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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

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

Measures to enhance external border management, including through better information systems and checks, have been agreed in the past few years and are being rolled out, such as the Entry/Exit System, the European Travel Information and Authorization System (ETIAS), the reinforcement of checks against relevant database at external borders and the establishment of the European Border and Coast Guard (EBCG). These and other initiatives at the EU level, together with significant steps undertaken by Member States, including an increased cooperation with third countries, have led to considerable progress being made since 2015, with a significant drop in the number of detected irregular border crossings into the EU.

However, the EU needs to show continuous determination and full vigilance in handling the situation at the EU's external borders which by definition, due to a variety of factors, including the socio-economic, demographical and political developments in the EU's neighbourhood, remains volatile. While, compared to 2015, flows of irregular migration remain reduced, they have recently been picking up on the Eastern and Western Mediterranean routes. The total number of arrivals in 2018 on both routes is considerably higher than in the same period in 2017.

The European Council in its June 2018 Conclusions states that “a precondition for a functioning EU policy relies on a comprehensive approach to migration which combines more effective control of the EU's external borders, increased external action and the internal aspects, in line with our principles and values.”

Building upon the European Council conclusions and as a contribution to the informal summit in Salzburg on 19-20 September 2018, the European Commission has proposed on 12 September 2018, as part of this comprehensive approach, a new mandate for the European Border and Coast Guard Agency (the Agency) (Doc. 12143/18). The Presidency considers that this proposal is consistent with and reinforces other Union policies, including the recast of the Return Directive which aims at assisting Member States to increase the efficiency of returns and achieving a more effective and coherent European return policy. At the informal summit in Salzburg, the Heads of State or government expressed their shared determination to take forward the Commission's proposal for a strengthened European Border and Coast Guard.

The proposal contains the following key elements:

- setting up a European Border and Coast Guard standing corps of 10,000 operational staff with executive powers;
- encompassing the European Border Surveillance System (EUROSUR) in the European Border and Coast Guard frame, in order to improve the functioning of EUROSUR and enlarging its scope in order to cover most of the components of Integrated Border Management;

- strengthening the cooperation with third countries by giving the agency a wider scope for action (not limiting it to neighboring countries);
- supporting Member States on a technical and operational level with return operations; Agency staff can communicate directly with third countries.

The first reactions of the delegations during the Frontiers Working Party on 14 September, COREPER on 17 September and the informal SCIFA on 20/21 September showed that there is a broad support on many elements of the proposal notably with regard to the strengthening of cooperation with third countries, the Agency's mandate related to return activities, the improved possibilities for the Agency to have its own technical equipment, the better functioning of the migration management support teams and the integration of False and Authentic Documents Online (FADO) into EBCG.

At the same time, on the basis of certain concerns spelled out during these discussions, there is a need for further political guidance on the following elements of the proposal:

- to better define the mandate of the enhanced standing corps in view of discussing the implementation of the envisaged numbers;
- to clarify the role and the powers of each category of the standing corps, the procedures for their recruitment and training as well as the possible impact on national resources;
- to further clarify the supporting role of EBCG, confirming that the respect for national sovereignty and the host Member State's lead in external borders control operations carried out on its own territory remain intact;
- to reflect on the optimal time-frame during which Member States have to implement the future Regulation in relation to the standing corps.

Bearing in mind the determination of the Heads of State or Government at the Informal Summit in Salzburg on 19/20 September 2018 to take forward the proposal for a strengthened European Border and Coast Guard as a priority, while at the same time further discussing issues regarding sovereignty and the capabilities of the Agency to support Member States and in the light of our determination to have a permanent reliable solution to support Member States in addressing current and future migration crises, Ministers are invited to provide indications on:

- **the composition, the tasks, the powers and the envisaged size of the EBCG standing corps;**
- **the time frame needed to implement the objectives regarding the setting up and full functioning of the standing corps.**

Bearing the time restrictions in mind, kindly feel free to focus on those questions/aspects that seem of highest importance to you.
