

European Border Surveillance System (Eurosur)

2011/0427(COD) - 22/10/2013 - Final act

PURPOSE: to establish an European Border Surveillance System (EUROSUR).

LEGISLATIVE ACT: Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (EUROSUR).

CONTEXT: the regulation establishes the necessary legal framework to respond to the European Council demand of 23 and 24 June 2011 to continue as a priority the development of the European Border Surveillance System (EUROSUR).

EUROSUR is necessary in order to strengthen the exchange of information and the operational cooperation between national authorities of Member States and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ("the FRONTEX Agency").

The practice of travelling in small and unseaworthy vessels has **dramatically increased the number of migrants drowning at the southern maritime external borders**. EUROSUR should considerably improve the operational and technical ability of FRONTEX and the Member States to detect such small vessels and to improve the reaction capability of the Member States, thereby contributing to reducing the loss of lives of migrants.

CONTENT: this Regulation establishes a common framework for the exchange of information and for the cooperation between Member States and FRONTEX in order to improve situational awareness and to increase reaction capability at the external borders of the Member States of the Union 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**.

Scope: in addition to the surveillance of external land and sea borders of Member States, including the monitoring, detection and prevention of unauthorised border crossings and the location, the identification and interception of the persons concerned the regulation should also **apply to the surveillance of air borders** as well as to checks at **border crossing points** if Member States **voluntarily** provide such information to EUROSUR.

This Regulation shall not however 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**.

EUROSUR framework: some provisions have been made for the exchange of information and for the cooperation in the field of border surveillance between Member States, and taking into account **existing** information exchange and cooperation mechanisms, in order to optimise the use of the general budget of the Union and to avoid duplication.

The EUROSUR framework shall consist of the following components:

- national coordination centres;
- national situational pictures;
- a communication network;
- a European situational picture;

- a common pre-frontier intelligence picture;
- a common application of surveillance tools.

Each of these structures is described in the regulations as well as their respective tasks as well as the tasks of FRONTEX which would ensure the implementation of the necessary communications network for the establishment and operation of EUROSUR.

Major lines of action of EUROSUR:

1) Situational awareness: thanks to EUROSUR, it is possible 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;

To this end **pictures of national, European and common situations** should be put in place in the form of a graphical interface to present near-real-time data and information received from different authorities, sensors, platforms and other sources in order to achieve situational awareness and support the reaction capability along the external borders and the pre-frontier area;

These various pictures are described precisely in the regulation.

It should be noted that the **common pictures** would be drawn up by FRONTEX and would aim to propose an intelligence framework if situated **in the pre-frontier area**. These pictures would provide national coordination centres a precise idea of the information and the relevant analyses and would allow them to provide a better surveillance of the external borders.

2) Common application of surveillance tools: on the basis of information received, EUROSUR would via FRONTEX apply selective monitoring of designated third-country ports and coasts which have been identified as being embarkation or transit points for vessels or other craft used for illegal immigration or cross-border crime or for tracking of vessels over high seas.

Processing of personal data: some provisions foresee that data shall be processed strictly in accordance with the applicable European legislation (Directive 95/46/EC, Framework Decision 2008/977/JHA and the relevant national provisions on data protection). The data collected for the purpose of borders surveillance would be regularly erased at the end of their use under the monitoring framework in place.

3) Reaction capability: for the purposes of this regulation, each Member State shall divide its external land and sea borders into border sections. In this context, it is expected that Member States ensure that monitoring actions along these sections correspond **to certain levels of impact**. In general,

- where a **low impact level** is attributed to an external border section, the national authorities with a responsibility for external border surveillance shall organise regular surveillance on the basis of risk analysis and ensure that sufficient personnel and resources are being kept in the border area in readiness for tracking, identification and interception;

- if an impact level is considered **average**, when such surveillance measures are taken, the national coordination centre shall be notified accordingly. This last shall coordinate any support given;

- if the level of impact turns out to be high, the national authorities should strengthen surveillance measures with the support of FRONTEX, to initiate joint operations or **rapid response**.

The Agency shall, together with the Member State concerned, evaluate the attribution of impact levels and the corresponding measures in its risk analysis reports.

Cooperations: provisions have been made to establish a framework of cooperation with:

- **Ireland and the United Kingdom:** these provisions have been made to improve cooperation with Ireland and the United Kingdom, which could contribute to a better achievement of the objectives of EUROSUR. This cooperation may take place on the basis of bilateral or multilateral agreements between Ireland or the United Kingdom respectively and one or several neighbouring Member States or through regional networks based on those agreements ;
- **neighbouring or other third countries:** several types of cooperation could be provided, such as cooperation with the Commission, the European External Action Service and Union bodies, offices and agencies including the European Asylum Support Office, ... The specific agreements with third countries shall comply with bilateral or multilateral agreements concluded or to conclude in line with 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**.

Exchange of data with third countries: any exchange of personal data with third countries would be exceptional and only within the framework of European law on data protection. In any case, any exchange of personal data between Member States or with third countries **must remain an exception** and respect the data protection law.

Furthermore Member States must not use EUROSUR to send information to third countries that could be used to identify a person whose request for access to international protection is under examination or whose life or physical integrity could be threatened.

FRONTEX Agency: the Agency should be provided with the appropriate financial and human resources in order to adequately fulfil the additional tasks assigned to it as EUROSUR. When implementing this Regulation, **the Agency and the Member States, should make the best possible use of existing capabilities** in terms of human resources as well as technical equipment, both at Union and national level. It may also cooperate with the Maritime Analysis and Operations Centre - Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime.

It should be noted that changes have been made to the regulation establishing FRONTEX to take account of the changes provided for in the EUROSUR regulation.

Practical guide: it is foreseen that in close cooperation with the Member States, the Agency and any other relevant Union body, office or agency, the Commission shall, make available a practical handbook for the implementation and management of EUROSUR. The Handbook shall provide technical and operational guidelines, recommendations and best practices, including on cooperation with third countries. The Commission shall adopt the Handbook in the form of a recommendation.

Monitoring and evaluation: the Commission should regularly evaluate the results of the implementation of the regulation in order to determine to what extent the EUROSUR objectives have been met. Implementation reports should be submitted to the European Parliament every two years and include the question of whether the principle of non-refoulement has been respected. Reports are thus planned in 2015 on the functioning of EUROSUR and in 2016 an evaluation of the effectiveness of the whole system, accompanied, where necessary, by proposals to amend this regulation.

ENTRY INTO FORCE AND APPLICABILITY: the regulation shall apply from 02.12.2013.

Bulgaria, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Portugal, Romania, Slovenia, Slovakia and Finland shall establish a national coordination centre as from this date.

The remaining Member States shall establish a national coordination centre as from 01.12.2014.