



2017/0145(COD)

04.10.2017

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, and amending Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) 1077/2011
(COM(2017)0352 – C8-0216/2017 – 2017/0145(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Monica Macovei

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

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	36

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, and amending Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) 1077/2011 (COM(2017)0352 – C8-0216/2017 – 2017/0145(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0352),
 - having regard to Article 294(2) and Article 74, Articles 77(2)(a) and (b), Article 78(2)(e), Article 79(2)(c), Article 82(1)(d), Article 85(1), Article 87(2)(a) and Article 88(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0216/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 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 (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 5 – subparagraph 1

Text proposed by the Commission

Since the Management Authority required legal, administrative and financial autonomy, it was established in the form of a regulatory agency (Agency) having legal personality. As was agreed, the seat of the Agency was established in Tallinn (Estonia). However, since the tasks relating

Amendment

Since the Management Authority required legal, administrative and financial autonomy, it was established in the form of a regulatory agency (Agency) having legal personality. As was agreed, the seat of the Agency was established in Tallinn (Estonia). However, since the tasks relating

to technical development and the preparation for the operational management of SIS and VIS were already being carried out in Strasbourg (France) and a backup site for those IT systems had been installed in Sankt Johann im Pongau (Austria) in line also with the locations of the SIS and VIS systems decided under the relevant legislative instruments, this should continue to be the case. Those two sites should also continue to be the locations, respectively, where the tasks relating to operational management of Eurodac should be carried out and where a backup site for Eurodac should be established. Those two sites should also be the locations, respectively, for the technical development and operational management of other large-scale IT systems in the area of freedom, security and justice, and, if so provided in the relevant legislative instrument, for a backup site capable of ensuring the operation of a large-scale IT system in the event of failure of that system. In order to maximise the possible use of the backup site, this site should also be able to operate systems simultaneously in an active mode provided that it remains capable of ensuring their operation in case of failure of the systems.

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Or. en

Amendment 2

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The mandate of the Agency with regard to research should be extended in order to increase its ability to be more

Amendment

(16) The mandate of the Agency with regard to research should be extended in order to increase its ability to be more

proactive suggesting relevant and necessary technical changes in the IT systems under its responsibility. The Agency might not only monitor but also contribute to the implementation of research activities relevant to the operational management of the systems it manages. It should send information on such monitoring to the European Parliament, the Council and the European Data Protection Supervisor regularly.

proactive suggesting relevant and necessary technical changes in the IT systems under its responsibility. The Agency might not only monitor but also contribute to the implementation of research activities relevant to the operational management of the systems it manages. It should send information on such monitoring to the European Parliament, the Council and, ***where the processing of personal data is concerned***, the European Data Protection Supervisor regularly.

Or. en

Amendment 3

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) The Agency should also provide ad-hoc support to Member States where required by security or migratory extraordinary needs. In particular, where a Member State faces specific and disproportionate migratory challenges at particular areas of its external borders characterised by large inward migratory flows, the Member States should be able to rely on technical and operational reinforcements. This should be provided in hotspot areas by migration management support teams composed of experts from relevant Union agencies. Where the support of eu-LISA would be required in this context with regard to issues related to the large-scale IT systems it manages, the request for support should be sent to the Agency ***by*** the Commission.

Amendment

(19) The Agency should also provide ad-hoc support to Member States where required by security or migratory extraordinary needs. In particular, where a Member State faces specific and disproportionate migratory challenges at particular areas of its external borders characterised by large inward migratory flows, the Member States should be able to rely on technical and operational reinforcements. This should be provided in hotspot areas by migration management support teams composed of experts from relevant Union agencies. Where the support of eu-LISA would be required in this context with regard to issues related to the large-scale IT systems it manages, the request for support should be sent ***directly*** to the Agency, ***which should then consult the Commission before a decision is taken. The Commission should also monitor whether the Agency provides a response to the request for advice or ad hoc support without delay.***

Amendment 4**Proposal for a regulation****Recital 21***Text proposed by the Commission*

(21) It should also be possible that the Agency is tasked with developing, managing and/or hosting a common IT system for a group of Member States opting on a voluntary basis for a centralised solution assisting them to implement technical aspects of obligations deriving from Union legislation on decentralised large-scale IT systems in the area of freedom, security and justice. This should require prior **approval by** the Commission and a decision of the Management Board and should be reflected in a delegation agreement between the Member States concerned and the Agency and financed by way of a contribution charged to the relevant Member States to cover all the costs.

Amendment

(21) It should also be possible that the Agency is tasked with developing, managing and/or hosting a common IT system for a group of Member States opting on a voluntary basis for a centralised solution assisting them to implement technical aspects of obligations deriving from Union legislation on decentralised large-scale IT systems in the area of freedom, security and justice. This should require prior **consultation with** the Commission and a decision of the Management Board and should be reflected in a delegation agreement between the Member States concerned and the Agency and financed by way of a contribution charged to the relevant Member States to cover all the costs.

Or. en

Amendment 5**Proposal for a regulation****Recital 32***Text proposed by the Commission*

(32) Member States should appoint a Member to the Advisory Group concerning a large-scale IT system, if they are bound under Union law by any legislative instrument governing the development, establishment, operation and use of that particular system. Denmark should, in addition, appoint a Member to the Advisory Group concerning a large-scale

Amendment

(32) Member States should appoint a Member to the Advisory Group concerning a large-scale IT system, if they are bound under Union law by any legislative instrument governing the development, establishment, operation and use of that particular system. **Countries associated with the implementation, application and development of the Schengen acquis and**

IT system, if it decides under Article 4 of the Protocol No 22 on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of that particular system in its national law.

Eurodac-related measures should also appoint a Member to the Advisory Group.
Denmark should, in addition, appoint a Member to the Advisory Group concerning a large-scale IT system, if it decides under Article 4 of the Protocol No 22 on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of that particular system in its national law.

Or. en

Amendment 6

Proposal for a regulation Recital 45 – subparagraph 3

Text proposed by the Commission

Amendment

Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of the entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend that period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this above-mentioned description of the participation of the UK in proposal only applies until the United Kingdom ceases to be a Member State.

deleted

Or. en

Amendment 7

Proposal for a regulation Article 1 – paragraph 6 – introductory part

Text proposed by the Commission

2. The Agency shall also be responsible for the following tasks:

Amendment

2. The Agency shall, *inter alia*, be responsible for the following tasks:

Or. en

Justification

This provision does not provide an exhaustive list of tasks of the Agency

Amendment 8

Proposal for a regulation

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the tasks conferred on it by Regulation (EU) No 603/2013 [or by Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes (recast)];

Amendment

(a) the tasks conferred on it by Regulation (EU) No 603/2013 [or by Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes, **and amending Regulation (EU) No XXX/XXX (eu-LISA)** (recast)];

Or. en

Justification

Alignment with the on-going negotiations on the Eurodac Regulation

Amendment 9

Proposal for a regulation

Article 5c – paragraph 1 – point a

Text proposed by the Commission

(a) the tasks conferred on it by [Regulation (EU) No Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes (recast) (COM(2016) 272 final – 2016/0132 (COD));

Amendment

(a) the tasks conferred on it by [Regulation (EU) No Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes, **and amending Regulation (EU) No XXX/XXX (eu-LISA)** (recast) (COM(2016) 272 final – 2016/0132 (COD));

Or. en

Justification

Alignment with the on-going negotiations on the Eurodac Regulation

Amendment 10

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

2. The communication infrastructure shall be adequately managed and controlled in such a way as to protect it from threats, and to ensure its security and that of large-scale IT systems for which the Agency is responsible, including that of data exchanged through the

Amendment

2. **Without prejudice to paragraph 1**, the communication infrastructure shall be adequately managed and controlled in such a way as to protect it from threats, and to ensure its security and that of large-scale IT systems for which the Agency is responsible, including that of data

communication infrastructure.

exchanged through the communication infrastructure.

Or. en

Justification

Pursuant to Art 7(1), the Agency is not fully responsible for the communication infrastructure of all systems. The responsibility for the communication infrastructure is divided between the Agency and Commission on the systems (Eurodac at present and ECRIS-TCN in the future) making use of EuroDomain. This should be clarified in the paragraph (2).

Amendment 11

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. Tasks relating to the operational management of the communication infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EU, Euratom) No 966/2012. In such a case, the network provider shall be bound by the security measures referred to in paragraph 3 and shall have no access to ***SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] [or the ECRIS-TCN system]*** operational data, ***or to the SIS II-related SIRENE exchange, by any means.***

Amendment

4. Tasks relating to the operational management of the communication infrastructure, ***as conferred on the Agency by the legislative instruments governing the large-scale IT systems under its responsibility,*** may be entrusted to external private-sector entities or bodies in accordance with Regulation (EU, Euratom) No 966/2012. In such a case, the network provider shall be bound by the security measures referred to in paragraph 3 and shall have no access, ***by any means,*** to ***any*** operational data.

Or. en

Justification

There is no need to list all the systems concerned, as the access restriction is general and applicable to all systems operated by the Agency.

Amendment 12

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

The Agency, together with the Commission, shall work towards establishing for all systems under the Agency's operational responsibility, automated data quality control mechanisms and common data quality indicators and towards developing a central repository for reporting and statistics, subject to specific **legislative amendments to the existing systems' instruments and/or to specific provisions in new instruments.**

Amendment

Without prejudice to Member States' responsibilities with regard to the data entered into the systems, the Agency, together with the Commission, shall work towards establishing for all systems under the Agency's operational responsibility, automated data quality control mechanisms and common data quality indicators and towards developing a central repository for reporting and statistics, subject to specific provisions in ***the legislative instruments governing the development, establishment, operation and use of large-scale IT systems managed by the Agency.***

Or. en

Justification

Member States are and will continue to be responsible for the data entered into the systems. In addition, the second part of this provision could be developed to ensure alignment with other provisions of the Proposal [see Articles 13(4), 18(1), 20(3), 23(1), 23(2), 30(4), 31(1), 32(2) and 34(1)].

Amendment 13

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

3. The Agency shall on a regular basis keep the European Parliament, the Council, the Commission, and, where ***data protection issues are*** concerned, the European Data Protection Supervisor informed on the developments referred to in paragraph 1.

Amendment

3. The Agency shall on a regular basis ***and at least once a year*** keep the European Parliament, the Council, the Commission, and, where ***the processing of personal data is*** concerned, the European Data Protection Supervisor, informed on the developments referred to in paragraph 1, ***without prejudice to the reporting requirements in relation to the implementation of the parts of the Framework Programme for***

Amendment 14

Proposal for a regulation

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Agency shall on a regular basis keep the European Parliament, the Council and, where *data protection issues are* concerned, the European Data Protection Supervisor, informed of the evolution of the pilot projects referred to in the first subparagraph.

Amendment

The Agency shall on a regular basis keep the European Parliament, the Council and, where *the processing of personal data is* concerned, the European Data Protection Supervisor, informed of the evolution of the pilot projects referred to in the first subparagraph.

Amendment 15

Proposal for a regulation

Article 11 – paragraph 4

Text proposed by the Commission

4. The Agency may plan and implement testing activities on matters covered by this Regulation and the legislative instruments governing the development, establishment, operation and use of all large-scale IT systems managed by the Agency after *a decision of* the Management Board.

Amendment

4. The Agency may plan and implement testing activities on matters covered by this Regulation and the legislative instruments governing the development, establishment, operation and use of all large-scale IT systems managed by the Agency after *informing* the Management Board.

Justification

The Management Board may only advise the Executive Director in relation to testing

activities as these activities take part of the Agency's operational activities for which the Executive Director is responsible. The proposed amendment would also align this provision with other Articles of the Proposal, given that Article 15(1) of the Proposal on the list of functions of the Management Board does not include any reference to decision making in relation to testing activities and Article 15(3) only refers to the advising role of the Management Board on testing activities

Amendment 16

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. The Agency may be requested to provide advice to Member States with regard to the national systems' connection to the central systems and ad-hoc support to Member States. The requests *for ad-hoc support* shall be submitted *to* the Commission which shall *transmit them* to the *Agency*. It may also be requested to provide advice or support to the Commission on technical issues related to existing or new systems including by way of studies and testing.

Amendment

1. The Agency may be requested to provide advice to Member States with regard to the national systems' connection to the central systems and ad-hoc support to Member States. The requests shall be submitted *directly to the Agency. This shall require prior consultation by the Agency with the Commission, which shall be handled without delay. The Commission shall monitor whether the Agency has provided a timely response to the Member State's request, where applicable.* It may also be requested to provide advice or support to the Commission on technical issues related to existing or new systems including by way of studies and testing.

Or. en

Justification

The current practice demonstrates that Member States refer directly to the Agency whenever they need technical support with regard to the national systems' connection to the central system. It seems therefore logical that the Proposal follows the current practice and offers the same "path" for submitting a request to the Agency in the future. It is advisable therefore to have the request directly submitted to the Agency, which should prior consult the COM on such requests.

Amendment 17

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

2. The Agency may also be tasked to develop, manage and/or host a common IT system by a group of **at least six** Member States opting on a voluntary basis for a centralised solution assisting them in implementing technical aspects of obligations deriving from Union legislation on decentralised systems in the area of freedom, security and justice, subject to prior **approval by** the Commission and after a decision of the Management Board. In such case the Member States concerned shall entrust the Agency with those tasks by way of a delegation agreement including the conditions for the delegation and setting out the calculation of all relevant costs and the invoicing method.

Amendment

2. The Agency may also be tasked to develop, manage and/or host a common IT system by a group of Member States opting on a voluntary basis for a centralised solution assisting them in implementing technical aspects of obligations deriving from Union legislation on decentralised systems in the area of freedom, security and justice, subject to prior **consultation with** the Commission and after a decision of the Management Board. In such case the Member States concerned shall entrust the Agency with those tasks by way of a delegation agreement including the conditions for the delegation and setting out the calculation of all relevant costs and the invoicing method. **The Agency shall charge the Member States concerned a contribution covering all relevant costs.**

Or. en

Justification

Further clarification is required whether this ad hoc support should be provided for free, or the financial implications should be covered by the core budget of the Agency, or should be borne by the States concerned. It requires reconsideration why in the COM proposal only a group of at least six MS may task the Agency. In addition, the COM should be consulted on this potential task, but it should be approved by Management Board

Amendment 18

Proposal for a regulation

Article 13 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The tasks relating to development and operational management referred to in Article 1(3) and (4) and Articles 3, 4, 5, [5a], [5b], [5c], [5d], [5e], 6 and 7 shall be carried out in Strasbourg, France.

Amendment

The tasks relating to development and operational management referred to in Article 1(3) and (4) and Articles 3, 4, 5, [5a], [5b], [5c], [5d], [5e], 6 and 7 shall be carried out in Strasbourg, France. **Further technical sites may be established following a decision of the Management**

Justification

From a practical point of view it is advisable to maintain the legal possibility for the establishment of further technical sites. This can also benefit to overcome the technical difficulties to create a true active-active setup of a system.

Amendment 19

Proposal for a regulation

Article 13 – paragraph 4 – subparagraph 3

Text proposed by the Commission

Where a backup site *or a second technical site is provided for in the legislative instruments governing the development, establishment, operation and use of each* of the systems, this site shall be installed in Sankt Johann im Pongau, Austria.

Amendment

Where a backup site *is required to ensure full functionality* of the systems, this site shall be installed in Sankt Johann im Pongau, Austria *or in any other location following a decision of the Management Board and after consultation with the Commission. The backup site may be used simultaneously for active operation of the large- scale IT systems provided that it remains capable of ensuring operation in the event of a failure of one or more of the systems.*

Amendment 20

Proposal for a regulation

Article 15 – paragraph 1 – point i

Text proposed by the Commission

(i) adopt rules for the prevention and management of conflicts of interest in respect of its members;

Amendment

(i) adopt rules for the prevention and management of conflicts of interest in respect of its members *and publish them on the Agency's website;*

Amendment 21

Proposal for a regulation

Article 15 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) adopt internal rules for the protection of whistleblowers;

Or. en

Amendment 22

Proposal for a regulation

Article 15 – paragraph 1 – point w

Text proposed by the Commission

Amendment

(w) ensure adequate follow-up to the findings and recommendations stemming from the various internal or external audit reports and evaluations as well as from investigations of the European Antifraud Office (OLAF);

(w) ensure adequate follow-up to the findings and recommendations stemming from the various internal or external audit reports and evaluations as well as from investigations of the European Antifraud Office (OLAF) **[and the European Public Prosecutor's Office (EPPO)]**;

Or. en

Amendment 23

Proposal for a regulation

Article 15 – paragraph 1 – point z

Text proposed by the Commission

Amendment

(z) adopt the security rules on the protection of classified information and non-classified sensitive information following **approval by** the Commission;

(z) adopt the security rules on the protection of classified information and non-classified sensitive information following **consultation with** the Commission;

Justification

Adoption of security rules on the protection of classified information and non - classified sensitive information requires prior consultation with COM. This amendment is aligned with the amendment to Article 33(2) of the Proposal.

Amendment 24**Proposal for a regulation****Article 15 – paragraph 1 – point gg***Text proposed by the Commission*

(gg) adopt the annual report on the activities of the Central System of Eurodac pursuant to Article 40(1) of Regulation (EU) No 603/2013 [or to Article 42 of Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes (recast)];

Amendment

(gg) adopt the annual report on the activities of the Central System of Eurodac pursuant to Article 40(1) of Regulation (EU) No 603/2013 [or to Article 42 of Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes, **and amending Regulation (EU) XXX/XXX (eu-LISA)** (recast)];

Or. en

Amendment 25**Proposal for a regulation****Article 15 – paragraph 1 – point jj**

Text proposed by the Commission

(jj) compile and publish statistics on the work of the Central System of Eurodac pursuant to Article 8(2) of Regulation (EU) No 603/2013 [or to Article 9(2) of Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes (recast)];

Amendment

(jj) compile and publish statistics on the work of the Central System of Eurodac pursuant to Article 8(2) of Regulation (EU) No 603/2013 [or to Article 9(2) of Regulation XX of XX on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement and Europol for law enforcement purposes, **and amending Regulation (EU) XXX/XXX (eu-LISA) (recast)];**

Or. en

Amendment 26

Proposal for a regulation Article 15 – paragraph 3

Text proposed by the Commission

3. The Management Board may advise the Executive Director on any matter strictly related to the development or operational management of large-scale IT systems and on activities related to research, pilot projects, proofs of concept **and testing activities**.

Amendment

3. The Management Board may advise the Executive Director on any matter strictly related to the development or operational management of large-scale IT systems and on activities related to research, pilot projects **and** proofs of concept.

Or. en

Justification

The Management Board is not in a position to advise the Executive Director on testing activities.

Amendment 27

Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission

3. The term of office of the members and their alternates shall be four years, ***extendable***. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

Amendment

3. The term of office of the members and their alternates shall be four years, ***which may be renewed***. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

Or. en

Justification

The relevant provision of Reg. 1077/2011 provides that term of office of the members of the Management Board may be renewed once. In accordance with the common approach the term of office of members of the Management Board is renewable (and not extendable).

Amendment 28

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one third of its members.

Amendment

3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, ***at the request of the Executive Director*** or at the request of at least one third of its members.

Or. en

Amendment 29

Proposal for a regulation

Article 21 – paragraph 1

Text proposed by the Commission

1. The Executive Director shall manage the Agency. The Executive Director shall assist and be accountable to the Management Board. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.

Amendment

1. The Executive Director shall manage **and represent** the Agency. The Executive Director shall assist and be accountable to the Management Board. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so **and, in accordance with Article 42(12), shall be subject to the procedure for annual discharge by the European Parliament for the implementation of the budget.** The **European Parliament and the** Council may invite the Executive Director to report on the performance of his/her duties.

Or. en

Justification

The Executive Director should represent the Agency in different possible ways, not only legally.. In addition, reference to annual discharge procedure, in accordance with Art 17(3) of Reg. 1077/2011 should be kept in the text, in line with the common approach. The proposed amendment would clarify that, pursuant to Art 42(12) of the Proposal, the Executive Director shall be subject to the annual discharge procedure. This responsibility would therefore be indicated under the responsibilities of the ED with a cross-reference to Article 42(12).

Amendment 30

Proposal for a regulation

Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Executive Director shall be independent in the performance of his duties. Without prejudice to the respective competences of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or any

other body.

Or. en

Justification

It is suggested to keep on this Regulation the provision of Art 17(2) of Reg. 1077/2011 which provides a reference to the independence of the Executive Director

Amendment 31

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. The Executive Director shall be the legal representative of the Agency. **deleted**

Or. en

Justification

The Executive Director should not only be legal representative of the Agency. In this respect, a general reference to Executive's role as the Agency's representative is suggested to be included in para (1).

Amendment 32

Proposal for a regulation
Article 21 – paragraph 3 – point g

Text proposed by the Commission

Amendment

(g) preparing an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-fraud Office (OLAF) and reporting on progress twice a year to the Commission and regularly to the Management Board;

(g) preparing an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as investigations by the European Anti-fraud Office (OLAF) and **[by the EPPO and]** reporting on progress twice a year to the Commission and regularly to the Management Board;

Or. en

Amendment 33

Proposal for a regulation

Article 21 – paragraph 3 – point h

Text proposed by the Commission

(h) protecting the financial interests of the Union by applying preventing measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of OLAF, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative including financial penalties;

Amendment

(h) protecting the financial interests of the Union by applying preventing measures against fraud, corruption and any other illegal activities, without prejudicing the investigative competence of **[the EPPO and]** OLAF, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative including financial penalties;

Or. en

Amendment 34

Proposal for a regulation

Article 21 – paragraph 3 – point i

Text proposed by the Commission

(i) preparing an anti-fraud strategy for the Agency and submitting it to the Management Board for approval;

Amendment

(i) preparing an anti-fraud strategy for the Agency and submitting it to the Management Board for approval **as well as monitoring the proper and timely implementation of that strategy;**

Or. en

Amendment 35

Proposal for a regulation

Article 22 – paragraph 3

Text proposed by the Commission

3. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall

Amendment

3. The term of office of the Executive Director shall be five years. By the end of that period, **the Management Board, in**

undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

close consultation with the Commission, shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.

Or. en

Justification

As the Executive Director is accountable to the MB, according to Art 21(1) of the Proposal. Thus, the assessment of his performance should be undertaken by the MB. COM should be consulted during the assessment. The proposed amendment would be similar to the provision of Art 18(3) of Reg. 1077/2011.

Amendment 36

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State which is bound under Union law by any legislative instrument governing the development, establishment, operation and use of a particular large-scale IT system, as well as the Commission, shall appoint one member to the Advisory Group relating to that large-scale IT system, for a four-year term, which may be renewed once.

Amendment

Each Member State which is bound under Union law by any legislative instrument governing the development, establishment, operation and use of a particular large-scale IT system, as well as the Commission ***and countries associated with the implementation, application and development of the Schengen acquis and Eurodac-related measures***, shall appoint one member to the Advisory Group relating to that large-scale IT system, for a four-year term, which may be renewed once.

Or. en

Justification

Countries associated with the implementation, application and development of the Schengen acquis and Eurodac-related measures should be able to participate in the AGs.

Amendment 37

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For that purpose they shall issue an annual, written, public statement of commitment.

Amendment

The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For that purpose they shall issue an annual, written, public statement of commitment, ***which shall be published on the Agency's website.***

Or. en

Amendment 38

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

2. The Agency's host Member States shall provide the best possible conditions to ensure the proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Amendment

2. The Agency's host Member States shall provide the best possible conditions to ensure the proper functioning of the Agency, including, ***inter alia***, multilingual, European-oriented schooling and appropriate transport connections.

Or. en

Amendment 39

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

2. The Management Board shall adopt the detailed rules for applying Regulation (EC) No 1049/2001 On the basis of a proposal by the Executive Director the Management Board shall adopt rules concerning access to the Agency's

Amendment

2. The Management Board shall adopt the detailed rules for applying Regulation (EC) No 1049/2001. On the basis of a proposal by the Executive Director the Management Board shall adopt ***without delay*** rules concerning access to the

documents, in accordance with Regulation (EC) No 1049/2001.

Agency's documents, in accordance with Regulation (EC) No 1049/2001.

Or. en

Amendment 40

Proposal for a regulation Article 33 – paragraph 2

Text proposed by the Commission

2. The security rules shall be adopted by the Management Board **following approval by** the Commission. The Agency may take all necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and where appropriate, the relevant Union agencies. It shall develop and operate an information system capable of exchanging classified information with those actors in accordance with Council Decision 2013/488/EU and Commission Decision (EU, Euratom) 2015/444. The Management Board shall, pursuant to Article 2 and Article 15(1)(y) of this Regulation, decide on the Agency's internal structure necessary to fulfil the appropriate security principles.

Amendment

2. The security rules shall be adopted by the Management Board **in close consultation with** the Commission. The Agency may take all necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and where appropriate, the relevant Union agencies. It shall develop and operate an information system capable of exchanging classified information with those actors in accordance with Council Decision 2013/488/EU and Commission Decision (EU, Euratom) 2015/444. The Management Board shall, pursuant to Article 2 and Article 15(1)(y) of this Regulation, decide on the Agency's internal structure necessary to fulfil the appropriate security principles.

Or. en

Justification

Adoption of the appropriate level of security rules falls under the responsibilities of the Agency/Management Board. The current practice, which is based on Article 12 of the Memorandum of Understanding between eu-Lisa and the Commission, shows that the Commission is only consulted on security measures before they are submitted to the Management Board (for adoption). The current practice on the adoption of the security rules should be continued to be applied and the provision should be amended accordingly.

Amendment 41

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

1. No later than five years from the entry into force of this Regulation, and every five years thereafter, the Commission ***shall assess the Agency's performance in relation to its objectives, mandate, tasks and locations in accordance*** with the *Commission's guidelines*. The evaluation shall also assess the contribution of the Agency to the establishment of a coordinated, cost-effective and coherent IT environment at Union level for the management of large scale IT systems supporting the implementation of Justice and Home Affairs (JHA) policies. The evaluation shall in particular assess the possible need to modify the mandate of the Agency and the financial implications of any such modification.

Amendment

1. No later than five years from the entry into force of this Regulation, and every five years thereafter, the Commission, ***in consultation*** with the ***Management Board, shall evaluate the performance of the Agency. The evaluation shall examine the implementation of the provisions of this Regulation and the way and extent to which the Agency effectively contributes to the operational management of large-scale IT systems in the area of freedom, security and justice and fulfils its tasks as laid down in this Regulation.*** The evaluation shall also assess the contribution of the Agency to the establishment of a coordinated, cost-effective and coherent IT environment at Union level for the management of large scale IT systems supporting the implementation of Justice and Home Affairs (JHA) policies. The evaluation shall in particular assess the possible need to modify the mandate of the Agency and the financial implications of any such modification.

Or. en

Justification

The proposed amendment aims to reintroduce the main provisions of Art 31(1) of eu-LISA Regulation (1077/2011) as well as clarifies the role of Management Board in the Agency's evaluation (consultation with MB is required). The amendment also clarifies the framework/limits of the evaluation. In this context, the evaluation may assess the implementation of the new tasks stemming from this Regulation as well as the way and extent to which the Agency effectively contributes to the operational management of large-scale IT systems.

Amendment 42

Proposal for a regulation

Article 37 – paragraph 1

Text proposed by the Commission

1. The Agency shall cooperate with the Commission, with other Union institutions and with other Union bodies, offices and agencies in particular those established in the area of freedom, security and justice, ***and in particular the European Agency for Fundamental Rights, in matters covered by this Regulation.***

Amendment

1. The Agency shall cooperate with the Commission, with other Union institutions and with other Union bodies, offices and agencies in particular those established in the area of freedom, security and justice.

Or. en

Justification

The level of cooperation should be same for all agencies in field of freedom, security and justice

Amendment 43

Proposal for a regulation

Article 37 – paragraph 4

Text proposed by the Commission

4. Cooperation with Union bodies, offices and agencies shall take place within the framework of working arrangements. Such arrangements shall ***have received the Commission's prior approval.*** Such arrangements may provide for the sharing of services between agencies where appropriate either by proximity of locations or by policy area within the limits of the respective mandates and without prejudice to their core tasks.

Amendment

4. Cooperation with Union bodies, offices and agencies shall take place within the framework of working arrangements. Such arrangements shall ***be concluded following consultation with the Commission.*** Such arrangements may provide for the sharing of services between agencies where appropriate either by proximity of locations or by policy area within the limits of the respective mandates and without prejudice to their core tasks. ***The working arrangements shall establish the mechanisms for cost recovery.***

Or. en

Justification

According to bilateral MoU between the Agency and the COM prior consultation with COM concerning the content of the working arrangement should be requested. The possibility of requesting financial compensation for services offered by the Agency to other EU bodies and agencies should be provided. The proposed wording of "mechanism for cost recovery" is the language used by Commission in its own guidance for the provision of services to other EU institutions, agencies and bodies (Ares(2016)6516711 - 21/11/2016).

Amendment 44

Proposal for a regulation Article 37 – paragraph 5

Text proposed by the Commission

5. The Union institutions, bodies, offices and agencies referred to in paragraph 1, shall use information received from the Agency only within the limits of their competences and insofar as they respect fundamental rights, including data protection requirements. Onward transmission of other communication of personal data processed by the Agency to Union institutions, bodies, offices or agencies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior **approval of** the European Data Protection Supervisor. Any transfer of personal data by the Agency shall be in line with the data protection provisions laid down in Articles 31 and 32. As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office or agency concerned shall comply with security rules and standards equivalent to those applied by the Agency.

Amendment

5. The Union institutions, bodies, offices and agencies referred to in paragraph 1, shall use information received from the Agency only within the limits of their competences and insofar as they respect fundamental rights, including data protection requirements. Onward transmission of other communication of personal data processed by the Agency to Union institutions, bodies, offices or agencies shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior **consultation with** the European Data Protection Supervisor. Any transfer of personal data by the Agency shall be in line with the data protection provisions laid down in Articles 31 and 32. As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office or agency concerned shall comply with security rules and standards equivalent to those applied by the Agency.

Or. en

Amendment 45

Proposal for a regulation Article 38 – paragraph 1

Text proposed by the Commission

1. The Agency shall be open to the participation of third countries that have entered into association **agreements** with the Union to this effect.

Amendment

1. The Agency shall be open to the participation of third countries that have entered into **any type of** association **agreement** with the Union to this effect.

Or. en

Justification

The Agency should be open not only to the participation of those third states which have concluded a Stabilisation and Association Agreement with the EU (Albania, BiH, FYROM, Montenegro and Serbia), but also to third States which have concluded any kind of association agreement with the EU (not necessarily an SAA), such as Georgia or Ukraine.

Amendment 46

Proposal for a regulation Article 38 a (new)

Text proposed by the Commission

Amendment

Article 38a

Working arrangements with international organisations and other relevant entities

In so far as it is necessary for the performance of its tasks and after consultation with the Commission, the Agency may, by means of the conclusion of working arrangements, establish and maintain relations with international organisations and their subordinate bodies governed by public international law or other relevant entities or bodies, which are set up by, or on the basis of, an agreement between two or more countries.

Or. en

Justification

It may be necessary to provide sufficient legal basis for the Agency to establish and maintain relations with international organisations and/or other relevant entities (such as Interpol and IATA) with a view of the implementation of relevant provisions or proposals of EES and ETIAS. This proposal provides such generic legal basis for the establishment of such relations.

Amendment 47

Proposal for a regulation Article 40 – paragraph 2

Text proposed by the Commission

2. The Management Board shall, on the basis of the draft statement of estimates drawn up by the Executive Director, adopt a draft estimate of the revenue and expenditure of the Agency for the following financial year, including the draft establishment plan. The **Management Board** shall send them to the Commission and to the countries associated with the implementation, application and development of the Schengen acquis and Eurodac-related measures, as a part of the single programming document, by 31 January each year.

Amendment

2. The Management Board shall, on the basis of the draft statement of estimates drawn up by the Executive Director, adopt a draft estimate of the revenue and expenditure of the Agency for the following financial year, including the draft establishment plan. The **Agency** shall send them to the Commission and to the countries associated with the implementation, application and development of the Schengen acquis and Eurodac-related measures, as a part of the single programming document, by 31 January each year.

Or. en

Justification

It is proposed to align the wording of the Proposal with the wording of the framework financial regulation of EU bodies (see Art 33(5) of Regulation 1271/2013).

Amendment 48

Proposal for a regulation Article 41 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(aa) cost recovery paid by Union institutions, bodies, offices and agencies for services provided to them in

*accordance with working arrangements
as referred to in Article 37;*

Or. en

Justification

The provision on the structure of the Agency's budget should reflect on the possible income received for services provided to Union institutions, bodies, offices and agencies in accordance with working arrangements referred to in Article 37. The proposed wording of "cost recovery" is the language used by Commission in its own guidance for the provision of services to other EU institutions, agencies and bodies (Ares (2016)6516711 - 21/11/2016).

Amendment 49

**Proposal for a regulation
Article 42 – paragraph 4**

Text proposed by the Commission

4. The **Agency** shall send a report on the budgetary and financial management for year N to the European Parliament, the Council, the Court of Auditors and the Commission by 31 March of year N+1.

Amendment

4. The **Executive Director** shall send a report on the budgetary and financial management for year N to the European Parliament, the Council, the Court of Auditors and the Commission by 31 March of year N+1.

Or. en

Justification

This amendment aligns the wording of the Proposal with the wording of the regulation with the framework financial regulation. (See Art 39(1) of the Regulation 1271/2013, which indicates that "the director shall perform the duties of authorising officer."

Amendment 50

**Proposal for a regulation
Article 45 – paragraph 3**

Text proposed by the Commission

3. OLAF may carry out investigations including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or

Amendment

3. **[The EPPO,] OLAF[, or both,]** may carry out investigations including on-the-spot checks and inspections with a view to establishing whether there has been

any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96⁹⁴.

⁹⁴ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96⁹⁴.

⁹⁴ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

Or. en

Amendment 51

Proposal for a regulation Article 48 – paragraph 1

Text proposed by the Commission

The Executive Director of eu-LISA appointed on the basis of Article 18 of Regulation (EU) No 1077/2011 shall, for the remaining term of his office, be assigned to the responsibilities of the Executive Director, as provided for in Article 21 of this Regulation.

Amendment

The Executive Director of eu-LISA appointed on the basis of Article 18 of Regulation (EU) No 1077/2011 shall, for the remaining term of his **or her** office, be assigned to the responsibilities of the Executive Director **of the Agency**, as provided for in Article 21 of this Regulation. ***The other conditions of his or her contract shall remain unchanged. If a decision extending the mandate of the Executive Director in accordance with Article 18(4) of Regulation (EU) 1077/2011 is adopted prior to the entry into force of this Regulation, the term of office shall be extended automatically until 31 October 2022.***

Or. en

Justification

This transitional arrangement would allow to extend the term of office of the Executive Director once up to 5 years if his mandate has already been extended under the currently applicable legal framework[1], which only provides for the possibility of the extension up to 3 years. The extension of the term of office of the current Executive Director, which (following an extension of 3 years) will terminate on 31 October 2020, is crucial from the Agency's perspective. Such transitional arrangement has already been provided in the Europol Regulation (EU) 2016/794.

EXPLANATORY STATEMENT

Introduction

The Regulation establishing the EU Agency for the operational management of large scale IT systems (eu-LISA/the Agency) was adopted in 2011. With the establishment of the Agency the operational management of the large-scale IT systems in the area of freedom, security and justice was entrusted to a European Agency thereby ending a situation where this operational management was done by Member States or the Commission. eu-LISA is currently responsible for the operational management at central level of the second generation Schengen Information System (SIS II), the Visa Information System (VIS) and Eurodac. eu-LISA may also be entrusted with the development and operational management of other large-scale IT systems in the area of freedom, security and justice if so provided by relevant legislative instruments.

In accordance with Article 31 of the establishing Regulation, the Commission carried out an evaluation, on the basis of an external evaluation, in close consultation with the eu-LISA Management Board, to examine the way and extent to which the Agency effectively contributes to the operational management of large-scale IT systems in the area of freedom, security and justice and fulfils its tasks laid down in the establishing Regulation. It also examined the need for revision or extension of the tasks entrusted to eu-LISA in the establishing Regulation. The proposal is linked to the evaluation of the Agency but also obeys to other legislative and policy developments and reflects on the recommendations as well as the opinion of the Management Board

On 29 June 2017, to address the current limits of EU information systems, eliminate information gaps and enable information to be shared between information systems, the Commission proposed to strengthen the mandate of eu-LISA, enabling it to develop and roll-out the technical solutions to make the EU information systems interoperable as well as in its management of new systems to ensure that its mandate meets the current challenges in the area of migration and security on the European level.

The aim of the Commission's proposal is to review eu-LISA establishing Regulation in order to adapt it to the recommendations for legislative amendments stemming from the evaluation, as well as to improve the functioning of eu-LISA and enhance and strengthen its role to ensure that its mandate meets current challenges at EU level in the area of freedom, security and justice. It also aims at inserting in the Regulation changes deriving from policy, legal or factual developments and in particular to reflect the fact that new systems will be entrusted to eu-LISA subject to agreement by the co-legislators and that eu-LISA should be tasked with contributing to the development of interoperability between large-scale IT systems in the follow-up to the 6 April 2016 Commission Communication on Stronger and Smarter Information Systems for borders and security¹, the final report of the High-level expert group on information systems and interoperability of 11 May 2017² and the Commission's Seventh progress report towards an effective and genuine Security Union of 16 May 2017³. It also

¹ Communication from the Commission to the European Parliament and the Council Stronger and Smarter Information Systems for Borders and Security. COM(2016) 205 final, 6.4.2016.

² <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=32600&no=1>

³ COM(2017) 261 final.

addresses the recommendations for amendments proposed by the Management Board of the Agency, and the possible need for eu-LISA to host and manage joint technical solutions for the national implementation of decentralized systems for interested Member States. Finally, the proposal aligns the Agency's founding act with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012 (hereinafter 'the Common Approach').

Europe faces a dual challenge today: to stay open whilst staying secure. To develop an adequate response to this the EU needs to utilize the capabilities of modern IT technologies parallel to using these to reinforce and enhance information exchange and collaboration between Member States.

New tasks for the Agency

An adequate response of this challenge also requires eu-LISA to undertake new tasks. The Agency will also now be responsible for developing and managing future large-scale EU information systems

Eu-LISA will have an instrumental role in the development and handling of the new systems, currently under discussion by the co-legislators: the Entry/Exit System (EES) for modernised external border management and the European Travel Information and Authorisation System (ETIAS) to gather advance information on visa-free travellers in the EU. The EC proposal also foresees further upgrades to the European Criminal Records Information System (ECRIS), to improve the exchange of information between Member States on convicted non-EU citizens. The centralised ECRIS system would also be part of the IT systems developed and managed by eu-LISA.

The capability of the Agency to not only administer large-scale IT systems but also provide advice and assistance to Member States on technical issues related to the existing or new IT systems, is a basis for the EC proposal to extend the mandate of the Agency. eu-LISA will have an enhanced role for the production of statistics related to the systems it operates as well as an extended scope of mandate with regard to pilot projects and research. It will help to improve the quality of the systems' data by establishing automated data quality control mechanisms. These will ensure that incorrect or inconsistent data are automatically identified. The Member State which input the data will then be alerted so they can remove or update the data

Interoperability

The proposal is part of the Commission's new approach towards achieving the interoperability of EU information systems for security, border and migration management by 2020.

The reform will give the Agency a mandate to develop the necessary technical solutions to achieve interoperability. The ongoing digital transformation in the EU justice and home affairs domain has highlighted the need to further increase the added value of eu-LISA to the benefit of Member States and the EU as a whole. The proposal for a revised mandate takes into account the needs deriving from this transformation as well as the ability of the Agency to address them.

The Agency will be responsible to develop the main technical features of the Commission's approach towards interoperability – once the relevant legislative instruments have been adopted – consisting of a European Search Portal, a shared biometric matching service and a Common Identity Repository to make sure all EU information systems interact efficiently and are readily accessible to police and customs officers on the ground.

Position of the rapporteur

The rapporteur welcomes the Commission's proposal aiming at enhancing the role and responsibilities of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice ("the Agency"). The Agency fulfils an important tasks in the field of border management and security by ensuring the operational management of large-scale IT systems. The rapporteur welcomes that the proposal generally broadens the scope of tasks entrusted to the Agency.

However, the rapporteur considers that there are some aspects of the Commission's proposal that could be further improved for ensuring a better performance of the Agency.

The current practice demonstrates that Member States refer directly to the Agency whenever they need **technical support** with regard to the national systems' connection to the central system. It seems therefore logical that the Proposal follows the current practice and offers the same "path" for submitting a request to the Agency in the future. In this context, the Commission should have a consultative role (Article 12).

The rapporteur provides for the possibility to create **further technical sites**, for various reasons: it is questionable whether an active-active mode (when all technical sites can be operational and none of them is functioning as a backup site only) is technically feasible at two locations that are geographically far from each other (as proposed in the legislative proposal, between Strasbourg and Sankt Johann im Pongau). Furthermore, in order to continue ensuring effective, secure and continuous operation of large-scale IT systems, the Agency should be able to swiftly react on situations and easily adapt to/implement future legislative proposals when the capacity of the existing technical sites need to be further extended or improved (Article 13).

The rapporteurs considers that the proposal should include further rules on **transparency**. In this regard, the rapporteur proposes that the rules adopted by the Management Board on the prevention and management of conflicts of interest of its members (Article 15) and the annual, written statement of commitment of the Members of the Management Boards, the executive Director and the members of the Advisory Groups (Article 25) should be published on the website of the Agency. Moreover, the rapporteur calls on the agency to adopt internal rules on the protection of whistle-blowers (Article 15).

Article 37 of the Proposal provides legal basis for cooperation with Union institutions, bodies, offices and agencies. This cooperation can be both strategic and operational by e.g. offering IT services to other Agencies. In this case, the service provided by eu-LISA may have impact on the Agency's budget for which it **may require financial compensation**. The current Proposal, however, does not provide for the possibility for the Agency to request financial compensation for services offered to other EU bodies and agencies. The rapporteur is of the opinion that the Agency should be compensated according to bilateral MoU between the Agency and the COM.

It is necessary to provide sufficient legal basis for the Agency, in so far as necessary for the performance of its tasks and after consultation with the Commission, to establish and maintain **relations with international organisations and other relevant entities of bodies.**

Establishment of operational cooperation with international organisations is particularly crucial for the proper implementation of Proposals on the Entry-Exit System and ETIAS. To this aim, the sufficient legal basis should be included in the Proposal (new Article 38a).

Finally, it is proposed to align the Proposal's provision on the possible extension of the mandate of the Executive Director to the respective provision (Article 73) of the Europol Regulation (EU) 2016/794 by including a transitional arrangement concerning the Executive Director. This transitional arrangement would allow to extend the term of office of the Executive Director once up to 5 years if his mandate has already been extended under the currently applicable legal framework, which only provides for the possibility of the extension up to 3 years. The extension of the term of office of the current Executive Director, which (following an extension of 3 years) will terminate on 31 October 2020. The period around 2020 is crucial, from the Agency's perspective, as it is foreseen to be a very active and busy period for the Agency due to the current timelines for the entry into force of new systems (Entry-Exit System, ETIAS and potentially ECRIS-TCN). In addition, the Agency will hold the presidency of the EU Agencies' Network in 2020-2021 as well. All these activities require continuous and experienced leadership of the Agency.