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Evaluation of the Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur)

Table of contents

GLOSSARY

Term or acronym	*Meaning or definition*
AIS	Automatic Identification System
BCP	Border Crossing Point
BSRBCC	Baltic Sea Region Border Control Cooperation
CeCLAD-M.	Centre de Coordination pour la lutte antidrogue en Méditerranée
CISE	Common Information Sharing Environment
CLOSEYE	Collaborative evaLuation Of border Surveillance Technologies in maritime Environment
CPIP	Common Pre-frontier Intelligence Picture
DG	Directorate General (of the Commission)
EASA	European Aviation Safety Agency
EBCG	European Border and Coast Guard
EBF	External Borders Fund
ECBGA	European Border and Coast Guard Agency (FRONTEX)
ECN	EUROSUR Communication Network
EFCA	European Fishery Control Agency
EFS	EUROSUR Fusion Services
EMLO	European Migration Liaison Officer
EMSA	European Maritime Safety Agency
ESP	European Situational Picture
EU	European Union
EUNAVFOR MED	EU Naval Force Mediterranean Sea
EUROCONTROL	Organisation européenne pour la sécurité de la navigation aérienne
Europol	European Police Office
EUROSUR	European Border Surveillance system /framework
FP7	7th Research Framework Programme
FRA	EU Fundamental Rights Agency
FRONTEX LO	FRONTEX Liaison Officer
H2020	Horizon 2020 (8th Reserach Framework Programme)

I2C	Integrated System for Interoperable sensors & Information sources for Common abnormal vessel behaviour detection & Collaborative identification of threat
IBM	Integrated Border Management
ILO	Immigration Liaison Officer
IMO	International Maritime Organization
ISF	Internal Security Fund
ISF/B	ISF Borders
ISSG	Inter-service Steering Group
JORA	Joint Operation Risk Analysis (system)
JRC	DG Joint Research Centre
LOBOS	LOw time critical BOrder Surveillance
LRIT	Long Range Identification and Tracking
MAOC-N	the Maritime Analysis and Operations Centre - Narcotics
MMF	Multiannual Financial Framework
MRCC	Maritime Rescue Coordination Centre

1. INTRODUCTION

1.1. Purpose of the evaluation

In August 2017, DG Migration and Home Affairs launched an overall evaluation of the EUROSUR Regulation[1].

The purpose of the evaluation is to analyse the performance of EUROSUR as a framework for information exchange and reaction capability, how it has been implemented in practice, the extent to which it reached its policy objectives, and whether it remains fit-for-purpose in terms of effectiveness, efficiency, relevance, coherence and added value for the EU Integrated Border Management Policy. This is the first time the Regulation is evaluated since its entry into force in 2013.

1.2. Scope of the evaluation

Article 22(3) of the EUROSUR Regulation requires the Commission to produce a report on the overall evaluation of EUROSUR by 1 December 2016 and every four years thereafter. This evaluation should examine the results achieved against the objectives set and include an assessment of the continuing validity of the underlying rationale, the application of the EUROSUR Regulation in the Member States[2] and by the European Border and Coast Guard Agency (FRONTEX) now referred to as the Agency, and compliance with and impact on fundamental rights. It shall also include a cost benefit evaluation. Article 22 of the Regulation also provides that the evaluation shall be accompanied, where necessary, by an appropriate proposal to amend this Regulation.

Following the adoption of the European Agenda on Migration[3] and of the European Border and Coast Guard Regulation[4], the Commission postponed the evaluation of EUROSUR in order to take into account the changes that they induced on the implementation of EUROSUR and on its evaluation.

1.3. Evolution induced by the ECBG Regulation

In May 2015, the European Agenda on Migration identified the need to move to a shared management of the external borders between Member States and the EU, in line with the objective of the 'gradual introduction of an integrated management system for external borders' set out in Article 77 TFEU.

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1 Regulation (EC) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (EUROSUR).

2 When referring to Member States, it is to be noted that this reference includes the EU Member States applying the EUROSUR Regulation (i.e. not including UK and Ireland) and the Schengen Associated Countries (Iceland, Norway, Liechtenstein and Switzerland).

3 COM(2015) 240 final.

4 Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard.

EUROSUR has already been implemented in the context of this progressive establishment of a European model of Integrated Border Management. The European Border and Coast Guards Regulation establishes for the first time in EU Legislation the components of European Integrated Border Management (IBM).

It establishes the European Border and Coast Guard (ECBG) bringing together the national responsible authorities, including coast guards to the extent they carry out border control tasks, and the European Border and Coast Guard Agency built from FRONTEX. The new Regulation expands the mandate of the Agency by entrusting it to effectively implement integrated border management at Union level. The Agency shall also ensure that the Member States are prepared to face challenges at their external borders by carrying out vulnerability assessments of their capacities to address crisis situations and to take action in case the functioning of the free travel Schengen area is put at stake when a Member State is incapable of dealing with its responsibilites at the external borders or when a member State is faced with such disproportionate pressures at its external borders that it is not able to address them effectively on its own.

Similarly to the EUROSUR Regulation, the EBCG Regulation followed an approach of further fostering a spirit of cooperation, information exchange and the coordination of efforts among the Member States, between the Member States and the Agency and other Union Agencies as well as among relevant Union Agencies, including concrete commitments and well-defined tasks and responsibilities.

Both the new mandates of the Agency and the further implementation of IBM are impacting the implementation of EUROSUR as we now consider a different Agency as the one of 2013 when EUROSUR was adopted and a different framework for border control and border surveillance with the IBM process.

2. BACKGROUND TO THE EUROSUR REGULATORY FRAMEWORK

2.1. Description of the intervention and its objectives

2.1.1. *Border Control*

The EU has some 7 400 km of external land borders and 57 800 km of external maritime borders and coastlines. According to EU law, border control consists of border checks and border surveillance.

Whereas border checks are specifically regulated in the Schengen Borders Code[5], the code and accompanying guidance contain only general provisions for border surveillance. In line with Article 12(1) of the Schengen Borders Code, the main purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the external border illegally.

Before EUROSUR was established, the absence of a common regulatory basis for Member States to exchange information and cooperate in the area of border surveillance, especially at the external maritime borders of the EU, meant that unauthorised border crossings and cross-border crime but also situations requiring search and rescue at sea and saving migrants' lives could go undetected.

2.1.2. *Genesis of EUROSUR*

The works carried out between 2008 and 2011 for the development, testing and gradual establishment of EUROSUR were based on a roadmap presented in a Commission Communication in 2008.[6] This roadmap was endorsed by the Justice and Home Affairs Council in its conclusions of June 2008 and February 2010 and by the Stockholm Programme and the Action Plan implementing the Stockholm Programme.

In its conclusions of June 2011, the European Council stated that EUROSUR "will be further developed as a matter of priority in order to become operational by 2013 and allow Member States' authorities carrying out border surveillance activities to share operational information and improve cooperation."

Given the potential significant impacts arising from action in this field, the Commission carried out an Extended Impact Assessment[7] and presented it in 2011 as a document accompanying the proposal for a Regulation to the European Parliament and to the Council on EUROSUR Regulation. The EUROSUR Regulation was adopted in 2013.

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[6] COM(2008) 68 final of 13.2.2008 ('EUROSUR roadmap'). This Communication was elaborated on the basis of the MEDSEA and BORTEC studies carried out by Frontex.

[7] Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR) (SEC(2011) 1536 final).

2.1.3. *Objectives of EUROSUR*

General objectives

The EUROSUR Regulation establishes an information exchange and cooperation mechanism, which allows national authorities carrying out border surveillance activities and the Agency to exchange information and to cooperate at tactical, operational and strategic level.

EUROSUR general objectives are to:

1) Contribute to the management of migration flows by reducing the number of irregular migrants entering the Schengen area undetected;
2) Protect and save lives at the external borders by diminishing considerably the unacceptable death toll of migrants at sea;
3) Increase the internal security of the European Union and of the people residing in the EU by preventing serious crime at the external borders of the Schengen area;

Specific objectives

To achieve its general objectives, the EUROSUR Regulation specific objectives are to significantly increase (1) the *situational awareness* and (2) the *reaction capability* of the Member States' border control authorities and of the Agency, with the ultimate aim of preventing the establishment of or, if not possible, identifying and interrupting any new route or method for irregular migration and cross-border crime shortly after such has been established.

As defined by the current Regulation, 'Situational awareness' *means the ability to monitor, detect, identify, track and understand illegal cross-border activities in order to find reasoned grounds for reaction measures on the basis of combining new information with existing knowledge, and to be better able to reduce loss of lives of migrants at, along or in the proximity of, the external borders;*

This can be accomplished by achieving the following operational objectives at national and European level:

1) Improving interagency cooperation by streamlining structures and interlinking systems in the law enforcement domain;
2) Using data fusion combined with modern technological capabilities for detecting and tracking cross-border movements, in particular (small) vessels;
3) Exchanging information across different sectors with other actors in the maritime and air domain, such as transport, customs, fisheries control and defence;
4) Improving information exchange with neighbouring third countries.

As defined by the Regulation, 'reaction capability' *means the ability to perform actions aimed at countering illegal cross-border activities at, along or in the proximity of, the external borders, including the means and timelines to react adequately*;

The following operational objectives should therefore be attained at national and European level:

1) Exchange of data, information and intelligence in close-to-real time and - whenever needed - in a secure manner, thereby moving from a patrolling driven to a more intelligence driven approach based on risk analysis;

2) Effective management of personnel and resources, including sensors and patrols;
3) Effective measurement: evaluating the effect of border surveillance activities, thereby providing a new baseline for risk assessment and re-arrangement of priorities.

2.2. Key elements of EUROSUR

2.2.1. *The EUROSUR Regulation and its scope*

The EUROSUR Regulation establishes a common framework for the exchange of information and for the cooperation between Member States and the Agency.

The EUROSUR Regulation applies to the surveillance of the external land and sea borders and, if Member States voluntarily decide, to the surveillance of air borders and to checks at border crossing points (BCPs).

The surveillance activities of EUROSUR include the monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants.

However, EUROSUR Regulation does not apply to any legal or administrative measure taken once the responsible authorities of a Member State have intercepted cross-border criminal activities or unauthorised crossings by persons of the external borders.

2.2.2. *EUROSUR Components*

The EUROSUR framework consists of the following components

a) National coordination centres (NCC) appointed, operated and maintained by each Member State, operating 24/7 and performing a certain number of tasks set out in the EUROSUR Regulation, including coordinating and exchanging information among all national authorities with a responsibility for external border surveillance as well as with the national coordination centres of the other Member States and with the Agency and functioning as the single point of contact for the exchange of information and for the cooperation with other national coordination centres and with the Agency (Article 5 of the EUROSUR Regulation)
b) National situational pictures (NSP): established and maintained by each NCC and composed of several information layers and sublayers defined in the EUROSUR Regulation, which can be exchanged with neighbouring countries. (Article 9 of the EUROSUR Regulation)
c) A EUROSUR communication network (ECN) supporting the information exchange of EUROSUR including both sensitive and EU classified information and hosting a videoconferencing service. (Article 7 of the EUROSUR Regulation)
d) A European situational picture (ESP) to provide NCCs with accurate and timely information and analysis fed by various sources of information described in the EUROSUR Regulation and composed of several information layers and sublayers defined in the Regulation. (Article 10 of the EUROSUR Regulation)
e) A common pre-frontier intelligence picture (CPIP) to provide NCCs with accurate and timely information and analysis fed by various sources of information described in the Regulation and composed of several information

layers and sublayers defined[2] in the Regulation.(Article 11 of the EUROSUR Regulation)

f) A common application of surveillance tools to supply the Member States and the Agency with surveillance information and fusion services on external borders on a set of activities and information sources described in the Regulation.(Article 12 of the EUROSUR Regulation)

2.2.3. *EUROSUR Border Sections and Impact Levels*

For the purposes of the EUROSUR Regulation, each Member State divided its external land and sea borders into border sections, and notified them to the Agency (Article 14 of the EUROSUR Regulation). The Agency based on its risk analysis and in agreement with the Member State concerned, attributes to each identified border section an impact level (low, medium or high) (Article 15 of the EUROSUR Regulation).

The Member States are obliged to ensure that the surveillance activities carried out at the external border sections correspond to the attributed impact levels (Article 16 of the EUROSUR Regulation).

2.2.4. *Cooperation with external partners*

Article 18 of the EUROSUR Regulation sets out the principles of cooperation of the Agency with third parties, i.e. information, capabilities and systems available in other Union institutions, bodies, offices and agencies, and international organisations, within their respective legal frameworks.

Article 20 of the EUROSUR Regulation frames the exchange of information with neighbouring third countries on the basis of bilateral or multilateral agreements including through regional networks with the NCCs being the contact points for such cooperation. The compliance of these agreements with the EUROSUR Regulation should be verified in advance by the Commission. Once an agreement is concluded, the Member State concerned should notify the Commission which informs the European Parliament, the Council and the Agency accordingly.

3. METHOD

3.1. Methodology

This evaluation assesses the performance of the EUROSUR Regulation, i.e. whether it has achieved its objectives, whether it is efficient, coherent, and relevant and has an added value at the EU level.

The process was carried out internally by the Commission services and was based on a series of consultations with experts from the 30 Member States that apply the EUROSUR Regulation [8], the Fundamental Rights Agency[9], researchers, as well with the industry. The consultation process aimed at collecting evidence on the functioning of EUROSUR in practice since its entry into operation (December 2013) until January 2018, with a view also to assess its possible future development.

As part of this process, Member States provided country reports on the implementation of the Regulation which have been discussed bilaterally and in the framework of the EUROSUR expert groups.

The evaluation was also based on the Commission's regular monitoring of the implementation of EU legislation, which includes the evaluations under the Schengen evaluation mechanism (SCHEVAL) [10] as well as the information coming from various other sources (Frontex Risk analysis reports, press, etc.).

However, given the security implications of EUROSUR Regulation, the Commission did not launch an open public consultation for the evaluation of EUROSUR.

3.2. Limitations

Interagency cooperation within Member States

The heterogeneity of national authorities involved in the implementation of the EUROSUR Regulation and the variety of national organisational setups across the Member States is a significant challenge in the process of cooperation and information exchange in the EUROSUR framework. Such heterogeneity can be a limitation when assessing its implementation. The fact that several national agencies in one Member States are involved in Border Management could pose significant issues if interagency

8 In addition to the Expert Group managed by the Agency to support its implementation of EUROSUR, a dedicated Commission expert group on EUROSUR was created to discuss and follow the evaluation process.

9 Upon request by the Commission, the EU Fundamental Rights Agency conducted an independent assessment of the impact of the EUROSUR Regulation on fundamental rights and a review of Member States' cooperation with third countries (based on Article 20 (1) of the EUROSUR Regulation through a sample survey). The report by FRA is annexed to this Staff Working Document.

cooperation is not properly implemented. For example, it might happen that the Commission receives the views of one of these agencies only and that these views do not necessarily reflect the heterogeneity of the national institutional structure or possible evolutions of the national situation.

However, the EUROSUR Regulation itself introduces aligned rules for cooperation and information exchange, which should contribute to overcome differing views at national level.

Quality control of EUROSUR-related Data

Assessing the quality and substance of the information that was actually exchanged in EUROSUR has proven difficult, as the EUROSUR Regulation does not provide for aligned rules of the form that this information should be presented. Thus, Member States exchange information using different systems and method.

The EUROSUR and EBCG regulations do not foresee that the Agency performs nor report on a systematic analysis of the quality of EUROSUR Data. In line with article 22(4) of the EUROSUR Regulation, the Commission has requested the Agency to perform such analysis of EUROSUR and data collected over the evaluation period by both the EUROSUR and JORA systems.

A specific team has been set up in the Agency to data mine all the relevant information stored in the EUROSUR nodes and JORA, to compile and analyse the results in light of operational practices (see section 4.3).

Cost assessment

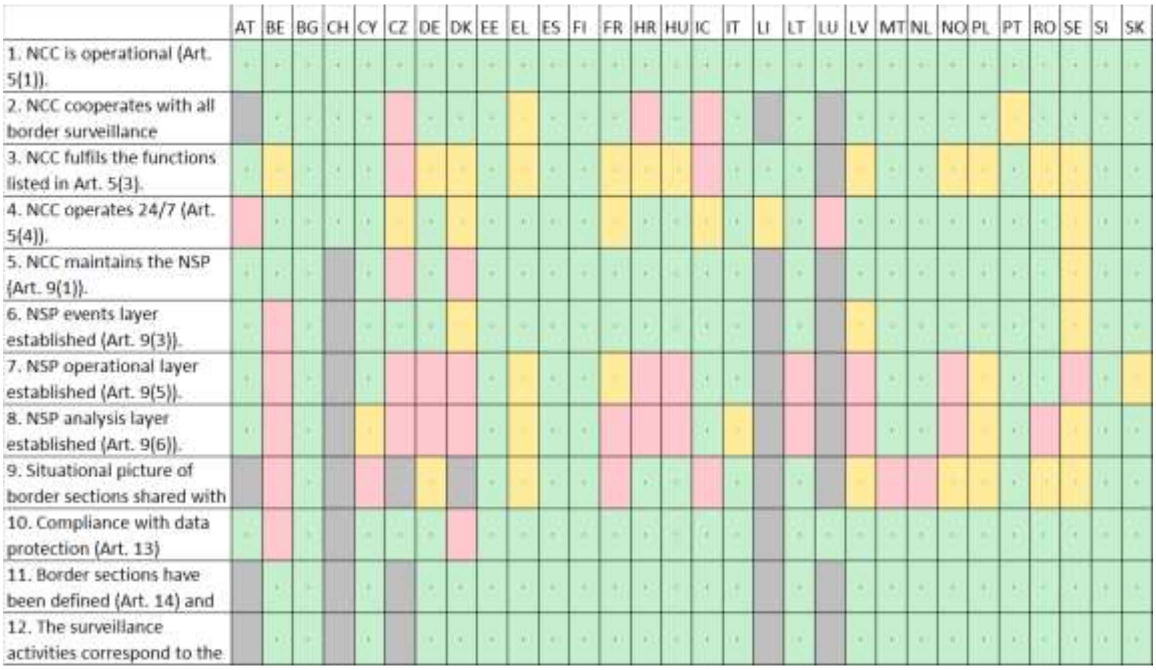
Assessing the cost of implementation of EUROSUR has also proven difficult. The funding sources used for the implementation of the actions foreseen in the EUROSUR Regulation come from different strands, i.e. Member States' national budgets, the EBCG Agency's budget and several EU funding instruments. In most cases, the budget lines used for the implementation of EUROSUR are shared with other actions that are often not directly related to the relevant provisions of the Regulation. Therefore, it has been difficult to extract and exploit concrete figures especially at national level, but often at European level as well.

4. IMPLEMENTATION - STATE OF PLAY

The EUROSUR Regulation was adopted in October 2013 and is in force since 2 December 2013[11].

4.1. Implementation by the Member States

The graph below summarizes the state of play of implementation of EUROSUR by the Member States based on the Country Reports submitted by the Member States.



Legend : implemented **Fully** **Partially** **Not** **N/A**

Figure 1 Overview of the implementation of EUROSUR by Member States

Member States and External Borders

The assessment of the impact on external borders on the implementation of EUROSUR by the Member States needs to be regarded in light of their specific border situation in terms of length of their land and sea border sections the respective attributed impact levels, in line with Article 16 of the EUROSUR Regulation.

[11] For those Member States having land and sea external borders.

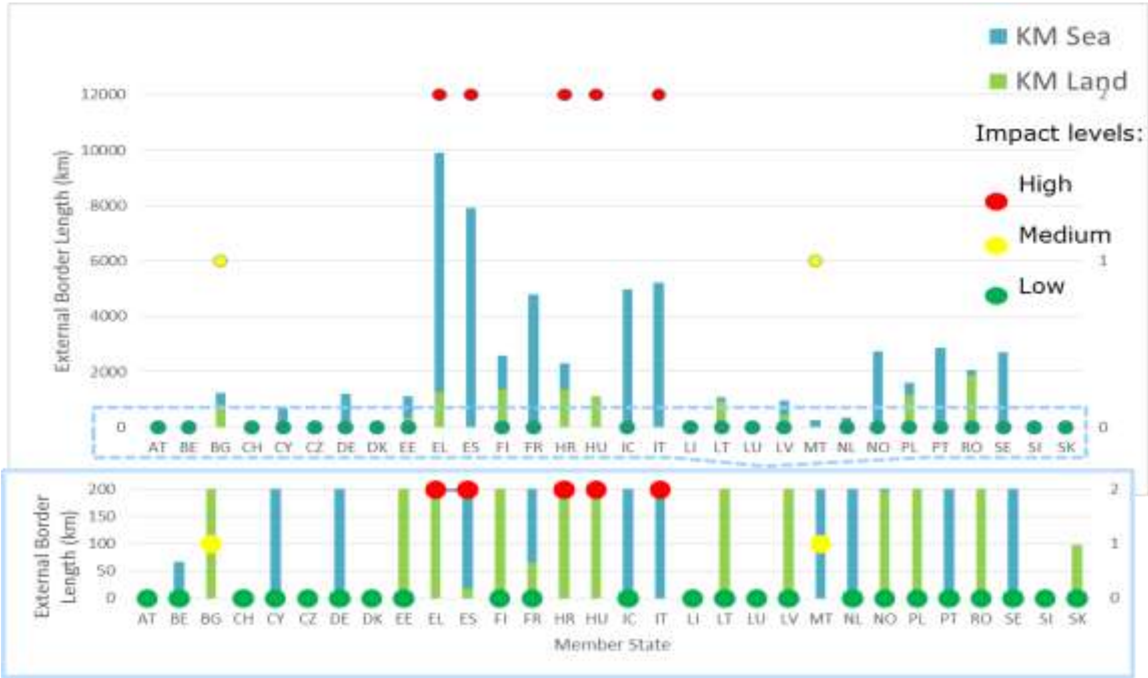


Figure 2: External Border Length and Impact Levels (source EUROSUR Country Reports)

Institutional setup in Member States and reporting in EUROSUR

The institutional setup of the relevant authorities varies significantly across Member States. Among the Member States having external sea and/or land borders, eleven Member States[12] have one single authority responsible for border management. The remaining Member States having external sea and/or land borders entrust two or more authorities to deal with border management.

As required by the EUROSUR Regulation, all Member States with external land or sea borders implement it for their respective type of border sections[13].

While not mandatorily required by the EUROSUR Regulation, half of the Member States[14] also apply it – on a voluntary basis – for ***border checks*** and one third[15] – for ***air border surveillance*** in line with Article 2(2).

4.1.1. National Coordination Centres (NCC)

All 30 Member States participating in EUROSUR have reported having established their NCCs, which are declared operational. The majority of NCCs are hosted either by the Police[16], the Border Guard[17] or the Border Police[18].

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12 BG, DK, FI, HR, HU, LT, LV, PL, RO, SI and SK.

13 With the exception of Slovenia where the NCC is responsible for the sea borders, but not for the land border with Croatia. SI and COM have diverging views on whether EUROSUR Regulation is applicable at the temporary external borders. Discussions are on-going.

14 AT, BG, CZ, DE, FI, FR, HU, IS, LI, LT, LV, NL, PL, RO, SE.

15 AT, CZ, DE, ES, FI, FR, IS, LV, PL, SE.

NCC functions

The roles of the NCCs range broadly from ensuring information exchange and coordination among different authorities to having command and control functions.

From the descriptions given by the Member States in the EUROSUR Country reports it can be inferred that seven Member States[19] have a fully functional NCC in line with the provisions of the Regulation. Most of the Member States cover the functions partially, some to a significant, others to a lesser extent. More than 50% of the functions stipulated in Article 5(3) are not implemented or not mentioned in the Country Reports of the majority of the Member States[20].

Still, whether these functions are implemented or not should not serve as an illustration of a good or poor performance by the Member States. It could rather be perceived as an indicator of the variety of organizational structures of border surveillance entities across Member States (e.g. some structures are more centralized than others whose responsibilities are more scattered) naturally depending on the different circumstances of the Member States regarding their border situation.

NCC operational 24/7

Almost all NCCs already operate 24/7. Outside regular working hours and on weekends, in the majority of the NCCs there is at least one officer present. Only 2 Member States with external land and/or sea borders[21] declare an exception to this rule[22] but indicate that an on-call duty officer is available to ensure reaction, if necessary. Only one Member State[23] indicates that a 24/7 response is not yet available.

Staff

The NCCs' total staffs range from 2[24] to 45[25] depending on the Member State, its size, its type and length of external borders as well as on the tasks performed by the NCC. Higher staff numbers are indicated in the NCCs that have operational or command and control functions. One Member State[26] cannot identify the exact number of officers working at the NCC as their tasks are not solely related to the NCC, which, actually, can apply to

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16 BE, CY, CZ, DE, DK, EL, HU, LI, LU, NO, SE, SI.

17 CH, EE, FI, LT, LV, PL.

18 BG, HR, IT, SK, RO.

19 BG, FI, EE, ES, IT, PL, PT.

20 BE, CH, CZ, DE, EL, DK, FR, HR, LI, LU, LV, HU, MT, RO, SE, SI and SK.

21 FR, SE.

22 Where the country report indicates that an on-call duty officer is present to ensure immediate reaction on weekend and outside regular working hours, the analysis has considered that the NCC fulfils **partly** the requirement to be operational 24/7.

23 AT.

24 DK and LU.

25 DE.

26 PL.

most of the Member States. For Member States with attributed high/medium Impact Levels at the external borders[27], NCC Staff includes more than 10 officers.

Tasks

A number of NCCs have command and control functions[28], which are usually limited to the authority to which the NCC belongs to (Border Guard, Police and Armed Forces). When the Member States operate on a long border section it usually has recourse to Regional and Local Coordination Centres (RCCs/LCCs) which exert the command and control function at this level, the NCC being responsible for supervision or coordination at strategic level.

Cooperation

The regular *cooperation*, i.e. cooperation *on a daily basis*, of various relevant national authorities at the NCC premises, is crucial for coordination as well as the situational awareness and reaction capability of the Member States.

One third of the Member States[29] indicated that various authorities cooperate on a daily basis at the NCC. Five[30] of these Member States have medium/high impact levels at the external border. The other two Member States[31] with medium/high impact level at their external borders did not mention such cooperation with their NCCs.

An increasing number of Member States[32] provide for the secondment of *liaison officers* from different national authorities to the NCC to ensure the daily cooperation of as many as possible relevant entities. These officers have direct access to their respective systems and databases, allowing for near-real time exchange of data and information.

Most of the Member States[33] have declared in their country reports that various national authorities cooperate and exchange information with the NCC. This cooperation includes a wide variety of authorities such as Police, Customs, Coast Guard, Navy, Judicial police, Tax authorities, Fishery control and transport authorities, Maritime authorities, migration and asylum authorities, Ministry of Defence, army, intelligence services.

The NCCs of all Member States having sea borders cooperate with the Maritime Search & Rescue Coordination Centres (MSRCCs) for Search and Rescue (SAR) operations.

Only a limited number of Member States[34] declare that their NCCs do not exchange information with other authorities or that such exchange of information is not applicable[35].

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27 BG, EL, ES, HR, HU, IT, MT.

28 BG, CY, DE , EE, ES, FI, IT, LV, MT, PL, PT, RO, SI, SK.

29 BE, BG, DE, EE, EL, ES , FR, HR , IS, IT.

30 BG, EL, ES, HR, IT.

31 HU, MT.

32 BG, DE, ES, FR, HR, NO, PT.

33 With the exception of CZ, LU, PL, SK.

34 CZ, PL, SK.

35 LU, LI.

The majority of Member States[36] have not mentioned exchange of information with Regional and Local Coordination Centres (RCC and LCC).

Processing of Classified information

The majority of NCCs [37] already processes classified information at all classification levels from restricted up to Top Secret[38].

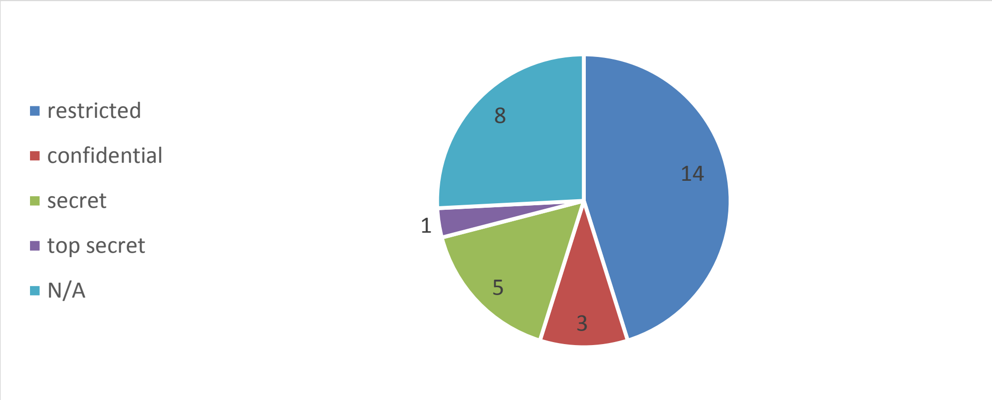

Figure 3: Maximum Level of Classified accreditation of Member States NCCs

Information exchange systems

The means of exchanging information among the various relevant national authorities within a Member State vary significantly across Member States due to the diversity of their institutional and organisational structures. Generally, information is exchanged in traditional ways, e.g. using email, phone or fax. In few cases information is exchanged through an integrated national or regional system. Some Member States use the EUROSUR system itself as the main national system and they exchange directly their National Situational Picture via the EUROSUR network.

4.1.2. National Situational Picture (NSP)

Events Layer

All Member States indicate that they have established the events layer of their national situational picture. [39]

Operational Layer

In their country reports, thirteen Member States claim to have fully established the operational layer of their NSP[40] and four[41] to do it partially.

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[36] 18 - BE, CH, CY, CZ, EL, ES, HU, IT, LI, LU, LV, MT, PL, PT, RO, SE, SI, SK.

[37] 8 MS do not process classified information (CY, CZ, DK, HU, LI, LU, NO, SK)..

[38] equivalent level in EUCI.

[39] With the exception of BE, CH, LI, LU where it is considered irrelevant due to their border situation.

[40] AT, BG, CY, EE, ES, FI, IS, IT, MT, NL, PT, RO, SI.

[41] EL, FR, PL, SK.

A third of the Member States[42] indicate that they display their own assets in the operational layer, but no Member State indicates that it shares its assets through the operational layer with other authorities.

Establishing the operational layer has proven relatively challenging for the Member States, as it requires the near-real time inclusion in the NSP of the positions, status and types of patrols belonging to different authorities, including military assets on a law enforcement mission.

Analysis Layer

Eleven Member States[43] have fully and five partly implemented the Analysis layer of their NSP.

Overall, there is a lack of a common understanding of the use of the analytical layer at national level, even if many Member States use the analysis layer provided through the ESP.

Exchange of situational pictures of border sections with neighbouring Member States

Only five Member States[44] do not mention in their country reports that they exchange data with neighbouring Member States.

As to the *exchange of situational pictures of border sections with neighbouring Member States*, the Commission concludes[45] that fourteen Member States[46] share their NSP with neighbouring Member States. Half of them declare exchanging information on own assets.

4.1.3. *Border sections and impact levels*

All Member States have defined border sections to which the Agency attributed impact levels.

Member States with low impact levels at their sections of the external border were not required to describe their reaction corresponding to those impact levels.

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[42] AT, CY, EE, ES, FI, IS, IT, MT, NL.

[43] AT, BG, EE, FI, IS, MT, NL, PT, SI, SK.

[44] CH, CZ, IS, LU, MT.

[45] It is difficult to assess from the information provided in the Country Reports whether NSP is shared or, in fact, what each Member State means when they refer to the NSP. It is not completely clear whether the references to the NSP are meant to indicate the EUROSUR NSP or another more abstract concept of a national situational picture. For example, when reacting on the issue of sharing their NSP with neighbouring Member States, many Member States refer to 'exchange of information' instead, which makes it difficult to comprehend what precisely they mean.

The conclusion of the Commission is based on the above conditionality stemming from the analysis of the Country Reports in combination with information available to the Commission from other sources, e.g. projects funded by EU instruments having as a purpose the exchange of the EUROSUR NSP.

[46] BG, EE, ES, FI, HR, HU, IT, LT, PT, SI; partly: EL, LV, PL, RO.

The Agency has attributed medium and/or high impact levels at some border sections of seven Member States[47] for the period January-February 2017. All these seven Member States describe in their Country Reports the relevant reaction corresponding to the attributed impact levels.

The responsible national authorities took additional surveillance measures in Border Sections with a Medium impact[48] level, such as increasing of staff for patrolling activities[49], enhancing and upgrading of technical means for surveillance, increasing cooperation with the Agency and with Europol, implementing targeted actions, improving information exchange and coordination between the local and central levels, organising special Border operations[50], preparing contingency planning, including at local level, on the basis of risk analysis.

For Border Sections with a High impact level, the relevant national authorities of the Member States concerned[51] have undertaken, - in addition to the surveillance measures described above –, strengthened initiatives aimed at further enhancing cooperation with the EU agencies, reinforcing the personnel involved in border surveillance, improving intelligence support, increasing patrolling activities, implementing specific activities designed on the basis of the specific local territorial needs.

4.1.4. *Cooperation with neighbouring third Countries*

Nine Member States[52] have no land border with any third country. Two of them cooperate with Ireland and the United Kingdom [53].in line with Article 19 of Regulation (EU) 1052/2013.

Eastern external borders

At the Eastern external borders the cooperation with neighbouring third countries is very well developed.

Nine Member States[54] which share a border with the Russian Federation cooperate either via bilateral agreements (land border) or via regional networks (Baltic Sea Region Border Control Cooperation/BSRBCC). The same applies for the four Member States[55] sharing a border with Ukraine, the three Member States sharing a border with Belarus[56] and for Moldova[57]. One best practice in this region is the use of border delegates/representatives,

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[47] BG, EL, ES, HR, HU, IT, MT.

[48] All 7 MSs have attributed medium impact levels at section(s) of their borders.

[49] BG, EL, ES, HR, HU, IT.

[50] (ES), e.g. Operation Verano, Operation Paso del Estrecho.

[51] EL, ES, IT.

[52] AT, BE, CZ, IS, FR, LU, NL, SI, CH.

[53] BE, NL.

[54] DK, EE, FI, DE, LV, LT, NO, PL, SE.

[55] HU, PL, RO, SK..

[56] LV, LT, PL.

[57] RO.

which ensure daily cooperation at local, regional and national level. While the exchange of information and intelligence is a common standard, joint patrolling or the exchange of personal data for combating cross-border crime is more limited. Cooperation with the Russian Federation, Ukraine, Georgia and Turkey also takes place via the Black Sea Cooperation Forum (BSCF).

Western Balkans

In the Balkans the cooperation with neighbouring third countries is well developed, but there is still room for improvement. All four Member States[58] that have borders with Serbia have concluded cooperation agreements with it. Croatia has concluded agreements on border control and police cooperation with Bosnia and Herzegovina as well as a police cooperation agreement with Montenegro. Greece has concluded two police cooperation agreements with Albania. Bulgaria has signed a number of agreements with the former Yugoslav Republic of Macedonia. A Protocol of Cooperation on Police Matters has been signed between the Former Yugoslav Republic of Macedonia and Greece.

There is still room for improvement with regard to the cooperation in the Adriatic Sea. Bulgaria and Greece have concluded cooperation agreements with Turkey for their common land borders and for the common sea borders (on coastguard cooperation) in the case of Bulgaria. However, there is no agreement covering the cooperation at the Greek-Turkish sea borders.

Mediterranean

Bilateral cooperation with neighbouring third countries in the Mediterranean Sea is very limited or does not exist.

There are no cooperation agreements in the field of border surveillance with Syria, Lebanon, Israel, Egypt and Tunisia.

Basic information is exchanged between Member States and several African countries (e.g. Tunisia) via non-classified military networks open to civilian bodies, such as the Virtual Regional Maritime Traffic Centre (VRMTC) and NATO Maritime Security and Safety Information System (MSSIS).

There is no regional border control cooperation in the Mediterranean basin, as the Seahorse Mediterranean network[59] has been under development for quite some time and despite all the efforts on the side of the EU, currently Libya is so far the only third country participating.

At bilateral level, only Spain concluded an agreement with Algeria.

Western African countries

The cooperation established with the Western African countries (Morocco, Mauretania, Cap Verde, Senegal, Gambia and Guinea Bissau) in the framework of the Seahorse

[58] BG, HR, HU, RO.

[59] in which PT, ES, FR, IT, MT, EL and CY participate.

Atlantic network[60] includes joint patrolling and capacity building measures in these third countries, addressing both irregular migration and Search and Rescue (SAR) operations.

4.1.5. *Financial aspects of the implementation by the Member States*

Member States have been requested to provide financial data on the establishment and maintenance of their National Coordination Centres and National Situational Picture in the framework of the EUROSUR expert group established by FRONTEX and to present the information as a section of their Country reports on the implementation of EUROSUR.

Given the heterogeneity of the answers and often their incompleteness as well as the lack of response by some Member States, a very simple model was designed based on a calculation of the annual costs for maintaining the NCC and NSP and additional fixed costs[61].

$$Total\ Costs = Yearly\ estimate * Duration + Additional\ fixed\ Costs$$

Only the period since the entry into force of the EUROSUR regulation until the end of 2017 has been considered taking into account that for most of the Member States, the "budgetary peak" took place before that period while they were preparing for the implementation by establishing their NCC and NSP.

Member State	Start date	Estimated Price	Member State	Start date	Estimated Price
AT	December 2014	1,172,274 €	IS	December 2014	No data
BE	December 2014	16,452 €	IT	December 2013	1,654,397 €
BG	December 2013	1,286,753 €	LI	December 2013	0 €
CH	April 2015	271,370 €	LT	December 2013	15,931,233 €
CY	December 2013	5,654,658 €	LU	May 2015	13,356 €
CZ	June 2014	2,353,000 €	LV	December 2013	427,570 €
DE	October 2014	9,339,901 €	MT	December 2013	513,067 €
DK	December 2014	308,493 €	NL	November 2014	3,072,734 €
EE	December 2013	6,127,397 €	NO	December 2013	769,700 €
EL	December 2013	474,058 €	PL	December 2013	1,204,128 €
ES	December 2013	2,351,018 €	PT	December 2013	2,014,198 €
FI	December 2013	408,493 €	RO	December 2013	5,277,160 €
FR	December 2013	1,862,729 €	SE	December 2013	1,685,136 €

60 To which ES and PT participate.

61 For establishment and maintenance when they could not be added to the yearly amount.

HR	December 2013	964,044 €	SI	December 2013	134,803 €
HU	December 2013	849,600 €	SK	January 2014	880,000 €

Overall, the total cost of the implementation of EUROSUR since its entry into force, taking all Member States into account, can be estimated around 75 Million €.

When requested in the online questionnaire which was the biggest budgetary effort related to the national implementation of EUROSUR, Member States indicated the following in a decreasing order: establishment of the NCC, maintenance of the NCC, naintenance of the NSP, establishment of the NSP.

4.2. Implementation by the Agency

Overall the implementation of the Regulation by the Agency has been achieved. Some aspects can be improved, most of which are related to the network availability and its accreditation, data quality and the lack of information available in the ESP and in the CPIP.

4.2.1. *Communication network and technical aspects*[62]

The EUROSUR Communication Network (ECN) is established. It comprises 31 nodes deployed in all National Coordination Centres (NCCs) and in the Agency, and a Virtual Private Network (VPN) ensures their connectivity over the Internet. Presently, there are over 500 user accounts in total that use the system regularly.

However, the Network was only accredited for EU Restreint in January 2018 and the quality of service is not always sufficient to fully support operational activities.

Availability, maintanability and Quality of Service

The network reliability goals defined in the Service Level Agreement (SLA), although improving, are not being met. The network availability is not monitored regularly and systematically.

The communication with and among the NCCs is performed. However, such information is not presently being monitored regularly and systematically.

The maintainability goals defined in the SLA are not being fully met. There are different time limits to resolve IT incidents and address IT service requests, based on their impact to operations. Since the fourth quarter of 2015, the time limits have never been fully met, although being met for a significant amount of the IT service requests (78%) and incidents (90%) reported.

The audio/video conference service

The audio/video conference service is available to all users. However it has not been used so far. The ECN not being capable of handling classified exchange before January 2018, according to the Member States and Agency's users, the service did not offer any added

[62] article 7 of the EUROSUR Regulation.

value compare to off the shelf web based solution outside the ECN. Situation could positively evolve now that ECN can handle EU Restricted videoconferencing service.

Exchange non-classified sensitive information

The technical solution to exchange non-classified sensitive information is available and, presently, such information is exchanged among the nodes. The solution adopted is the same that will be used to exchange classified information (see below). The security of the network was audited on three different occasions, and a new audit will follow in 2018.

Exchange of classified information

The technology and processes are in place to exchange information up to Restreint UE - EU Restricted. However, the network only received the Initial Authorization to Operate (IATO) on 11 January 2018.

Training

The personnel involved in the ECN is regularly subject to specific training. There are two types of training each year for operational and technical staff. Until December 2017, 39 operators have been certified by the Agency.

Machine to machine interfacing

Interoperability with other systems can be established by means of a specific interface, the Node Integration Interface (NII). Presently, the only system integrated with EUROSUR is JORA, which sends operational events injected by NCCs. There is no integration with national systems that would allow for automated information exchange between the NSP and the ESP.

Financial Aspects related to ECN

The cost reported by the Agency for implementing this activity during the period covered by the evaluation (2013 -2017) amounts to 14M€ including 5.8M€ for maintenance and training and 8.2 M€ for development and evolution[63].

4.2.2. *European Situational Picture (ESP) and Common Pre-frontier Intelligence Picture (CPIP)*

The Agency has put in place and is operating the ESP and CPIP, which are both displayed in the situation room of the Agency and exchanged through the ESP via JORA and EUROSUR.

Information Layers

Both ESP and CPIP are composed of three layers of information described in Article 8 of the EUROSUR Regulation.

The event layer is analysed in 4.3.

The operational layer contains no information on assets or on the operational sublayers in most cases due to the lack of accreditation of the network until January 2018.

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[63] JORA system which is also widely used in the context of EUROSUR when FRONTEX Joint Operations are deployed in the Member States is not taken into account.

The analysis layer is used systematically. There is a significant number of products exchanged, most notably “key developments”, “briefing notes”, “analytical monitor” and “earth observation” products. About 15% of the events exchanged are relevant for air borders, although there is no reporting obligation in this regard.

Financial Aspects

There is no dedicated budget line in the budget of the Agency for the establishment of the ESP and CPIP as they are completely integrated in the work of the various units involved in Border Operations (Frontex Situation Centre, Risk Analysis Unit, and other operational Units). However, Agency’s estimates the financial efforts to establish and maintain ESP and CPIP around 9.5 Million €.

4.2.3. *Common application of Surveillance Tools and cooperation with Third Parties*

The common application of the surveillance tools is coordinated by the Agency. The design and implementation of the services is coordinated by the Agency, and users are largely involved in the requirements’ specification, validation and training activities. Moreover, there is close collaboration through service managers that support the implementation of the services.

There have been many requests for information from the NCCs. These requests were related to the monitoring of third country ports and coast, designated maritime areas and designated pre-frontier areas, to the tracking of vessels and the performance of environmental assessment of areas. To supply the requested information, through the EUROSUR Fusion Services (EFS), the Agency resorts to various sources of information such as other EU agencies, commercial suppliers, vessel monitoring systems (e.g. AIS, LRIT and VMS) and even images and videos collected from fixed wing aircrafts. In this context, the Agency also cooperates with various other organizations, such as EMSA, SATCEN, EFCA and MAOC-N. Presently, the Agency does not cooperate with CeCLAD-M.

Financial Aspects

The overall amount spent for the EUROSUR Fusion Services between 2013 and 2017 as part of the Common application of surveillance tools is 21,6 Million €. Part of the implementation of these services takes place via delegation agreements with EMSA, EFCA, EU SATCEN and Copernicus.

Activity	Budget	Third Party or Programme involved
Vessel monitoring and tracking activity (including LRIT, AIS) with for the for and the for	479 k€	EMSA
the services derived from Vessel Detection Systems	8.5M€,	EFCA
acquisition of Satellite Imagery and related services	10M€	EU SATCEN
meteorological and Environmental services	2 M€.	EUMETSAT COPERNICUS

Table 1 Contribution to EFS (source Agency)

4.2.4. *Reaction to impact levels*

The Agency has not received any request for support for initiating joint operations or rapid interventions by Member States directly mentioning the EUROSUR Regulation. However, various requests for assistance from Member States have been processed in the context of the EBCG Regulation.

Irrespective of the legal framework under which these requests are formalized, the Agency is internally organized to respond to them: the necessary processes are in place to analyse the requested capabilities and to provide them adequately.

The Agency never had to prioritize any request related to the application of the surveillance tools, because the means at its disposal Agency were sufficient to deal with the various situations.

4.3. Data Analysis

4.3.1. *Introduction to EUROSUR and JORA Systems*

Even before the EUROSUR regulation was adopted, the Agency was operating two systems to support border surveillance. One of them became the EUROSUR system as defined in the EUROSUR Regulation. The other one, Joint Operations Risk Analysis (JORA) was developed to support Joint Border Operations and continues to exist both in the framework of EUROSUR and of the EBCG Regulation.

These two systems have been deployed and maintained by two separate units in the Agency and they do not share the same user interface. Both JORA and EUROSUR stations can be found in the NCCs. The governance of the systems is different: user access to EUROSUR is managed by NCCs while user access to JORA is Agency's responsibility. De facto JORA has more user accounts in Member States that EUROSUR. Still, they both contribute to the information exchange and cooperation between the Agency and the Member States, to the establishment of the ESP and to the dissemination of EFS.

The ongoing convergence between the two systems will be described in 4.3.2.

It has been decided to analyse the data of the two systems in parallel as both are contributing to the EUROSUR framework.

4.3.2. *Convergence between JORA and EUROSUR*

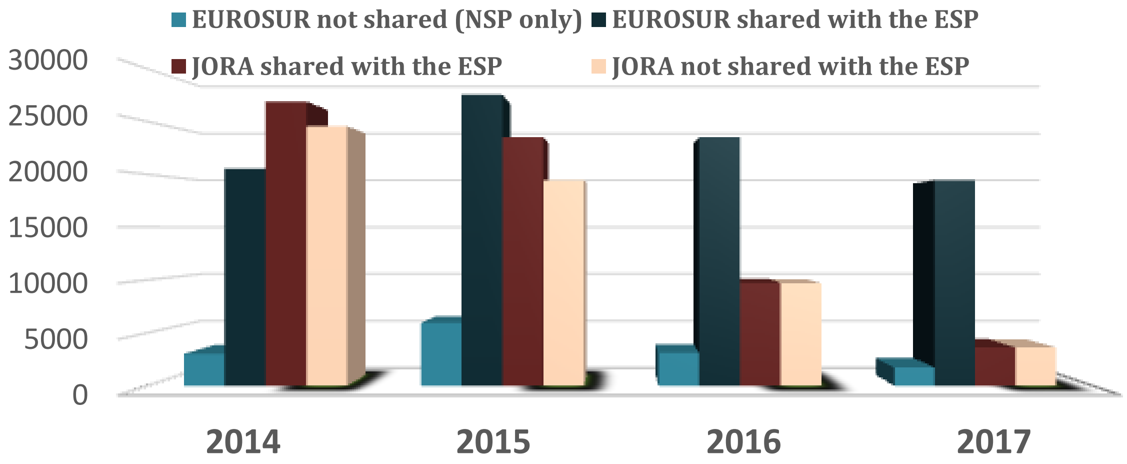


Figure 4: Evolution in event reporting between JORA and EUROROSUR over time

Since the entry in operation of the Node Integration Interface System (NIIS) in 2016, which allowed automatic exchange of information between JORA and EUROSUR (when allowed by the user entering the data) a much better data convergence between the two systems has been achieved.

Technology solution such as NIIS to allow automated information exchange across multiple systems and networks with multiple levels of confidentiality while implementing tailored data policies should be systematically deployed in the framework of EUROSUR to foster information exchange.

4.3.3. *Number and type of incidents reported*

More than 140000 border events have been reported in the ESP since EUROSUR has become operational.

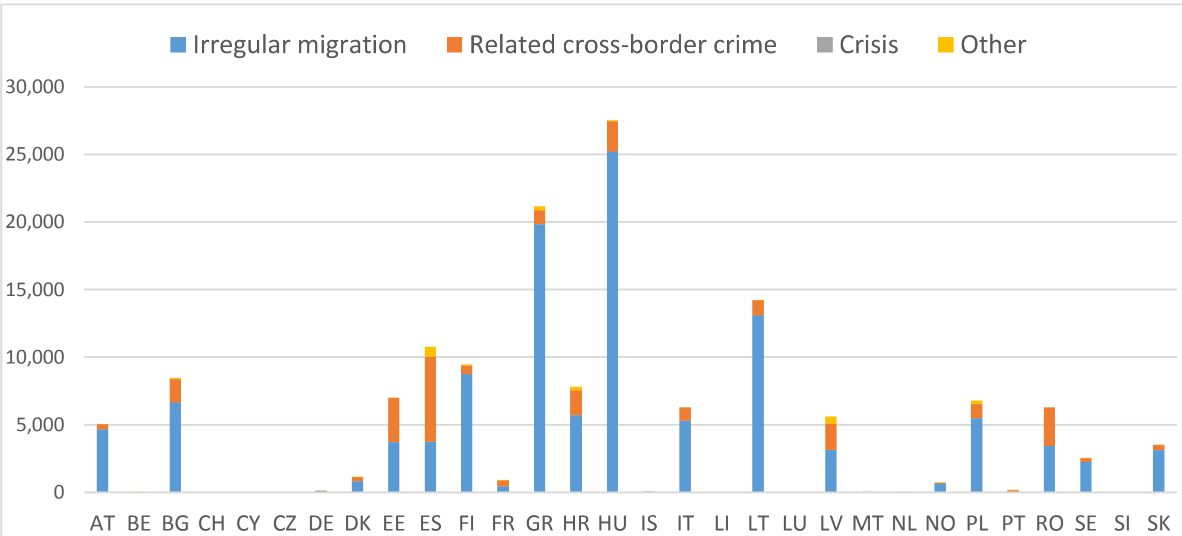


Figure 5: Numbers and type of events shared in ECN (2013-2017)

The majority of incidents reported in EUROSUR are related to irregular migration. As there is no specific indicator, it is not possible to link them to SAR and to establish specific statistics.

The analysis of the reports on border events in EUROSUR and JORA (see graph above) shows heterogeneity in the reporting of EUROSUR data. When analysing this data the exposure of Member States at external border (see Figure 2 page14) and the fact that land border incidents are more numerous than sea border ones have been taken into account. Overall, there is a significant variety in the reporting by Member States both on the nature and on the type of incidents.

The attempts by the Agency to establish data dictionaries and complex interactive interfaces did not improve the situation and data reported in situational pictures remain quite heterogeneous.

4.3.4. *Time to report on Border events*

The EUROSUR Regulation mentions "timely" information but does not set any legal obligation on the deadline to reporting an event. The Regulation does not indicate that the reliability of the information could be linked to the delay of reporting. For instance, in an emergency situation it is often more important to report information rapidly than to wait for validating this information even though for post crisis analysis validation of the information is necessary. This was debated among Member States' experts on various occasions within the EUROSUR expert group meetings.

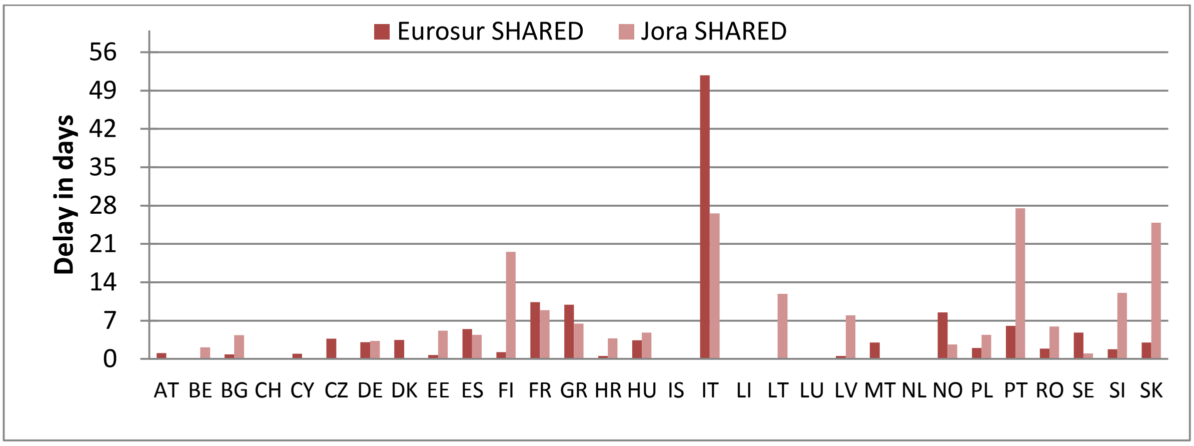


Figure 6 Average time to report a validated incident in the ESP

The analysis of EUROSUR and JORA validated data shows a very strong heterogeneity across Member States in the time delays of reporting. The reporting in JORA is often faster as it is linked to Agency's Joint Operations.

However, this average time need to be considered when broken down in detail as most of the events are reported very rapidly as shown in the figure below.

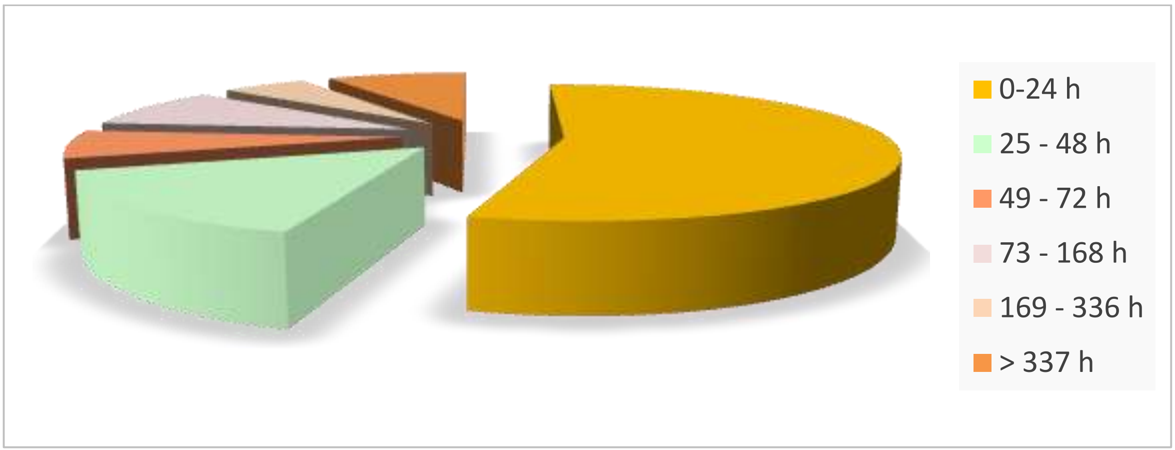


Figure 7: Repartition of delays in event reporting (including non-validated)

4.4. Implementation by the Commission

4.4.1. *The EUROSUR Handbook*

In line with article 21 of the EUROSUR Regulation, the Commission has published in 2015 a EUROSUR Handbook[64] containing technical and operational guidelines, recommendations and best practices, including on cooperation with third countries.

4.4.2. *Notification on Third Country Cooperation*

Member States have not notified the Commission of any agreement in line with Article 20(2) of the EUROSUR Regulation.

However, as part of the evaluation of EUROSUR, Member States have reported about ongoing agreements with third States which are presented in the "overview of cooperation with neighbouring third countries (see 4.1.4)". Upon request by the Commission, they also provided a copy of specific agreement, to support the evaluation by the Fundamental Rights Agency (see **3.1.**).

When discussed in the EUROSUR expert group, the absence of notification found three main justifications:

1. Most of the agreements where already in place when EUROSUR entered into force
2. Often the agreements do not have as a main subject the specific matters of EUROSUR and Member States experts considered that they do not belong to the scope of article 20 (2) of the Regulation
3. The EUROSUR Regulation remains very vague about the mechanism and the delays and the process of verification by the Commission referred to in Article

[64] Commission Recommendation of 15.12.2015 adopting the Practical handbook for implementing and managing the European Border Surveillance System (EUROSUR Handbook).

20. This creates for a Member State negotiating an agreement an uncertainty on the possible signature of the agreements while negotiations are ongoing.

In line with the above, the mechanism for cooperation with third countries needs to be improved. (See also Cooperation with neighbouring third Countries 4.1.4 and 5.2.1).

4.4.3. *Implementation of the EU financial instruments to support Member States' implementation of EUROSUR*

Both External Borders Fund (EBF) covering the period 2007-2013 and the current Internal Security Fund (ISF)/ Borders and Visa have been used to support the implementation of EUROSUR by Member States.

EBF and the ISF Border and Visa have already undergone their evaluations..

Different legal bases

The legal bases of the two funds (EBF and ISF/B) have been drafted differently as compared to the EUROSUR Regulation. These funding instruments do not focus on EUROSUR only. Even though financing EUROSUR was identified as an important priority in both of them, they still have a much broader scope. Thus, it was impossible for them to follow the structure of the EUROSUR Regulation and consequently the actions directly linked to its implementation. For example, they allowed for mixing tasks referring directly to the implementation of EUROSUR Regulation (e.g. the establishment of the NCC) with other much broader tasks related to border surveillance at large (e.g. purchasing equipment for border surveillance that would serve the purposes of EUROSUR).

Their timeline in terms of drafting, negotiating and adoption was different from that of the EUROSUR Regulation. The fact that these were not aligned and coordinated explains to a great extent the impossibility of tracking down reliable information on the precise amounts spent on the implementation of EUROSUR perceived in a strict sense.

The Commission performed a financial analysis of the use of the EBF and the ISF/B as regards their support to the implementation of EUROSUR.

Shared Management

Under EBF Shared management, Member States invested approximately 55 Million euros in projects directly linked to the implementation of EUROSUR and another 193 Million euros on projects under border surveillance in broader terms including the purchase of surveillance systems and patrolling equipment.

The ISF/Borders under shared management similarly encouraged the Member States to invest in the further development of EUROSUR by identifying a precise dedicated National Objective and providing for a minimum threshold of 10% of their national allocations to be used for that national objective. Those Member States which decided to deviate from this minimum had to justify their choice. Most of the Member States complied with the requirement of earmarking at least 10% for EUROSUR related actions even if in most case the link to the concrete implementation of EUROSUR Regulation was quite distant.

Direct Management

In the EBF via the so-called Community actions Member States received a higher EU co-financing rate of 90% for projects involving more than one MS and meant to develop regional cooperation and exchange of information including the possibility to connect with third countries.

In 2012-2013 eight EUROSUR related projects were approved under Community actions. Most of them concerned the exchange of the neighbouring sections of the NSP and one financed the connection of the NCCs of the Member States concerned to the Seahorse Mediterranean.

The added value of most of these projects is still to be evaluated as some of them are still on-going often due to an extended implementation deadline. Some of them can already be considered a success because a follow up/ continuation have been approved under the ISF/B Union actions.

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

5.1. Relevance

5.1.1. *Assessment of the continuing validity of the EUROSUR as an instrument to detect prevent and combat illegal immigration and combat cross border crime*

To what extent is EUROSUR relevant to prevent illegal immigration and cross border crime?

	Answers	Ratio
Highly relevant	5	19%
Relevant	10	37%
Relevant to a limited extent	9	33%
Not relevant	3	11%

Figure 8 Question 1 EUROSUR Questionnaire to Member States experts

A majority of Member States and the Agency consider that EUROSUR is relevant to prevent illegal immigration and fight cross border crime. Many examples were reported of cases where the information exchanged with the Agency and between Member States in the context of EUROSUR allowed stopping smuggling of drugs, weapons, cigarettes and other illicit goods and also of human beings and to apprehend smugglers which were then brought to court.

Since the adoption of the EUROSUR Regulation, the major evolution having a strong impact on the border surveillance and management policy area was the migrant-crisis, in particular the use of the Western Balkan Route in 2015 and 2016, and the increase of the terrorist threat with a number of attacks in Europe. These both reinforce the need to have a stronger and wider border management framework for cooperation between the Member States and the Agency.

5.1.2. *Assessment of the continuing validity of EUROSUR as an instrument contributing to ensuring the protection and saving the lives of migrants*

To what extent is EUROSUR relevant to protect and save the life of migrants?

	Answers	Ratio
Highy relevant	3	11%
Relevant	7	26%
Relevant to a limited extent	12	44%
Not relevant	5	19%

Figure 9: Question 2 EUROSUR Questionnaire to Member States experts

According to Member States' experts, EUROSUR is not the main system in use for saving migrants' lives at sea. Search and rescue (SAR) is organised by International Maritime Organisation under the umbrella of Maritime Rescue Coordination Centre and SAR regions. Other surveillance frameworks and systems are being used for this purpose. This can be considered quite natural taking into account that SAR is a primary competence of the Member States.

However, all Member States agree that EUROSUR has improved the knowledge of the different modus operandi concerning the traffic of migrants.

In its report on the evaluation of EUROSUR, FRA stresses that although it is difficult to assess the degree to which EUROSUR has helped saving lives at sea, in at least four cases the common application of surveillance tools by the Agency has directly led to search and rescue operations. On 17 September 2014, an object was detected on a radar image south of Spain leading to the rescue of 38 people. On 6 October 2015, 10 objects were detected on a radar image in the Mediterranean. The information was forwarded to EUNAVFOR MED who discovered three rubber boats, saving 350 people. On 5 September 2016, the analysis of radar images detected an object between Spain and Morocco allowing to save 35 people. On 24 June 2017, 73 people were rescued and brought to safety in Motril, Spain, after being spotted by Frontex' vessel detection service. FRA also mentions the important contribution of the EFS for "the maritime simulation which allows national rescue authorities to target the search, saving important time, leading to a swifter rescue operation".

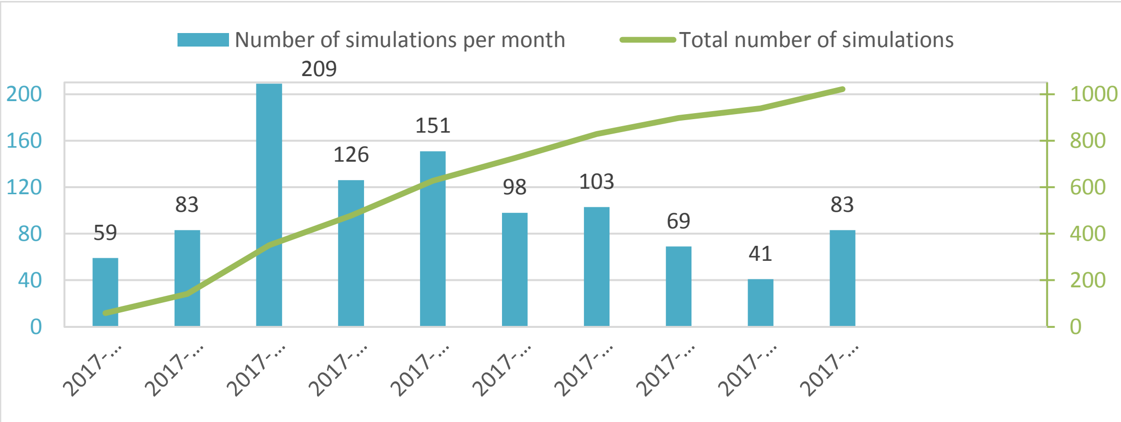


Figure 10: Maritime simulation usage, 1 January – 31 October 2017 source ECBGA

5.2. Effectiveness

5.2.1. *Situational awareness, information exchange and interagency cooperation*

To what extent has EUROSUR contributed to improving situational awareness and information exchange in your country?

	Answers	Ratio
To a significant extent	5	19%
To some extent	10	37%
Marginally	10	37%
Did not contribute	2	7%

To what extent has EUROSUR contributed to improving interagency cooperation in your country?

	Answers	Ratio
To a significant extent	2	7%

To some extent	11	41%
Marginally	9	33%
Did not contribute	5	19%

To what extent has EUROSUR contributed to improving situational awareness and information exchange with other Member States?

	Answers	Ratio
To a significant extent	8	30%
To some extent	13	48%
Marginally	4	15%
Did not contribute	2	7%

To what extent has EUROSUR contributed to improving situational awareness and information exchange with the Agency?

	Answers	Ratio
To a significant extent	9	33%
To some extent	13	48%
Marginally	1	4%
Did not contribute	4	15%

To what extent has EUROSUR contributed to improve situational awareness and information exchange with Third Countries?

	Answers	Ratio
To a significant extent	2	7%
To some extent	5	19%
Marginally	9	33%
Did not contribute	11	41%

Figure 11: Questions 3 EUROSUR Questionnaire to Member States experts

Member States' experts consider that overall EUROSUR has positively contributed to information exchange and interagency cooperation.

Member States were performing border operations at national level before EUROSUR was established, but although not decisive, the implementation of EUROSUR has contributed to improving exchange of information and did contribute to further harmonizing the various national practices.

For those Member States for which several agencies are involved in border management the establishment of the National Coordination Centre has had a positive impact on inter agency coordination.

Article 20 of the EUROSUR Regulation could be considered as quite restrictive as regards the exchange of information and of situational awareness with third countries, which takes place at the level of regional networks or bilateral agreements via the exchange of liaison officers or the participation in regional networks (see 4.1.4 page 20). One of the main limitations is that the EFS cannot be exchanged with third States.

However, the EUROSUR implementation (NCC, establishment of NSPs) is inspiring neighbouring Third States to take up similar initiatives by copying and following the structures defined by the EUROSUR Regulation.

5.2.2. *Reaction Capabilities*

Reaction capabilities should not be understood only in the context of chapter III of the EUROSUR Regulation, which has been analysed in 4.1.3 and 4.2.4. but in line with the definition : a wider scope encompassing all measures that Member States have put in place based upon exchange of information and cooperation in the context of EUROSUR

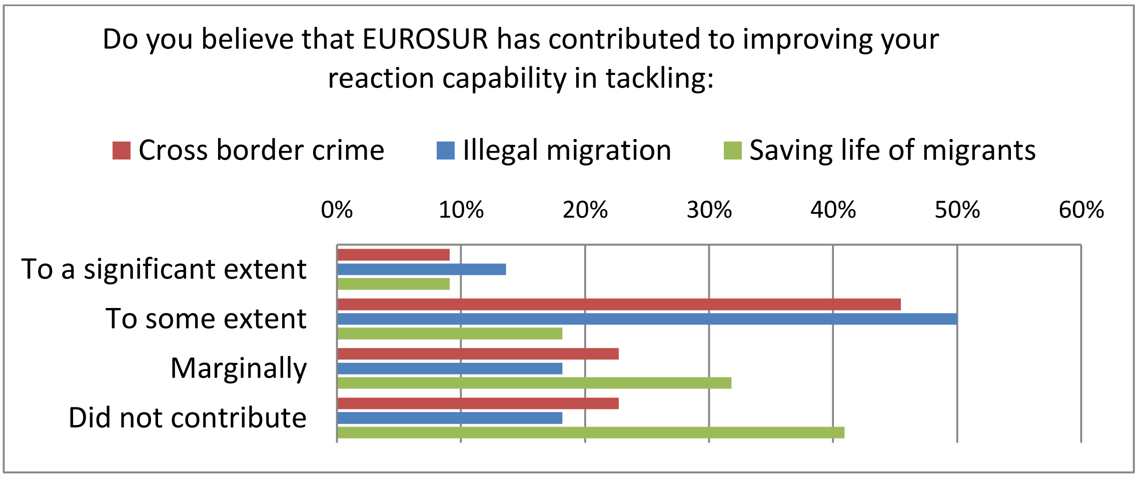


Figure 12: Questions 4 EUROSUR Questionnaire to Member States experts

Member States' experts consider that EUROSUR did contribute to improving their reaction capabilities to tackle cross border crime and illegal migration. The relatively low score related to saving life of migrants is linked to the MRCC function and SAR rules under IMO as explained in 5.1.2.

Many examples were given both by Member States and the Agency to detail the type of reactions and adjustments in the border management organization of the Member States which were generated by EUROSUR (see below).

Croatian police created a new specialized unit to deal with migration crisis and flows. NCC Croatia collects and disseminates information in real time regarding border police in Croatia. Information about illegal migration and cross border crime coupled with information about available assets and personnel increases situational awareness and reaction capability significantly. (Croatia)   *The capability to establish communications including video conference, between the National Command and Control Centre that operates the National Surveillance System (SIVICC), the MRCC (Navy-Maritime Authority) and the Air Command (Air Force), become possible. This step increased the capability to react to eventual crises situations in a very significant way (Portugal)*   *International cargo trains crossing Switzerland may have illegal migrants onboard. We have profited from information on these trains from our partner NCCs to save migrants from hypothermia and serious injuries on these trains. (Switzerland)*

Table 2 Examples showing EUROSUR contribution to improving reaction capabilities in Member States

5.3. Coherence with other EU policies

5.3.1. *Coherence with ECBG regulation and with the latest developments of IBM*

As explained in 1.3, the adoption of the ECBG regulation sets a new ground for information exchange and cooperation both because of the further definition of the EU IBM and because of the new mandate given to the Agency.

5.3.1.1. *New competences for ECBGA*

The ECBG Regulation describes new roles for the Agency which benefit or impact EUROSUR. The ECBG Regulation sets out the European integrated border management as a shared responsibility of the Agency and of the national authorities responsible for border management, however, Member States retain primary responsibility for the management of their sections of the external borders.

The information provided by EUROSUR is the basis to initiate proposals by the Agency to initiate **joint operations** and rapid border interventions at the external borders defined in article 15 which the Agency will also plan and launch[65].

Should information exchange and cooperation for both national and joint operations for borders control be covered by EUROSUR?

	Answers	Ratio
Yes	14	52%
No	6	22%
Not Appreciated	7	26%

Figure 13: Questions 5.1 EUROSUR Questionnaire to Member States experts

In line with Article 11 of the ECBG Regulation, the Agency has established a **common integrated risk analysis model (CIRAM)** to be applied by the Agency and by the Member States. The Agency prepares general risk analyses covering all aspects relevant to the European integrated border management with a view to developing a pre-warning mechanism. Member States 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 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 including information from the analysis layer of the national situational picture of EUROSUR. However, some features of the risk management model used by the Agency differ from EUROSUR and coherence with CIRAM should be sought.

Should EUROSUR be aligned with the Common Integrated Risk Analysis Model and the Vulnerability Assessment of FRONTEX?

65 Article 16 and Article 17 of ECBG Regulation.

	Answers	Ratio
Completely	14	52%
Partially	11	41%
Not aligned	2	7%

Figure 14: Questions 5.2 EUROSUR Questionnaire to Member States experts

The ECBG Regulation foresees **the deployment of liaison officers in Member States** acting on behalf of the Agency to foster cooperation and dialogue between the Agency and the national authorities, which are responsible for border management and return. Among their various tasks described in Article 12 of the ECBG Regulation, the liaison officers monitor the measures taken by the Member States at border sections to which a high impact level has been attributed and thus receive information from the national coordination centre and the national situational picture. <u>The role of Frontex Liaison Officers should be reflected in the EUROSUR Regulation.</u>

Article 54 of the ECBG Regulation defines the cooperation of the Agency with **third Countries** within the framework of the external relations policy of the Union with a possibility to coordinate operational cooperation between Member States and third countries with respect to management of the external borders, including the deployment of teams through the signing of a status agreement, if necessary. This article also provides for the presence of observers from third countries to participate in the activities of the Agency at the external borders. Finally, Article 55 of the ECBG Regulation provides for the deployment of liaison officers from the Agency to third countries.

To what extent the relationship with third countries (including Article 20 of EUROSUR Regulation) is coherent with the new mandate of the Agency following the adoption of the EBCG Regulation (in particular with Article 54 and Article 55 thereof)?

	Answers	Ratio
Coherent	13	48%
Coherent to a limited extent	9	33%
Not coherent	5	19%

5.3.1.2. *Integrated Border Management (IBM)*

Article 4 of the ECBG Regulation defines eleven strategic components of the EU IBM.

EUROSUR is specifically mentioned as one of the information exchange tools contributing to interagency cooperation among the national authorities in each Member State that are responsible for border control or for other tasks carried out at the border and among the relevant Union institutions, bodies, offices and agencies.

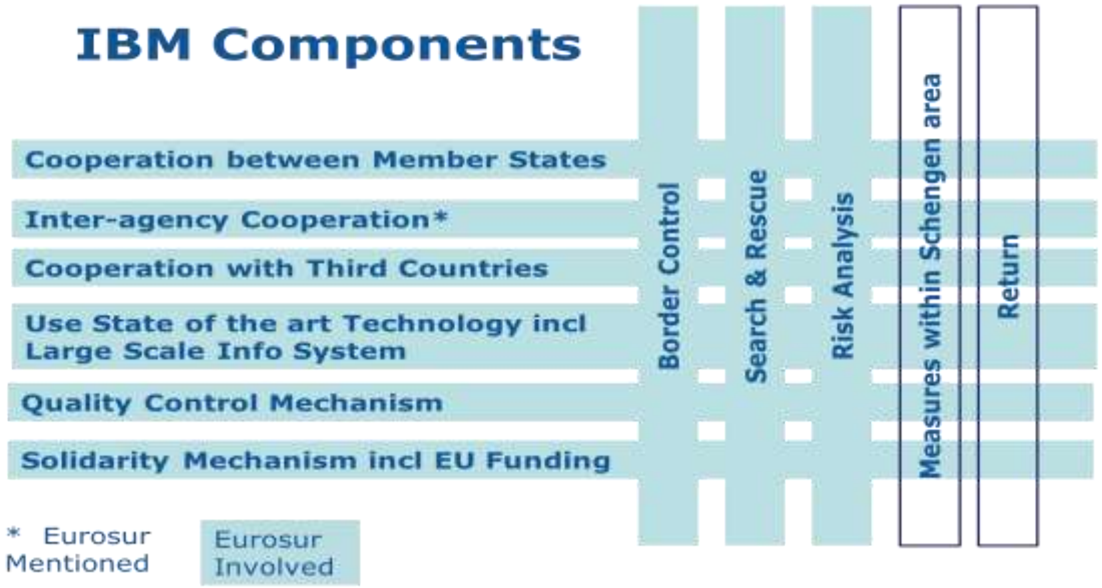


Figure 15 Schematic description of the IBM components as defines in article 4 of ECBG Regulation and the links to EUROSUR

It is therefore necessary to link the evolution of EUROSUR to the further development of the EU IBM induced by the ECBG Regulation.

This need has been identified by the Member States as well as the majority of the Member States' experts would like to extend the scope of EUROSUR to systematically cover other aspects of the EU IBM.

To what extent the extension of the scope of the Regulation to covering other aspects of the Integrated Border Management (IBM) would bring added value?

	Answers	Ratio
Very significant added value	7	26%
Significant added value	15	56%
No added value	5	19%

Figure 16: Question 12 EUROSUR Questionnaire to Member States experts

None of the above is foreseen in the EUROSUR Regulation which only details the cooperation between Member States and neighbouring third countries. The EUROSUR Regulation should be amended to reflect the possibilities offered by the ECBG regulation and best support it.

5.3.2. *Positive/negative spill-overs onto other policy areas*

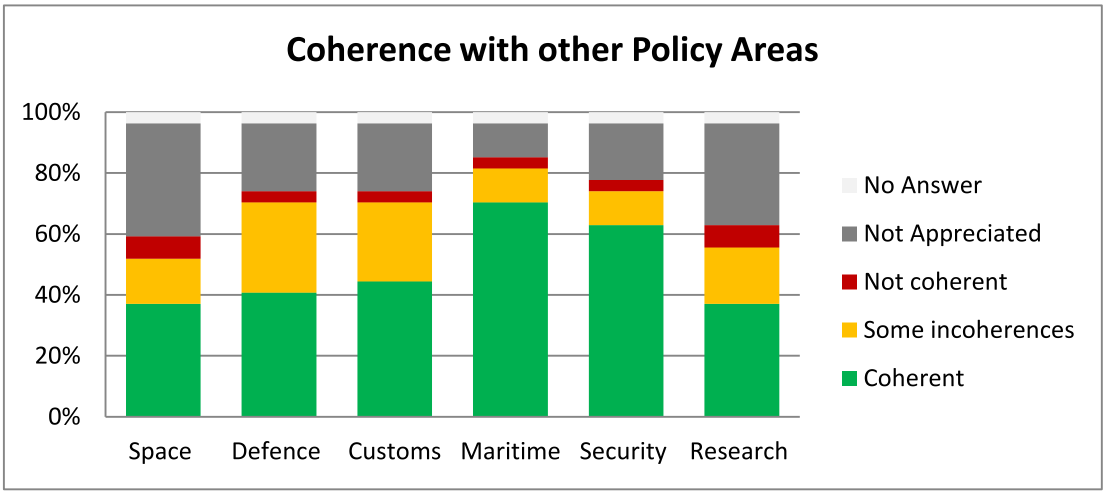


Figure 17: Question 6 EUROSUR Questionnaire to Member States experts

EUROSUR has positive impacts on several policy areas:

Operational cooperation in the areas of Customs, Maritime, Security, and Defence

As detailed in 4.1.1, at national level the establishment of the NCC has been instrumental to foster interagency cooperation with the Customs and other maritime agencies involved in coast functions including the MRCC and with other military organizations involved in public order, defence and maritime affairs as well as with police forces and other law enforcement agencies involved in security.

The same applies at EU level: EUROSUR has triggered cooperation with the other EU agencies with tasks at the maritime domain (EMSA and EFCA), which is now developing around the coast guard functions.

The cooperation with EU SATCEN became permanent: six analysts of this CSDP Agency are now working full time in support of the EBCGA and of the border management community at national level.

EUROSUR and the European Space Policy

EUROSUR benefits and contributes to the European Space Policy through the Copernicus programme: one of the Copernicus Security services is dedicated to border surveillance and operated by the Agency. De facto, through the EFS, EUROSUR is benefiting from all security and some other environmental services of Copernicus. The drones and the communication and navigation systems that are operated by the Agency and by the border guards authorities in the Member States contribute to the European space "eco-system". As they become gradually operational, EUROSUR shall benefit the EU Space programmes such as Galileo or the new European initiative on Governmental Satellite Communications.

Research

EU research funds have been identified as a catalyser for the evolution of border surveillance capabilities under the framework of EUROSUR. During the last stages of the 7th Framework Programme (FP7) and the early stages of Horizon 2020, a number of projects have been initiated under different co-funding schemes with the aim of developing innovative technologies having the potential to derive into operational products with some impact on the performance of the EUROSUR components.

Projects such as PERSEUS, I2C, SEABILLA, LOBOS, SAGRES, CLOSEYE, SUNNY and TALOS, among others, have delivered results in technology areas like system integration, command and control, communications, sensors and platforms.

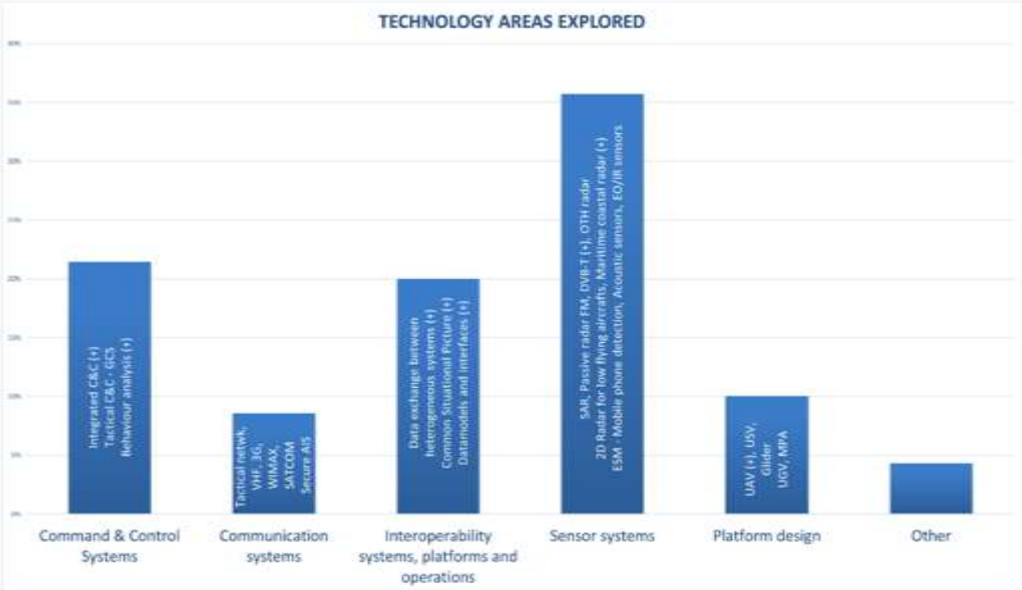


Figure 18 Repartition of the technology areas explored in the Security chapter of the Research Framework Programme

Given that the outcomes of these projects have shown different levels of technology maturity and operational relevance, many of them possess the potential to increase the effectiveness and efficiency of the EUROSUR components, from the Communications Network to the Common Application of Surveillance Tools.

Nevertheless, the road for the operationalization of research has turned out to not to be fully paved. The lack of visibility of the demand and of the offer is an obstacle both for suppliers ("If I knew what the users were demanding, I would have invested in developing") and for users ("If I knew what developers could offer to solve my problem, I would have invested in buying it"). In this sense, one of the few success stories in terms of operationalization of research outcomes has taken place as a result of the CLOSEYE project, which has derived in a joint procurement initiative (SP-PT) co-funded by the ISF/Borders for the acquisition of innovative maritime border surveillance equipment.

The new role given to the Agency in the ECBG Regulation[66] to "proactively monitor and contribute to research and innovation relevant for IBM including the use of advanced surveillance technologies" should contribute to improving this situation.

[66] Article 37.

5.4. EU added value

5.4.1. *Usefulness of a legal Framework at EU Level*

To what extent is the setting up of a legal framework at EU level, such as EUROSUR, useful as compared to a situation where Member States would set up border surveillance systems and cooperation without any EU legal framework or EU intervention?

	Answers	Ratio
Very useful	13	48%
Useful	14	52%
Not useful	0	0%

Figure 19: Question 6 EUROSUR Questionnaire to Member States experts

All Member States and Agency experts acknowledge the usefulness of a legal framework at European level to frame cooperation and information exchange.

5.4.2. *What would be the effects if the Regulation were to be withdrawn?*

When requested in the questionnaire, none of the 27 Member States' experts who replied would like to see EUROSUR withdrawn.

When requested what the consequences would be if the Regulation was to be withdrawn, they mention the loss of information exchanged between the Member States, the loss of common European situational picture and related situational awareness which would lead to the development of "blind spots".

Without such a legal framework and structured cooperation at EU level, the integrity of the Schengen area could not be sufficiently protected when challenged by phenomena like mass migration and other events, which are likely to endanger the security of the EU external borders.

As a result, the Member States' experts would have to create their own system replacing EUROSUR, which would be more costly and would have a negative impact on the harmonized approach. Negative impacts on saving migrants' lives would also be felt.

5.5. Efficiency

5.5.1. *Administrative burden*

To what extent does EUROSUR create administrative burden?

	Answers	Ratio
Significantly	7	25.926%
Marginally	18	66.667%
No administrative burden	2	7.407%

Figure 20: Question 5.2 EUROSUR Questionnaire to Member States experts

A majority of Member State and Agency experts estimate that the administrative burden generated by EUROSUR is marginal.

Member States' experts identified four main sources of administrative burden in decreasing order of importance: the manual injection of event in the EUROSUR systems, the many meeting they have to attend, the various training and the accreditation of the network.

5.5.2. *Costs of implementing EUROSUR*

EUROSUR Component	Set up by	Article(s) in the Regulation	Amount foreseen in the I.A. of 2011	Estimated amount actually spent for the implementation
NCC and NSP (including NSP exchange)	Member States		100 M€	75M€
European Communication Network	ECBGA		46.7 M€	14 M€
Establishment of FSC	ECBGA			
ESP CPIP	ECBGA			9.6M€
Third Country Cooperation	Member States			
Common Application of Surveillance Tools (EFS)	ECBGA with SATCEN EMSA EFCA Copernicus		62.1 M€	21.6M€
Total			208.8M€	130M€

Table 3: Comparison between the financial fiche of the I.A. and the assessment done by the evaluation

When comparing the estimates of the costs of implementing EUROSUR with the estimation made at the time of the Commission proposal, it appears that the amount spent for the implementation of EUROSUR is well below the budget foreseen in 2011.

The costs for implementing EUROSUR below plans, have to be assessed in light of some deficiencies related to the EUROSUR system identified above in the Regulation.

- The ECN was still not accredited in 2017; its quality of service and user interface could be improved.
- The ESP and CPIP are not sufficiently and properly fed by Member States
- The ESP does not take into account all of the massive EU investments in Copernicus.

5.5.3. *Cost vs Benefits*

To what extent did the benefits of setting up EUROSUR overweigh its costs?

	Answers	Ratio
Significantly	9	33.333%
Marginally	13	48.148%
Did Not	5	18.519%

The majority of the Member States' experts and the Agency considers that the benefits of EUROSUR overweighed its costs.

6. IMPROVING EUROSUR TO SUPPORT INTEGRATED BORDER MANAGEMENT

The evaluation has identified a few areas where technical amendments in the EUROSUR regulation could improve the functioning of EUROSUR while preserving the mechanism set by the Regulation which proved very successful.

These amendments were discussed with governmental experts as well as with research and Industry experts.

6.1. Improving the functioning of EUROSUR

A priority for improving the functioning of EUROSUR is to improve the quality of reporting and of the data exchanged (described in 4.3). In order to increase the user uptake of EUROSUR, maximize the information exchanged and the usefulness of the framework, and limit the burden on the users, some elements of the EUROSUR technical architecture should be revised.

6.1.1. *Redefining situational pictures*

The current EUROSUR regulation defines in detail three sets of situational pictures as "graphical interfaces to present near real time data and information." Such definition of situational picture do not correspond any longer to the reality of nowadays information systems.

To a large extent the display nowadays belongs the users who is used to customize it to its organizational and operational needs in view of supporting proper response.

For instance, the same situational picture should be displayed in a different way in an NCC to decide whether it should require external reinforcement to respond to a crisis or by a local border guard team, which would need to understand the tactical border situation it will have to respond.

The definition of situational pictures should be revised to describe and possibly seek to standardize the necessary information content made of events, analyses and processing and information services but should not address the display which should be left to the user.

It is therefore suggested to amend EUROSUR, and define situation picture as follows

Situational Picture : *an aggregation of geo-referenced near-real-time data and information received from different authorities, sensors, platforms and other sources, which is transmitted across secured communication and information channels and can be processed and selectively displayed and shared with relevant authorities in order to achieve situational awareness and support the reaction capability along the external borders and the pre-frontier area.*

6.1.2. *Defining EUROSUR data policies*

The EUROSUR Regulation should better define the roles and responsibilities of the various actors with a view to improve information exchange and build trust among the stakeholders.

The reporting of events and other relevant information and the delivery of information services in EUROSUR should be clarified, in particular in defining which are the responsible entities as well as who has the ownership of information and what is the time-frame to report incidents

The situational picture should be shared among different users depending of and agreed data policy both at national and European level. Such data policies should be exchanged and their compatibilities should be checked and adjusted using the quality control mechanisms of IBM. (The same principles could apply to exchange of information with Third Countries see 6.4)

Mechanisms should be established in the Regulation to define proper standards and to control and enforce the quality of the information exchanged.

Such role should be given to the Agency in line with the new mandates of the EBCG Regulation.

6.1.3. *Recourse to implementing acts and creation of a Committee supported by the Agency*

The attempts to standardize the way information is reported through the trainings provided by the Agency or via the Commission handbook were useful but not sufficient to allow for an homogeneous and systematic implementation by the users.

On the other hand, Member States properly implemented the technical provisions set in the Regulation on the information layers and sublayers as they were legally binding and regularly evaluated . The drawback was that we could not update them more quickly than the Regulation itself.

The EUROSUR Regulation should be amended to allow for the adoption of implementing acts on the relevant technical parts of the Regulation to keep both the binding character and the necessary flexibility.

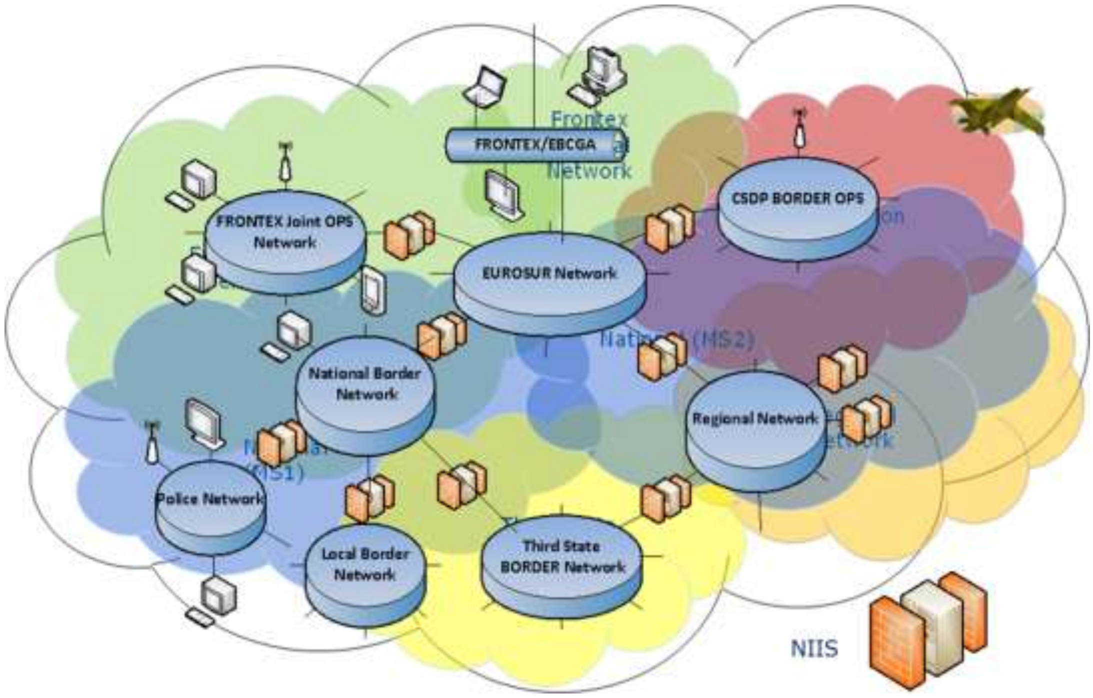
This would require the setup of a Committee. Such setting should not conflict nor contradict the mandate of the European Border and Coast Guard Agency but benefit its technical and operational expertise: The Agency could assist the Commission by preparing the relevant procedures, standards, and definition for event reporting which Committee could discuss and vote.

6.1.4. *Automating data exchange*

In the current situation, except for few member States that are using the EUROSUR system to host their national situational picture, injecting the events and data from the National Situational Picture into the European Situational Picture requires a human intervention by the NCC operator in the EUROSUR Node.

The quality of services of the ECN and the lack of ergonomic of the EUROSUR system makes such a task extremely difficult and is a source of delays when the number of events increases.

To allow for an efficient reporting between the national and the European level but also to allow information exchange with Third Countries, the deployment of automatic nodes (the NIIS), which has been successfully implemented between JORA and EUROSUR System, should be generalized within EUROSUR.



Such NIIS should allow to implement data policies on both sides of the interfaced systems and should guarantee of level of information security which is commensurate with the highest level of classification on any side.

The massive deployment of such NIIS will require a close coordination with the national accreditation authorities in the Member States and with the industry.

But as explained during the industry workshop the NIIS technology is already well mastered by European industries and can be accredited by Member States Security Agencies.

6.1.5. *Information security*

The growing dependence on the information exchanged in EUROSUR could increase with further interconnection of the national networks.

The cybersecurity threats are constantly evolving and are now more and more affordable to criminal and terrorist networks.

EUROSUR should ensure an adequate and homogeneous response to cyber threats at both EU and national levels.

6.2. Improving reaction capabilities

6.2.1. *Synergies with Risk and Vulnerability assessment*

As referred to in the definition of Border Sections and Impact levels more synergies and consistency with the EBCG Regulation and with the agreed standards of CIRAM should contribute to improving the EU reaction capability.

According to CIRAM, a *vulnerability is a capacity to mitigate a given threat*. Vulnerability Assessment looks at vulnerabilities in each Member States with a yearly cycle, with the objective to ensure the implementation of proper mitigation measures by the Member States concerned.

EUROSUR addresses impact levels, which are defined in CIRAM *as the effect of a threat on the internal security and on the security of external borders*. The threats are identified in the situational pictures and should trigger a much closer to real time reaction including by the Agency

Even if their objectives slightly differ, EUROSUR and Vulnerability Assessment process belong to a global and continuous framework to improve the response at external borders and define conditions, respectively in short and long terms, for deploying the relevant capabilities and response mechanism.

The Agency shall seek to establish synergies between the tools used for EUROSUR situational pictures, risk analysis and vulnerability assessments staring with the use of common measurement of the border section.

Add a new "critical" impact level to EUROSUR

In order to align EUROSUR with EBCG EUROSUR should comprise a new" impact level called "critical impact level "in addition to the three impact levels currently foreseen in the EUROSUR Regulation (article 15).

Critical impact level would correspond to a situation where the incidents related to illegal immigration or cross-border crime occurring at the relevant border section have a decisive impact on border security to such extend that it risks jeopardising the functioning of the Schengen Area.

Such impact level would ensure consistency with Article 19 of EBCG Regulation, which would be activated only when a Member State is confronted to a critical impact level and does not react accordingly.

Align Border Sections

The Border Sections defined in article 14 of EUROSUR shall be consistent with the border sections used for vulnerability assessment. The size of the border section in EUROSUR can be smaller than in Vulnerability Assessment to better adapt operational response, but EUROSUR border sections should always be the subset of the border sections used in Vulnerability Assessment to allow re-use the risk analysis products.

Consistency with funding allocation mechanism

The same synergies shall also be sought with the EUROSUR standards of border sections and impact level shall also be used by the mechanism allocating the national fund under shared management for the related financial instruments or for the allocating of emergency assistance.

6.2.2. *Full integration of border operations*

Border operations correspond to all operational activity related to border control ranging from the simple border check or border patrol up to Joint Border Operation coordinated by the Agency involving several Member States.

Border operation can also take place at national level coordinated by the NCC, in the context of bi and multilateral cooperation or within regional networks as described in

4.1.4. They can involve third States participants or take place in third Countries, which is now also possible for the Agency since the entry into force of the EBCG Regulation.

The integration of border operation as an explicit element of EUROSUR reaction capability should be considered.

The fact that the Agency has first developed a separate information system to support its operations demonstrates that border operation have their own inherent logic. But the necessity to merge all information systems also illustrated the strategic need to better integrate border operations as an element of a continuous response in the area of border security.

EUROSUR should foster standardization across the various types of border operations both at national level, at multinational level for instance when conducted in the framework of regional cooperation networks and for joint border control operations managed by the Agency. EUROSUR shall connect all the information systems that are used for Command and Control of border operations at national multinational and EU level into a coherent framework used at strategic operative and tactical level.

6.2.3. *Towards Integrated Planning*

EUROSUR should enhance and clarify the role of the national coordination centres (NCCs) in facilitating effective use of national capabilities in the framework of Border Operations.

EUROSUR should seek to harmonize the planning process of border management operations leading to the systematic adoptions of standardized operational plans such as the one described in article 16 of the EBCG Regulation.

The possible intervention of the Agency or of neighbouring Member States Border Guards should be prepared via contingency plans systematically established at the level of the NCC and assessed by the Agency as part of the Vulnerability Assessment process.

Finally, the Agency with the Member States shall define an Integrated Capability Development plan for Integrated Border Management to ensure the long term response of the EU at its external Border. Such Capability Development plan should address issues such as development of concepts and doctrine, training and education of border personnel, standards, joint acquisition of border equipment, research and innovation at EU and national levels.

6.3. Enlarging the scope of EUROSUR

Based upon the lessons learned and the success of EUROSUR as a legal framework for information exchange and cooperation between the Member States and the Agency, the scope of the Regulation could be progressively enlarged to address several aspects of border management.

Such enlargement should also take advantage of the suggestion proposed above to improve the functioning of EUROSUR.

6.3.1. *Systematic Inclusion of the Border Crossing Points*

As foreseen in Article 2.2 of the EUROSUR Regulation, information related to the checks at border crossing points and to the surveillance of air borders is provided by a considerable number of Member States on a voluntary basis. But in the current situation many incidents happening at those borders may "escape" the European situational picture.

This situation seems to contradict the principle of EUROSUR to share an exhaustive situational picture of EU external borders.

It is therefore logical to include incidents at border crossing points on a systematic basis.

Inclusion of BCP could also have a major impact on protecting and saving migrants' lives at land borders. A very dangerous evolution in the smuggling of human being is being observed: bulk and refrigerated trailers, sealed containers, but also migrants hiding in vehicles, which are increasingly challenging migrants' lives.

Such reporting could consist both in events which severity would require a timely reporting at national and European level and statistical information to capture the trends of events, which should not reported.

However as exposed in 6.1.3 the precise modalities of the event and statistics to be reported should not be set in the amended EUROSUR Regulation but should rather be a subject for further implementing legislation.

In view of preparing Implementing acts on the systematic inclusion of BCP in EUROSUR the Commission with the technical and operation support if the Agency shall on to assess both financial and organizational impacts of such inclusion. Particular attention should be paid on interagency cooperation at national level: in some Member States which already report on border checks the impact would be minimal, but the implementation of border checks in EUROSUR could lead in other Member States to new type of interagency cooperation and would also affect the role and functions of the NCCs. This should also be assed in view of the programming of EU supporting instruments.

As described in 0 technical solutions shall be considered to limit administrative burden by using state of the art technology to automate the reporting at national level but also between the national and European level.

6.3.2. *Systematic inclusion of Air Border Surveillance*

Besides the issues of the airports, which are BCPs addressed above, the question of the surveillance of Air Borders deserves specific attention.

Cross border criminal activities are being reported using small private aircraft. Some Member States are testing new types of cooperation with civil aviation authorities and Air Force in order to track suspicious flights and alert relevant authorities on the ground. Given the very nature of Air Traffic Management in Europe a response to Air Border Surveillance incidents can only be given through a well-coordinated close to real time information exchange across the various border guarding authorities in Europe with the support of relevant European Agencies such as EUROPOL or EASA.

The other criminal trend related to Air Border Surveillance is the development of Remotely Piloted Aircraft Systems, which are increasingly used for smuggling activities. Theses drones are affordable and widely available on the commercial market. They are almost undetectable. They can inform criminal networks on the presence of border guards and other law enforcement authorities over given areas of interest for smuggling. They are also increasingly being used to convey illicit cargo very rapidly over inaccessible areas.

Both technical and organisational solutions should be addressed in a further development of the EUROSUR Framework to maximize the capacities to detect and respond these new criminal threats.

It is therefore proposed to give specific tasks to the NCC to address systematically the Air Border Surveillance and as part of interagency cooperation establish the relevant links with civil and military authorities in charge of Air Border Surveillance and Air Traffic Management.

At EU level the Agency shall establish working relations with the relevant third parties and in particular EUROCONTROL and EASA.

6.3.3. *Reporting on Secondary Movements in EUROSUR*

Article 4 of the European Border and Coast Guard Regulation identifies secondary Movement as one of the eleven components of Integrated Border Management.

When requested if reporting on secondary movement should be covered by EUROSUR , more than 90% of the national experts in the questionnaire suggested to include it, it was therefore decided this specific aspect in the Expert Group.

Experts concluded that secondary movements should be reported in EUROSUR: such reporting is indispensable for Member States to serve both policy, strategic and tactical needs and in particular to plan border/police operations.

The inclusion of secondary movements in EUROSUR would also have a positive impact on the protection and saving the lives of migrants in distress, which would be better detected and protected when travelling in very dangerous conditions.

The reporting on secondary movements should not replicate but benefit existing mechanisms such as the Frontex Risk Analysis Network (FRAN) and the Common Integrated Risk Analysis Model (CIRAM) in the framework of EUROSUR.

The reporting on secondary movements should take place both at National Level in the National Situational Picture via the NCC and at EU level via the Agency in the European Situational Picture.

A majority of Member States experts would prefer such reporting on secondary movements to be systematic/obligatory to ensure exhaustivity. Such systematic/obligatory reporting on secondary movements should not be close to real time as it is the case for event at external borders but should start from the monthly reporting of FRAN and evolve towards more reactive reporting.

And as described in 0 , automatic means of reporting on secondary movements shall be tested to limit administrative burden on Member States.

6.3.4. *Developing new EUROSUR Fusion Services and cooperation with third Parties.*

The EUROSUR Fusion Services are a success both in terms of information services generated that meet a big community of users across national agencies involves in border guarding but also because it is a concrete deliverable of strong interagency cooperation at EU level.

If the scope of EUROSUR is expanded as described above, the Agency should seek to establish the same type of cooperation with relevant EU agencies as it already did with EMSA and EFCA on coast guard functions with a view to develop new EUROSUR Fusion services, which would support Member States national activities in these areas.

For instance, without exchanging personal data statistical and big data analysis of the large scale IT databases managed by EU LISA such as SIS VIS EEAS could offer new EFS to support of the systematic inclusion of Border Crossing Points in EUROSUR.

Closer cooperation with EUROPOL could also results in new EFS related

- to big data exploitation of EUROPOL databases,
- to the ongoing activities by EUROPOL to investigate social Medias and dark web where smuggling and other cross border crime activities are being advertised,
- or to ongoing activities of EUROPOL to investigate smuggler networks.

Finally, closer cooperation with relevant EU agencies could lead to EFS related to Air Borders.

6.4. Improving the Relationship to Third Countries in EUROSUR

Managing external borders is a common endeavour with EU neighbours. We need more long term, tailor-made and stable partnerships with them.

EUROSUR as a framework for information exchange and cooperation already addresses cooperation with third Countries. But this aspect of the current regulation should undergo some technical modification to ensure better coherence with other EU instruments and allow more efficiency in our relationship with third States.

6.4.1. *Ensuring coherence with the EBCG Regulation*

Many new measures are developed under the new mandate of the European Border and Coast Guard [67]such as the deployment of liaison officers on migration to non-EU countries, negotiations on status agreements with third countries that neighbour the EU, strengthening the Agency’s capacity in the area of return, and implementing capacity-building projects in African countries, the Western Balkans and Turkey.

[67] Article 54 of the EBCG Regulation.

The Agency is now managing the following four regional intelligence-sharing communities similar to FRAN with non-EU countries: the Western Balkans Risk Analysis Network (WB-RAN), Eastern European Borders Risk Analysis Network (EB-RAN), Turkey-Frontex Risk Analysis Network (TU-RAN) and Africa-Frontex Intelligence Community (AFIC).regional analysis networks in the Western Balkans (WB RAN),

All these changes need to be reflected in the EUROSUR regulation to allow for a common understanding of the situation and for the possible coordination of EU and Member State external action for the purpose of EUROSUR,

6.4.2. *Remove the reference to "neighbouring" third Countries*

The current EUROSUR regulation only refers to neighbouring third Countries without defining which third countries would be covered. In line with the consensus that addressing properly migration and cross border crime requires information exchange and cooperation in Countries of origin and countries of transit, the reference to "neighbouring" should be removed in order to cover in EUROSUR any type of cooperation with third Countries for the purpose of the Regulation.

6.4.3. *Clarifying the current notification mechanism of third Countries agreements*

As described in 4.1.4, Member State have an important cooperation with Third States both through bilateral cooperation but also in the Framework of regional cooperation networks.

According to Article 20 of the regulation any cooperation with Member States for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants are covered by EUROSUR and any new article should be notified to the Commission.

Such notification is indispensable to ensure that these cooperation which are part of Integrated Border Management as a joint endeavour between the Member States and the Agency comply with the relevant provision of the Regulation and in particular that:

- The agreements comply with the relevant Union and international law on fundamental rights and on international protection, including the Charter of Fundamental Rights of the European Union and the Convention Relating to the Status of Refugees, in particular the principle of non-refoulement.
- Any exchange of personal data with third countries in the framework of EUROSUR shall be strictly limited to what is necessary for the purposes of this Regulation. It shall be carried out in accordance with Directive 95/46/EC, Framework Decision 2008/977/JHA and the relevant national provisions on data protection.
- Any exchange of information which provides a third country with information that could be used to identify persons or groups of persons whose request for access to international protection is under examination or who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.
- The national coordination centres of the Member States shall be the contact points for the exchange of information with neighbouring third countries.

As information exchange and cooperation with Third States will further increase the notification of cooperation agreements.

However, as explained in 4.4.2 the notification mechanism described in Article 20 of the regulation was not implemented which is source of political and legal uncertainty.

It is therefore suggested to amend the regulation to ensure that

1. all agreements with third countries for the purpose of EUROSUR must be notified to the Commission even if they already entered into force
2. the Commission must have the possibility to comment on existing agreements and suggest or in the worst cases require possible amendments.
3. only on the basis of a positive assessment by the Commission of the corresponding agreements, would the EU support Regional or bilateral cooperation with third Countries participation when they contribute to the purpose of EUROSUR.

Regarding the mechanism of pre-notification, the Commission should clarify the process of verification including possible involvement of Agencies such as ECBGA and the Fundamental Right Agency. Such clarification would give visibility to Member States with regard to their ongoing-negotiation with third States and in particular would help plan the future negotiations by systematically including the verification period of the Commission.

6.4.4. *Improving bilateral information exchange with third Countries*

The gradual establishment of centres in all neighbouring third States with similar functions like the EUROSUR national coordination centres should facilitate a regular information exchange and cooperation in the field of border control.

The provision of EUROSUR Fusion Services to third States by the Agency should become systematic.[68]

When bi or multilateral agreements are established with Third Countries, the data collected by the local border management authorities are a very valuable source of information, which is not yet fed into the situational picture over the pre-frontier area.

Any agreement established with third Countries which fall within the scope of EUROSUR or EBCG Regulation, shall include, as part of the provision for information exchange, an article on the exchange of a specific situational picture with the following points:

1. Reference to the data collected by third countries border management agencies specifying the corresponding data policy. In line with such data policy requirement the recipient of third State data shall seek to share such information with the Agency in view of including it in the ESP.
2. Reference to the provision of EFS, which could take place directly from the Agency or via the NCC of Member State, which would act as a proxy.

[68] Article 20(9).

Similar provision should be foreseen in the agreement established by the Agency and in the operational plans involving third countries participants.

6.4.5. *Making better use of Liaison Officers*

The Liaison Officers play an important role in the cooperation and exchange of information with Third Countries.

In addition to the national Immigration Liaison Officers (ILOs) deployed by the Member States to the European Migration Liaison officers (EMLOs) deployed in the EU delegations the EBCG Regulation foresees the deployment of Liaison Officers by the Agency.

The coordination of these Liaison Officers in the field is ensured via the ILO Regulation, which is currently being revised.

All the liaison officers deployed in Third States should have access and should contribute to EUROSUR either via the Agency or through their respective NCCs.

Third Countries liaison officers are being deployed in the NCC of Member States in the Agency, or participate in Border Operation. They may receive information from EUROSUR under specific conditions described in the agreement defining cooperation and information exchange.

Member States and the Agency responsible shall ensure that this third Countries Liaison Officer have access to the only EUROSUR information foreseen in the agreements on a need to know basis and in line with the security requirements.

6.5. Reinforcing the competences of the National Coordination Centres (NCC)

The establishment of the National Coordination Centres (NCC) in the Member States is one of the biggest achievements of the EUROSUR Regulation. When several national authorities are involved in border control, the National Coordination Centre is often used as a "platform" to foster interagency cooperation among several organizations belonging to different ministries.

The National Coordination Centre has also helped structuring interagency cooperation beyond and above national level, fostering bi and multilateral cooperation in the area of Border Surveillance. The National Coordination Centre model is now being exported to third States enabling the development of regional cooperation networks.

Reinforcing both “footprint” of NCCs in the Member States and the competences of the Agency is at the same time a condition and the consequence of the above-described suggested amendments of the EUROSUR Regulation.

In this respect and to be consistent with the above the following additional functions should be given to the NCC in the EUROSUR Regulation:

- systematically collect relevant information or Border Crossing Points, Secondary Movements and Air Border Surveillance
- exchange information with (and coordinate the planning of) border operation at national level, with the Agency and with neighbouring NCCs via dedicated situational picture and improved means of communication and positioning.

- improve the relationship to the regional and local (tactical) command and control centres and with the border guards units via a shared situational picture and improved means of communication and positioning.
- ensure the timely exchange of information with relevant national liaison officers deployed in third countries.
- ensure the timely exchange of information with the liaison officer of the Agency deployed in the Member States (in line with article 11 (4) (a) of EBCG Regulation).
- exchange information as appropriate with liaison officers from third states and third parties.

As it was already the case when implementing the first phase of EUROSUR, such evolution of the NCC shall take into account the geographical and administrative constraints of the Member States to allow for specific and tailored solutions.

6.6. Reinforcing the competences of the Agency

Following the adoption of the EBCG Regulation, which gave new mandate of the Agency, the amendment of the EUROSUR Regulation, should further reinforce the competences of the Agency to cover a wider and more coherent spectrum of Border Management related activities in support of Member States.

With the above suggested amendments of EUROSUR, the Agency could

- Develop new EUROSUR Fusion services in line with the new proposed scope of EUROSUR and in particular
    - Services related to BCP through a big data analysis of large Scale information infrastructures in close cooperation with EU LISA
    - Services related to Air Border Surveillance including the detection of suspicious flight in close cooperation with EASA and EUROCONTROL
- Collect information from third Countries on the pre-frontier area in order to feed the ESP
- Provide EFS to third Countries under the condition set by the provision of approved bilateral and multilateral agreements.
- Run a process of standardization of EU border management activities
- Initiate with the Member States an integrated planning process of border operation covering
    - the planning of border operation at national and joint level and their relation to EU response capabilities
    - the assessment of contingency plans and their relation to EU response capabilities
    - a long term capability development process addressing both the availability of trained and educated border guards and the possibility to acquire the necessary equipment to meet EU needs to secure external borders.