



Romanian Parliament
Senate

Bucharest, 14 March 2016

OPINION

of the ROMANIAN SENATE

regarding the *Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Decision 2005/267/EC*

COM(2015) 671 final

The Romanian Senate examined the *Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Decision 2005/267/EC - COM(2015) 671 final* – according to the provisions of the Treaty of Lisbon (Protocol no. 2).

Taking into account the report of March 10, 2016 of the permanent Committee for European Affairs, **the Plenum of the Senate**, during its session of March 14, 2016, decided as follows:

I. The proposal complies with the principles of subsidiarity and proportionality.

II. The following are noted:

1. The importance of implementing a strong European Border and Coast Guard.
2. Strengthening the role of the European Border and Coast Guard Agency by:
 - a. Establishment of a center for monitoring and risk analysis for:
 1. Migration flows to and within the European Union;
 2. Carrying out risk analysis.
 - b. Sending liaison officers of the Agency in the Member States with monitoring function.
 - c. The role of supervision on:
 1. The establishment of mandatory assessments on vulnerability.
 2. Examining the ability of Member States to meet the challenges at their external borders.
 3. Evaluation of the equipment and the resources of Member States.
 4. Assessment of Member States' plans for contingencies.

III. The following are considered necessary and important:

1. The key role in assisting the Commission in terms of coordinating support teams and migration management in the “hotspot” areas.

2. European legal cooperation on coastguard functions by developing cross-sectoral cooperation
3. Enhanced legal cooperation with third countries by coordinating the operational cooperation between Member States and third countries on border management.

IV. The following are considered crucial:

1. Ensuring the protection of fundamental rights by setting up a mechanism for handling complaints.
2. Strengthening the Agency's mandate for the processing of personal data by authorizing the processing of personal data and coordinate joint operations, pilot projects, rapid border interventions, return operations, return interventions etc.
3. Strengthening the role of the agency in the process of return, by creating a return office within the agency.

V. The following are considered sensitive:

1. When applying mechanisms for supervision, control and enforcement of the European Border and Coast Guard Agency by:
 - a. The decision of the Executive Director constitutes obligation for the Member State;
 - b. The possibility of adoption by the Commission of the decision to implement direct intervention without consulting Member States.

VI. Reluctance is expressed as regards the following aspects:

1. In order to respect the sovereignty, it is necessary that the concerned Member State should agree on the person who is detached as liaison officer.
2. No circumstance can be so urgent, that Member States are not consulted when the Commission adopts the implementing acts aimed at taking one or more of the measures provided for by art. 18 par. 2, which would produce consequences for Member States.
3. Imposing the condition of participation in joint operations without allowing the Member State to invoke the existence of exceptional circumstances can be regarded as an impairment of sovereignty in the context of limiting the State's right to decide freely its internal and external affairs (art. 18 par. 7).
4. The coerciveness on Member States to contribute with personnel in preset quota (although uncertain, introducing the term "at least", which could be interpreted as a potential contribution of more than 2%, with no upper limit) may lead to institutional deadlocks and to limiting the Member State power to act in defense of its citizens and territory against eventual national crisis or danger.
5. The provisions of art. 22 on establishing national contact point in relation with the Agency also represent interference in the internal affairs of a Member State. The prerogative to organize their internal structures is a national prerogative, not a European Commission prerogative.

p. President of the Senate

Ioan CHELARU

