

AMENDMENTS 001-054

by the Committee on Civil Liberties, Justice and Home Affairs

Report

Carlos Coelho

A7-0461/2013

Surveillance of external sea borders

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

Amendment 1**Proposal for a regulation****Recital 1***Text proposed by the Commission*

(1) The objective of Union policy in the field of the Union external borders is to ensure the efficient monitoring of the crossing of external borders including through border surveillance. The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise

Amendment

(1) The objective of Union policy in the field of the Union external borders is to ensure the efficient monitoring of the crossing of external borders including through border surveillance, ***in which the saving of lives and the protection of fundamental rights should be a priority.*** The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as

during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

Amendment 2

Proposal for a regulation Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Article 80 of the Treaty on the Functioning of the European Union (TFEU) provides that the policies of the Union set out in Chapter 2 on border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States, and that, whenever necessary, Union acts under that Chapter are to contain appropriate measures to give effect to that principle.

Justification

It is important to recall Article 80 of the TFEU and the principle of solidarity between Member States.

Amendment 3

Proposal for a regulation Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The lack of a Union burden sharing system contributes to the overburdening of the Member States bordering the Mediterranean Sea.

Amendment 4

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No 2007/2004 of 26 October 2004¹³ is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations *may* involve humanitarian emergencies and rescue at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.

¹³ OJ L 349, 25.11.2004, p. 1.

Amendment

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No 2007/2004 of 26 October 2004¹³ is responsible for the coordination of operational cooperation between Member States in the field of management of the external borders, including as regards border surveillance. The Agency is also responsible to assist Member States in circumstances requiring increased technical assistance at the external borders, taking into account that some situations involve humanitarian emergencies and rescue at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.

¹³ OJ L 349, 25.11.2004, p. 1.

Justification

Search-and-rescue operations should be a major component of border surveillance action. The call for greater focus on rescue at sea also follows on from joint resolution 2013/2827(RSP).

Amendment 5

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Cooperation with neighbouring third countries is crucial to prevent

unauthorised border crossings, to counter cross-border criminality and to make search and rescue operations more efficient. In accordance with Regulation (EC) No 2007/2004 and insofar as the full respect for the fundamental rights of migrants is ensured, the Agency may cooperate with the competent authorities of third countries, in particular as regards risk analysis and training, and should facilitate operational cooperation between Member States and third countries.

Amendment 6

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) The establishment of the European Border Surveillance System (EUROSUR) established by Regulation (EU) No [...] of the European Parliament and of the Council of [...] should strengthen the information exchange and operational cooperation between Member States and with the Agency. This ensures that the situational awareness and reaction capability of Member States improves considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime and for contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations.

Amendment

(3) The establishment of the European Border Surveillance System (EUROSUR) established by Regulation (EU) No **1052/2013** of the European Parliament and of the Council of **22 October 2013** should strengthen the information exchange and operational cooperation between Member States and with the Agency. This ensures that the situational awareness and reaction capability of Member States improves considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime, **including human trafficking**, and for contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations. **Member States and the Agency should introduce in EUROSUR all relevant information collected during these operations.**

Amendment 7

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) During border surveillance operations, Member States and the Agency should respect their obligations 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.

Amendment

(4) During border surveillance operations, Member States and the Agency should respect their obligations, ***including the principle of non-refoulement***, 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, ***the UN Convention on the Right of the Child*** and other relevant international instruments.

Amendment 8

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹⁴ and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, non-discriminatory and it should fully respect human dignity, fundamental rights ***and*** the rights of refugees and asylum seekers, ***including*** the principle of non-

Amendment

(5) In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹⁴ and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, non-discriminatory and it should fully respect human dignity, fundamental rights, the rights of refugees and asylum seekers ***and*** the principle of non-refoulement.

refoulement. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of **Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status**¹⁵ with regard to applications for **asylum** made in the territory, including at the border or in the transit zones of Member States.

¹⁴ OJ L 105, 13.4.2006, p. 1.

¹⁵ **OJ L 326, 13.12.2005, p. 13.**

Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of **Directive 2013/32/EU of the European Parliament and of the Council**^{14a} with regard to applications for **international protection** made in the territory, including at the border, **in the territorial waters** or in the transit zones of Member States.

¹⁴ OJ L 105, 13.4.2006, p. 1.

^{14a} **Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).**

Justification

The principle of non-refoulement doesn't apply only to refugees and asylum seekers and the two issues should be separated. It is necessary also to update the reference to the Procedures Directive, as it was adopted since the Commission made its proposal.

Amendment 9

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) This Regulation should be applied in full compliance with the principle of non-refoulement, according to which no one may be expelled, removed or extradited to, or forced to enter, a country where there is a real risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment or any serious violations of their human rights, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group

or political opinion; or from which there is a serious risk of such an expulsion, removal or extradition to another country.

Amendment 10

Proposal for a regulation Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from their international obligations under international and Union law under the principle of non-refoulement.

Amendment 11

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from ***those*** obligations whenever they are aware or ought to be aware that ***systemic*** deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country ***amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment*** or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of non-refoulement.

(6) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from ***their*** obligations ***under international and Union law, in particular as regards compliance with the principle of non-refoulement***, whenever they are aware or ought to be aware that deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country ***do not make it possible to conduct an individual, fair and effective assessment*** or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of non-refoulement. ***Units deployed by Member States or the Agency should also be guided by the provisions of Union law and international law in instances where operations take place in the territorial waters of third countries and those***

countries apply other rules.

Justification

Vulnerable persons should not be deported to countries where there is no suitable procedure for requesting international protection.

Amendment 12

**Proposal for a regulation
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6a) In the spirit of Article 80 of the TFEU, application of Regulation (EU) No 604/2013 of the European Parliament and of the Council^{14b} should not prevent Member States from applying, on a voluntary basis, a system of relocation of migrants and asylum seekers.

^{14b} ***Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 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 (OJ L 180, 29.6.2013, p. 31).***

Amendment 13

**Proposal for a regulation
Recital 7**

Text proposed by the Commission

Amendment

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the

(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the

passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.

passengers, to render assistance ***proactively and without delay*** to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found. ***Accordingly, no measures, including criminal procedures and sanctions, should be taken deterring ship masters from rendering assistance to persons in distress at sea.***

Amendment 14

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Clear rules should ensure that, when persons in distress at sea are detected, the responsible Rescue Coordination Centre is easily and quickly identified. In case of doubt, e.g. when a boat is floating between different search and rescue regions, the International Coordination Centre should appoint the responsible Rescue Coordination Centre.

Amendment 15

Proposal for a regulation Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) When disembarking intercepted or rescued persons in a Member State, the Agency and its Member States should fully respect the principle of solidarity and fair responsibility sharing in accordance with Article 80 of the TFEU.

Amendment 16

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation or pilot project takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation. In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency.

Amendment

(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation, pilot project ***or rapid intervention*** takes place, including references to international and Union law, regarding interception, rescue at sea and disembarkation. ***It should also include rules and procedures which ensure that persons with international protection needs, victims of human trafficking, unaccompanied minors and other vulnerable persons are identified during the operation and provided with appropriate assistance, including access to international protection.*** In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency ***in accordance with international law and fundamental rights.***

Amendment 17

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, ***notably the right to life, human dignity***, prohibition of torture and of

Amendment

(11) This Regulation respects the fundamental rights and observes the principles recognised by ***Articles 2 and 6 of the Treaty on European Union (TEU)*** and by the Charter of Fundamental Rights of the European Union, ***in particular***

inhuman or degrading treatment or punishment, right to liberty and security, non-refoulement, non-discrimination, the right to an effective remedy, **the right to asylum** and the rights of the child.

respect for human dignity, the right to life, the prohibition of torture and of inhuman or degrading treatment or punishment, the prohibition of trafficking in human beings, the right to liberty and security, the right to the protection of personal data, the right to asylum and to protection against removal and expulsion, non-refoulement, non-discrimination, the right to an effective remedy and the rights of the child. This Regulation should be applied by Member States and the Agency in accordance with those rights and principles. This Regulation also respects the human rights and fundamental freedoms laid down by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Amendment 18

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) This Regulation does not rule out the possibility of determining the details of joint operations at sea in specific operational plans, taking into account the specific requirements and characteristics of the context in which the Member States are operating.

Justification

This regulation establishes a legal reference framework which should enable Member States to determine, with an appropriate degree of flexibility, the details of operations in operational plans.

Amendment 19

Proposal for a regulation Article 2 – point 4

Text proposed by the Commission

Amendment

4. ‘participating Member State’ means a

4. ‘participating Member State’ means a

Member State which participates in a sea operation by providing **assets or human resources**, but which is not a host Member State;

Member State which participates in a sea operation by providing **technical equipment or border guards and other staff**, but which is not the host Member State;

Justification

The vocabulary used should be aligned to that of the Frontex Regulation. It should be ensured that the implementation of the obligations under international refugee and humanitarian law is part of the operational plan.

Amendment 20

**Proposal for a regulation
Article 2 – point 7 a (new)**

Text proposed by the Commission

Amendment

7a. 'operational plan' means the operational plan referred to in Article 3a or Article 8e of Regulation (EC) No 2007/2004;

Justification

As the term "operational plan" is used in Article 10, it should be made clear what it refers to.

Amendment 21

**Proposal for a regulation
Article 2 – point 11**

Text proposed by the Commission

Amendment

11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life **including as regards** the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination;

11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life **as well as** the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination, **in compliance with the principle of non-refoulement**;

Justification

A clear definition of 'place of safety' is necessary as this is one of the central issues in search and rescue obligations under international law.

Amendment 22

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 conducted in a way that, ***in all instances, ensures*** the safety of the persons intercepted or rescued and the safety of the participating units.

Amendment 23

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. No person shall be disembarked in, ***conducted towards,*** otherwise handed over to the authorities of, ***or forced to enter,*** 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 any serious violations of their human rights, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion,*** or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

Amendment 24

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. Before ***and during a sea operation, the host Member State and the participating Member States shall examine*** the general situation in ***the neighbouring third countries and the existence of agreements and projects on migration and asylum, carried out in accordance with Union law and through Union funds. Intercepted*** or rescued persons shall not be disembarked in, ***conducted towards, otherwise handed over to the authorities of, or forced to enter, a*** third country when the host Member State, the participating Member States ***or the Agency*** are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1. ***Those Member States shall provide that information to the participating units. For that purpose, they shall use information from a range of sources, including in particular other Member States, the European External Action Service, the European Asylum Support Office, the Agency, the United Nations High Commissioner for Refugees and other relevant international and non-governmental organisations.***

Amendment 25

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. ***In case of*** disembarkation in a third country, the participating units shall identify the intercepted or rescued persons and assess their personal circumstances ***to the extent possible before disembarkation.*** They shall inform the intercepted or rescued persons of the place of

Amendment

3. ***If*** disembarkation in a third country ***is considered or in the cases provided for in point (b) of Article 6(1a) and point (b) of Article 7(1a),*** the participating units shall identify the intercepted or rescued persons and assess their personal circumstances, ***including their medical conditions and***

disembarkation *in an appropriate way* and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*.

other circumstances that might make them vulnerable or subject to international protection needs, before a decision is made. They shall inform the intercepted or rescued persons of the place of disembarkation *in a language which those persons understand or may reasonably be presumed to understand* and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*. ***Further details shall be provided for in the operational plan.***

Amendment 26

Proposal for a regulation Article 4 – paragraph 4

Text proposed by the Commission

4. ***The*** participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation.

Amendment

4. ***Throughout the sea operation, the*** participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, ***disabled persons,*** persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation. ***For this purpose, participating units shall be able to draw on medical doctors, interpreters and other relevant experts.***

Amendment 27

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

Text proposed by the Commission

Amendment

4a. If there are grounds to believe that disembarkation of persons intercepted or rescued at sea in the proposed place would be in violation of the principle of non-refoulement, the participating units shall not share personal information regarding the persons with the authorities

of the country of origin or with the authorities of other third countries.

Justification

The amendment aims at bringing the regulation in line with the joint guidelines on rescue at sea by the International Maritime Organisation, the International Chamber of Shipping and UNHCR.

Amendment 28

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

Text proposed by the Commission

Amendment

4b. The participating units shall treat all persons on board in a humane way.

Justification

The amendment brings the regulation in line with Article 9 of the Protocol against the Smuggling of Migrants.

Amendment 29

Proposal for a regulation
Article 4 – paragraph 5

Text proposed by the Commission

Amendment

5. Border guards ***participating*** in a sea operation ***shall be trained with regard to relevant provisions of*** fundamental rights, ***refugee law*** and the international legal regime of search and rescue.

5. All border guards and other personnel of the Member States shall receive, prior to their participation in a sea operation, ***training in relevant Union and international law, including*** fundamental rights, ***children's rights and access to international protection and guidelines for the purpose of identifying persons seeking protection and redirecting them towards the appropriate facilities,*** and the international legal regime of search and rescue. ***Each participating unit shall include at least one person with medical training.***

Amendment 30

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, ***including information about the situation of persons on board, in particular whether there is an imminent risk to their lives or health. It shall transmit the information to the National Coordination Centre of the host Member State.***

Amendment 31

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.

Amendment 32

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, **which are** outside the scope of **the** 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. ***When necessary and for the purposes laid down in this Regulation, the authorities of the Member States concerned and the Agency shall make use of the EUROSUR framework.***

Amendment 33

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 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**

Amendment

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, **subject to the authorisation of the Member State to which the territorial sea belongs**, when there are 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, **including their health conditions, in order to assess if there are persons with special medical needs 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 **as to**

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.

why they may not be authorised to cross the border and that persons directing the **ship** may face penalties for facilitating the voyage.

1a. If the suspicions that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea prove to be founded, the host Member State or the participating Member State to which the territorial sea belongs may take one or more of 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 **ship** or steaming nearby until **it** 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 **in accordance with the operational plan.**

Amendment 34

Proposal for a regulation

Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:

(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and

(ii) has conducted, if applicable, the measures provided for in Article 4(3) and (4).

Article 6 of Directive 2013/32/EU shall apply.

Amendment 35

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

3. Where there are reasonable grounds to suspect that ***a ship without nationality or one that may be assimilated to a ship without nationality*** is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

Amendment

3. Where there are reasonable grounds to suspect that ***a stateless ship*** is carrying persons intending to circumvent the checks at border crossing points or is engaged in the smuggling of migrants by sea, the host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.

Amendment 36

Proposal for a regulation

Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection with regard to applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of Member States.

Amendment 37

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. On the high seas, the participating units

Amendment

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

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, *including their health conditions, in order to assess if there are persons with special medical needs 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 *as to why* they may not be authorised to cross the border and that persons directing the *ship* may face penalties for facilitating the voyage;

1a. If the suspicions that a ship is engaged in the smuggling of migrants by sea prove to be founded, the participating unit may take one or more of the following measures subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:

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

(b) 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;

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

operation.

operation.

Amendment 38

Proposal for a regulation Article 7 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:

(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and

(ii) has conducted, if applicable, the activities provided for in Article 4(3) and (4).

Amendment 39

Proposal for a regulation Article 7 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. When there are reasonable grounds to suspect that a ship is engaged in trafficking of human beings and illegal immigration, assistance shall be given to victims.

Amendment 40

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected

4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected

ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which **must** be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.

ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which **shall** be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.

Justification

Linguistic correction.

Amendment 41

Proposal for a regulation Article 7 – paragraph 8

Text proposed by the Commission

8. Where there are reasonable grounds to suspect that ***a ship without nationality or one that may be assimilated to a ship without nationality*** is engaged in the smuggling of migrants by sea, the participating unit may board and ***stop*** the ship with a view to verifying its statelessness. If suspicions prove to be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law and international law.

Amendment

8. Where there are reasonable grounds to suspect that ***a stateless ship*** is engaged in the smuggling of migrants by sea, the participating unit may board and ***search*** the ship with a view to verifying its statelessness. If suspicions prove to be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law, ***Union law*** and international law.

Justification

Since "stateless ship" is defined in Article 2, it should be used throughout the text. The wording should be aligned with the Palermo Protocol (Article 8(7)), which provides that the ship may be "boarded and searched".

Amendment 42

Proposal for a regulation Article 7 – paragraph 10

Text proposed by the Commission

10. The national official representing the host Member State or a participating

Amendment

10. The national official representing the host Member State or a participating

Member State at the International Coordination Centre shall be *designated under national law as an authority for the* authorisation to verify the right of a ship to fly *the flag of the Member State concerned* or to take any of the measures laid down in paragraph 1.

Member State at the International Coordination Centre shall be *responsible to facilitate communications with the relevant authorities of the Member State concerned in seeking* authorisation to verify the right of a ship to fly *its* flag or to take any of the measures laid down in paragraph 1.

Amendment 43

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(1b) and (2) *and Article 4*.

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 and regulations.

Amendment 44

Proposal for a regulation Article 9

Text proposed by the Commission

Amendment

-1. Before a sea operation, Member States shall ensure that their participating units will comply with the obligation to render assistance to any ship or person in distress at sea, in accordance with applicable provisions of international Conventions governing search and rescue and fundamental rights. They shall do so regardless of the nationality or status of such a person or the circumstances in

1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.

3. A ship or the persons on board shall be considered to be in a situation of uncertainty in particular when:

(a) doubt exists as to the safety of a ship or the persons on board; or

(b) there is lack of information concerning progress or position of a ship.

4. A ship or the persons on board shall be considered to be in a situation of alert in particular when:

(a) apprehension exists as to the safety of a ship or the persons on board because of information that serious difficulties exist, but not to the extent that a distress situation is likely; or

(b) there is continued lack of information concerning progress or position of a ship.

5. A ship or the persons on board shall be considered to be in a situation of distress in particular when:

(a) positive information is received that a ship or a person on board is in danger and needs immediate assistance; or

which that person is found.

1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.

3. To assist in determining the appropriate operating procedures, the following emergency situations shall be distinguished by the participating units:

(a) situation of uncertainty:

(i) when a person has been reported as missing or a ship is overdue; or

(ii) when a person or a ship has failed to make an expected position or safety report;

(b) situation of alert:

(i) when, following a situation of uncertainty, attempts to establish contact with a person or a ship have failed and inquiries addressed to other appropriate sources have been unsuccessful; or

(ii) when information has been received indicating that the operating efficiency of a ship is impaired, but not to the extent that a distress situation is likely;

(c) situation of distress:

(i) when positive information is received that a person or a ship is in danger and in need of immediate assistance; or

(b) attempts to establish contact with *the* ship *fail* and unsuccessful inquiries point to the probability that *the ship is in* distress; or

(c) information is received which indicates that the operating efficiency of *the* ship has been impaired to the extent that a distress situation is likely.

6. When assessing the situation for the purposes of *paragraphs 3 to 5*, participating units shall take all relevant elements into account, including:

(a) the existence of a request for assistance;

(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;

(c) the number of passengers in relation to the type and condition of the ship;

(d) the availability of necessary supplies *such as* fuel, water, food to reach a shore;

(e) the presence of qualified crew and command of the ship;

(f) the availability *and capability* of safety, navigation and communication equipment;

(g) the presence of passengers in urgent need of medical assistance;

(h) the presence of deceased passengers;

(i) the presence of pregnant women or children;

(j) the weather and sea conditions, *including weather and marine forecasts*.

7. *Participating units shall promptly communicate their assessment of the situation to the responsible Rescue Coordination Centre*. While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety

(ii) *when, following a situation of alert, further unsuccessful* attempts to establish contact with *a person or a* ship and *more widespread* unsuccessful inquiries point to the probability that *a* distress *situation exists*; or

(iii) *when* information is received which indicates that the operating efficiency of *a* ship has been impaired to the extent that a distress situation is likely.

4. When assessing the situation for the purposes of *paragraph 3*, participating units shall take all relevant elements into account *and communicate their assessment to the responsible Rescue Coordination Centre*, including *in particular*:

(a) the existence of a request for assistance;

(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;

(c) the number of passengers in relation to the type and condition of the ship (*overloading*);

(d) the availability of necessary supplies (*fuel, water, food, etc*) to reach a shore;

(e) the presence of qualified crew and command of the ship;

(f) the availability of safety, navigation and communication equipment;

(g) the presence of passengers in urgent need of medical assistance;

(h) the presence of deceased passengers;

(i) the presence of pregnant women or children;

(j) the weather and sea conditions.

5. While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.

of the persons concerned.

8. The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. **Where**, despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care **by surveying the ship at a prudent distance and by** taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.

9. **Where** the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State **unless another Rescue Coordination Centre is better placed to assume coordination of the search and rescue situation.**

10. The **participating units shall inform the** International Coordination Centre as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by **them**.

11. Where the ship cannot or can no longer be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.

6. The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. **In cases where**, despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care, taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.

7. **In cases where** the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State.

8. The International Coordination Centre **shall be informed** as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by **the participating unit**.

9. Where the ship cannot or can no longer be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.

Justification

Paragraph 3 of the compromise amendment is identical to point 4.4 of the Annex to the International Convention on Maritime Search and Rescue as amended in 1998. Paragraphs 4, 5, 6, 7, 8 and 9 are identical to, respectively, points 1.3, 1.2, 1.4, 1.2, 1.5 and 1.6 of Part II of the Council Decision 2010/252/EU, as adopted unanimously in the Council.

Amendment 45

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan. Those modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2).

Amendment

1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan ***in accordance with Article 4***. Those modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2). ***Modalities for disembarkation may specify that disembarkation does not necessarily imply sole responsibility for the State on whose territory persons rescued at sea are disembarked.***

Amendment 46

Proposal for a regulation

Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial ***waters*** or contiguous zone the interception takes place.

Amendment

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial ***sea*** or contiguous zone the interception takes place.

Justification

The expression "territorial sea" is used throughout the text, and should be used here too.

Amendment 47

Proposal for a regulation

Article 10 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial *waters* or contiguous zone the interception takes place.

Amendment

In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial *sea* or contiguous zone the interception takes place.

Justification

The expression "territorial sea" is used throughout the text, and should be used here too.

Amendment 48

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Before disembarkation, the persons intercepted or rescued in the sea operation shall receive clear information, in a language which they understand or may reasonably be presumed to understand, on where disembarkation will take place. Particular attention shall be given to unaccompanied minors.

Amendment 49

Proposal for a regulation

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

In the case of search and rescue situations as laid down in Article 9, the participating units shall cooperate with the responsible Rescue Coordination Centre to provide a suitable port or place of safety for the rescued persons and to ensure their rapid and effective disembarkation.

Amendment

Subject to the application of Article 4, in the case of search and rescue situations as laid down in Article 9, the participating units shall cooperate with the responsible Rescue Coordination Centre to provide a suitable port or place of safety for the rescued persons and to ensure their rapid

and effective disembarkation.

Justification

It should be highlighted that the decision on the place of disembarkation after a search and rescue situation should be made also taking into account the principle of non-refoulement.

Amendment 50

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

Text proposed by the Commission

5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of **Article 4(1)**, and the International Coordination Centre shall convey that information to the competent national authorities. On the basis of that information, the operational plan **should** determine which follow-up measures may be taken.

Amendment

5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of **Article 4**, and the International Coordination Centre shall convey that information to the competent national authorities. On the basis of that information, the operational plan **shall** determine which follow-up measures may be taken.

Justification

The reference should not be only to paragraph 1 of Article 4, but to the whole Article 4, so as to cover as well paragraph 4 (persons requiring special attention).

Amendment 51

**Proposal for a regulation
Article 10 a (new)**

Text proposed by the Commission

Amendment

1. Each Member State requires the master of a ship flying its flag to proceed with all possible speed to the rescue of persons in distress at sea and to render all possible assistance to them regardless of their nationality or state or of the circumstances in which these persons are found, provided that he can do so without serious danger to the ship, the crew or the passengers. Members States will not take

any measures, including criminal procedures and sanctions, against ship masters who have rescued persons in distress and brought them to a harbour on their territory.

2. The Agency's Fundamental Rights Strategy and the activities of the Fundamental Rights Officer and the Consultative Forum, as provided for in Article 26a of Regulation 2007/2004, shall apply to sea operations as governed by this Regulation.

Amendment 52

Proposal for a regulation Article 10 b (new)

Text proposed by the Commission

Amendment

Article 10b

Specialised branches

Pursuant to Article 16 of Regulation (EU) No 2004/2007, the Agency shall evaluate the need to set up specialised branches, for all aspects relating to the surveillance of maritime borders, as operational offices in areas subject to significant migration flows, including irregular migration and in particular in the Mediterranean, to improve coordination between Member States and ensure solidarity and responsibility-sharing between them, thereby strengthening the operational capacity of the Agency.

Justification

The establishment of an operational office in the Mediterranean is consistent with the provisions set out in Parliament's resolution of 23 October 2013 on 'Migratory flows in the Mediterranean, with particular attention to the tragic events off Lampedusa' and in keeping with the statements on reinforcing the activities of Frontex in the Mediterranean, expressed in the Conclusions of the European Council of 24-25 October 2013.

Amendment 53

Proposal for a regulation

Article 10 c (new)

Text proposed by the Commission

Amendment

Article 10c

Solidarity mechanisms

1. A Member State faced with a situation of urgent and exceptional pressure at its external border shall be able to request:

– the deployment of European Border Guard Teams in accordance with Article 8a of Regulation (EC) No 2007/2004 to provide rapid operational assistance to the Member State;

– the Agency for technical and operational assistance in accordance with Article 8 of Regulation (EC) No 2007/2004 in order to obtain assistance on matters of coordination between Member States and/or the deployment of experts to support the competent national authorities;

– emergency assistance under Article 14 of Regulation XXXX [ISF borders] to address urgent and specific needs in the event of an emergency situation.

2. A Member State subject to strong migratory pressure which places urgent demands on its reception facilities and asylum systems shall be able to request:

– the European Asylum Support Office for the deployment of an asylum support team in accordance with Article 13 of Regulation (EU) No 439/2010 of the European Parliament and of the Council to provide expertise, in particular in relation to interpreting services, information on countries of origin and knowledge of the handling and management of asylum cases;

– emergency assistance under Article 22 of Regulation XXX ([Asylum and Migration Fund] to address urgent and specific needs in the event of an emergency situation;

– the Commission to check the willingness

of the Member States to accommodate asylum seekers.

3. With a view to the proper implementation of this Article, the Commission shall continuously monitor the facilities used for the reception of asylum seekers in the Member States and, in the cases described in this article, once it has verified how many places are actually available in such facilities, shall propose a fair redistribution of asylum seekers between Member States, in accordance with Article 80 of the TFEU.

Amendment 54

Proposal for a regulation Article 10 d (new)

Text proposed by the Commission

Amendment

Article 10d

Report

1. The Agency shall submit a report to the European Parliament, the Council and the Commission on the implementation of this Regulation by ... and every two years thereafter.*

2. The report shall include a description of the procedures put in place by the Agency to implement this Regulation during sea operations and an assessment of the practical application of this Regulation, including any incidents which may have taken place. It shall provide detailed information on compliance with fundamental rights, and on the impact on those rights, and shall contain an overview of any reasons expressed by intercepted persons, under Article 4(3), and of measures taken subsequently.

** OJ: please insert date: two years after entry into force of this Regulation.*

Justification

The Agency's reports to Parliament, the Council and the Commission - an important addition made by the rapporteur - should also go into the key issue, i.e. the objections raised by intercepted persons.