Basic information

2015/0310(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
European Border and Coast Guard Repealing Regulation (EC) No 2007/2004 2003/0273(CNS) Repealing Decision 2005/267/EC 2003/0284(CNS) Repealing Regulation (EC) No 863/2007 2006/0140(COD) Amending Regulation (EU) 2016/399 2015/0006(COD) Repealed by 2018/0330A(COD) Repealed by 2018/0330B(COD) Amended by 2016/0357A(COD) **Subject** 7.10.04 External borders crossing and controls, visas 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	PABRIKS Artis (PPE)	29/02/2016
	Shadow rapporteur NIEDERMÜLLER Péter (S&D) STEVENS Helga (ECR) GRIESBECK Nathalie (ALDE) ALBIOL GUZMÁN Marina (GUE/NGL) KELLER Ska (Verts/ALE) LEBRETON Gilles (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	NART Javier (ALDE)	16/02/2016
BUDG Budgets	GARDIAZABAL RUBIAL Eider (S&D)	03/02/2016
TRAN Transport and Tourism	The committee decided not to give an opinion.	

	PECH Fisheries	CADEC Alain (PPE)	17/02/2016

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3461	2016-04-21
Justice and Home Affairs (JHA)	3465	2016-05-20
Justice and Home Affairs (JHA)	3450	2016-02-25
Justice and Home Affairs (JHA)	3455	2016-03-10
Justice and Home Affairs (JHA)	3473	2016-06-10

European Commission

Commission DG	Commissioner
Migration and Home Affairs	AVRAMOPOULOS Dimitris

Key events

Date	Event	Reference	Summary
15/12/2015	Legislative proposal published	COM(2015)0671	Summary
21/01/2016	Committee referral announced in Parliament, 1st reading		
25/02/2016	Debate in Council		
10/03/2016	Debate in Council		
21/04/2016	Debate in Council		
20/05/2016	Debate in Council		
30/05/2016	Vote in committee, 1st reading		
30/05/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
06/06/2016	Committee report tabled for plenary, 1st reading	A8-0200/2016	Summary
10/06/2016	Debate in Council		
05/07/2016	Debate in Parliament		
06/07/2016	Decision by Parliament, 1st reading	T8-0305/2016	Summary
06/07/2016	Results of vote in Parliament		
13/09/2016	Act adopted by Council after Parliament's 1st reading		
14/09/2016	Final act signed		
14/09/2016	End of procedure in Parliament		
16/09/2016	Final act published in Official Journal		

Technical information

Procedure reference	2015/0310(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 2007/2004 2003/0273(CNS) Repealing Decision 2005/267/EC 2003/0284(CNS) Repealing Regulation (EC) No 863/2007 2006/0140(COD) Amending Regulation (EU) 2016/399 2015/0006(COD) Repealed by 2018/0330A(COD) Repealed by 2018/0330B(COD) Amended by 2016/0357A(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/05348

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE578.803	23/03/2016	
Committee opinion	PECH	PE578.545	20/04/2016	
Amendments tabled in committee		PE582.066	21/04/2016	
Amendments tabled in committee		PE582.070	21/04/2016	
Amendments tabled in committee		PE582.071	21/04/2016	
Amendments tabled in committee		PE582.091	21/04/2016	
Committee opinion	BUDG	PE578.760	26/04/2016	
Committee opinion	AFET	PE580.484	20/05/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0200/2016	06/06/2016	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0305/2016	06/07/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00029/2016/LEX	14/09/2016	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2015)0671	15/12/2015	Summary
	COM(2015)0673		

Commission document (COM)		15/12/2015	Summary
Commission response to text adopted in plenary	SP(2016)657	12/10/2016	
For information	COM(2016)0747	22/11/2016	
Follow-up document	COM(2017)0042	25/01/2017	Summary
Follow-up document	COM(2017)0201	02/03/2017	Summary
Commission document (COM)	COM(2017)0219	02/05/2017	Summary
Follow-up document	COM(2017)0325	13/06/2017	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2015)0671	16/02/2016	
Contribution	CZ_SENATE	COM(2015)0671	18/03/2016	
Contribution	PT_PARLIAMENT	COM(2015)0671	21/03/2016	
Contribution	RO_CHAMBER	COM(2015)0673	21/03/2016	
Contribution	IT_SENATE	COM(2015)0671	29/03/2016	
Contribution	NL_CHAMBER	COM(2015)0671	29/03/2016	
Contribution	PL_SENATE	COM(2015)0671	29/03/2016	
Contribution	RO_SENATE	COM(2015)0671	29/03/2016	
Contribution	RO_CHAMBER	COM(2015)0671	22/04/2016	
Contribution	IT_CHAMBER	COM(2015)0671	28/06/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0688/2016	25/05/2016	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Regulation 2016/1624
OJ L 251 16.09.2016, p. 0001 Summary

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 outs 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;
- **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.

European Border and Coast Guard

2015/0310(COD) - 13/06/2017 - Follow-up document

This report constitutes the **4th report** from the Commission to the European Parliament, the European Council and the Council on operationalisation of the European Border and Coast Guard.

Aim of the report: this report examined the progress made since the **beginning of May 2017** on the **entry into operation of the European Border and Coast Guard.**

In particular, it highlighted the key actions which the European Border and Coast Guard Agency, the Commission and Member States need to take in the coming months.

The Agency has completed the **baseline vulnerability assessment for almost all Schengen States** regarding their capacity to cope with the challenges at their EU external border sections. This led the Agency to **identify vulnerabilities in a number of Schengen States** and **recommendations** to remedy the identified vulnerabilities.

As set out in the European Border and Coast Guard Regulation, the Agency will carry out **simulation exercises** and continue emerging threat assessments in view of assisting the Schengen States in identifying vulnerabilities related to possible future or already emerging challenges at the external borders.

The Agency has been carrying out joint operations along the main migratory routes, notably in the **Central Mediterranean, the Eastern Mediterranean and further on the Western Balkans** route. It also launched a new joint operation to address the irregular migratory flows on the Western Mediterranean route.

Main conclusions of the report: the fourth report showed that the roll-out of the activities and tools of the European Border and Coast Guard Regulation, to ensure as soon as possible a reinforced EU capability to protect and manage effectively its external borders, has continued.

In particular, the Agency delivered a **first set of recommendations to almost all Schengen States** - with concrete measures proposed to 20 of them - to address vulnerabilities, identified in the first baseline vulnerability assessments.

Further progress has been made in the negotiations with **Serbia** on the status agreement that - once concluded - will provide for a clear legal framework for operational cooperation between the border guard authorities of the Member States and Serbia, facilitated and coordinated by the European Border and Coast Guard Agency.

However, **Member States still have to deliver their commitments regarding the full operational capability of the rapid reaction pools**, in particular to fill the gaps for the Rapid Reaction Equipment Pool. Further efforts are also needed to close persisting gaps for the deployments to the ongoing Joint Operations in support of the **frontline Member States** in the effective management of the external borders. These gaps need to be addressed as a matter of priority.

Member States are also encouraged to rapidly increase the use of the reinforced capacity of the Agency to assist them in the area of **return operations**.

The push factors from migration to Europe remain. Therefore ensuring as soon as possible a **reinforced EU capability** to protect and manage effectively its external borders, should be still further accelerated.

In this regard, the Commission invited the European Parliament, the European Council and the Council to review the progress achieved so far and invites the Council to encourage the Agency and the competent authorities of the Schengen States to take the proposed steps.

The Commission will report again on the progress made to reinforce the external borders in the autumn of 2017.

The Agency continues providing operational support on the ground to Member States in border management with over **1 600 border guards and other relevant staff being deployed at different sections of the EU external borders**. However, Member States' contributions are needed to boost efficiently and sustainably the overall capacity of the host Member States to protect effectively their EU external border section.

European Border and Coast Guard

2015/0310(COD) - 06/06/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Artis PABRIKS (EPP, LV) 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.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows :

Strengthening the Agency's tasks: Members called for the strengthening of the Agency's mission so as to ensure a European integrated border management at the external borders **with a view to monitoring efficiently the crossing of the external borders**, and to addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension and to ensuring a high level of internal security within the Union, in full respect for fundamental rights, while safeguarding the free movement of persons therein.

European integrated border management shall consist of the following components:

border control, including measures to facilitate legitimate border crossings and measures related to the prevention and detection of cross-border crime, such as the criminal smuggling of persons, trafficking in human beings and terrorism, where appropriate;

search and rescue operations for persons in distress at sea;

the identification, provision of initial information to and onward referral of persons arriving at the external borders who are in need of, or wish to apply for, international protection.

The European Border and Coast Guard shall implement the European integrated border management as a **shared responsibility of the Agency and of the national authorities** responsible for border management, including coast guards to the extent that they carry out maritime border surveillance operations and any other border control tasks. Nonetheless, Member States shall retain primary responsibility for the management of their section of the external border.

European integrated border management strategy: according to Members, the Commission should present a legislative proposal for a European integrated border management strategy setting out general guidelines, the objectives to be met and the key actions to be taken in order to establish a fully functioning European integrated border management system.

Cooperation with other agencies: the report called for cooperation on coast guard functions, in particular by means of enhanced collaboration between national authorities, the Agency, the European Fisheries Control Agency and the European Maritime Safety Agency.

Vulnerability assessments: Members recalled that the vulnerability assessment should be a preventive measure carried out by the Agency on a continuous basis, complementing the Schengen evaluation and monitoring mechanism set up pursuant to Council Regulation (EU) No 1053/2013. The vulnerability assessment is intended to **allow the Agency to assess the capacity and preparedness of Member States to tackle upcoming challenges**,

including present and future threats and pressures at the external borders, to identify, especially for those Member States facing specific and disproportionate pressures, possible immediate consequences at the external borders and subsequent consequences on the functioning of the Schengen area, and to assess their capacity to contribute to the rapid reaction pool.

Elements to be monitored shall include the **capacity to handle the potential arrival of large numbers of persons**, many of whom may be in need of international protection, humanely and with full respect for fundamental rights, and the availability of technical equipment, systems, capabilities, resources, infrastructure and adequately skilled and trained personnel in sufficient numbers.

The vulnerability assessment shall be based on information provided by the Member State and by the liaison officer, on information derived from Eurosur.

The results of the vulnerability assessment shall be transmitted on a regular basis and at least every six months to the European Parliament and the Council.

Emergency response measure in case of migratory pressure in a Member State: where Member States face disproportionate migratory challenges characterised by large influxes of mixed migratory flows the Member States should be able to rely on the increased operational and technical reinforcement in **hotspot areas** (an area at an external border where a Member State faces disproportionate migratory pressures and where relevant Union Agencies assist the Member State in an integrated manner) by the migration management support teams composed of teams of experts deployed from Member States by the Agency and the European Asylum Support Office, and from Europol or other Guard Agency and the European Asylum Support Office, and from Europol or other relevant Union Agencies. In hotspot areas the different agencies and Member States should operate within their respective mandates and powers.

Implementing measures by the Council: in cases where a Member State does not take the necessary corrective action in line with the vulnerability assessment or in the event of disproportionate migratory pressure at the external borders, **rendering the control at the external border ineffective** to an extent which risks putting in jeopardy the functioning of the Schengen area as an area without internal border control, a unified, rapid and effective response should be delivered at Union level. For this purpose, and to ensure better coordination at Union level, the Commission should identify the measures to be implemented by the Agency.

For the adoption of such measures, taking into account sovereignty-related aspects and the political sensitivity thereof, which touch on national executive and enforcement powers, **implementing powers should be conferred on the Council**, which should act on a proposal from the Commission.

Organisation of returns: the Agency should provide the necessary assistance to Member States in organising joint return operations and return interventions of irregular migrants, **without entering into the merits of return decisions** issued by the Member States, and in full respect for fundamental rights.

It is stated that forced return escorts shall remain subject to the disciplinary measures of their home Member State in the course of a return operation or return intervention.

The Agency shall not coordinate, organise or propose return operations or return interventions to any third country where risks of fundamental rights violations or serious deficiencies have been identified.

The Executive Director shall, in close cooperation with the Fundamental Rights Officer, **withdraw the financing** of a joint operation, or a rapid border intervention, a pilot project, migration management support teams, return operation, return intervention or working arrangement or suspend or terminate, in whole or in part such activities, if he or she considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist.

Respect du principe de non-refoulement : l'existence éventuelle d'un accord entre un État membre et un pays tiers n'exempte pas l'Agence ou les États membres des obligations qui leur incombent au titre du droit de l'Union et du droit international, eu égard en particulier au respect du principe de non-refoulement, lorsqu'ils savent ou sont censés savoir que les défaillances systémiques de la procédure d'asile et des conditions d'accueil des demandeurs d'asile dans ce pays tiers constituent des motifs sérieux de croire que le demandeur d'asile court un risque grave.

Respecting the principle of non-refoulement: 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, where they are aware or ought to be aware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country amount to substantial grounds for believing that the asylum seeker would face a serious risk of being subjected to inhuman or degrading treatment.

Respecting fundamental rights: the European Border and Coast Guard and the Agency should fulfil their tasks in full respect for fundamental rights, in particular the Charter of Fundamental Rights of the European Union (the Charter), the Convention Relating to the Status of Refugees and obligations related to access to international protection, in particular the principle of non-refoulement, etc.

Given the increased number of its tasks, the Agency should further **develop and implement a strategy to monitor and ensure the protection of fundamental rights**. To that end it should provide its Fundamental Rights Officer with adequate resources and staff corresponding to its mandate and size.

Financial resources: in order to guarantee the autonomy of the Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Union. The Agency shall finance 100 % of the necessary training for border guards included in the rapid reaction pool referred to in the Regulation.

Obligation to make the accounts more transparent: the Agency shall be accountable to the European Parliament and the Council. The Agency should be as transparent as possible about its activities, without jeopardising the attainment of the objective of its operations. It should make public all relevant 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 adopt internal rules requiring the members of their bodies and their staff members to avoid any situation liable to give rise to a conflict of interest.

Various measures: a number of amendment have been adopted to enhance the following measures: (i) the protection of personal data used by the Agency; (ii) the filing of complaints as regards the violation of fundamental rights by the Agency. Where a border guard or a seconded national expert is found to have violated fundamental rights or international protection obligations, the Agency shall request the Member State to remove that border guard or seconded national expert immediately from the activity of the Agency or the rapid reaction pool; (iii) on governance, so that the European Parliament and the Council shall, by common accord, appoint the Executive Director and the Deputy Executive Director for a period of five years.

Report: the Agency shall submit a report to the European Parliament on an annual basis of the number of technical equipment that each Member State has committed to the technical equipment pool. This report shall list the Member States that invoked the exceptional situation referred to the Regulation in the previous year and include the reasons and information provided by the Member State concerned.

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.

European Border and Coast Guard

2015/0310(COD) - 02/05/2017 - Follow-up document

This report constitutes the **3rd report** from the Commission to the European Parliament, the European Council and the Council on operationalisation of the European Border and Coast Guard.

Aim of the report: the report examined the progress made **since the beginning of March 2017** in the **operationalisation of the European Border and Coast Guard** and reviewed the implementation of each step identified in the first and second progress reports.

In particular, the report provided an update on the recently completed stages of the **vulnerability** assessment process and on the ongoing deployments to the **frontline Member States**. It also reported on the decisions and discussions held at the last meeting of the Management Board on 29-30 March 2017.

Lastly, the report outlined the important process to develop the central concept of the European Border and Coast Guard Regulation, namely to **develop a strategic framework to ensure that the European Integrated Border Management** at the external borders is in place. This will further develop the principle of an integrated external border management system referred to in Article 77(2)(d) TFEU.

Main findings of the report: the third report showed that the roll-out of the activities and tools of the European Border and Coast Guard Regulation to ensure as soon as possible a **reinforced EU capability** to protect the external borders has continued.

In particular, the Agency delivered the first baseline vulnerability assessments to almost all Member States, and will shortly make recommendations to the Member States concerned with concrete measures to **address the identified vulnerabilities**.

Equally, the swift adoption of the Council Decisions authorising the Commission to **negotiate with Serbia and the former Yugoslav Republic of Macedonia** status agreement and the immediate first round of the negotiations with Serbia show the continued political priority given to operationalising the European Border and Coast Guard.

However, **Member States have made insufficient progress in ensuring the full operational capability of the rapid reaction pools**, in particular to fill the gaps for the Rapid Reaction Equipment Pool. Similarly, further joint efforts are also needed to close continuing gaps for the deployments to the ongoing Joint Operations in support of the frontline Member States in the effective management of the external borders. These **gaps need to be addressed as a matter of priority**.

The Member States are also encouraged to better use the reinforced Agency's capacity to assist in the area of **return operations**.

Next steps: the report recalled that the European Border and Coast Guard Agency continues to provide operational support on the ground to Member States with over **1 500 border guards and others relevant staff** being deployed at different sections of the EU external borders.

In order to further organise this integrated border management, the Commission intends to:

- organise two dedicated workshops in June and September 2017, with the participation of representatives of the Member States and the European Parliament, to discuss the development of the policy framework for integrated European border management;
- adopt, by October 2017, a communication setting out the main elements of the policy framework for the European Integrated Border Management;
- include a Schengen evaluation on national strategies for integrated border management for 2018.

The European Border and Coast Guard Agency should:

- launch the process for the development of an operational and technical Integrated Border Management strategy in close cooperation with the Commission in the 2nd half of 2017;
- adopt the technical and operational strategy for the European Integrated Border Management by the Management Board, once the EU institutions agreed on the political Integrated Border Management strategy by February 2018;
- establish a special Schengen evaluation training for selected Integrated Border Management experts in close cooperation with the Commission.

Member States should:

- launch national processes to establish their national Integrated Border Management strategies in June-December 2017;
- align their respective national Integrated Border Management strategies with the political strategy and the technical and operational strategy within six months after the adoption of the latter;
- be prepared for a Schengen evaluation of their national Integrated Border Management strategies (starting late Autumn 2018).

The Commission looks forward to working together with the European Parliament, the Council and the Agency in **elaborating the strategic framework for a European Integrated Border Management**. It will report again on the progress made to reinforce the external borders in the summer of 2017.

European Border and Coast Guard

2015/0310(COD) - 02/03/2017 - Follow-up document

This report constitutes the **2nd report** from the Commission to the European Parliament, the European Council and the Council on operationalisation of the European Border and Coast Guard.

Aim of the report: the aim of the report is to review the **progress made since January 2017** on the **entry into operation of the European Border and Coast Guard** and to reviewed the implementation of each of the steps laid down in the 1st progress report.

In particular, this report indicated that the Agency should continue to provide operational support on the ground to Member States in the area of border management. The new annual cycle for deploying the Agency's operational activities in the frontline Member States started on 1 February 2017 with around 1350 border guards and other relevant staff being deployed by the Agency at different sections of the EU external border.

Despite these important deployments, **the running operations continue to be confronted with gaps**, both in terms of human resources and technical equipment as compared to the needs assessed by the Agency in accordance with risk analysis.

These gaps have to be filled by Member States to ensure that the operational objectives of joint operations to provide the required support to the frontline border sections are not undermined and such a situation does not ultimately result in an emergency requiring the **launch of a rapid border intervention**.

The biggest deployments of the Agency are currently addressing the migratory pressures on the **Eastern Mediterranean, Central Mediterranean and Western Balkan routes**.

Main conclusions of the report: the second report showed that all stakeholders have continued to work intensively to roll out the activities and tools of the European Border and Coast Guard Regulation to ensure a reinforced capability to protect the external borders is in place as soon as possible.

In particular, most of the Member States have provided the necessary data for the purpose of the vulnerability assessment which is an important step to achieve an effective preventive approach.

Equally, the fast progress in the Council in view of the expected swift adoption of the decisions by the Council authorising the Commission to **start the formal negotiations** with Serbia and the **former Yugoslav Republic of Macedonia** on the status agreements shows the continued **political priority** given to operationalising the European Border and Coast Guard.

However, further steps should be taken by the Member States to urgently ensure the full operational capability of the rapid reaction pools, in particular to fill the gaps for the Rapid Reaction Equipment Pool, as well as to continue joint efforts in **supporting the frontline Member States** (Greece, Italy and Bulgaria) in the effective management of the external borders with the requested deployments for the on-going joint operations.

Member States need also to exploit the potential offered by the reinforced Agency to assist in the area of return operations by notifying their indicative planning on return operations.

The Commission invited the Council to discuss progress on the basis of this report and endorsed the proposed concrete steps to bring forward the operationalisation of the European Border and Coast Guard.

The Commission will report again on the progress made to reinforce the external borders in Spring 2017.

European Border and Coast Guard

2015/0310(COD) - 25/01/2017 - Follow-up document

The Commission presented a report to the European Parliament, the European Council and the Council on the operationalisation of the European Border and Coast Guard.

The report recalled that the European Border and Coast Guard was established in **record time** given that on 15 December 2015, the European Commission presented a legislative proposal and that the Regulation on European Border and Coast Guard entered into force on 6 October 2016. The rapid reaction and return pools became respectively operational on 7 December 2016 and 7 January 2017.

The Regulation establishing the European Border and Coast Guard grants the primary role to the Member States in reinforcing the control at the external border, on the basis of their own existing capacities of more than **100 000 border and coast guard officers.**

Objective of the report: the report takes stock of the progress made in three months in the set priority areas and identifies next steps to be taken. It is the first in a series of regular reports which will serve to contribute to have the right tools and responses in place for a **much better protection of the external borders**.

Based on the pre-existing pools of the European Border and Coast Guard teams and of Technical Equipment, the Agency provides the biggest operational support in the frontline Member States that it has provided so far.

Main conclusions of the report: to reinforce the manpower of the responsible national border guard, currently more than 1550 members of the European Border and Coast Guard Teams are deployed in regular joint operations by the Agency at the external borders of the frontline Member States. By way of example, this means that the numbers deployed to Greece join up with the approximately 10 000 Greek border and coast guard officers. These teams are assisted by 24 boats and vessels, 6 aircrafts and helicopters, more than 80 patrol cars and 13 thermo-vision vehicles.

The report also reviews other major achievements of the Agency in three months, including the establishment (*inter alia*) of:

760 officers deployed to Greece in order to assist in border control, implementation of the hotspot approach (registration points and emergency migration zones);

600 officers deployed to Italy and the operations in the Central Mediterranean.

The report recalled the Agency's priorities and the next steps to be taken.

Further priority areas were identified by the report:

1. putting in place the mandatory pooling of resources to enhance the Agency's rapid reaction capability;

2. carrying out preventive vulnerability assessments based on a common methodology;

3. enhancing the support for return activities;

4. establishing the complaint mechanism;

5. paving the way for better operational cooperation with priority third countries by setting a model status agreement for deploying the Agency's operational activities in third countries.

The process for the preventive mechanism for detecting and addressing Member States' vulnerabilities, which forms an essential part of this new approach for a much better border protection, has now been started. Early results of this work need to feed into fixing as a matter of priority the **most urgent vulnerabilities being identified**.

Delivering on returning irregular migrants is another priority where the Agency must considerably enhance its support alongside stepped-up efforts by the Member States. Building on the good results already achieved, it should develop new tools to provide enhanced support on return.

The Commission will report again on the progress made to reinforce the external borders on 1 March 2017.

European Border and Coast Guard

2015/0310(COD) - 14/09/2016 - Final act

PURPOSE: to establish a European Border and Coast Guard in order to ensure a European integrated border management for the proper functioning of the Schengen area.

LEGISLATIVE ACT: Regulation (EU) 2016/1624 of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

CONTENT: the Regulation establishes **a European Border and Coast Guard to ensure European integrated border management at the external borders** . This includes addressing migratory challenges and ensuring a high level of security for the EU. At the same time, it contributes to ensuring free movement within the Union in full respect for fundamental rights.

European Border and Coast Guard: this comprises the **European Border and Coast Guard Agency** (the current Frontex agency with expanded tasks) **and national authorities that are responsible for border management,** including coast guards. The key role of the Agency is to establish an operational strategy for integrated border management and coordination of assistance from Member States.

The Agency shall establish **a technical and operational strategy** for European integrated border management and support the implementation of European **integrated border management** in all Member States. For their part, the national authorities that are responsible for border management, including coast guards, shall establish their national strategies for integrated border management.

The Agency shall implement European integrated border management as a **shared responsibility** with national authorities.

Role and tasks of the new Agency: with a view to contributing to an efficient, high and uniform level of border control and return, the Agency will have the following main tasks:

- **monitor migratory flows** and carry out risk analysis as regards all aspects of integrated border management;
- carry out a **vulnerability assessment** including the assessment of the capacity and readiness of Member States to face threats and challenges at the external borders;
- monitor the management of the external borders through **liaison officers** of the Agency in Member States;
- assist Member States by organising **joint operations**, and by launching **rapid border interventions** at the external borders of those Member States facing specific and disproportionate challenges;
- provide assistance to Member States and third countries, in support of **search and rescue operations for persons in distress at sea** which may arise during border surveillance operations at sea;
- deploy European Border and Coast Guard teams from a **rapid reaction pool** which should be a standing corps composed of border guards and other relevant staff. There should be a minimum of **1 500** border guards and other relevant staff in the pool;
- set up a **technical equipment pool** to be deployed in joint operations, rapid border interventions and in the framework of migration management support teams, as well as in return operations and return interventions;
- provide assistance in screening, debriefing, identification and fingerprinting, and establish a procedure for referring **persons who are in need of international protection**, in cooperation with the European Asylum Support Office (EASO) and national authorities;
- ensure a concrete response in a situation requiring **urgent action** at the external borders;
- assist Member States in circumstances requiring assistance to implement the **obligation to return returnees,** including through the coordination or organisation of return operations;
- cooperate with **Europol and Eurojust** and provide support to Member States in the fight against organised cross-border crime and terrorism;
- set up **pools of forced-return monitors, forced-return escorts** and return specialists;
- assist Member States on **training** of national border guards;

- participate in the development and management of research and innovation activities relevant for the control and surveillance of the external borders, including the use of **advanced surveillance technology**;
- cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency, to support the national authorities carrying out coast guard functions, by providing services, information, equipment and training, as well as by coordinating multipurpose operations;
- **promote operational cooperation between Member States and third countries** in matters regarding border management.

The Agency shall be **accountable to the European Parliament and to the Council** in accordance with the Regulation.

Status and location: the Agency is a body of the Union. It has legal personality. It is **independent** in implementing its technical and operational mandate, and is represented by its **executive director**. The seat of the Agency shall be Warsaw, Poland.

Evaluation: by 7 October 2019 and every four years thereafter, the Commission shall commission an independent external evaluation to assess in particular the results achieved by the Agency having regard to its objectives, mandate and tasks.

The evaluation shall include a specific analysis on the way the **EU Charter of Fundamental Rights** and other relevant Union law has been complied with in the application of the Regulation. The Commission shall send the evaluation report together with its conclusions on the report to the European Parliament, to the Council and to the management board.

The Agency shall engage in **communication activities** on its own initiative on matters falling within its mandate. It shall provide the public with accurate and comprehensive information about its activities.

ENTRY INTO FORCE AND APPLICATION: 06.10.2016.

Provisions on the rapid reaction pool and technical equipment pool will apply from 7.12.2016 and provisions on the pool on return operations will apply from 7.1.2017.

European Border and Coast Guard

2015/0310(COD) - 15/12/2015 - Document attached to the procedure

The Commission has presented a communication regarding a European Border and Coast Guard and the effective management of Europe's external borders.

Firstly, it recalled that with the decision to share a common internal area of free movement comes a shared responsibility to provide high and consistent standards of border management and security at the external borders. Citizens' confidence in this collective ability to manage common external borders has been put to the test by the events of this year and in particular by the unprecedented rise in flows of migrants and refugees.

The crisis has exposed **weaknesses and gaps in existing border management mechanisms**, which have proved insufficient to guarantee effective and integrated border management. The report exposed the limitations of Frontex such as inadequate resources in terms of staff and equipment, an inability to initiate and carry out return or border management operations and the absence of an explicit role to conduct search and rescue operations.

This communication, and the measures which accompany it, provide for a **strong and unified policy on the management of the EU's external borders** based on the principle of shared responsibility.

The main areas concern:

- **A European Border and Coast Guard**: this will be set up to ensure the effective application of strong common border management standards and to provide for operational support and intervention where necessary to promptly respond to emerging crises at the external border. The European Border and Coast Guard will bring together a European Border and Coast Guard Agency built from Frontex and the Member States' authorities responsible for border management, who will continue to exercise the day-to-day management of the external border. National coastguard authorities are also part of the European Border and Coast Guard in so far as they perform maritime border surveillance. The role of the Agency to contribute to search and rescue operations will now be significantly strengthened.
- **Effective implementation of integrated border management**: this goes beyond border control performed solely at the external border. It includes measures in third countries, measures with neighbouring third countries, and measures within the area of free movement, including return of irregular migrants from the EU to their countries of origin. Proper border management is also supported by a number of elements such as strong and regular risk analysis, improved inter-agency cooperation and the use of state-of-the-art technology.
- **A reserve of European Border Guards**: the Agency needs to have at its immediate and direct disposal a sufficient number of well-trained experts with the appropriate profiles as well as the relevant technical equipment. Currently, contributions of assets and experts to Frontex are, in principle, provided on a voluntary basis. This method of working, in combination with the current migration crisis, has recently led to shortages which have prevented Frontex from performing its operational tasks at maximum capacity. Such deficiencies must be remedied. To secure the capacity of the Agency to perform its tasks in responding to emergency situations, a **rapid reserve pool** of experts will be created as a standing corps put at the disposal of the Agency.
- **Return Office**: improving the effectiveness of return procedures has been recognised as a key objective of migration management. An enhanced role for the European Border and Coast Guard Agency in the field of return will improve the capacity of the EU to successfully return illegally staying third-country nationals. A dedicated Return Office will be created within the structure of the Agency to cooperate with the Member States in conducting identification and return procedures.
- **Complaint mechanism**: it is important to have an adequate complaint mechanism in case a person considers himself or herself to have been subject to a violation of fundamental rights in the course of operational engagement by the Agency.

- **Modification of the Schengen Borders Code**: controls at the external borders need to be reinforced in order to be able to identify such persons and minimise risks to the internal security of the Schengen area. The Commission is proposing a targeted modification to the Schengen Borders Code as regards checks of EU citizens against databases such as the Schengen Information System, the Stolen and Lost Travel Documents Database as well as relevant national systems. The proposed amendments will make systematic checks of EU citizens against databases at all external borders (air, sea and land) – which are today possible based on a risk assessment – compulsory.
- **A new European travel document for return**: the current EU system to return irregular migrants is not sufficiently effective. The Commission is proposing to establish a new European travel document for the return of third-country nationals, based on a uniform format and using enhanced technical and security features that can ensure a wider acceptance by third countries.

To conclude, the Commission calls on the European Parliament and the Council to give the highest priority to these proposals, and in particular to the proposed Regulation on the European Border and Coast Guard, so that the confidence of citizens in Europe's external borders can be restored swiftly and the integrity of the Schengen area of free movement without internal borders can be guaranteed.