DRAFT REPORT


Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jan Mulder
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in **bold italics**. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2011)0873),
– having regard to Article 294(2) and Article 77(2)(d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0506/2011),
– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
– having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
– having regard to Rule 55 of its Rules of Procedure,
– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A7-0000/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) 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 the Agency and Member States to detect and track these small vessels, leading in the mid-term to a considerable reduction of the loss of migrants and refugees at sea.

Or. en

Justification

It is important to highlight the role of EUROSUR as regards saving lives of migrants at sea.

Amendment 2

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

(3a) This Regulation requires that the Agency improves the cooperation and information exchange with other Union bodies and agencies, such as the European Maritime Safety Agency and the EU Satellite Centre, in order to make best use of existing information, capabilities and systems which are already available at European level.

Or. en

Justification

It is necessary that all Union Agencies and bodies contribute to the good functioning of EUROSUR, to the extent of their mandate.

Amendment 3

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

(4a) In order to ensure that the information contained in EUROSUR is as complete and updated as possible, notably as regards the situation in third countries,
the Agency should cooperate with the European External Action Service and European Union delegations and offices should provide all information relevant for EUROSUR to the Agency.

Or. en

Justification

The European Union, through the European External Action Service, has representations throughout the world and the information they have, including as regards migration trends and flows, should be made available to EUROSUR.

Amendment 4

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) This Regulation includes provisions on the cooperation with neighbouring third countries, because a well-structured and permanent cooperation and information exchange with these countries, in particular in the Mediterranean region, is a key factor for achieving the objectives of EUROSUR. It is essential that any cooperation and information exchange between Member States and neighbouring third countries be carried out in full compliance with fundamental rights, such as the obligation to provide a safe haven for persons in need of international protection.

Or. en

Justification

Cooperation with neighbouring third countries is necessary for the good functioning of the EUROSUR network, in full respect of fundamental rights.
Amendment 5
Proposal for a regulation
Recital 16

Text proposed by the Commission


Amendment


Or. en

Justification

The fact that Member States should respect their obligations under international maritime law should be made clearer.

Amendment 6
Proposal for a regulation
Article 1

Text proposed by the Commission

This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability at the external borders of the Member States and of the European Union,

Amendment

This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability, to protect the lives of migrants and to prevent irregular migration and
hereinafter referred to as the European Border Surveillance System (EUROSUR). **cross-border crime** at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).

**Justification**

*The three main objectives of this Regulation should be highlighted in the first article defining the subject matter of the Regulation.*

**Amendment 7**

Proposal for a regulation

Article 2 – paragraph 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. This Regulation shall be without prejudice to Union legislation as regards asylum and return.</td>
<td></td>
</tr>
</tbody>
</table>

**Justification**

*It is important to highlight that the application of the Regulation does not prejudice the application of other Union legislation.*

**Amendment 8**

Proposal for a regulation

Article 2 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. This Regulation shall not apply to <strong>operational</strong>, procedural and legal measures taken after interception.</td>
<td>2. This Regulation shall not apply to procedural and legal measures taken after interception.</td>
</tr>
</tbody>
</table>
**Justification**

*Operational information shall not be excluded from the scope of this Regulation.*

**Amendment 9**

**Proposal for a regulation**

**Article 2 – paragraph 3**

**Text proposed by the Commission**

3. Member States and the Agency shall comply with fundamental rights, including data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

**Amendment**

3. Member States and the Agency shall comply with fundamental rights, including *the principle of non-refoulement* and data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

**Justification**

*The principle of non-refoulement should be highlighted as part of the rights Member States and the Agency must comply with.*

**Amendment 10**

**Proposal for a regulation**

**Article 3 – point a**

**Text proposed by the Commission**

(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control measures on the basis of *combining* new information *with* existing knowledge;

**Amendment**

(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control measures on the basis of new information *and* existing knowledge;

**Or. en**
Justification

This amendment aims to clarify the Commission proposal.

Amendment 11

Proposal for a regulation
Article 3 – point fa (new)

Text proposed by the Commission
(fa) 'incident' means an event relating to a potential risk for the lives of migrants, irregular border crossing or cross-border crime at or nearby the external borders of a Member State;

Amendment

Or. en

Justification

It is important to define the term 'incident' as it is used throughout the proposal.

Amendment 12

Proposal for a regulation
Article 3 – point fb (new)

Text proposed by the Commission
(fb) 'interception' means all measures taken by a Member State in order to prevent, interrupt or stop the movement of persons crossing external borders without the required documentation.

Amendment

Or. en

Justification

Since the Regulation does not apply after interception, a clear definition of this term must be provided in the Regulation.
Amendment 13

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. Each Member State with land and sea external borders shall designate, operate and maintain a National Coordination Centre for border surveillance, which shall coordinate and exchange information between all authorities with a responsibility for external border surveillance at national level as well as with the other national coordination centres and the Agency. The Member State shall notify the establishment of the centre to the Commission, which shall forthwith inform the other Member States and the Agency.

Amendment

1. Each Member State shall designate, operate and maintain a National Coordination Centre for border surveillance, which shall coordinate and exchange information between all authorities with a responsibility for external border surveillance at national level as well as with the other national coordination centres and the Agency. The Member State shall notify the establishment of the centre to the Commission, which shall forthwith inform the other Member States and the Agency.

Justification

All Member States, and not only those with land and sea borders, should have a national coordination centre, so as to coordinate the exchange of information in the framework of EUROSUR.

Amendment 14

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency.

Amendment

2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation within the framework of EUROSUR with other national coordination centres and with the Agency.

Or. en
Justification

It should be made clear that the national coordination centre should be the single point of contact with the Agency as regards EUROSUR, but that other points of contact can exist within other networks.

Amendment 15
Proposal for a regulation
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In accordance with national law, Member States may entrust their national coordination centres with coordinating the information exchange and cooperation with regard to the surveillance of air borders and for checks at border crossing points.

Or. en

Justification

The fact that surveillance of air borders and checks at border crossing points are excluded from the scope of this Regulation shall not prevent national coordination centres from being responsible for those tasks as well.

Amendment 16
Proposal for a regulation
Article 7 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) secure handling, storing, processing of non-classified sensitive information;

(c) secure handling, storing, transmission and processing of non-classified sensitive information;

Or. en

Justification

The reference to "transmission" is missing from this point in the Commission proposal, but included in the following point. It should be added here as well.
Amendment 17

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. TheAgency and the national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which apply the basic principles and common standards of or are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure.

Amendment


Justification

For clarity, the provisions as regards the Agency and the national coordination centres (see AM 18) should be separated.

Amendment 18

Proposal for a regulation
Article 7 – paragraph 3 a (new)

Text proposed by the Commission

3a. The national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure.

Amendment

Justification

For clarity, the provisions as regards the Agency (see AM 17) and the national coordination centres should be separated.
Amendment 19

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.

Amendment

1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for the protection of the lives of migrants and the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.

Or. en

Justification

The objective of protecting lives of migrants must be highlighted here with the other two objectives.

Amendment 20

Proposal for a regulation
Article 9 – paragraph 2 – point g

Text proposed by the Commission

(g) national coordination centres in other Member States and in third countries;

Amendment

(g) national coordination centres in other Member States;

Or. en

Justification

Since not all third countries have a national coordination centre, it is clearer to separate this provision (see AM 21) from the reference to other Member States' coordination centres.
Amendment 21
Proposal for a regulation
Article 9 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) authorities of third countries;

Justification
Since not all third countries have a national coordination centre, it should be made clear that information can come from any third country authority.

Amendment 22
Proposal for a regulation
Article 9 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) regional networks with neighbouring third countries, such as the SEAHORSE Atlantic network, SEAHORSE Mediterranean network, the Baltic Sea Region Border Control Cooperation network CoastNet, the Black Sea Border Coordination and Information Centre and other regional networks set up at the external land borders;

Justification
The list is not exhaustive and may not be complete if other networks are set up. It should be deleted.
Amendment 23

Proposal for a regulation
Article 9 – paragraph 2 – point i

Text proposed by the Commission

(i) ship reporting systems, such as the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS). Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;

Amendment

(i) ship reporting systems. Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;

Or. en

Justification

The list is not exhaustive and may not be complete if other systems are created. It should be deleted.

Amendment 24

Proposal for a regulation
Article 9 – paragraph 3 – point c

Text proposed by the Commission

(c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact on the control of the external borders;

Amendment

(c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents, political or humanitarian crisis and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact on the control of the external borders;

Or. en

Justification

The definition of crisis situations should be more precise and specifically include political and humanitarian crisis.
Amendment 25
Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member States.

Amendment

1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the protection of the lives of migrants and the prevention of irregular migration and cross-border crime at the external borders of the Member States.

Or. en

Justification

The objective of protecting lives of migrants must be highlighted here with the other two objectives.

Amendment 26
Proposal for a regulation
Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) national situational pictures, including basic information received under Article 9(8);

Amendment

(a) national situational pictures, including basic information received under Article 9(5)(a);

Or. en

Justification

This amendment aims to correct a reference mistake in the Commission proposal.
Amendment 27

Proposal for a regulation
Article 10 – paragraph 2 – point b a (new)

Text proposed by the Commission
(ba) European Union delegations and offices;

Amendment

Or. en

Justification

EU delegations and offices should contribute to EUROSUR by providing to the Agency the information they have, which is relevant for the European Situational Picture of EUROSUR.

Amendment 28

Proposal for a regulation
Article 10 – paragraph 3 – point b

Text proposed by the Commission
(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, once it is having a moderate or significant impact on the external borders of the Member States;

Amendment
(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, which have a medium or high impact on the external borders of the Member States;

Or. en

Justification

This amendment aims to harmonise the wording with the rest of the proposal, which refers to a 'medium' or 'high' impact.

Amendment 29

Proposal for a regulation
Article 10 – paragraph 5 – point a

Text proposed by the Commission
(a) a sub-layer on own assets, which shall

Amendment
(a) a sub-layer on own assets, which shall
contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;

contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations and pilot projects or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;

Or. en

**Justification**

*Information on the pilot projects led by Frontex should also be included in the European Situational Picture.*

**Amendment 30**

Proposal for a regulation

**Article 10 – paragraph 5 – point b**

*Text proposed by the Commission***

(b) a sub-layer on operations, which shall contain information on the joint operations coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;

*Amendment***

(b) a sub-layer on operations, which shall contain information on the joint operations and pilot projects coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;

Or. en

**Justification**

*Information on the pilot projects led by Frontex should also be included in the European Situational Picture.*

**Amendment 31**

Proposal for a regulation

**Article 11 – paragraph 1**

*Text proposed by the Commission***

1. The Agency shall establish and maintain

*Amendment***

1. The Agency shall establish and maintain

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a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.

Or. en

Justification

The objective of protecting lives of migrants must be highlighted here with the other two objectives.

Amendment 32

Proposal for a regulation
Article 11 – paragraph 2 – point b a (new)

Text proposed by the Commission

(ba) European Union delegations and offices;

Amendment

Or. en

Justification

EU delegations and offices should contribute to EUROSUR by providing to the Agency the information they have, which is relevant for the Common Pre-Frontier Intelligence Picture of EUROSUR.

Amendment 33

Proposal for a regulation
Article 11 – paragraph 4

Text proposed by the Commission

4. The events layer of the common pre-frontier intelligence picture shall include information on: any incident, crisis situation and on any other event in the pre-frontier area, which could have a moderate

Amendment

4. The events layer of the common pre-frontier intelligence picture shall include information on any incident, crisis situation and on any other event in the pre-frontier area, which could have a medium or high
or **significant** impact on irregular migration and cross-border crime at the external borders of the Member States. **Impact on irregular migration and cross-border crime at the external borders of the Member States. The impact level shall be assigned by the Agency.**

**Justification**

This amendment aims to harmonise the wording with the rest of the proposal, which refers to a 'medium' or 'high' impact. It also merges paragraphs 4 and 5, which are repetitive.

**Amendment 34**

**Proposal for a regulation**
**Article 11 – paragraph 5**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. The Agency shall assign a single indicative impact level to each incident in the events layer of the common pre-frontier intelligence picture. The Agency shall inform the national coordination centres on any incident in the pre-frontier area, which has been assigned with a medium or high impact level.</td>
<td>deleted</td>
</tr>
</tbody>
</table>

**Justification**

This paragraph is merged into paragraph 4 (see AM 33), as they are repetitive.

**Amendment 35**

**Proposal for a regulation**
**Article 12 – paragraph 3 – point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) ship reporting systems within their given legal limitations, <strong>such as the Automated Identification System (AIS)</strong> and the Vessel Monitoring System (VMS);</td>
<td>(a) ship reporting systems within their given legal limitations;</td>
</tr>
</tbody>
</table>
Justification

The list is not exhaustive and may not be complete if other systems are created. It should be deleted.

Amendment 36

Proposal for a regulation
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Processing of personal data

1. The National Situational Picture may be used for processing personal data to the extent necessary for the purposes of EUROSUR in accordance with Directive 95/46/EC, the national legislation implementing it and other relevant national legislation.

2. The European Situational Picture and the Common Pre-Frontier Intelligence Picture may only be used for processing personal data:

(a) for the registration numbers of vehicles, vessels and other craft, which shall be processed in accordance with Regulation (EC) No 45/2001 and with Directive 95/46/EC;


Justification

The proposal of the Commission referred to the possibility of processing personal data through EUROSUR only in Recital 7. An Article regulating this issue must be included in the text, and should set strict conditions for the processing of personal data.
Amendment 37
Proposal for a regulation
Article 17 – paragraph 2 – point c

Text proposed by the Commission

(c) the European Commission and EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;

Amendment

(c) the European Commission, the European External Action Service, the European Asylum Support Office and other EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;

Or. en

Justification

Both the European External Action Service and the EASO should be specifically mentioned, as they can provide useful and relevant information.

Amendment 38
Proposal for a regulation
Article 17 – paragraph 5

Text proposed by the Commission

5. The agencies and centres referred to in paragraph 2 may use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights.

Amendment

5. The agencies and centres referred to in paragraph 2 shall use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights.

Or. en

Justification

It should be made clear that the information received must be used in compliance with fundamental rights.
Amendment 39

Proposal for a regulation
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Cooperation with Ireland and the United Kingdom

1. The exchange of information and cooperation with Ireland and the United Kingdom on protecting lives of migrants and preventing irregular migration and cross-border crime at the external borders may take place on the basis of bilateral or multilateral agreements between Ireland and the United Kingdom and one or several neighbouring Member States. The national coordination centres of the Member States shall be the contact point for the exchange of information between the communication network referred to in Article 7 and Ireland and the United Kingdom. Those agreements shall be notified to the Commission.

2. The agreements referred to in paragraph 1 shall be limited to the following exchange of information between the national coordination centre of a Member State and Ireland and the United Kingdom:

(a) information contained in the national situational picture of a Member State to the extent transmitted to the Agency for the purposes of the European situational picture and the Common pre-frontier intelligence picture,

(b) information collected by Ireland and the United Kingdom which is relevant for the purposes of the European situational picture and the Common pre-frontier intelligence picture,

(c) information as laid down in Article 9(9).
3. Prior approval of any other Member State, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1, shall be required before that information can be shared with Ireland and the United Kingdom under that agreement.

4. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.

5. The agreements referred to in paragraph 1 shall provide that Ireland and the United Kingdom shall bear all financial costs arising from their participation in EUROSUR.

Justification

A specific provision regarding the UK and Ireland should be inserted in line with the provisions foreseen for neighbouring third countries, as they do not participate as such in the EUROSUR network.

Amendment 40

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The exchange of information and cooperation with neighbouring third countries on preventing irregular migration and cross-border crime may take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third

Amendment

1. The exchange of information and cooperation with neighbouring third countries on protecting lives of migrants and preventing irregular migration and cross-border crime may take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the communication network referred to in Article 7 and the
countries. regional networks with neighbouring third countries. Those agreements shall be notified to the Commission.

Or. en

Justification

The objective of protecting lives of migrants must be highlighted here with the other two objectives. The Commission must be informed of the bilateral or multilateral agreements signed by Member States in the framework of EUROSUR.

Amendment 41

Proposal for a regulation
Article 18 – paragraph 1 a (new)

Text proposed by the Commission

1a. Those agreements shall be in compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union, the relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Or. en

Justification

It must be underlined that the agreements with third countries must be in compliance with the relevant law on fundamental rights.

Amendment 42

Proposal for a regulation
Article 18 – paragraph 1 b (new)

Text proposed by the Commission

1b. Any exchange of personal data with
third countries shall be prohibited.

Or. en

Justification

The exchange of personal data through EUROsUR is allowed, with specific safeguards (see Article 12a) but exchange of personal data with third countries must be forbidden.

Amendment 43

Proposal for a regulation
Article 18 – paragraph 4 a (new)

Text proposed by the Commission Amendment

4a. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.

Or. en

Justification

It must be underlined that third countries which have agreements with Member States in the framework of EUROsUR are not allowed to further transmit the information they receive to other third countries or third parties.

Amendment 44

Proposal for a regulation
Article 18 – paragraph 5

Text proposed by the Commission Amendment

5. Any exchange of information with third countries of information derived from service for the common application of surveillance tools is subject to the legislation and rules governing those tools and systems as well as to the relevant provisions of Directive 95/46/EC and Regulation (EC) No 45/2001.

5. Any exchange with third countries of information derived from the use of the common application of surveillance tools is subject to the legislation and rules governing those tools and systems.

Or. en
Justification

Since the exchange of personal data with third countries is prohibited, there is no need for a reference to the Personal Data Protection instruments.

Amendment 45

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

2. The Agency shall submit a report on the functioning of EUROSUR on 1 October 2015 and every two years thereafter.

Amendment

2. The Agency shall submit a report on the functioning of EUROSUR to the European Parliament, the Council and the Commission by 1 October 2015 and every two years thereafter.

Or. en

Justification

It should be clarified that the Frontex report should be addressed to all three institutions.

Amendment 46

Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council on 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

Amendment

3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council by 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights including as regards processing of personal data. It shall also include an assessment of the feasibility of the inclusion in EUROSUR of air border surveillance and checks at border
crossing points. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

Justification

The evaluation made by the Commission should include an assessment of the processing of personal data. It should also include an evaluation of the feasibility of the extension of the EUROSUR mandate to air border surveillance and checks at border crossing points.

Amendment 47

Proposal for a regulation
Article 210 – paragraph 4

Text proposed by the Commission

4. Article 5(1) shall apply to the remaining Member States with land and sea external borders (Belgium, Germany, Netherlands and Sweden) as from 1 October 2014.

Amendment

4. Article 5(1) shall apply to the remaining Member States as from 1 October 2014.

Justification

Since all Member States should create a national coordination centre, this provision must be extended to all Member States
EXPLANATORY STATEMENT

Free movement is a defining principle of the European Union and the ability to move within the European Union without facing checks at internal borders is one of its most successful achievements. Many people use this freedom and public opinion repeatedly ranks freedom to travel among the most significant benefits brought about by the Union. For our economy as well, free movement is central to the success of the single market. Schengen cannot be reversed. It should instead be strengthened through a better management of the EU external borders that ensures full mutual trust among Member States.

For that reason, your Rapporteur generally supports the Commission proposal. Sharing information and improving the cooperation between Member States and between the agencies involved are essential steps in view of a better burden-sharing in the management of the EU external borders. They are also crucial to help Member States respect the international maritime legislation and save migrants lives.

Your Rapporteur intends to reinforce the following points:

1) Scope of the directive
Your Rapporteur favours the inclusion of pre-frontier areas in EUROSUR, including border crossing points/airports, but is of the opinion that this is for a later stage. For the moment, it should remain optional for Member States. He also supports the insertion of a review clause with a report assessing the impact of this inclusion and possibly proposing amendments to the Regulation.

2) Cooperation with other agencies
Your Rapporteur strongly supports the cooperation with other agencies, especially Europol, EASO, EMSA (European Maritime Safety Agency), EFCA (European Fisheries Control Agency) and the ESC (European Satellite Centre).

3) Cooperation with third countries
Your Rapporteur is of the opinion that Member States should cooperate with neighbouring third countries in order to protect lives of migrants, prevent irregular migration and fight cross-border crime. Those agreements shall be notified to the Commission.

4) Participation of the UK and Ireland
Your Rapporteur supports the possibility for the UK and Ireland to participate in EUROSUR. The cooperation should take place on the basis of bilateral or multilateral agreements between Ireland and the UK and one or several neighbouring Member States.

5) Personal data
Your Rapporteur insists that personal data should be exchanged and processed through EUROSUR only where necessary and in duly justified cases, with the appropriate safeguards. He also considers that no personal data should be exchanged with third countries.

6) Definitions
Your Rapporteur tabled some amendments in order to better define some concepts like
"incident" or "interception". Your Rapporteur also insists on a better definition of situations of particular pressure and stresses that the assessment of "low", "medium" and "high" impact should be done at Frontex level.

7) Coordination
Your Rapporteur supports the appointment of a single national coordination centre in each Member State charged with cooperating with EUROSUR while allowing for some flexibility as regards Member States' internal regional organisation.

8) Fundamental rights
Your Rapporteur introduces some references to the relevant EU legislation on asylum (including the principle of non-refoulement) and return that should apply after interception.

9) Accountability
Your Rapporteur favours the inclusion of a review clause every 4 years, with a report to the European Parliament.