

European Border and Coast Guard System

On 15 December 2015, the European Commission is expected to put forward a proposal for the setting up of a European Border and Coast Guard System (EBCGS). In line with the Council's conclusions, the future EBCGS will build on the mandate and experience of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). Although there is broad consensus on the need for strengthening the protection of the EU's external borders, there remain big questions on the composition, role and functions of a future EBCGS. Concerns relating to the respect of national sovereignty, budget availability and respect for fundamental rights will have to be taken into account.

Having first been discussed in [2001](#), the idea of setting up an EBCGS has been revitalised recently as a possible response to the current migration and refugee crisis. The European Commission's Communications on a [European Agenda on Migration](#) and on [Managing the refugee crisis](#) call for the strengthening of the mandate and resources of [Frontex](#), which currently coordinates and supports national border management agencies, and the development of a fully operational EBCGS. The Commission [pledged](#) to come forward with proposals on 15 December 2015.

Although Article 77 of the Treaty on the Functioning of the European Union (TFEU) makes provision for a common (external) border-management policy, it leaves a rather large margin of manoeuvre when defining possible EBCGS [models](#). The EBCGS could be based on a more centralised or decentralised model depending on the level of national border management functions (including operational and capacity-building ones), which would either be transferred or agreed to be jointly implemented at European level. A [study](#) done for the Commission, on the feasibility of the creation of an EBCGS to control the EU's external borders, proposed a three-phase approach. Those phases would start with greater interaction between EU Member States and the EU in terms of cooperation and decision-making, then shift decision-making to the EU level, and finally set up an entirely new agency composed of border guards under an EU-level command structure.

Concrete proposals

The European Council's [conclusions](#) of October 2015 welcomed the Commission's intention to present a package including proposals on an EBCGS. However, they underlined that the distribution of competences under the TFEU and the national competence of Member States should be fully respected. As a follow up, the Council [conclusions](#) of 9 November 2015 indicated that the existing Frontex [tools](#), including the deployment of [Rapid Border Intervention Teams](#), would be needed to assist Member States concerned by migratory pressures in respecting their 'legal obligation to perform adequate controls ... and increase co-ordination of actions relating to border management'. The European Parliament [welcomed](#) the plan to provide Frontex with additional resources. However, it called on the Commission to propose a medium-term and long-term strategy for the agencies in the field of justice and home affairs, including [EASO](#), [Europol](#), [Eurojust](#), and [CEPOL](#).

In defining the model, a proposal for an EBCGS has to take into account the fact that although the need for strengthening protection of the EU's external borders is generally acknowledged, stakeholders have [different views](#) on the composition, role and functions of an EBCGS. [Member States](#) have not yet reached consensus. Concerns relate mainly to the respect of national sovereignty and to budget availability. From the [European Parliament](#) perspective, it is important that the model provides for Parliament's oversight of EBCGS. In addition, the proposal should include a mechanism to ensure the EBCGS's compliance with the data protection framework and [fundamental rights](#), in particular the right to [individual complaints](#) and respect of the *non-refoulement* principle, as well as national law provisions.