement*. For that purpose, the Agency shall draw up and further develop and implement a Fundamental Rights Strategy.

Amendment

1. The European Border and Coast Guard shall ***respect and*** guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter of Fundamental Rights of the European Union ***and*** relevant international law, including ***the European Convention on Human Rights***, the Convention Relating to the Status of Refugees ***and the Convention on the Rights of the Child*** and obligations related to access to international protection, in particular ***with regards to*** the principle of *non-refoulement*. For that purpose, the Agency ***in cooperation with European Union Agency for Fundamental Rights*** shall draw up and further develop and implement a Fundamental Rights Strategy, ***including effective mechanisms to ensure the respect for fundamental rights and rule of law in all the activities of the Agency. The European Parliament shall be duly informed of this Fundamental Rights Strategy;***

Amendment 57

Proposal for a regulation

Article 33 – paragraph 2

Text proposed by the Commission

2. In the performance of its tasks the European Border and Coast Guard shall ensure that no person is disembarked in, forced to enter, conducted to or otherwise handed over or returned to the authorities of a country in contravention of the principle of *non-refoulement*, or from which there is a risk of expulsion or return

Amendment

2. In the performance of its tasks the European Border and Coast Guard ***Agency*** shall ensure that no person is disembarked in, forced to enter, conducted to or otherwise handed over or returned to the authorities of a country in contravention of the principle of *non-refoulement*, or from which there is a risk of expulsion or return

to another country in contravention of that principle.

to another country in contravention of that principle.

Amendment 58

Proposal for a regulation Article 33 – paragraph 3

Text proposed by the Commission

3. The European Border and Coast Guard shall, in the performance of its tasks, take into account the special needs of **children**, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment

3. The European Border and Coast Guard **Agency** shall, in the performance of its tasks, take into account the special needs of **minors, especially if unaccompanied**, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment 59

Proposal for a regulation Article 33 – paragraph 4

Text proposed by the Commission

4. In the performance of its tasks, in its relations with Member States and in its cooperation with third countries, the Agency shall **take into account** the reports of the Consultative Forum and the Fundamental Rights Officer.

Amendment

4. In the performance of **all** its tasks, **including the further development and implementation of an effective mechanism to monitor the respect for fundamental rights**, in its relations with Member States and in its cooperation with third countries, the Agency shall **ensure appropriate follow-up to** the reports of the Consultative Forum and the Fundamental Rights Officer. **The Agency shall inform the Consultative Forum and Fundamental Rights Officer whether and how it has altered its approach as a response to the reports and recommendations of these bodies and include details in its annual report.**

Amendment 60

Proposal for a regulation Article 35 – paragraph 3

Text proposed by the Commission

3. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks to be part of the pools referred to in Articles 28, 29 and 30. The Agency shall ensure that all staff who participate in return operations and in return interventions, as well as the staff of the Agency, have received, prior to their participation in operational activities organised by the Agency, training in relevant Union and international law, including fundamental rights **and** access to international protection.

Amendment

3. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks to be part of the pools referred to in Articles 28, 29 and 30. The Agency shall ensure that all staff who participate in return operations and in return interventions, as well as the staff of the Agency, have received, prior to their participation in operational activities organised by the Agency, training in relevant Union and international law, including fundamental rights, access to international protection, **that will also enable them identify possible human rights violations and process them accordingly.**

Amendment 61

Proposal for a regulation Article 41 – paragraph 2

Text proposed by the Commission

2. Where such damage is caused by gross negligence or willful misconduct, the **host Member State may approach the home Member State in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the home Member State.**

Amendment

2. Where such damage is caused by gross negligence or willful misconduct, the **Agency shall make good any damage caused in accordance with the general principles common to the laws of the Member States.**

Amendment 62

Proposal for a regulation Article 41 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Court of Justice of the

European Union shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 1 and 2.

Amendment 63

Proposal for a regulation Article 44 – paragraph 4

Text proposed by the Commission

4. Without prejudice to Article 47, the transfer of personal data processed by the Agency and the onward transfer by Member States to authorities of third countries or third parties of personal data processed in the framework of this Regulation shall be prohibited.

Amendment

4. Without prejudice to Article 47, the transfer of personal data processed by the Agency and the onward transfer by Member States to authorities of third countries or ***international organisations*** or third parties of personal data processed in the framework of this Regulation shall be prohibited.

Amendment 64

Proposal for a regulation Article 51 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Agency shall cooperate with the Commission, other Union institutions, the European External Action Service, Europol, the European Asylum Support Office, the European Union Agency for Fundamental Rights, Eurojust, the European Union Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency as well as other Union, agencies, bodies, offices in matters covered by this Regulation, and in particular with the objectives of preventing and combating irregular immigration and cross-border crime including the facilitation of irregular immigration, trafficking in human being and terrorism.

Amendment

The Agency shall cooperate with ***the European Parliament***, the Commission ***and*** other Union institutions, the European External Action Service, Europol, the European Asylum Support Office, the European Union Agency for Fundamental Rights, Eurojust, the European Union Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency as well as other Union, agencies, bodies, offices in matters covered by this Regulation, and in particular with the objectives of preventing and combating irregular immigration and cross-border crime including the facilitation of irregular immigration, trafficking in human being and terrorism.

Amendment 65

Proposal for a regulation

Article 52 – paragraph 1 – point c

Text proposed by the Commission

(c) capacity building by elaborating guidelines, recommendations and best practices as well as by supporting the training and exchange of staff, with a view to enhancing the exchange of information and cooperation on coast guard functions;

Amendment

(c) capacity building by elaborating guidelines, recommendations and best practices as well as by supporting the training and exchange of staff, with a view to enhancing the exchange of information and cooperation on coast guard functions, ***the search and rescue operational capability and the compliance with human rights, migration and asylum obligations and commitments.***

Amendment 66

Proposal for a regulation

Article 53 – title

Text proposed by the Commission

Cooperation with third countries

Amendment

Cooperation with third countries ***and non - governmental organisations***

Amendment 67

Proposal for a regulation

Article 53 – paragraph 1

Text proposed by the Commission

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate and encourage operational cooperation between Member States and third countries, within the framework of the external relations policy of the Union, including with regard to the protection of fundamental rights. The Agency and the Member States shall comply with norms and standards at least equivalent to those set by Union legislation also when cooperation with third countries

Amendment

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate and encourage operational cooperation between Member States and third countries, within the framework of the external relations policy of the Union ***and especially of the European neighbourhood policy and development policy***, including with regard to the protection of fundamental rights. The Agency and the Member States shall comply with norms and standards at least

takes place on the territory of those countries. The establishment of cooperation with third countries shall serve to promote European border management and return standards.

equivalent to those set by Union legislation also when cooperation with third countries takes place on the territory of those countries. The establishment of cooperation with third countries shall serve to promote European border management and return standards.

Amendment 68

Proposal for a regulation Article 53 – paragraph 3

Text proposed by the Commission

3. In circumstances requiring increased technical and operational assistance, the Agency may coordinate operational cooperation between Member States and third countries in the field of management of external borders, and it shall have the possibility of carrying out joint operations at the external borders involving one or more Member States and a third country neighbouring at least one of those Member States, subject to the agreement of that neighbouring third country, including on the territory of that third country. The Commission shall be informed of such activities.

Amendment

3. In circumstances requiring increased technical and operational assistance, the Agency may coordinate operational cooperation between Member States and third countries in the field of management of external borders, and it shall have the possibility of carrying out joint operations at the external borders involving one or more Member States and a third country neighbouring at least one of those Member States ***in full respect with international human rights law***, subject to the agreement of that neighbouring third country, including on the territory of that third country. ***The participation of Member States in joint operations on the territory of third countries shall be on voluntary basis. The European Parliament, the Commission, the EEAS, Eurojust and Europol*** shall be informed of such activities.

Amendment 69

Proposal for a regulation Article 53 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. A status agreement shall be concluded by the EU with the third country for the deployment of the

members of the teams in joint operations where members of the team will have executive powers, or in other actions when necessary. This agreement shall cover all aspects that are necessary for carrying out the actions, in particular the description of the scope of the operation, civil and criminal liability, tasks and powers of the members of the teams. The agreement shall ensure the full respect of fundamental rights during the operations.

Amendment 70

Proposal for a regulation Article 53 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *The Commission shall draw up a model status agreement for actions on the territory of third countries.*

Amendment 71

Proposal for a regulation Article 53 – paragraph 5

Text proposed by the Commission

Amendment

5. The Agency may also, with the agreement of the Member States concerned invite observers from third countries to participate in its activities at the external borders referred to in Article 13, return operations referred to in Article 27, return interventions referred to in Article 32 and training referred to in Article 35, to the extent that their presence is in accordance with the objectives of those activities, may contribute to improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member States concerned regarding the activities referred to in

5. The Agency may also, with the agreement of the Member States concerned invite observers from third countries to participate in its activities at the external borders referred to in Article 13, return operations referred to in Article 27, return interventions referred to in Article 32 and training referred to in Article 35, to the extent that their presence is in accordance with the objectives of those activities, may contribute to improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities ***or the security of the persons to be returned.*** The participation of those observers may take place only with the agreement of the Member States concerned

Articles 13, 27 and 35 and only with the agreement of the host Member State regarding those referred to in Article 13 and 32. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation.

regarding the activities referred to in Articles 13, 27 and 35 and only with the agreement of the host Member State regarding those referred to in Article 13 and 32. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive the appropriate training from the Agency prior to their participation.

Amendment 72

Proposal for a regulation Article 53 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. Before any agreement referred to in this article is concluded, the Commission shall verify that its provisions comply with this Regulation as well as with the relevant Union and international law on fundamental rights and on international protection, including the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights, the Convention Relating to the Status of Refugees and the Convention on the Rights of the Child, in particular the principle of non-refoulement and the right to an effective remedy, and with the provisions on information exchange and data protection in this regulation. The assessment shall be based on information derived from a broad range of sources, which include Member States, Union bodies, offices and agencies, relevant international organisations and NGOs. The Commission shall forward its assessment to the European Parliament and the Council.

Amendment 73

Proposal for a regulation Article 53 – paragraph 9

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9. The Agency shall **inform** the European Parliament of the **activities referred to in paragraphs 2 and 3**.

9. The Agency shall **publish its agreements and working arrangements with third countries on its website. The Agency shall report to the European Parliament at least every three months on its cooperation with third countries. A detailed assessment of the cooperation with third countries, including detailed information on compliance with fundamental rights and international protection, shall be included into the annual report of the Agency.**

Amendment 74

Proposal for a regulation Article 54 – paragraph 1

1. The Agency may deploy experts of its own staff as liaison officers, who should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States, **including** the network set up pursuant to Council Regulation (EC) No 377/2004.⁴⁹

1. The Agency may deploy experts of its own staff as liaison officers, who should enjoy the highest possible protection to carry out their duties, in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States. **The Agency shall coordinate and ensure the proper functioning of** the network set up pursuant to Council Regulation (EC) No 377/2004.⁴⁹

⁴⁹ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1).

⁴⁹ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1).

Amendment 75

Proposal for a regulation Article 61 – paragraph 6

Text proposed by the Commission

6. The Management Board may establish a small-sized Executive Board composed of the Chairperson of the Management Board, one representative of the Commission and three members of the Management Board, to assist it and the Executive Director with regard to the preparation of the decisions, programmes and activities to be adopted by the Management Board and when necessary, because of urgency, to take certain provisional decisions on behalf of the Management Board.

Amendment

6. The Management Board may establish a small-sized Executive Board composed of the Chairperson of the Management Board, one representative of the Commission and three members of the Management Board ***as well as a representative of the Member State requiring assistance***, to assist it and the Executive Director with regard to the preparation of the decisions, programmes and activities to be adopted by the Management Board and when necessary, because of urgency, to take certain provisional decisions on behalf of the Management Board.

Amendment 76

**Proposal for a regulation
Article 62 – paragraph 1**

Text proposed by the Commission

1. Without prejudice to paragraph 3, the Management Board shall be composed of one representative of each Member State ***and*** two representatives of the Commission, all with voting rights. To this effect, each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. The terms of office shall be extendable.

Amendment

1. Without prejudice to paragraph 3, the Management Board shall be composed of one representative of each Member State, two representatives of the Commission ***and two of the European Parliament***, all with voting rights. To this effect, each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. ***The European Parliament shall elect two of its Members, at least one being a Member of its Civil Liberties, Justice and Home Affairs Committee.*** The duration of the terms of office shall be four years. The terms of office shall be extendable.

Amendment 77

Proposal for a regulation Article 68 – paragraph 1

Text proposed by the Commission

1. The Commission shall propose candidates for the post of the Executive Director and the Deputy Executive Director based on a list following publication of the post in the Official Journal of the European Union and other press or internet sites as appropriate.

Amendment

1. The Commission, ***after consulting the European Parliament***, shall propose candidates for the post of the Executive Director and the Deputy Executive Director based on a list following publication of the post in the Official Journal of the European Union and other press or internet sites as appropriate.

Amendment 78

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

2. ***The, Executive Director shall be appointed*** by the Management Board on the grounds of merit and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Amendment

2. ***Prior to his/her appointment*** by the Management Board on the grounds of merit and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return, ***the Executive Director shall be heard by the appropriate bodies of the European Parliament***. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Amendment 79

Proposal for a regulation Article 71 – paragraph 2

Text proposed by the Commission

2. The Fundamental Rights Officer shall be independent in the performance of his or her duties as a Fundamental Rights Officer, he or she shall report directly to

Amendment

2. The Fundamental Rights Officer shall be ***fully*** independent in the performance of his or her duties as a Fundamental Rights Officer, he or she shall

the Management Board and cooperate with the Consultative Forum. The Fundamental Rights Officer shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

report directly to the Management Board **and the European Parliament** and cooperate with the Consultative Forum. The Fundamental Rights Officer shall report on a regular basis and as such contribute to the mechanism for monitoring fundamental rights.

Amendment 80

Proposal for a regulation Article 71 – paragraph 2 – point a new

Text proposed by the Commission

Amendment

2a. The Fundamental Rights Officer shall hold regular exchange of views with the competent bodies of the European Parliament and report on complaints and their follow-up.

Amendment 81

Proposal for a regulation Article 72 – paragraph 5 – point a new

Text proposed by the Commission

Amendment

5a. The Executive Director shall report back to the Fundamental Rights Officer as to the findings and follow-up given by the Agency to a complaint.

Amendment 82

Proposal for a regulation Article 72 – paragraph 7

Text proposed by the Commission

Amendment

7. The Fundamental Rights Officer shall **report to** the Executive Director and **to** the Management Board **as to the findings and follow-up given to complaints** by the Agency and the

7. The Fundamental Rights Officer shall **inform** the Executive Director and the Management Board **of the findings regarding the complaints deemed eligible. The Executive Director and the Management Board shall then report on**

Member States.

the follow-up to complaints by the Agency and the Member States.

Amendment 83

Proposal for a regulation Article 72 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. *A report on received complaints, the types of fundamental rights violations, the activities of the Agency concerned, the Member State or third country concerned and the follow-up shall be included into the annual activity report of the Agency.*

Amendment 84

Proposal for a regulation Article 72 – paragraph 9 – subparagraph 2

Text proposed by the Commission

Amendment

The Agency shall ensure that the standardized complaint form *is* available in most common languages and that it shall be made available on the Agency's website and in hardcopy during all activities of the Agency. Complaints shall be considered by the Fundamental Rights Officer even when they are not submitted in the standardized complaint form.

The Agency shall ensure that the standardized complaint form ***and information sheet are*** available in most common languages ***and those that asylum seekers and migrants understand or may be reasonably supposed to understand*** and that it shall be made available on the Agency's website and in hardcopy during all activities of the Agency. Complaints shall be considered by the Fundamental Rights Officer even when they are not submitted in the standardized complaint form. ***Further guidance and assistance on the complaints procedure shall be provided to alleged victims upon request. Information tailored to children shall be provided to facilitate their access to the complaints mechanism.***

Amendment 85

Proposal for a regulation

Article 74 a (new)

Text proposed by the Commission

Amendment

Article 74 a

Reports and information to the European Parliament

- 1. The European Parliament or the Council may invite the Executive Director to report on the carrying out of his or her tasks, including on the implementation and monitoring of the Fundamental Rights Strategy, the consolidated annual activity report of the Agency for the previous year, the work programme for the following year and the Agency's multiannual programming. The Executive Director shall report to the European Parliament and answer any questions put by its members, whenever so requested.*
- 2. In addition to information referred to in paragraph 1 the report shall also include any relevant information requested by the European Parliament on an ad-hoc basis.*

Amendment 86

Proposal for a regulation Article 80 – paragraph 1

Text proposed by the Commission

Amendment

1. By **three years** from the date of entry into force of this Regulation, and every **three** years thereafter, the Commission shall carry out an evaluation to assess particularly the impact, effectiveness and efficiency of the Agency's performance and its working practices in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.

1. By **one year** from the date of entry into force of this Regulation, and every **two** years thereafter, the Commission shall carry out an evaluation to assess particularly the impact, effectiveness and efficiency of the Agency's performance and its working practices in relation to its objectives, mandate and tasks. The evaluation shall, in particular, address the possible need to modify **the regulation**, the mandate of the Agency, and the financial implications of any such modification.

The evaluation shall include a specific analysis on the way the Charter of Fundamental Rights was complied with in the application of this Regulation.

The evaluation shall include a specific analysis of the way the Charter of Fundamental Rights was complied with in the application of this Regulation *as well as of cases of complaints and their handling*.

Amendment 87

Proposal for a regulation

Article 80 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The first evaluation following the entry into force of this Regulation shall analyse the need for giving the Agency access to the relevant European databases.

Amendment 88

Proposal for a regulation

Article 80 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Executive Director shall hold regular exchanges of views with the appropriate bodies of the European Parliament, notably regarding specific cooperation with third countries, and shall present the annual report of the Agency.

Amendment 89

Proposal for a regulation

Article 80 – paragraph 3

Text proposed by the Commission

Amendment

3. On the occasion of every *second* evaluation, the Commission shall assess the results achieved by the Agency having regard to its objectives, mandate and tasks.

3. On the occasion of every evaluation, the Commission shall assess the results achieved by the Agency having regard to its objectives, mandate and tasks.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European Border and Coast Guard
References	COM(2015)0671 – C8-0408/2015 – 2015/0310(COD)
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Date adopted	12.5.2016
Result of final vote	+: 42 –: 8 0: 9
Members present for the final vote	Lars Adaktusson, Michèle Alliot-Marie, Francisco Assis, Petras Auštrevičius, Amjad Bashir, Bas Belder, Goffredo Maria Bettini, Mario Borghezio, Elmar Brok, Klaus Buchner, Fabio Massimo Castaldo, Aymeric Chauprade, Javier Couso Permuy, Andi Cristea, Georgios Epiteideos, Anna Elzbieta Fotyga, Eugen Freund, Michael Gahler, Iveta Grigule, Richard Howitt, Sandra Kalniete, Tunne Kelam, Afzal Khan, Janusz Korwin-Mikke, Andrey Kovatchev, Eduard Kukan, Ilhan Kyuchyuk, Ryszard Antoni Legutko, Arne Lietz, Barbara Lochbihler, Andrejs Mamikins, David McAllister, Francisco José Millán Mon, Javier Nart, Pier Antonio Panzeri, Demetris Papadakis, Vincent Peillon, Alojz Peterle, Tonino Picula, Kati Piri, Andrej Plenković, Cristian Dan Preda, Jozo Radoš, Sofia Sakorafa, Jaromír Štětina, Charles Tannock, László Tókéš, Miguel Urbán Crespo, Ivo Vajgl, Elena Valenciano, Geoffrey Van Orden, Hilde Vautmans, Boris Zala
Substitutes present for the final vote	Ryszard Czarnecki, Mariya Gabriel, Andrzej Grzyb, András Gyürk, Soraya Post, Jean-Luc Schaffhauser, Dubravka Šuica, Bodil Valero
Substitutes under Rule 200(2) present for the final vote	Michel Dantin, Raymond Finch, Heidi Hautala, Julie Ward, Bogdan Brunon Wenta

26.4.2016

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM(2015)0671 – C8-0408/2015 – 2015/0310(COD))

Rapporteur: Eider Gardiazabal Rubial

SHORT JUSTIFICATION

The Commission proposed the present Regulation within a larger Border and Coast Guard package also comprising proposals to amend the founding regulations of the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA). For these two agencies the Commission proposes to enlarge their functions through an additional article on European cooperation on coastguard functions whereas the European Border and Coast Guard Agency shall be built from the existing Frontex.

From a budgetary perspective this attempt to create synergies between agencies working in related areas should be supported, also given the limited financial resources available in heading 3.

In its legislative financial statement the Commission is proposing an overall budget for the European Border and Coast Guard Agency of EUR 1.212 million for the remainder of this multiannual financial framework (MFF), concretely EUR 281 million in 2017, EUR 298 million in 2018, EUR 310 million in 2019 and EUR 322 million in 2020.

Given the limited resources available in heading 3 in the current MFF the Rapporteur has serious doubts that the envisaged increases can be financed within the ceiling. The Rapporteur is of the opinion that the Commission needs to present a proposal for an upward revision of the ceiling for heading 3 as soon as possible in order to be able to finance the additional needs linked to the current migration crisis which is unlikely to diminish by 2020.

The coastguard function will furthermore be reinforced by additional EUR 87,2 million for EMSA and EUR 30,1 million for EFCA for the years 2017-2020 to finance the new functions of these two agencies. The coastguard function will thus also be partially financed from headings 1a and 2.

In line with the additional appropriations, also the number of staff for the European Border and Coast Guard Agency shall be increased significantly. Under the 2016 budget 225 establishment plan posts were authorised for Frontex. This number shall grow by 2020 to 550 establishment plan posts. In addition also the number of external personnel like contract agents and seconded national experts shall increase with the aim of reaching an overall staff number of 1000 by 2020.

It should be noted however that the Commission in its legislative financial statement still applies as a baseline its programming as set out in the communication COM (2013)519, thus gradually reducing the "old Frontex" posts (excluding the additional ones granted through Amending budgets 5/2015 and 7/2015 and budget 2016) from 149 in 2016 to 145 in 2020. The Rapporteur considers this approach outdated given the policy developments over the past 2 years and calls on the Commission to exempt all posts of all agencies dealing with the migration crisis from the 5% staff reduction target.

While not questioning the need for the considerable increases in appropriations and staff proposed by the Commission, the Rapporteur would like to underline that it should be avoided to create a super-agency with the potential of dominating all other home affairs agencies. The Rapporteur therefore expects from the Commission a similarly ambitious proposal for the further development of the European Asylum Support Office in the near future.

Given the considerable increase of the budget of Frontex over the past years and foreseen until 2020, the Rapporteur considers that it would be appropriate to change the budgetary nomenclature for the agency with regard to its operational expenditure. It should be ensured that the budgetary authority can exercise an influence on the operational priorities of the agency. The Rapporteur invites the Commission to already implement these changes to the nomenclature when presenting the Draft Budget for the financial year 2017.

The Rapporteur furthermore considers that the European Parliament deserves to play a stronger role in the appointment process of the Executive Director and introduced amendments in this respect, drawing on the example of the European Union Agency for Fundamental Rights.

The Rapporteur is also concerned that after more than 10 years there is still no Headquarters Agreement between Frontex and the Republic of Poland and calls on the competent authorities to finalise such agreement as soon as possible.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The Commission and the Member States should be represented within a Management Board to exercise policy and political oversight over the European Border and Coast Guard Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the European Border and Coast Guard Agency and appoint the Executive Director and the Deputy Executive Director. The Agency should be governed and operated in line with the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European Commission.

Amendment

(33) The Commission and the Member States should be represented within a Management Board to exercise policy and political oversight over the European Border and Coast Guard Agency. The Board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the European Border and Coast Guard Agency and appoint the Executive Director and the Deputy Executive Director. The Agency should be governed and operated in line with the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the European Commission. ***This includes the conclusion of a headquarters agreement between the Agency and the host country.***

Justification

There is still no headquarter agreement between Frontex and the Republic of Poland, even though Frontex exists for more than 10 years. Such an agreement needs to be concluded as soon as possible, and at the very latest three months after the entry into force of this regulation.

Amendment 2

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) In order to guarantee the autonomy of the European Border and Coast Guard

Amendment

(34) In order to guarantee the autonomy of the European Border and Coast Guard

Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors. ***The budget adopted by the Management Board should be balanced in terms of addressing different aspects of the Agency's activities, including ensuring fundamental rights.***

Amendment 3
Proposal for a regulation
Article 7 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) assist with the setting up of gender- and age-based facilities for migrants, taking account in particular of the specific situation of women and of unaccompanied minors;

Amendment 4
Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

Amendment

2. Detailed rules concerning the payment of the daily subsistence allowance of members of the European Border and Coast Guard Teams shall be established and updated as necessary by the Management Board.

2. Detailed rules concerning the payment of the daily subsistence allowance of members of the European Border and Coast Guard Teams shall be established and updated as necessary by the Management Board ***on proposal from the Commission.***

Amendment 5
Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Concerning the above-mentioned costs incurred, VAT shall be eligible if not deductible.

Amendment 6
Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

Amendment

3. The European Border and Coast Guard shall, in the performance of its tasks, take into account the special needs of children, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

3. The European Border and Coast Guard shall, in the performance of its tasks, take into account the special needs of children, **women**, victims of trafficking in human beings, persons in need of medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment 7

Proposal for a regulation
Article 54 – paragraph 3

Text proposed by the Commission

Amendment

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in accordance with fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against irregular immigration and the return of illegally staying third-country nationals. Those liaison officers shall coordinate closely with Union delegations.

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and in accordance with fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against irregular immigration and the return of illegally staying third-country nationals. Those liaison officers shall coordinate closely with Union delegations **and shall, wherever possible, have their offices in the same building.**

Amendment 8

Proposal for a regulation Article 54 – paragraph 4

Text proposed by the Commission

4. The decision to deploy liaison officers to third countries shall be subject to receiving a prior opinion of the Commission, and the European Parliament shall be fully informed of those activities as soon as possible.

Amendment

4. The decision to deploy liaison officers to third countries shall be subject to receiving a prior opinion of the Commission, and the European Parliament shall be fully informed of those activities ***and their financial consequences*** as soon as possible.

Amendment 9

Proposal for a regulation Article 56 – paragraph 3

Text proposed by the Commission

3. The Member State in which the Agency has its seat shall provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Amendment

3. The Member State in which the Agency has its seat shall provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections ***and shall ensure appropriate security measures for the Agency's staff and buildings.***

Amendment 10

Proposal for a regulation Article 68 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The candidates proposed by the Commission shall then address the Council and the competent committee of the European Parliament and reply to questions, following which the European Parliament and the Council shall give their opinions and state their orders of preference which they transmit to the Management Board.

Justification

The selection process should involve a hearing before the competent bodies in Parliament and Council.

Amendment 11

Proposal for a regulation

Article 68 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The Executive Director shall be appointed by the Management Board on the grounds of merit and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Amendment

2. ***Taking into account these opinions***, the Executive Director shall be appointed by the Management Board on the grounds of merit and documented high-level administrative and management skills, as well as senior professional experience in the field of management of the external borders and return. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Justification

The above-mentioned hearings need to be considered by the Management Board in its appointment decision.

Amendment 12

Proposal for a regulation

Article 75 – paragraph 1 – introductory part

Text proposed by the Commission

1. The revenue of the Agency shall consist, ***without prejudice to other types of income***, of:

Amendment

1. The revenue of the Agency shall consist of:

Amendment 13

Proposal for a regulation

Article 75 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to increase budgetary transparency the operational expenditure shall be presented in the Union budget through separate budget items per activity area.

Justification

This is needed due to the increased budget available for the new Agency and its enhanced operational role.

Amendment 14

Proposal for a regulation Article 75 – paragraph 7

Text proposed by the Commission

Amendment

7. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) **together with the preliminary draft budget of the European Union.**

7. **Upon receipt,** the estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority).

Justification

a. The forwarding of the estimate should happen immediately.

b. There is no preliminary draft budget of the European Union.

Amendment 15

Proposal for a regulation Article 75 – paragraph 13

Text proposed by the Commission

Amendment

13. In the view of financing the deployment of rapid border interventions and return interventions, the budget of the Agency adopted by the Management Board shall include a financial operational reserve amounting at least to 4% of the allocation foreseen for the operational activities. The

13. In the view of financing the deployment of rapid border interventions and return interventions, the budget of the Agency adopted by the Management Board shall include a financial operational reserve amounting at least to 4% of the allocation foreseen for the operational activities. **On 1**

reserve should *be maintained throughout* the year.

October each year, at least one-quarter of the reserve should remain available in order to cover needs arising until the end of the year.

Justification

It does not make sense to maintain a reserve throughout the year as the idea of a reserve is that it can be used. However, in order to make sure that there is still some reserve available later in a financial year, it is suggested to define a minimum percentage that still needs to be available on 1 October, in analogy to the provisions on the EU Solidarity Fund.

Amendment 16

Proposal for a regulation
Article 80 – paragraph 3

Text proposed by the Commission

Amendment

3. On the occasion of every second evaluation, the Commission shall assess the results achieved by the Agency having regard to its objectives, mandate and tasks.

deleted

Justification

The content of this paragraph is covered largely by paragraph 1. Furthermore, the full evaluation and assessment needs to be done every 3 years, given the volatile environment in this policy area.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European Border and Coast Guard
References	COM(2015)0671 – C8-0408/2015 – 2015/0310(COD)
Committee responsible Date announced in plenary	LIBE 21.1.2016
Opinion by Date announced in plenary	BUDG 21.1.2016
Rapporteur Date appointed	Eider Gardiazabal Rubial 3.2.2016
Date adopted	26.4.2016
Result of final vote	+: 25 –: 2 0: 2
Members present for the final vote	Nedzhmi Ali, Jean Arthuis, Jean-Paul Denanot, Gérard Deprez, José Manuel Fernandes, Eider Gardiazabal Rubial, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Ernest Maragall, Sophie Montel, Clare Moody, Siegfried Mureşan, Liadh Ní Riada, Jan Olbrycht, Younous Omarjee, Paul Rübig, Petri Sarvamaa, Patricija Šulin, Indrek Tarand, Inese Vaidere, Monika Vana, Daniele Viotti
Substitutes present for the final vote	Andrey Novakov, Derek Vaughan, Anders Primdahl Vistisen, Tomáš Zdechovský
Substitutes under Rule 200(2) present for the final vote	Isabella Adinolfi, Anders Primdahl Vistisen

20.4.2016

OPINION OF THE COMMITTEE ON FISHERIES

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (COM(2015)0671 – C8-0408/2015 – 2015/0310(COD))

Rapporteur: Alain Cadec

SHORT JUSTIFICATION

As part of setting up the European Border and Coast Guard Agency, the Commission is proposing cooperation on coast guard functions (Article 52). An identical article has been incorporated into the mandates of the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA). This amendment to the mandates of the three agencies provides the legal instrument required to strengthen cooperation between them and with national coast guard authorities.

The Committee on Fisheries wishes to reinforce the Commission proposal concerning only cooperation on 'coast guard functions' involving the EFCA. A definition of coast guard functions is in order to avoid confusion with the other missions of the three agencies and to clarify the scope of cooperation. The current system for cooperation on coast guard functions is beset by delays and drawbacks, such as the lack of information on the skills, capabilities and powers of other authorities, the limited number of operating assets, the lack of interoperability of systems and assets and deficiencies in planning and joint operations.

This proposal will coordinate marine monitoring, prevention and control operations at European level with a view to improving knowledge of the maritime situation and supporting coherent and cost-effective action. This cooperation will strengthen the EU's capacity to respond to maritime threats and risks, including by improving cooperation between both EU agencies and all other relevant stakeholders. It will also prevent duplications of effort by ensuring that stakeholders, particularly EU agencies, act in a consistent and effective manner with a view to developing synergies.

The proposal will enable the three agencies to support national authorities and to act jointly and effectively to help national authorities to carry out monitoring, security and surveillance operations by supplying equipment and training, exchanging of information and providing the necessary coordination of multidimensional operations. This cooperation is essential in the

current context of major cross-border migration flows, which call for increased material and human solidarity on the part of the EU

The rapporteur strongly welcomes the proposal, which will bring the EFCA's powers into line with those of EMSA and the European Border and Coast Guard Agency in respect of cooperation on coast guard functions only. If the capacities are national then they must necessarily be coordinated at European level.

AMENDMENTS

The Committee on Fisheries calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) The European Border and Coast Guard Agency should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the European Border and Coast Guard Agency should be able to deploy European Border and Coast Guard Teams from a rapid reserve pool which should be a standing corps composed of a small percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. The deployment of the European Border and Coast Guard Teams from the rapid reserve pool should be immediately complemented by additional European Border and Coast Guard Teams as appropriate.

Amendment

(18) The European Border and Coast Guard Agency should have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the European Border and Coast Guard Agency should be able to deploy European Border and Coast Guard Teams from a rapid reserve pool which should be a standing corps composed of a small percentage of the total number of border guards in the Member States, which should amount to a minimum of 1 500. ***Those teams should also include in their staff interpreters or fluent speakers of both the host Member State's language and the language mostly spoken by those they need to address.*** The deployment of the European Border and Coast Guard Teams from the rapid reserve pool should be immediately complemented by additional European Border and Coast Guard Teams as appropriate.

Amendment 2

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Transport in small unseaworthy boats has led to a considerable increase in deaths of migrants at the external maritime borders of the Union. Cooperation between Union agencies on coast guard functions should strengthen the operational and technical capacity of the European Border and Coast Guard Agency and of the Member States to detect these small vessels and the Union's response capacity.

Justification

The influx of migrants has led to an increasing number of deaths at sea connected with travel in unseaworthy vessels. One of the many objectives of European cooperation on coast guard functions is to strengthen sea disaster prevention and rapid response capacities.

Amendment 3

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) The European Border and Coast Guard Agency should monitor and contribute to the developments in research relevant for the control of the external borders, including the use of advanced surveillance technology, and it should disseminate this information to the Member States and ***to the Commission.***

(24) The European Border and Coast Guard Agency should monitor and contribute to the developments in research relevant for the control of the external borders, including the use of advanced surveillance technology, and it should disseminate this information to the Member States, ***the Commission and all other agencies involved, including the European Fisheries Control Agency.***

Amendment 4

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) With a view to strengthening European cooperation on coast guard functions and making best use of the information, capacities and systems already available at Union level, the European Border and Coast Guard Agency should foster the exchange of information with the European Fisheries Control Agency, the European Maritime Safety Agency and other Union bodies and agencies such as the European Union Satellite Centre.

Justification

European cooperation on coast guard functions must be underpinned by, in particular, information systems and capabilities already available at EU level by building greater synergies between capacities.

Amendment 5

Proposal for a regulation Recital 27 b (new)

Text proposed by the Commission

Amendment

(27b) Cooperation on coast guard functions, notably by means of enhanced collaboration between national authorities and the three Union agencies (the European Border and Coast Guard Agency, the European Fisheries Control Agency and the European Maritime Safety Agency), should in no way affect the division of powers between these agencies in setting out their missions, nor impinge on their autonomy and independence in respect of their initial assignments. Such cooperation should

enable the creation of synergies between them without changing their mission statements.

Justification

European cooperation on coast guard functions does not aim to reduce the powers of the EFCA. Its mission is still to organise the operational coordination of the fisheries control and inspection activities of Member States in accordance with the rules of the Common Fisheries Policy (CFP), so as to ensure the effective and uniform application of CFP rules. The aim of cooperation is to strengthen this first mission while establishing synergies to improve knowledge of the maritime situation and the EU's offshore response capability.

Amendment 6

Proposal for a regulation
Article 2 – point 14 a (new)

Text proposed by the Commission

Amendment

(14a) 'Coast guard functions': all fact-finding, monitoring, planning and organisation missions and operations entrusted to a local, regional, national or European authority with the necessary powers to perform maritime surveillance; these missions entail, in particular, safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection.

Justification

Coast guard functions are not limited to monitoring the EU's borders in respect of migration; they can also entail supporting national authorities by providing services, information, equipment and training and by coordinating operations in various fields such as fisheries control and preventing marine pollution, piracy and trafficking of all kinds. This definition serves to clarify the scope of cooperation between coast guard functions referred to in Article 52.

Amendment 7

Proposal for a regulation
Article 7 – paragraph 1 – point r a (new)

Text proposed by the Commission

Amendment

(ra) assist in sharing the information, equipment and all other capabilities of the European Fisheries Control Agency and of the European Maritime Safety Agency, if their support is needed in order to perform specific tasks like, but not limited to, search and rescue.

Amendment 8

Proposal for a regulation Article 36 – paragraph 1

Text proposed by the Commission

Amendment

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for the control of the external borders, including the use of advanced surveillance technology such as remotely piloted aircraft systems, and for return. The Agency shall disseminate the results of that research to the Commission and the Member States. It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for the control of the external borders, including the use of advanced surveillance technology such as remotely piloted aircraft systems, and for return. The Agency shall disseminate the results of that research to the Commission and the Member States ***and to all other agencies involved, including the European Fisheries Control Agency.*** It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

Amendment 9

Proposal for a regulation Article 52 a (new)

Text proposed by the Commission

Amendment

Article 52a

Assessment of European cooperation on coast guard functions

1. The Commission shall submit a report evaluating the implementation of

European cooperation on coast guard functions to the European Parliament and the Council by 31 December 2021 at the latest. The report shall analyse and set out, in particular:

(a) the arrangements for cooperation between the European Border and Coast Guard Agency, the European Fisheries Control Agency and the European Maritime Safety Agency, and for cooperation with Member States;

(b) the missions performed under this cooperation and their quantified results, particularly as regards fisheries control;

(c) the benefits of this cooperation in terms of improved understanding of the maritime situation as well as operational activities and rapid response to crises at sea;

(d) the financial resources used in the context of this cooperation.

2. The European Border and Coast Guard Agency, the European Fisheries Control Agency, the European Maritime Safety Agency and the Member States shall provide the Commission with the information necessary to carry out the assessment referred to in paragraph 1.

Justification

European cooperation on coast guard functions began as a result of the European Parliament pilot project for 2016. Parliament wishes to be informed of the results and synergies achieved through this project.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European Border and Coast Guard
References	COM(2015)0671 – C8-0408/2015 – 2015/0310(COD)
Committee responsible Date announced in plenary	LIBE 21.1.2016
Opinion by Date announced in plenary	PECH 21.1.2016
Rapporteur Date appointed	Alain Cadec 17.2.2016
Discussed in committee	22.3.2016
Date adopted	19.4.2016
Result of final vote	+: 15 -: 6 0: 2
Members present for the final vote	Marco Affronte, Clara Eugenia Aguilera García, Renata Briano, Alain Cadec, Richard Corbett, Diane Dodds, Linnéa Engström, Ian Hudghton, Carlos Iturgaiz, Werner Kuhn, Gabriel Mato, Norica Nicolai, Ulrike Rodust, Remo Sernagiotto, Ricardo Serrão Santos, Isabelle Thomas, Ruža Tomašić, Peter van Dalen, Jarosław Wałęsa
Substitutes present for the final vote	Izaskun Bilbao Barandica, Anja Hazekamp, Lidia Senra Rodríguez
Substitutes under Rule 200(2) present for the final vote	Laura Ferrara

PROCEDURE – COMMITTEE RESPONSIBLE

Title	European Border and Coast Guard			
References	COM(2015)0671 – C8-0408/2015 – 2015/0310(COD)			
Date submitted to Parliament	15.12.2015			
Committee responsible Date announced in plenary	LIBE 21.1.2016			
Committees asked for opinions Date announced in plenary	AFET 21.1.2016	BUDG 21.1.2016	TRAN 21.1.2016	PECH 21.1.2016
Not delivering opinions Date of decision	TRAN 12.5.2016			
Rapporteurs Date appointed	Artis Pabriks 29.2.2016			
Discussed in committee	29.2.2016	11.4.2016		
Date adopted	30.5.2016			
Result of final vote	+: –: 0:	40 10 5		
Members present for the final vote	Jan Philipp Albrecht, Martina Anderson, Malin Björk, Michał Boni, Caterina Chinnici, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Tanja Fajon, Laura Ferrara, Monika Flašíková Beňová, Ana Gomes, Nathalie Griesbeck, Jussi Halla-aho, Monika Hohlmeier, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Timothy Kirkhope, Barbara Kudrycka, Cécile Kashetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Claude Moraes, Péter Niedermüller, Soraya Post, Birgit Sippel, Branislav Škripek, Csaba Sógor, Helga Stevens, Bodil Valero, Marie-Christine Vergiat, Beatrix von Storch, Josef Weidenholzer, Kristina Winberg			
Substitutes present for the final vote	Laura Agea, Marina Albiol Guzmán, Hugues Bayet, Carlos Coelho, Pál Csáky, Daniel Dalton, Ska Keller, Miltiadis Kyrkos, Artis Pabriks, Maite Pagazaurtundúa Ruiz, Salvatore Domenico Pogliese, Jaromír Štětina, Axel Voss			
Substitutes under Rule 200(2) present for the final vote	Edouard Ferrand, Sylvie Goddyn, Peter Jahr, Othmar Karas, Ilhan Kyuchyuk, Ádám Kósa, Keith Taylor, Lieve Wierinck			
Date tabled	6.6.2016			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

40	+
ALDE	Nathalie Griesbeck, Sophia in 't Veld, Ilhan Kyuchyuk, Maite Pagazaurtundúa Ruiz, Lieve Wierinck
ECR	Daniel Dalton, Jussi Halla-aho, Timothy Kirkhope, Branislav Škripek, Helga Stevens
PPE	Michał Boni, Carlos Coelho, Pál Csáky, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Monika Hohlmeier, Peter Jahr, Othmar Karas, Barbara Kudrycka, Ádám Kósa, Artis Pabriks, Salvatore Domenico Pogliese, Jaromír Štětina, Csaba Sógor, Axel Voss
S&D	Hugues Bayet, Caterina Chinnici, Tanja Fajon, Monika Flašíková Beňová, Ana Gomes, Sylvia-Yvonne Kaufmann, Cécile Kashetu Kyenge, Miltiadis Kyrkos, Marju Lauristin, Juan Fernando López Aguilar, Claude Moraes, Péter Niedermüller, Birgit Sippel, Josef Weidenholzer

10	-
EFDD	Laura Agea, Laura Ferrara, Beatrix von Storch, Kristina Winberg
ENF	Edouard Ferrand, Sylvie Goddyn
GUE/NGL	Marina Albiol Guzmán, Martina Anderson, Malin Björk, Marie-Christine Vergiat

5	0
S&D	Soraya Post
Vers/ALE	Jan Philipp Albrecht, Jan Keller, Keith Taylor, Bodil Valero

Key to symbols:

+ : in favour

- : against

0 : abstention