

European Border and Coast Guard

2015/0310(COD) - 15/12/2015 - Legislative proposal

PURPOSE: to establish a European Border and Coast Guard and a European Border and Coast Guard Agency in order to ensure a European integrated border management of the EU's external borders.

PROPOSED ACT: Regulation of the European Parliament and of the council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: during 2015, the European Union witnessed extraordinary pressures at its external borders with an estimated 1.5 million persons having crossed the borders illegally between January and November. The significant **secondary movements have led several Member States to reintroduce border control at their internal borders**. This has put considerable strain on the functioning and coherence of the Schengen area.

Throughout the current migration crisis, it became clear that the Schengen area without internal borders is only sustainable if the external borders are effectively secured and protected.

A chain is always only as strong as its weakest link. A **decisive step** towards an integrated management system for external borders therefore is needed. This is only possible as a **shared task among all Member States**, in line with the principles of solidarity and responsibility to which all the EU's institutions have agreed as the guiding principles addressing the migration crisis

The objective of this draft Regulation is to provide for a more integrated management of the EU's external borders, inter alia by providing the European Border and Coast Guard Agency with more competences to prevent that deficiencies of external border management or unpredicted migratory flows undermine the proper functioning of the Schengen area. It responds to the calls of the European Parliament and the European Council to effectively manage the external borders of the European Union.

CONTENT: this proposed Regulation is part of a package of measures presented by the Commission in order to better ensure the protection of the EU's external borders. It establishes a **European Border and Coast Guard and a European Border and Coast Guard Agency built from Frontex**. It seeks to provide the European Border and Coast Guard Agency with more competences in the fields of external border management and return than Frontex currently has.

This proposal sets out the following elements reinforcing the role of the European Border and Coast Guard Agency, as compared to that of Frontex:

- **a monitoring and supervisory role and liaison officers:** a monitoring and risk analysis centre will be established to monitor migratory flows towards and within the European Union and to carry out risk analysis and mandatory vulnerability assessments to identify and address weak spots. Liaison officers will be seconded to Member States to ensure **presence on the ground** where the borders are at risk. Liaison officers of the Agency to be deployed to Member States so that the Agency can ensure proper and effective monitoring not only through risk analysis, information exchange and Eurosur, but also through its presence on the ground. The task of the liaison officer is to foster cooperation between the Agency and the Member States and in particular, to support the collection of information required by the Agency for carrying out the vulnerability assessment and to monitor the measures taken by Member States at the external borders;
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- **evaluation of needs:** supervisory role for the Agency by establishing a mandatory vulnerability assessment by the Agency to assess the capacity of Member States to face challenges at their external borders, including by means of an assessment of the equipment and resources of Member States as well as of their **contingency planning**. The Executive Director, on the advice of a Supervisory Board created within the European Border and Coast Guard Agency, will identify the measures that need to be taken by the Member State concerned and should set a time-limit within which those measures need to be taken. The decision of the Executive Director will be binding on the Member State concerned, and where the necessary measures are not taken within the set time-limit, the matter will be referred to the Management Board for a further decision. If the Member State would still fail to act, thereby risking putting in jeopardy the functioning of the Schengen area, the Commission may adopt an implementing decision for **direct intervention** by the Agency;

- **urgent joint action:** enhanced tasks for the Agency consisting of the setting up and deployment of European Border and Coast Guard Teams for joint operations and rapid border interventions, the setting up of a technical equipment pool, assisting the Commission in coordinating the activities of the migration management support teams at hotspot areas, and a strengthened role in return, risk analysis, training and research;
- a **rapid reserve pool** of border guards: mandatory pooling of human resources by establishing a rapid reserve pool which will be a standing corps composed of a small percentage of the total number of border guards in the Member States on a yearly basis. The deployment of European Border and Coast Guard Teams from the rapid reserve pool should be immediately complemented by additional European Border and Coast Guard Teams as appropriate. The rapid reserve pool shall be a **standing corps** placed at the immediate disposal of the Agency and which can be deployed from each Member State within three working days from when the operational plan is agreed upon by the Executive Director and the host Member State. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders, and which shall amount to a minimum of **1 500 border guards**, corresponding to the profiles identified by the decision of the Management Board;
- **return office:** there will be a stronger role for the Agency on return by establishing a **Return Office** within the Agency to allow for the deployment of European Return Intervention Teams composed of escorts, monitors and return specialists who will work to effectively return illegally staying third country nationals. A standard European travel document for return will ensure a wider acceptance of returnees by third countries. The Agency will coordinate and organise return operations and return interventions from one or more Member States, and promote their organisation on its own initiative to reinforce the return system of the Member States which are subject to particular pressure;
- **research:** further participation by the Agency in the management of **research and innovation activities**, including the use of advanced surveillance technology such as remotely piloted aircraft systems;
- deployment of an own **technical equipment pool** by acquiring itself or in co-ownership with a Member State and managing a pool of technical equipment provided by the Member States, based on the needs identified by the Agency and by requiring that the technical equipment pool be completed by means of transport and operating equipment purchased by Member States under the Specific Actions of the Internal Security Fund;
- **coast guard functions:** European cooperation on coast guard functions by developing cross-sectoral cooperation among the European Border and Coast Guard Agency, the European Fisheries Control Agency and the European Maritime Safety Agency to improve synergies between those agencies, in order to provide more efficient and cost-effective multipurpose services to national authorities carrying out coast guard functions;
- **increased cooperation with third countries** by coordinating operational cooperation between Member States and third countries in border management, including the coordination of joint operations, as well as by cooperating with the authorities of third countries on return, including as regards the acquisition of travel documents;

- **strengthen the mandate of the Agency** to process personal data by also allowing for the processing of personal data in the organisation and coordination of joint operations, pilot projects, rapid border interventions, return operations, return interventions and in the framework of the migration management support teams, as well as in the exchange of information with Member States, the European Asylum Support Office, Europol, Eurojust or other Union Agencies;
- guaranteeing the protection of fundamental rights by setting up a **complaint mechanism**.

BUDGETARY IMPLICATIONS: the European Border and Coast Guard Agency, to be built from the existing Frontex, is tasked with the management of the external borders alongside the Member States. The subsidy for Frontex, which is to be renamed European Border and Coast Guard Agency, already forms part of the Union's budget.

The Agency's budgets for 2015 and 2016 have been reinforced in 2015 in order to enable it to address the migratory crisis, in particular by tripling the financial resources for joint operations Poseidon and Triton, extending the Agency's support to the Member States in the area of returns and giving to necessary resources to implement hotspots.

The final EU subsidy for 2016 as adopted by the Budgetary Authority is EUR 238 686 000. However, for the Agency to adequately address its new tasks as foreseen in this proposal, in 2017 an amount of at least EUR 31.5 million will need to be added to the Agency's Union budget in addition to that one for 2016.