

European Border and Coast Guard

2015/0310(COD) - 06/07/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 483 votes to 181, with 48 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC.

Parliament's position, adopted at first reading following the ordinary legislative procedure, amended the Commission proposal as follows:

A shared responsibility: given that it is essential to manage efficiently the crossing of the external borders, address migratory challenges and potential future threats at those borders and to ensure a high level of internal security within the Union, in full respect for fundamental rights, while safeguarding the free movement of persons therein, it is stipulated that the European Border and Coast Guard shall implement the European integrated border management as a **shared responsibility**.

The task of the Agency shall be to enlarge the mandate of Frontex to reflect these changes, while remaining the same legal personality, with full continuity in all its activities and procedures. It shall be renamed **European Border and Coast Guard Agency** or Frontex.

Agency's role and tasks: the key role of the Agency shall be to:

- establish an operational and technical strategy for the **implementation of an integrated border management at Union level**;
- oversee the effective functioning of border control at the external borders;
- provide increased operational and technical assistance to Member States through joint operations and rapid border interventions;
- ensure the practical execution of measures in case of a situation requiring urgent action at the external borders and technical and operational assistance in the support of search and rescue operations for persons in distress at **sea**;
- organise, coordinate and conduct **return operations** and return interventions.

The Agency shall contribute to preventing and detecting serious crime with a cross-border dimension, such as the **migrant smuggling, trafficking in human beings and terrorism**.

Launching rapid border interventions in crisis situations: where a Member State faces **disproportionate migratory challenges** at particular areas of its external border characterised by large influxes of mixed migratory flows, the Agency shall, **at the request of a Member State or on its own initiative**, organise and coordinate rapid border interventions and deploy European Border and Coast Guard Teams from a **rapid reaction pool as well as technical equipment**.

Rapid border interventions shall provide reinforcement for a **limited period of time** in situations where immediate response is required and where such an intervention would provide an effective response. This shall be deployed:

- **following a Member State request**, an operational plan would be agreed with the European Border and Coast Guard, which would **deploy, within five working days**, the necessary staff and provide technical equipment;

- in cases where a Member State does not take up the measures proposed by the European Border and Coast Guard or **migratory pressure is jeopardising the functioning of the Schengen border check-free area**, the Commission may present the Council with a proposal to act, **by means of an implementing act**. The Council will then decide on the need to send border intervention teams. If a Member State opposes a Council decision to provide assistance, **other EU countries may temporarily reintroduce internal border checks**.

Vulnerability assessment of external borders: in the event of disproportionate pressure at the external borders which risks putting in jeopardy the functioning of the Schengen area, a **unified, rapid and effective response shall be delivered at Union level**. To mitigate these risks, and to ensure better coordination at Union level, the Commission shall identify and propose to the Council the measures to be implemented by the Agency and require the Member State concerned to cooperate with the Agency in the implementation of those measures.

The **implementing power to adopt such a decision shall be conferred on the Council because of the potential politically-sensitive nature of the measures to be decided**, often touching on national executive and enforcement powers. The European Border and Coast Guard Agency shall then determine the actions to be taken.

In case where a Member State does not comply within 30 days with this Council decision, the Commission may trigger the application of the specific procedure where exceptional circumstances put the overall functioning of the area without internal border control at risk provided for in [Regulation \(EU\) 2016/399](#). Therefore, Regulation (EU) 2016/399 should be amended accordingly.

Return operations: the Agency shall provide the necessary assistance to Member States in organising joint return operations and return interventions of third country nationals who are the subject of return decisions issued by a Member State **without entering into the merits of return decisions** issued by the Member States, and in full respect for fundamental rights. In addition, the Agency shall assist Member States in the acquisition of travel documents for return, in cooperation with the authorities of the relevant third countries. **The Agency shall not be involved in the provision of information to Member States on third countries of return.**

The possible existence of an arrangement between a Member State and a third country does not absolve the Agency or the Member States from their obligations under Union or international law, in particular as regards **compliance with the principle of non-refoulement**.

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

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

Pool of guards and technical equipment pool: the Agency shall have the necessary equipment and staff at its disposal to be deployed in joint operations or rapid border interventions. To this end, when launching rapid border interventions at the request of a Member State or in the context of a situation requiring urgent action, the Agency shall be able to deploy European Border and Coast Guard Teams from a rapid reaction pool which shall be a standing corps composed of border guards and other relevant staff in the Member States, which shall amount to a **minimum of 1 500**. The deployment of the European Border and Coast Guard Teams from the rapid reaction pool shall be **immediately complemented by additional European Border and Coast Guard Teams where necessary**.

An annex sets out the contributions of Member States to this rapid reaction pool.

The future Regulation shall lay down the general framework setting out the material of the Agency and the terms of its implementation.

Accountability: the Agency shall be accountable to the European Parliament and to the Council. Provisions have been added to clarify the role of the Management Board and the Executive Director (including his appointment) in terms of transparency with regard to the European Parliament.

Training of personnel in charge of interventions: Member States shall ensure that the authorities which are likely to receive applications for international protection have the relevant information and that their personnel receive the necessary level of training which is appropriate to their tasks and responsibilities and instructions to inform applicants as to where and how applications for international protection may be lodged. The Agency shall develop **specific training tools**, including specific training in the **protection of children**.

Cooperation with other agencies: the mandates of the European Fisheries Control Agency (EFCA) and the European Maritime Safety Agency (EMSA) shall be aligned with that of the Agency so as to enable all three to coordinate their operations at sea and share information.

The Agency shall cooperate with the European External Action Service, EASO, Europol, the European Union Agency for Fundamental Rights, Eurojust.

Transparency of the Agency and regular evaluation: the Agency shall be as transparent as possible about its activities, without jeopardising the attainment of the objective of its operations. It shall make public information on all of its activities, and should ensure that the public and any interested party are rapidly given information with regard to its work.

The Agency shall also report on its activities to the fullest extent to the European Parliament and the Council.

Lastly, by three years after the date of entry into force of this Regulation, and every four years thereafter, the Commission shall commission an independent external evaluation to assess particularly the results achieved by the Agency.

It should be noted that a proposal to reject the Commission proposal by more than 40 Members was rejected in plenary by 188 votes to 511, with 10 abstentions.