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Committee on Transport and Tourism

2013/0106(COD)

11.7.2013

AMENDMENTS

9 - 25

Draft opinion
Nathalie Griesbeck
(PE513.286v01-00)

Proposal for a regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union

Proposal for a regulation
(COM(2013)0197 – C7-0098/2013 – 2013/0106(COD))

AM_Com_LegOpinion

Amendment 9
Keith Taylor

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) During search and rescue operations, vessels should carry at least minimum safety equipment and ensure the instruction of staff onboard to guarantee the safety of both the persons intercepted as well as the staff onboard, as laid down in Directive 2012/35/EC on the minimum level of training of seafarers in safety rules and standards for passenger ships (Annex I, chapter V, regulation V/2 §6).

Or. en

Justification

An emergency plan should be made clear, including a clear division of responsibility of staff.

Amendment 10
Spyros Danellis

Proposal for a regulation
Article 2 – point 9

Text proposed by the Commission

Amendment

9. ‘stateless ship’ means a ship without nationality or assimilated to a ship without nationality when the ship has not been granted by any State the right to fly its flag or when it sails under the flags of two or more States, using them according to convenience;

deleted

Or. en

Justification

The term does not exist in international or EU law, whereas its meaning in Article 6 is self-explanatory and does not require a definition.

Amendment 11 Keith Taylor

Proposal for a regulation Article 3

Text proposed by the Commission

Measures taken for the purpose of a sea operation shall be ***conducted in a way that does not put at risk*** the safety of the persons intercepted or rescued and the safety of the participating units.

Amendment

Measures taken for the purpose of a sea operation shall be ***in full compliance with the EU legislation applying to the equipment as well as the training of staff on-board a vessel in order to ensure*** the safety of the persons intercepted or rescued and the safety of the participating units.

Or. en

Amendment 12 Keith Taylor

Proposal for a regulation Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Vessels used for border surveillance by the participating units should have standardised medical and humanitarian kits - containing a sufficient amount of water, food and blankets - to provide an urgent response in emergency situations, taking account of the fact that many intercepted ships will neither be seaworthy nor flagged. The presence of medical personnel in border surveillance units should be encouraged.

Or. en

Amendment 13
Carlo Fidanza

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. No person shall be disembarked in, or otherwise handed over to the authorities of a country where there is a serious risk that such person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

(Only applies to Italian text)

Or. it

Justification

Wording of Article 19 of the EU Charter of Fundamental Rights of 26 September 2000.

Amendment 14
Carlo Fidanza

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. Before deciding on disembarkation in a third country, the participating units shall take into account the general situation in that third country and intercepted or rescued persons shall not be disembarked in that third country when the host Member State or the participating Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.

2. Before deciding on disembarkation in a third country, the participating units shall take into account the general situation in that third country and ***the possible existence of bilateral agreements on migration between that country and one or more Member States, according to international law. After this analysis,*** intercepted or rescued persons shall not be disembarked in that third country when the host Member State or the participating

Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.

Or. en

Justification

According to existing international law, it is important to introduce this parameter in order to give a sense to the bilateral agreements and thus empower more third countries.

Amendment 15
Carlo Fidanza

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance. The participating units shall communicate information about the ship immediately to the International Coordination Centre.

Amendment

1. Upon detection, the participating units shall approach a ship suspected of crossing or intending to cross the border in an irregular manner to observe its identity and nationality and, pending further measures, it shall be surveyed at a prudent distance ***taking all due precautions***. The participating units shall communicate information about the ship immediately to the International Coordination Centre.

Or. it

Justification

Those taking part in maritime detection operations must not be put at risk. Account must also be taken of prevailing sea and weather conditions.

Amendment 16
Carlo Fidanza

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. Where the ship is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.

Amendment

2. Where the ship is about to enter or it has entered the territorial sea or, **where formally proclaimed**, the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned

Or. it

Justification

Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal State to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws.

Amendment 17
Spyros Danellis

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. Where the ship is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, **which shall convey this information** to the National Coordination Centre of the Member State concerned.

Amendment

2. Where the ship is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, **as well as** to the National Coordination Centre of the Member State concerned.

Or. en

Justification

A Member State must be informed directly of an incident taking place in its own territorial waters and not through the International Coordination Centre.

Amendment 18
Spyros Danellis

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea outside the scope of a sea operation to the International Coordination Centre, *which shall convey this information* to the National Coordination Centre of the Member State *or Member States* concerned.

Amendment

3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea outside the scope of a sea operation to the International Coordination Centre, *or if the ship has entered the territorial waters of a non-participating Member State, then also directly* to the National Coordination Centre of the Member State concerned.

Or. en

Justification

If a ship is suspected of being engaged in illegal activities in the territorial waters of a Member State, then the Member State concerned must be informed directly as soon as possible.

Amendment 19
Keith Taylor

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. In the territorial sea of the host Member State or a participating Member State, the participating units *shall take one or more of the following measures when there are*

Amendment

1. *If* in the territorial sea of the host Member State or a participating Member State, the participating units *have* reasonable grounds to suspect that a ship is

reasonable grounds to suspect that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(c) making persons on board aware that they may not be authorised to cross the border and that persons directing the craft may face penalties for facilitating the voyage;

(d) seizing the ship and apprehending persons on board;

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

(f) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State.

carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea, ***they shall request*** information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board.

They shall take the following measures in the following order of priority:

(1) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(2) making persons on board aware that they may not be authorised to cross the border and that persons directing the craft may face penalties for facilitating the voyage.

Optionally, they may also take the following measures:

(a) seizing the ship and apprehending persons on board;

(b) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

(c) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State.

Or. en

Amendment 20
Keith Taylor

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. On the high seas, the participating units **shall take one or more of the following measures when there are** reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(c) making persons on board aware that they are may not be authorised to cross the border and that persons directing the craft may face penalties for facilitating the voyage;

(d) seizing the ship and apprehending persons on board;

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

(f) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;

(g) conducting the ship or persons on board to the host Member State or to another Member State participating in the

Amendment

1. **If** on the high seas, the participating units **have** reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants, **they shall request** information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board.

They shall also take the following measures in the following order of priority:

(1) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;

(2) making persons on board aware that they may not be authorised to cross the border and that persons directing the craft may face penalties for facilitating the voyage.

Optionally, they may also take the following measures:

(a) seizing the ship and apprehending persons on board;

(b) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

(c) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;

(d) conducting the ship or persons on board to the host Member State or to another Member State participating in the

operation.

operation.

Or. en

Amendment 21
Carlo Fidanza

Proposal for a regulation
Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

(a) requesting information and documentation on ownership, registration, ***provenance, point of departure and other*** elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;

Or. it

Justification

Comprehensive and more detailed checks to identify the principal illegal migration routes used by traffickers.

Amendment 22
Carlo Fidanza

Proposal for a regulation
Article 7 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or, ***where formally proclaimed***, the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;

Or. it

Justification

Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal State to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws.

Amendment 23

Carlo Fidanza

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. In the zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(2).

Amendment

1. In the ***formally proclaimed*** zone contiguous to the territorial sea of a Member State, which is a host Member State or a participating Member State, the measures laid down in Article 6(1) shall be taken in accordance with Article 6(2).

Or. it

Justification

Under Article 33 of the United Nations Convention on the Law of the Sea, it is necessary for a contiguous zone to be formally proclaimed, thereby entitling the coastal State to monitor vessels in transit with a view to preventing or punishing infringements of its customs, fiscal, immigration or sanitary laws.

Amendment 24

Spyros Danellis

Proposal for a regulation

Article 9 – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. The provisions of this Article shall apply exclusively during the course of operations coordinated by the Agency and shall be without prejudice to the responsibilities of Member States that accrue from the International Convention

Justification

Maritime search and rescue rules are not an EU competence, so it should be noted that Article 9 provides rules for the specific context of sea border surveillance operations coordinated by the Agency, due to their particular characteristics.

Amendment 25

Silvia-Adriana Țicău

Proposal for a regulation

Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Reporting

The Commission shall monitor and review the application of this regulation and submit an overall progress report to the European Parliament and the Council, for the first time by 31 December 2016 and again after two years, on the effectiveness of the measures adopted to prevent unauthorised cross-border movements and combat cross-border crime.

The report shall include at least the following:

– procedures followed for exchanges of information and cooperation in practice between the Member States and the European external border surveillance system (Eurosur);

– compliance by the Member States and the Agency with their operations under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations

Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant international instruments;

– measures to be taken in future to improve maritime safety and enhance external border security.

Or. ro