



Plenary sitting

A8-0076/2019

12.2.2019

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council
(COM(2018)0631 – C8-0406/2018 – 2018/0330(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Roberta Metsola

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.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council (COM(2018)0631 – C8-0406/2018 – 2018/0330(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0631),
 - having regard to Article 294(2) and points (b) and (d) of Article 77(2) and point (c) of Article 79(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0406/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of ...¹,
 - having regard to the opinion of the Committee of the Regions of ...²,
 - 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 (A8-0076/2019),
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

Title 1

Text proposed by the Commission

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF

¹ [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

² [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

THE COUNCIL on the European Border and Coast Guard and repealing Council Joint Action No 98/700/JHA, Regulation (EU) No 1052/2013 of the European Parliament and of the Council and Regulation (EU) No 2016/1624 of the European Parliament and of the Council *A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018*

THE COUNCIL on the European Border and Coast Guard and repealing Council Joint Action No 98/700/JHA, Regulation (EU) No 1052/2013 of the European Parliament and of the Council and Regulation (EU) No 2016/1624 of the European Parliament and of the Council

Amendment 2

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, was established by Council Regulation (EC) No 2007/2004¹⁷. Since taking up its responsibilities on 1 May 2005, it has been successful in assisting Member States with implementing the operational aspects of external border management through joint operations and rapid border interventions, risk analysis, information exchange, relations with third countries and the return of *returnees*.

¹⁷ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).

Amendment 3

Proposal for a regulation

Amendment

(2) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, was established by Council Regulation (EC) No 2007/2004¹⁷. Since taking up its responsibilities on 1 May 2005, it has been successful in assisting Member States with implementing the operational aspects of external border management through joint operations and rapid border interventions, risk analysis, information exchange, relations with third countries and the *coordination of the return of third country nationals subject to a return decision issued by a Member State*.

¹⁷ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p.1).

Recital 3

Text proposed by the Commission

(3) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union has been renamed the European Border and Coast Guard Agency (the ‘Agency’) and its tasks have been expanded with full continuity in all its activities and procedures. The key role of the Agency should be to establish a technical and operational strategy ***as part of*** the multiannual strategic policy cycle for implementation of European integrated border management, to oversee the effective functioning of border control at the external borders, to carry out risk analysis and vulnerability assessments, to provide increased technical and operational assistance to Member States and third countries through joint operations and rapid border interventions, to ensure the practical execution of measures in a situation requiring urgent action at the external borders, to provide technical and operational assistance in the support of search and rescue operations for persons in distress at sea, to organise, coordinate and conduct return operations and return interventions and provide technical ***and operational assistance to return activities of third countries.***

Amendment

(3) The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union has been renamed the European Border and Coast Guard Agency (the ‘Agency’) and its tasks have been expanded with full continuity in all its activities and procedures. The key role of the Agency should be to establish a technical and operational strategy ***developed under*** the multiannual strategic policy cycle for implementation of European integrated border management, to oversee the effective functioning of border control at the external borders, to carry out risk analysis and vulnerability assessments, to provide increased technical and operational assistance to Member States and third countries through joint operations and rapid border interventions, to ensure the practical execution of measures in a situation requiring urgent action at the external borders, to provide technical and operational assistance in the support of search and rescue operations for persons in distress at sea, to organise, coordinate and conduct return operations and return interventions and provide technical.

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Since the beginning of the migratory crisis in 2015, the Commission has taken up important initiatives ***to strengthen*** the protection of the Union borders. A proposal for significantly enhancing the mandate of the European

Amendment

(4) Since the beginning of the migratory crisis in 2015, the Commission has taken up important initiatives ***and has proposed a series of measures with a view to strengthening*** the protection of the Union borders ***and restoring the normal***

Agency for the Management of Operational Cooperation at the External Borders was presented in December 2015 and negotiated ***in a record time*** during 2016. The Regulation on the European Border and Coast Guard Agency has entered into force on 6 October 2016.

functioning of the Schengen area. A proposal for significantly enhancing the mandate of the European Agency for the Management of Operational Cooperation at the External Borders was presented in December 2015 and negotiated ***swiftly*** during 2016. The Regulation on the European Border and Coast Guard Agency has entered into force on 6 October 2016.

Amendment 5

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) However, the Union's framework in the area of control of external borders, returns and ***asylum***, still needs to be further improved. To that end and to further underpin the current and future envisaged operational efforts, the European Border and Coast Guard should be reformed by giving the European Border and Coast Guard Agency a stronger mandate and, in particular, by providing it with the necessary capabilities in the form of a European Border and Coast Guard standing corps ***of 10 000 operational staff*** with executive powers to effectively support Member States on the ground in their efforts to protect the external borders, fight ***secondary movements*** and significantly step up the effective return of irregular migrants.

Amendment

(5) However, the Union's framework in the area of control of external borders, returns and ***combating cross-border crime*** still needs to be further improved. To that end and to further underpin the current and future envisaged operational efforts, the European Border and Coast Guard should be reformed by giving the European Border and Coast Guard Agency a stronger mandate and, in particular, by providing it with the necessary capabilities in the form of a European Border and Coast Guard standing corps with executive powers to effectively support Member States on the ground in their efforts to protect the external borders, fight ***cross-border crime*** and significantly step up the effective ***and sustainable*** return of irregular migrants.

Amendment 6

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) It is necessary to monitor the crossing of the external borders efficiently, address migratory challenges and potential

Amendment

(7) It is necessary to monitor the crossing of the external borders efficiently, address migratory challenges and potential

future threats at the external borders, ensure a high level of internal security within the Union, safeguard the functioning of the Schengen area and respect the overarching principle of solidarity. ***That should be accompanied by the proactive management of migration, including the necessary measures in third countries.*** In view of what has been stated, it is necessary to consolidate the European Border and Coast Guard and to further expand the mandate of the European Border and Coast Guard Agency. The Agency should be constituted principally by a European Border and Coast Guard standing corps ***consisting of 10,000 operational staff.***

Amendment 7

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) In order to reflect the further qualitative enhancement of its mandate, in particular by providing it with its own operational arm, the European Border and ***Coast*** Guard standing corps ***of 10,000 operational staff***, the Agency formerly known as Frontex should from now on be referred to as and operate exclusively under the name "the European Border and Coast Guard (EBCG) Agency". This change should be reflected in all relevant instances, including its visualisation in the external communication materials.

Amendment 8

Proposal for a regulation Recital 9

future threats at the external borders, ensure a high level of internal security within the Union, safeguard the functioning of the Schengen area and respect the overarching principle of solidarity. In view of what has been stated, it is necessary to consolidate the European Border and Coast Guard and to further expand the mandate of the European Border and Coast Guard Agency. The Agency should be constituted principally by a European Border and Coast Guard standing corps ***that includes the rapid reaction pool.***

Amendment

(8) In order to reflect the further qualitative enhancement of its mandate, in particular by providing it with its own operational arm, the European Border and ***Coast*** Guard standing corps ***that includes the rapid reaction pool***, the Agency formerly known as Frontex should from now on be referred to as and operate exclusively under the name "the European Border and Coast Guard (EBCG) Agency". This change should be reflected in all relevant instances, including its visualisation in the external communication materials.

Text proposed by the Commission

(9) When implementing European integrated border management, coherence with other policy objectives should be ensured, including the proper functioning of cross-border transport.

Amendment

(9) When implementing European integrated border management, coherence with other policy objectives should be ensured, including ***free movement of persons, the right to asylum and*** the proper functioning of cross-border transport.

Amendment 9

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) European Integrated Border Management should be implemented as a shared responsibility of the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out maritime border surveillance operations and any other border control tasks, and those responsible for returns. While Member States retain the primary responsibility for the management of their external borders in their interest and in the interest of all Member States and are responsible for issuing return decisions, the Agency should support the application of Union measures relating to the management of the external borders and returns by reinforcing, ***assessing*** and coordinating the actions of Member States which implement those measures.

Amendment

(10) European Integrated Border Management should be implemented as a shared responsibility of the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out maritime border surveillance ***and search and rescue*** operations and any other border control tasks, and those responsible for returns. While Member States retain the primary responsibility for the management of their external borders in their interest and in the interest of all Member States and are responsible for issuing return decisions, the Agency should support the application of Union measures relating to the management of the external borders and returns by reinforcing and coordinating the actions of Member States which implement those measures. ***There should be no unnecessary operational overlaps between the Agency and the Members States.***

Amendment 10

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) To ensure the effective implementation of European Integrated Border Management **and increase the efficiency of the common return policy**, a European Border and Coast Guard should be established. It should be provided with the requisite financial and human resources and equipment. The European Border and Coast Guard should be composed of the European Border and Coast Guard Agency and national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, as well as authorities responsible for returns. As such it will rely upon the common use of information, capabilities and systems at national level and the response of the Agency at Union level.

Amendment

(11) To ensure the effective implementation of European Integrated Border Management, a European Border and Coast Guard should be established. It should be provided with the requisite financial and human resources and equipment. The European Border and Coast Guard should be composed of the European Border and Coast Guard Agency and national authorities which are responsible for border management, including coast guards to the extent that they carry out border control tasks, as well as authorities responsible for returns. As such it will rely upon the common use of information, capabilities and systems at national level and the response of the Agency at Union level.

Amendment 11

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The effective implementation of the European Integrated Border Management by the European Border and Coast Guard should be ensured through a multiannual strategic policy cycle for European Integrated Border Management. The multiannual cycle should set an integrated, unified and continuous process to provide strategic guidelines to all the relevant actors at Union level and in Member States in the area of border management and returns in order for those actors to implement the European Integrated Border Management in a coherent manner. It shall also address all the relevant interactions of the European Border and Coast Guard with the Commission, other institutions and bodies as well as cooperation with other

Amendment

(14) The effective implementation of the European Integrated Border Management by the European Border and Coast Guard should be ensured through a multiannual strategic policy cycle for European Integrated Border Management. The multiannual cycle should set an integrated, unified and continuous process to provide strategic guidelines to all the relevant actors at Union level and in Member States in the area of border management and returns in order for those actors to implement the European Integrated Border Management in a coherent manner **and in full compliance with fundamental rights. In particular, the multiannual policy cycle should allow the Agency to establish its technical and operational strategy.** It shall

relevant partners, including third countries and third parties as appropriate.

also address all the relevant interactions of the European Border and Coast Guard with the Commission, other institutions and bodies as well as cooperation with other relevant partners, including third countries and third parties as appropriate.

Amendment 12

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) European integrated border management requires **an** integrated planning between the Member States and **the** Agency for operations concerning borders and return, **to prepare** responses to **higher impacts** at the external borders **on** contingency planning and **to coordinate** the long-term development of capabilities both in terms of recruitment and training but also for the acquisition and development of equipment.

Amendment

(15) European integrated border management requires integrated planning between the Member States and Agency for operations concerning borders and return, **for** responses to **challenges** at the external borders, **for** contingency planning and **for coordinating** the long-term development of capabilities both in terms of recruitment and training but also for the acquisition and development of equipment.

Amendment 13

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The implementation of this Regulation does not affect the division of competence between the Union and the Member States or the obligations of Member States 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 Convention for the

Amendment

(16) The implementation of this Regulation does not affect the division of competence between the Union and the Member States or the obligations of Member States 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 Convention for the

Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.

Protection of Human Rights and Fundamental Freedoms, *the United Nations Convention relating to the Status of Stateless Persons* and other relevant international instruments.

Amendment 14

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) The remit of action of the European Maritime Safety Agency and the European Fisheries Control Agency have enlarged and their cooperation with the Agency has been reinforced; the European Commission should therefore present a proposal to include these agencies, along with any other relevant actors such as member states, in the scope of application of Regulation 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union;

Amendment 15

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) The Agency should carry out its tasks ***without prejudice to*** the responsibilities of the Member States with regard to maintaining law and order and safeguarding internal security.

(18) The Agency should carry out its tasks ***with full respect for*** the responsibilities, ***competence and the subsidiarity principle*** of the Member States with regard to maintaining law and order and safeguarding internal security.

Amendment 16

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The Agency should carry out its tasks ***without prejudice to the*** competence of the Member States as regards defence.

Amendment

(19) The Agency should carry out its tasks ***with full respect for the responsibilities and*** competence of the Member States as regards defence.

Amendment 17

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) The extended tasks and competence of the Agency should be balanced with strengthened fundamental rights safeguards and increased accountability.

Amendment

(20) The extended tasks and competence of the Agency should be balanced with strengthened fundamental rights safeguards and increased accountability ***and liability in particular in terms of the exercise of executive powers by the statutory staff.***

Amendment 18

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Member States should also, in their own interest and in the interest of the other Member States, contribute relevant data necessary for the activities carried out by the Agency, including for the purposes of situational awareness, risk analysis, vulnerability assessments and integrated planning. Equally, they should ensure that the data are accurate, up-to-date and obtained and entered lawfully.

Amendment

(22) Member States should also, in their own interest and in the interest of the other Member States, contribute relevant data necessary for the activities carried out by the Agency, including for the purposes of situational awareness, risk analysis, vulnerability assessments and integrated planning. Equally, they should ensure that the data are accurate, up-to-date and obtained and entered lawfully. ***Where this data includes personal data, Union law on data protection should apply in full.***

Amendment 19

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22 a) The Communication Network provided for in this Regulation has already been developed in the framework of Regulation (EU) No 1052/2013 of the European Parliament and of the Council^{1a} and is capable of exchanging EU classified information between the Member States and the Agency. That pre-existing Communication Network should be used for all the information exchanges between the different components of the European Border and Coast Guard and its level of classification should be increased in order to improve information security.

^{1a} Regulation (EU) No 1052/2013 of the European Parliament and of the Council establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

Amendment 20

Proposal for a regulation Recital 23

Text proposed by the Commission

Amendment

(23) The European border surveillance system (EUROSUR) is necessary for the functioning of the European Border and Coast Guard in order to frame the exchange of information and the operational cooperation between national authorities of Member States as well as with the Agency. EUROSUR is providing those authorities and the Agency with the

(23) The European border surveillance system (EUROSUR) is necessary for the functioning of the European Border and Coast Guard in order to frame the exchange of information and the operational cooperation between national authorities of Member States as well as with the Agency. EUROSUR is providing those authorities and the Agency with the

infrastructure and tools needed to improve their situational awareness and reaction capability at the external borders for the purpose of detecting, preventing and combating *illegal immigration* and cross-border crime and contributing to saving and ensuring the protection of the lives of migrants.

infrastructure and tools needed to improve their situational awareness and *increase* reaction capability at the external borders for the purpose of detecting, preventing and combating *irregular migration* and cross-border crime and contributing to saving and ensuring the protection of the lives of migrants.

Amendment 21

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) This Regulation should not hinder Member States from making their national coordination centres also responsible for coordinating the exchange of information and for cooperation regarding other components of integrated border management *such as returns*.

Amendment

(25) This Regulation should not hinder Member States from making their national coordination centres also responsible for coordinating the exchange of information and for cooperation regarding other components of integrated border management.

Amendment 22

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The quality of the information exchanged between the Member States and the Agency *is a prerequisite to* the proper functioning of Integrated Border Management. Building on the success of EUROSUR, that quality should be ensured through standardisation, automation of the information exchange across networks and systems, information assurance and quality control of the data and information transmitted.

Amendment

(26) The quality of the information exchanged between the Member States and the Agency *and the timeliness for the exchange of such information are prerequisites for* the proper functioning of Integrated Border Management. Building on the success of EUROSUR, that quality should be ensured through standardisation, automation of the information exchange across networks and systems, information assurance and quality control of the data and information transmitted.

Amendment 23

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) The Agency should provide the necessary assistance for the development and operation of EUROSUR including the interoperability of systems, in particular by establishing, maintaining and coordinating the EUROSUR framework.

Amendment

(27) The Agency should provide the necessary assistance for the development and operation of EUROSUR including the interoperability of systems ***in the framework of a common information sharing environment***, in particular by establishing, maintaining and coordinating the EUROSUR framework.

Amendment 24

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) EUROSUR should provide an exhaustive situational picture at the external borders but also within the Schengen area and in the pre-frontier area. It should cover land, sea and air border surveillance but also checks at border crossing points.

Amendment

(28) EUROSUR should provide an exhaustive situational picture at the external borders but also within the Schengen area and in the pre-frontier area. It should cover land, sea and air border surveillance but also checks at border crossing points. ***Providing situational awareness within the Union should not in any way permit the Agency to engage in actions at the internal borders of the Member States.***

Amendment 25

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) The practice of travelling in small and unseaworthy vessels has dramatically increased the number of migrants drowning at the southern maritime external borders. EUROSUR should considerably improve

Amendment

(31) The practice of travelling in small and unseaworthy vessels has dramatically increased the number of migrants drowning at the southern maritime external borders. EUROSUR should considerably improve

the operational and technical ability of the Agency and the Member States to detect such small vessels and to improve the reaction capability of the Member States, thereby contributing to reducing the loss of lives of migrants.

the operational and technical ability of the Agency and the Member States to detect such small vessels and to improve the reaction capability of the Member States **to conduct search and rescue operations**, thereby contributing to reducing the loss of lives of migrants.

Amendment 26

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The Agency should prepare general and tailored risk analyses based on a common integrated risk analysis model, to be applied by the Agency itself and by Member States. The Agency should, based also on information provided by Member States, provide adequate information covering all aspects relevant to European integrated border management, especially border control, return, irregular secondary movements of third-country nationals within the Union, prevention of cross-border crime including facilitation of unauthorised border crossings, trafficking in human beings, terrorism and threats of a hybrid nature, as well as the situation in relevant third countries, so as to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of the external borders.

Amendment

(33) The Agency should prepare general and tailored risk analyses based on a common integrated risk analysis model, to be applied by the Agency itself and by Member States. The Agency should, based also on information provided by Member States, provide adequate information covering all aspects relevant to European Integrated Border Management, especially border control, return, **the phenomenon of irregular secondary movements of third-country nationals within the Union in terms of trends, routes and volume in case the Member States have provided that information**, prevention of cross-border crime including facilitation of unauthorised border crossings, trafficking in human beings, **organised crime**, terrorism and threats of a hybrid nature, as well as the situation in relevant third countries, so as to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of the external borders.

Amendment 27

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) Given its activities at the external borders, the Agency should contribute to preventing and detecting serious crime with a cross-border dimension, such as migrant smuggling, trafficking in human beings and terrorism, where it is appropriate for it to act and where it has obtained relevant information through its activities. It should coordinate its activities with Europol as the agency responsible for supporting and strengthening Member States' actions and their cooperation in preventing and combating serious crime affecting two or more Member States. Cross-border crimes necessarily entail a cross-border dimension. Such a cross-border dimension is characterised by crimes directly linked to unauthorised crossings of the external borders, including trafficking in human beings or smuggling of migrants. ***That said***, Article 1(2) of Council Directive 2002/90/EC¹⁹ ***allows*** Member ***States*** not to impose sanctions where the aim of the behaviour is to provide humanitarian assistance to ***migrants***.

¹⁹ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17).

Amendment 28

Proposal for a regulation **Recital 35**

Text proposed by the Commission

(35) In a spirit of shared responsibility,

Amendment

(34) Given its activities at the external borders, the Agency should contribute to preventing and detecting serious crime with a cross-border dimension, such as migrant smuggling, trafficking in human beings, ***organised crime*** and terrorism, where it is appropriate for it to act and where it has obtained relevant information through its activities. It should coordinate its activities with Europol as the agency responsible for supporting and strengthening Member States' actions and their cooperation in preventing and combating serious crime affecting two or more Member States. Cross-border crimes necessarily entail a cross-border dimension. Such a cross-border dimension is characterised by crimes directly linked to unauthorised crossings of the external borders, including trafficking in human beings or smuggling of migrants. ***In line with*** Article 1(2) of Council Directive 2002/90/EC¹⁹, ***which provides that*** Member ***State may decide*** not to impose sanctions where the aim of the behaviour is to provide humanitarian assistance to ***the person concerned, the Agency should remind Member States of potential fundamental rights implications when they consider imposing such sanctions***.

¹⁹ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 17).

Amendment

(35) In a spirit of shared responsibility

the role of the Agency should be to monitor regularly the management of the external borders. The Agency should ensure proper and effective monitoring not only through situational awareness and risk analysis, but also through the presence of experts from its own staff in Member States. The Agency should therefore be able to deploy liaison officers to Member States for a period of time during which the liaison officer reports to the executive director. The report of the liaison officers should form part of the vulnerability assessment.

and improving the standards of European Integrated Border Management, the role of the Agency should be to monitor regularly the management of the external borders, *including the respect for fundamental rights as part of border management and return activities*. The Agency should ensure proper and effective monitoring not only through situational awareness and risk analysis, but also through the presence of experts from its own staff in Member States. The Agency should therefore be able to deploy liaison officers to Member States for a period of time during which the liaison officer reports to the executive director *and the fundamental rights officer*. The report of the liaison officers should form part of the vulnerability assessment.

Amendment 29

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) The Agency should carry out a vulnerability assessment based on objective criteria, to assess the capacity and readiness of the Member States to face challenges at their external borders and to contribute to the European Border and Coast Guard standing corps and technical equipment pool. The vulnerability assessment should include an assessment of the equipment, infrastructure, staff, budget and financial resources of Member States as well as their contingency plans to address possible crises at the external borders. Member States should take measures to address any deficiencies identified in that assessment. The executive director should identify the measures to be taken and recommend them to the Member State concerned. The executive director should also set a time-limit within which those measures should be taken and closely

Amendment

(36) The Agency should carry out a vulnerability assessment based on objective criteria, to assess the capacity and readiness of the Member States to face challenges at their external borders and to contribute to the European Border and Coast Guard standing corps and technical equipment pool. The vulnerability assessment should include an assessment of the equipment, infrastructure, staff, budget and financial resources of Member States as well as their contingency plans to address possible crises at the external borders *in full respect of fundamental rights*. Member States should take measures to address any deficiencies identified in that assessment. The executive director should identify the measures to be taken and recommend them to the Member State concerned. The executive director should also set a time-limit within which

monitor their timely implementation. Where the necessary measures are not taken within the set time-limit, the matter should be referred to the management board for a further decision.

those measures should be taken and closely monitor their timely implementation. Where the necessary measures are not taken within the set time-limit, the matter should be referred to the management board for a further decision.

Amendment 30

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) The vulnerability assessment and the Schengen evaluation mechanism established by Council Regulation (EU) No 1053/2013²⁰ are two complementary mechanisms for guaranteeing the European quality control on the proper functioning of the Schengen area and ensuring the constant preparedness at the Union and national levels to respond to any challenges at the external borders. The synergies between those mechanisms should be maximised in view of establishing an improved situational picture on the functioning of the Schengen area, avoiding, to the extent possible, duplication of efforts on the Member States' side, and ensuring a better-coordinated use of the relevant Union financial instruments supporting the management of the external borders. For that purpose a regular exchange of information between the Agency and the Commission on the results of both mechanisms should be established.

²⁰ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen

Amendment

(38) The vulnerability assessment and the Schengen evaluation mechanism established by Council Regulation (EU) No 1053/2013²⁰ are two complementary mechanisms for guaranteeing the European quality control on the proper functioning of the Schengen area and ensuring the constant preparedness at the Union and national levels to respond to any challenges at the external borders. ***While the Schengen evaluation mechanism is the primary method for evaluating the implementation of and compliance with Union legislation in the Member States,*** the synergies between those mechanisms should be maximised in view of establishing an improved situational picture on the functioning of the Schengen area, avoiding, to the extent possible, duplication of efforts on the Member States' side, and ensuring a better-coordinated use of the relevant Union financial instruments supporting the management of the external borders. For that purpose a regular exchange of information between the Agency and the Commission on the results of both mechanisms should be established.

²⁰ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen

acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

Amendment 31

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) Given that the Member States establish border sections, to which the Agency attributes impact levels, and that the reaction capabilities of the Member States and of the Agency should be linked to those impact levels, a fourth impact level should be established, corresponding to a situation where the Schengen area is at risk and where the Agency should intervene.

Amendment

deleted

Amendment 32

Proposal for a regulation

Recital 40

Text proposed by the Commission

(40) The Agency should organise the appropriate technical and operational assistance to Member States in order to reinforce their capacity to implement their obligations with regard to the control of the external borders and to face challenges at the external borders resulting from ***illegal immigration*** or cross-border crime. Such assistance should be without prejudice to the relevant national authorities' competence to initiate criminal investigations. In that respect, the Agency should, at the request of a Member State or on its own initiative, organise and coordinate joint operations for one or more Member States and deploy teams from the

Amendment

(40) The Agency should organise the appropriate technical and operational assistance to Member States in order to reinforce their capacity to implement their obligations with regard to the control of the external borders and to face challenges at the external borders resulting from ***irregular migration*** or cross-border crime. Such assistance should be without prejudice to the relevant national authorities' competence to initiate criminal investigations. In that respect, the Agency should, at the request of a Member State or on its own initiative ***with the agreement of the Member State concerned***, organise and coordinate joint operations for one or more

European Border and Coast Guard standing corps as well as provide the necessary technical equipment.

Member States and deploy teams from the European Border and Coast Guard standing corps as well as provide the necessary technical equipment.

Amendment 33

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) In cases where there is a specific and disproportionate challenge at the external borders, the Agency should, at the request of a Member State or on its own initiative, organise and coordinate rapid border interventions and deploy both teams from the European Border and Coast Guard standing corps and technical equipment, including from the Rapid Reaction Equipment Pool. Rapid border interventions should provide reinforcement for a limited period of time in situations where an immediate response is required and where such an intervention would provide an effective response. To ensure the effective operation of such intervention, Member States should make operational staff of the European Border and Coast Guard standing corps available to form relevant teams and provide the necessary technical equipment. The Agency and the Member State concerned should agree upon an operational plan.

Amendment

(41) In cases where there is a specific and disproportionate challenge at the external borders, the Agency should, at the request of a Member State or on its own initiative ***with the agreement of the Member State concerned***, organise and coordinate rapid border interventions and deploy both teams from the European Border and Coast Guard standing corps and technical equipment, including from the Rapid Reaction Equipment Pool. Rapid border interventions should provide reinforcement for a limited period of time in situations where an immediate response is required and where such an intervention would provide an effective response. To ensure the effective operation of such intervention, Member States should make operational staff of the European Border and Coast Guard standing corps available to form relevant teams and provide the necessary technical equipment. ***Where the crew deployed with the technical equipment of a Member State originate from that Member State, the crew should count as part of that Member State's contribution to the standing corps.*** The Agency and the Member State concerned should agree upon an operational plan.

Amendment 34

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) Where a Member State faces specific and disproportionate migratory challenges at particular areas of its external borders characterised by large, inward, mixed migratory flows the Member States should be able to rely on technical and operational reinforcements. Those reinforcements should be provided in hotspot areas by migration management support teams. Those teams should be composed of operational staff to be deployed from the European Border and Coast Guard standing corps and experts from Member States deployed by *EASO* and, Europol or other relevant Union agencies. The Agency should assist the Commission in the coordination among the different agencies on the ground.

Amendment

(42) Where a Member State faces specific and disproportionate migratory challenges at particular areas of its external borders characterised by large, inward, mixed migratory flows the Member States should be able to rely on technical and operational reinforcements. Those reinforcements should be provided in hotspot areas by migration management support teams. Those teams should be composed of operational staff to be deployed from the European Border and Coast Guard standing corps and experts from Member States deployed by *[the European Union Agency for Asylum]* and, Europol or other relevant Union agencies. The Agency should assist the Commission in the coordination among the different agencies on the ground. ***The Commission should, in cooperation with the host Member State and the relevant Union agencies, establish the terms of cooperation at the hotspot area and be responsible for the coordination of the activities of the migration management support teams.***

Amendment 35

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) Member States should ensure that any authorities which are likely to receive applications for international protection such as the police, border guards, immigration authorities and personnel of detention facilities have the relevant information. They should also ensure that such authorities' personnel receive the necessary level of training which is appropriate to their tasks and responsibilities and instructions to inform

Amendment

(43) Member States should ensure that any authorities which are likely to receive applications for international protection such as the police, border guards, immigration authorities and personnel of detention facilities have the relevant information. They should also ensure that such authorities' personnel receive the necessary level of training which is appropriate to their tasks and responsibilities and instructions to inform

applicants as to where and how applications for international protection may be lodged.

applicants as to where and how applications for international protection may be lodged ***and instructions to as to how to refer persons in a vulnerable situation and unaccompanied children to the appropriate referral mechanisms. Monitoring mechanisms should be put in place as well as an independent evaluation to ensure the implementation in practice.***

Amendment 36

Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

Amendment

(43 a) The Agency should be able to provide and guarantee specialised training on European Integrated Border Management to its staff members and Member States' authorities. Training of the standing corps should happen in close cooperation with the Member States, while ensuring that the training programmes are harmonised and fosters mutual understanding and a common European culture based on the values enshrined in the treaties. The development of the Agency's training strategy, with the approval of the management board, could lead the way to the setting up of an Agency training centre to further facilitate the inclusion of a common European culture in the training provided.

Amendment 37

Proposal for a regulation Recital 44

Text proposed by the Commission

Amendment

(44) In June 2018, the European Council reconfirmed the importance of relying on a

(44) In June 2018, the European Council reconfirmed the importance of relying on a

comprehensive approach to migration and considered that migration is a challenge not only for one Member State but for Europe as a whole. In that respect, it highlighted the importance for the Union to provide full support to ensure an orderly management of migration flows. ***That support is possible through the establishment of controlled centres where third-country nationals disembarked in the Union could be rapidly processed to ensure access to protection of those in need, with swift returns for those who are not. Whereas controlled centres are to be established on a voluntary basis, it should be possible for the Union to provide the Member States in question with full financial and operational support through the relevant Union Agencies including the European Border and Coast Guard Agency.***

Amendment 38

Proposal for a regulation

Recital 45

Text proposed by the Commission

(45) The European Border and Coast Guard Agency and the [European Union Agency for Asylum] should cooperate closely in order to address effectively the migratory challenges, in particular at the external borders characterised by large inward mixed migratory flows. In particular, both Agencies should coordinate their activities and support Member States to facilitate the procedure for international protection ***and the return procedure with regard to third country nationals whose application for international protection is rejected.*** The Agency and [the European Union Agency for Asylum] should also cooperate in other common operational activities such as shared risk analysis, collection of statistical data, training and support to Member States on contingency

comprehensive approach to migration and considered that migration is a challenge not only for one Member State but for Europe as a whole. In that respect, it highlighted the importance for the Union to provide full support to ensure an orderly management of migration flows.

Amendment

(45) The European Border and Coast Guard Agency and the [European Union Agency for Asylum] should cooperate closely in order to address effectively the migratory challenges, in particular at the external borders characterised by large inward mixed migratory flows. In particular, both Agencies should coordinate their activities and support Member States to facilitate the procedure for international protection. The Agency and [the European Union Agency for Asylum] should also cooperate in other common operational activities such as shared risk analysis, collection of statistical data, training and support to Member States on contingency planning.

planning.

Amendment 39

Proposal for a regulation Recital 45 a (new)

Text proposed by the Commission

Amendment

(45 a) The European Border and Coast Guard Agency should cooperate closely with the Fundamental Rights Agency to ensure fundamental rights are safeguarded in the implementation of all the areas covered by the Regulation.

Amendment 40

Proposal for a regulation Recital 46

Text proposed by the Commission

Amendment

(46) Member States should be able to rely on increased operational and technical reinforcement by migration management support teams ***in particular*** at hotspot areas ***or controlled centres***. The migration management support teams should be composed of experts from the staff of the Agency and experts seconded by the Member States, and experts of the staff of/or Member States' experts deployed by, the [European Agency for Asylum], Europol or other relevant Union agencies. The Commission should ensure the necessary ***coordination in the assessment of needs and*** operations on the ground in view of the involvement of various Union agencies.

(46) Member States should be able to rely on increased operational and technical reinforcement by migration management support teams at hotspot areas. The migration management support teams should be composed of experts from the staff of the Agency and experts seconded by the Member States, and experts of the staff of/or Member States' experts deployed by, the [European Agency for Asylum], Europol, ***the European Union Agency for Fundamental Rights*** or other relevant Union agencies. The Commission should ensure the necessary ***cooperation of the relevant agencies and establish the terms of cooperation for the*** operations on the ground in view of the involvement of various Union agencies.

Amendment 41

Proposal for a regulation Recital 47

Text proposed by the Commission

Amendment

(47) In hotspot areas, the Member States should cooperate with relevant Union agencies which should act within their respective mandates and powers, and under the coordination of the Commission. The Commission, in cooperation with the relevant Union agencies, should ensure that activities in hotspot areas comply with relevant Union law.

(47) In hotspot areas, the Member States should cooperate with relevant Union agencies which should act within their respective mandates and powers, and under the coordination of the Commission. The Commission, in cooperation with the relevant Union agencies, should ensure that activities in hotspot areas comply with relevant Union law **and fundamental rights**.

Amendment 42

**Proposal for a regulation
Recital 48**

Text proposed by the Commission

Amendment

(48) In controlled centres, Union agencies should, at the request of the Member State hosting such centres and under the coordination of the Commission, act in support of the host Member State to apply rapid procedures for international protection and/or return. In such centres, it should be possible to distinguish quickly between third-country nationals in need of international protection and those who are not in need of such protection, to carry out security checks and to carry out the entire or part of the procedure for international protection and/or return.

deleted

Amendment 43

**Proposal for a regulation
Recital 49**

Text proposed by the Commission

Amendment

(49) When justified by the results of the vulnerability assessment, risk analysis **or when a critical impact is attributed to one**

(49) When justified by the results of the vulnerability assessment **or** risk analysis, the executive Director of the Agency **may**

or more border sections, the executive Director of the Agency *should* recommend to the Member State concerned to initiate and carry out joint operations or rapid border interventions.

recommend to the Member State concerned to initiate and carry out joint operations or rapid border interventions.

Amendment 44

Proposal for a regulation

Recital 50

Text proposed by the Commission

(50) Where control of the external border is rendered ineffective to such an extent that it risks jeopardising the functioning of the Schengen area, either because a Member State does not take the necessary measures in line with a vulnerability assessment or because a Member State facing specific and disproportionate challenges at the external borders has not requested sufficient support from the Agency or is not implementing such support, a unified, rapid and effective response should be delivered at Union level. For the purpose of mitigating these risks, and to ensure better coordination at Union level, the Commission should **identify** the measures to be implemented by the Agency and **require** the Member State concerned to cooperate with the Agency in the implementation of those measures. The Agency should then determine the actions to be taken for the practical execution of the measures indicated in the **Commission** decision. An operational plan should be drawn up by the Agency together with the Member State concerned. The Member State concerned should facilitate the implementation of the **Commission** decision and the operational plan by implementing among others its obligations provided for in Articles 44, 83 and 84. If a Member State does not comply within 30 days with that **Commission** decision and does not cooperate with the Agency in the implementation of the

Amendment

(50) Where control of the external border is rendered ineffective to such an extent that it risks jeopardising the functioning of the Schengen area, either because a Member State does not take the necessary measures in line with a vulnerability assessment or because a Member State facing specific and disproportionate challenges at the external borders has not requested sufficient support from the Agency or is not implementing such support, a unified, rapid and effective response should be delivered at Union level. For the purpose of mitigating these risks, and to ensure better coordination at Union level, the Commission should **propose to the Council a decision identifying** the measures to be implemented by the Agency and **at the same time requiring** the Member State concerned to cooperate with the Agency in the implementation of those measures. **The implementing power to adopt such a decision should be conferred on the Council to decide because of the potentially politically sensitive nature of the measures, which are likely to touch on national executive and enforcement powers.** The Agency should then determine the actions to be taken for the practical execution of the measures indicated in the **Council** decision. An operational plan should be drawn up by the Agency together with the Member State concerned. The Member State concerned should facilitate

measures contained in that decision, the Commission should be able to trigger the specific procedure provided for in Article 29 of Regulation (EU) 2016/399 of the European Parliament and of the Council²¹ to face exceptional circumstances putting the overall functioning of the area without internal border control at risk.

the implementation of the **Council** decision and the operational plan by implementing among others its obligations provided for in Articles 44, 83 and 84. If a Member State does not comply within 30 days with that **Council** decision and does not cooperate with the Agency in the implementation of the measures contained in that decision, the Commission should be able to trigger the specific procedure provided for in Article 29 of Regulation (EU) 2016/399 of the European Parliament and of the Council²¹ to face exceptional circumstances putting the overall functioning of the area without internal border control at risk.

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

Amendment 45

Proposal for a regulation Recital 51

Text proposed by the Commission

(51) The European Border and Coast Guard standing corps should be a standing corps composed of **10,000 operational staff being** border guards, return escorts, return specialists and other relevant staff. The standing corps should be composed of **three** categories of operational staff, namely statutory staff members employed by the European Border and Coast Guard Agency, staff seconded to the Agency by the Member States for **long term** durations **and** staff provided by Member States for **short term** deployments. The European Border and Coast Guard standing corps should be deployed in the framework of border management teams, migration

Amendment

(51) The European Border and Coast Guard standing corps should be a standing corps composed of border guards, return escorts, return specialists, **return and fundamental rights monitors** and other relevant staff. The standing corps should be composed of **four** categories of operational staff, namely statutory staff members employed by the European Border and Coast Guard Agency, staff seconded to the Agency by the Member States for **long-term** durations, staff provided by Member States for **short-term** deployments **and staff forming part of the rapid reaction pool for rapid border interventions**. The European Border and Coast Guard standing

management support teams or return teams.

corps should be deployed in the framework of border management teams, migration management support teams or return teams.

Amendment 46

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) The operational staff of the European Border and Coast Guard standing corps deployed as members of the teams should have **the** all the necessary powers to carry out border control and return tasks, including the tasks requiring executive powers defined in the relevant national laws or, for the staff of the Agency, in accordance with Annex V.

Amendment

(52) The operational staff of the European Border and Coast Guard standing corps deployed as members of the teams should have all the necessary powers, **authorised by the host Member State or a third country**, to carry out border control, **fundamental rights monitoring** and return tasks, including the tasks requiring executive powers defined in the relevant national laws or, for the staff of the Agency, in accordance with Annex V. **Where statutory staff of the Agency exercise executive powers, the Agency should be liable for any damage caused.**

Amendment 47

Proposal for a regulation Recital 54

Text proposed by the Commission

(54) The functioning of the European Border and Coast Guard standing corps and its composition should be subject to a **midterm** review carried out by the Commission.

Amendment

(54) The functioning of the European Border and Coast Guard standing corps and its composition should be subject to a review carried out by the Commission, **together with the Member States.**

Amendment 48

Proposal for a regulation Recital 55

(55) The long-term development of human resources to secure the contributions of the Member States to the European and Border Guard standing corps should be supported by a financial support system. For this purpose, it is appropriate to authorise the Agency to use the award of grants to the Member States without a call for proposals under 'financing not linked to costs' in accordance with Article 125 (1) (a) of Regulation (EU, Euratom) 2018/1046. The financial support should enable Member States to hire and train additional staff to provide them with the necessary flexibility to comply with the mandatory contribution to the European and Border Guard standing corps. The dedicated financing system should strike a right balance between the risks of irregularities and fraud and costs of control. The Regulation sets the essential conditions triggering the financial support, namely the recruitment and training of the adequate number of border guards or other specialists corresponding to the number of officers seconded to the Agency for long term or the effective deployment of officers during the Agency's operational activities for at least 4 months. Given the lack of relevant and comparable data on actual costs across Member States, the development of a cost-based financing scheme would be overly complex and would not address the need for a simple, fast, efficient and effective financing scheme. For this purpose, it is appropriate to authorise the Agency to award grants to the Member States without a call for proposals in the form of 'financing not linked to costs' subject to the fulfilment of conditions in accordance with Article 125 (1) (a) of Regulation (EU, Euratom) 2018/1046. For the purpose of fixing the amount of such financing to different Member States, it is appropriate to use as **as** a reference amount the annual salary of

(55) The long-term development of human resources to secure the contributions of the Member States to the European and Border Guard standing corps should be supported by a financial support system. For this purpose, it is appropriate to authorise the Agency to use the award of grants to the Member States without a call for proposals under 'financing not linked to costs' in accordance with Article 125 (1) (a) of Regulation (EU, Euratom) 2018/1046. The financial support should enable Member States to hire and train additional staff to provide them with the necessary flexibility to comply with the mandatory contribution to the European and Border Guard standing corps. ***It should be possible for the financial support to take the form of an advance payment preceding the annual payment.*** The dedicated financing system should strike a right balance between the risks of irregularities and fraud and costs of control. The Regulation sets the essential conditions triggering the financial support, namely the recruitment and training of the adequate number of border guards or other specialists corresponding to the number of officers seconded to the Agency for long term or the effective deployment of officers during the Agency's operational activities for ***a consecutive or non-consecutive period of at least 4 months or on a pro-rata basis for deployments for a consecutive or a non-consecutive period of less than 4 months.*** Given the lack of relevant and comparable data on actual costs across Member States, the development of a cost-based financing scheme would be overly complex and would not address the need for a simple, fast, efficient and effective financing scheme. For this purpose, it is appropriate to authorise the Agency to award grants to the Member States without a call for proposals in the form of 'financing not

contractual agent Function Group III grade 8 step 1 of the European Institutions modulated by a corrective coefficient per Member State in line with the sound financial management principle and in the spirit of equal treatment. When implementing this financial support, the Agency and Member States *shall* ensure the compliance with the principles of co-financing and no double funding.

linked to costs' subject to the fulfilment of conditions in accordance with Article 125 (1) (a) of Regulation (EU, Euratom) 2018/1046. For the purpose of fixing the amount of such financing to different Member States, it is appropriate to use as a reference amount the annual salary of contractual agent Function Group III grade 8 step 1 of the European Institutions modulated by a corrective coefficient per Member State in line with the sound financial management principle and in the spirit of equal treatment. When implementing this financial support, the Agency and Member States *should* ensure the compliance with the principles of co-financing and no double funding.

Amendment 49

Proposal for a regulation Recital 56

Text proposed by the Commission

(56) In view of deployment of the European Border and Coast Guard standing corps in the territory of third countries, the Agency should develop the capabilities for its own command and control structures.

Amendment

(56) In view of deployment of the European Border and Coast Guard standing corps in the territory of third countries, the Agency should develop the capabilities for its own command and control structures ***and appropriate procedure to ensure the civil and criminal accountability of the standing corps.***

Amendment 50

Proposal for a regulation Recital 57

Text proposed by the Commission

(57) In order to allow for the effective deployments from the European Border and Coast Guard standing corps ***as of 1 January 2020***, certain decisions and implementing measures should be taken and put in place as soon as possible. In

Amendment

(57) In order to allow for the effective deployments from the European Border and Coast Guard standing corps ***in line with the deadlines laid down in Annex I*** certain decisions and implementing measures should be taken and put in place

particular, by way of derogation from the normal deadline set in the Regulation, the decision of the Management Board as referred in Article 55 (4) on the profiles of the European Border and Coast Guard standing corps should be adopted within 6 weeks of the entry into force of the Regulation. This decision should be followed by the nominations of the Member States provided for in Article 56 (4) and Article 57 (1) within 12 weeks of the entry into force of the Regulation.

as soon as possible. In particular, by way of derogation from the normal deadline set in the Regulation, the decision of the Management Board as referred in Article 55 (4) on the profiles of the European Border and Coast Guard standing corps should be adopted within 6 weeks of the entry into force of the Regulation. This decision should be followed by the nominations of the Member States provided for in Article 56 (4) and Article 57 (1) within 12 weeks of the entry into force of the Regulation.

Amendment 51

Proposal for a regulation

Recital 58

Text proposed by the Commission

(58) Also, by way of derogation from the normal deadline set in the Regulation, the decision of the Management Board on the minimum number of items of technical equipment to meet the needs of the Agency **in 2020** as referred in Article 64 (4) should be adopted within 6 weeks of the entry into force of the Regulation.

Amendment

(58) Also, by way of derogation from the normal deadline set in the Regulation, the decision of the Management Board on the minimum number of items of technical equipment to meet the needs of the Agency as referred in Article 64 (4), **by each of the deadlines laid down in Annex I as regards the composition of the standing corps** should be adopted within 6 weeks of the entry into force of the Regulation.

Amendment 52

Proposal for a regulation

Recital 59

Text proposed by the Commission

(59) At the same time, in order to ensure the continuity of the support for operational activities organised by the Agency, all the deployments until 31 December 2019 should be planned and implemented, including under the Rapid Reaction Pool, in accordance with Articles 20, 30 and 31 of Regulation (EU)

Amendment

(59) At the same time, in order to ensure the continuity of the support for operational activities organised by the Agency, all the deployments until 31 December 2019 should be planned and implemented, including under the Rapid Reaction Pool, in accordance with Articles 20, 30 and 31 of Regulation (EU)

2016/1624 and in accordance with the annual bilateral negotiations carried out in 2018. To that end, these provisions should be only repealed with effect from *1 January 2020*.

2016/1624 and in accordance with the annual bilateral negotiations carried out in 2018. To that end, these provisions should be only repealed ***once the standing corps is operational*** with effect from ***two years from entry into force***.

Amendment 53

Proposal for a regulation Recital 60

Text proposed by the Commission

(60) The Agency's workforce will consist of staff performing the tasks devoted to the Agency, either in the Headquarters, or as part of the European Border and Coast Guard standing corps. The European Border and Coast Guard standing corps may comprise statutory staff as well as staff seconded for long duration or provided for ***short term*** deployment by national authorities. Statutory staff within the European Border and Coast Guard standing corps will primarily be deployed as members of the teams; only a limited and clearly defined part of this staff may be recruited to perform supportive functions for the establishment of the standing corps, notably at headquarters.

Amendment

(60) The Agency's workforce will consist of staff performing the tasks devoted to the Agency, either in the Headquarters, or as part of the European Border and Coast Guard standing corps. The European Border and Coast Guard standing corps may comprise statutory staff as well as staff seconded for long duration or provided for ***short-term*** deployment by national authorities ***and the rapid reaction pool***. Statutory staff within the European Border and Coast Guard standing corps will primarily be deployed as members of the teams; only a limited and clearly defined part of this staff may be recruited to perform supportive functions for the establishment of the standing corps, notably at headquarters.

Amendment 54

Proposal for a regulation Recital 61

Text proposed by the Commission

(61) To overcome the persistent gaps in the voluntary pooling of technical equipment from Member States, in particular as regards large-scale assets, the Agency should have its own necessary equipment to be deployed in joint operations or rapid border interventions or

Amendment

(61) To overcome the persistent gaps in the voluntary pooling of technical equipment from Member States, in particular as regards large-scale assets, the Agency should have its own necessary equipment to be deployed in joint operations or rapid border interventions or

any other operational activities. While the Agency has been legally able to acquire or lease its own technical equipment since 2011, this possibility was significantly hindered by the lack of budgetary resources.

any other operational activities. ***Those assets should be authorised by the Member States as being on government service.*** While the Agency has been legally able to acquire or lease its own technical equipment since 2011, this possibility was significantly hindered by the lack of budgetary resources.

Amendment 55

Proposal for a regulation

Recital 62

Text proposed by the Commission

(62) Consequently, in order to match the level of ambition underlying the establishment of the European Border and Coast Guard standing corps, the Commission earmarked a significant envelope under the 2021-2027 multiannual financial framework to allow the Agency to acquire, maintain and operate the necessary air, sea and land assets corresponding to the operational needs. While the acquisition of the necessary assets could be a lengthy process, especially for large assets, the Agency's own equipment should ultimately become the backbone of the operational deployments with additional contributions of Member States to be called upon in exceptional circumstances. The Agency's equipment should be largely operated by the Agency's technical crews being part of the European Border and Coast Guard standing corps. In order to ensure the effective use of the proposed financial resources, the process should be based on a multiannual strategy decided as early as possible by the management board.

Amendment

(62) Consequently, in order to match the level of ambition underlying the establishment of the European Border and Coast Guard standing corps, the Commission earmarked a significant envelope under the 2021-2027 multiannual financial framework to allow the Agency to acquire, maintain and operate the necessary air, sea and land assets corresponding to the operational needs. While the acquisition of the necessary assets could be a lengthy process, especially for large assets, the Agency's own equipment should ultimately become the backbone of the operational deployments with additional contributions of Member States to be called upon in exceptional circumstances. The ***crew deployed with the technical equipment of a Member State, even in exceptional circumstances, should count as part of that particular Member State's contribution to the standing corps.*** The Agency's equipment should be largely operated by the Agency's technical crews being part of the European Border and Coast Guard standing corps. In order to ensure the effective use of the proposed financial resources, the process should be based on a multiannual strategy decided as early as possible by the management board. ***It is necessary to ensure the sustainability***

of the Agency by means of future multiannual financial frameworks and to maintain comprehensive European Integrated Border Management.

Amendment 56

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) The long-term development of new capabilities within the European Border and Coast Guard should be coordinated between the Member States and the Agency in line with the multiannual strategic policy cycle, taking into account the long duration of certain processes. This includes the recruitment and training of new border guards, (which could during their career serve both in Member States and as part of the standing corps), the acquisition, maintenance and disposal of equipment (for which opportunities for interoperability and economies of scale should be sought) but also the development of new equipment and related technologies including through research.

Amendment

(64) The long-term development of new capabilities within the European Border and Coast Guard should be coordinated between the Member States and the Agency in line with the multiannual strategic policy cycle, taking into account the long duration of certain processes. This includes the recruitment and training, ***including on fundamental rights and the implementation of the complaints mechanism and fundamental rights strategy***, of new border guards, (which could during their career serve both in Member States and as part of the standing corps), the acquisition, maintenance and disposal of equipment (for which opportunities for interoperability and economies of scale should be sought) but also the development of new equipment and related technologies including through research.

Amendment 57

Proposal for a regulation

Recital 67

Text proposed by the Commission

(67) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in accordance with Directive 2008/115/EC of the European Parliament and of the

Amendment

(67) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in accordance with Directive 2008/115/EC of the European Parliament and of the

Council²² , is an essential component of the comprehensive efforts to tackle ***illegal immigration*** and represents an important issue of substantial public interest.

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

Amendment 58

Proposal for a regulation

Recital 68

Text proposed by the Commission

(68) The Agency should step up its assistance to Member States for returning third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC. In particular, it should coordinate and organise return operations from one or more Member States and organise and conduct return interventions to reinforce the return systems of Member States requiring increased technical and operational assistance to comply with their obligation to return third-country nationals in accordance with that Directive.

Amendment 59

Proposal for a regulation

Recital 69

Text proposed by the Commission

(69) The Agency should, in full respect for fundamental rights and without prejudice for the Member States' responsibility for issuing return decisions,

Council²² , is an essential component of the comprehensive efforts to tackle ***irregular migration*** and represents an important issue of substantial public interest.

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

Amendment

(68) The Agency should step up its assistance to Member States for returning third-country nationals, subject to the Union return policy and in compliance with Directive 2008/115/EC. In particular, it should coordinate and organise return operations from one or more Member States and, ***upon request of a Member State***, organise and conduct return interventions to reinforce the return systems of Member States requiring increased technical and operational assistance to comply with their obligation to return third-country nationals in accordance with that Directive.

Amendment

(69) The Agency should, in full respect for fundamental rights and without prejudice for the Member States' responsibility for issuing return decisions,

provide technical and operational assistance to Member States in the return process, including ***the preparation of return decisions***, identification of third country nationals and other pre-return and return-related activities of the Member States. In addition, the Agency should assist Member States in the acquisition of travel documents for return, in cooperation with the authorities of the relevant third countries.

Amendment 60

Proposal for a regulation

Recital 70

Text proposed by the Commission

(70) The assistance to Member States in carrying out return procedures should include the provision of practical information on third countries of return relevant for the implementation of this Regulation, such as the provision of contact details or other logistical information necessary for the smooth conduct of return operations. The assistance should also include ***setting up, operating and maintaining a central system*** for processing all information and data necessary for the Agency to provide technical and operational assistance in accordance with the Regulation, automatically communicated by the Member States' national return management systems.

Amendment 61

Proposal for a regulation

Recital 71

provide technical and operational assistance to Member States in the return process, including, identification of third country nationals and other pre-return and return-related activities of the Member States. In addition, the Agency should assist Member States in the acquisition of travel documents for return, ***where that does not violate the principle of non-refoulement***, in cooperation with the authorities of the relevant third countries.

Amendment

(70) The assistance to Member States in carrying out return procedures should include the provision of practical information on third countries of return relevant for the implementation of this Regulation, such as the provision of contact details or other logistical information necessary for the smooth ***and dignified*** conduct of return operations. The assistance should also include ***the operation and maintenance of the existing Integrated Return Management Application (IRMA) which is already managed by the Agency as a platform*** for processing all information and data necessary for the Agency to provide technical and operational assistance in accordance with the Regulation, automatically communicated by the Member States' national return management systems.

Text proposed by the Commission

Amendment

(71) The Agency should also provide technical and operational assistance to return activities of third countries, in particular when such assistance is justified by the priorities of the irregular migration policy of the Union.

deleted

Amendment 62

Proposal for a regulation Recital 72

Text proposed by the Commission

Amendment

(72) The possible existence of an arrangement between a Member State and a third country does not absolve the Agency or the Member States from their obligations under Union or international law, in particular as regards compliance with the principle of non-refoulement.

(72) The possible existence of an arrangement between a Member State and a third country does not absolve the Agency or the Member States from their obligations ***or liability*** under Union or international law, in particular as regards compliance with the principle of non-refoulement, ***the prohibition on torture and on inhumane or degrading treatment as well as fundamental rights as enshrined under International and European law.***

Amendment 63

Proposal for a regulation Recital 73

Text proposed by the Commission

Amendment

(73) Member States should be able to cooperate at operational level with other Member States and/or third countries at the external borders, including military operations with a law enforcement purpose, to the extent that that cooperation is compatible with the actions of the Agency.

(73) Member States should be able to cooperate at operational level with other Member States and/or third countries at the external borders, including military operations with a law enforcement purpose, to the extent that that cooperation is compatible with ***a fundamental rights assessment to be carried out prior to any cooperation with third countries and*** the actions of the Agency.

Amendment 64

Proposal for a regulation

Recital 74

Text proposed by the Commission

(74) The Agency should improve the exchange of information and the cooperation with other Union bodies, offices and agencies, such as EUROPOL, **EASO**, the European Maritime Safety Agency and the European Union Satellite Centre, the European Aviation Safety Agency or the Network Manager for the European Air Traffic Management in order to make best use of information, capabilities and systems which are already available at European level, such as the European Earth monitoring programme Copernicus.

Amendment

(74) The Agency should improve the exchange of information and the cooperation with other Union bodies, offices and agencies, such as EUROPOL, **[the European Union Agency for Asylum]**, the European Maritime Safety Agency and the European Union Satellite Centre, the European Aviation Safety Agency or the Network Manager for the European Air Traffic Management in order to make best use of information, capabilities and systems which are already available at European level, such as the European Earth monitoring programme Copernicus.

Amendment 65

Proposal for a regulation

Recital 75

Text proposed by the Commission

(75) Cooperation with third countries is an element of European Integrated Border Management. It should serve to promote European border management and return standards, to exchange information and risk analysis, to facilitate the implementation of returns with a view to increasing their efficiency and to support third countries in the area of border management and migration, including the deployment of the European Border and Coast Guard standing corps when such support is required to protect external borders and the effective management of the Union's migration policy.

Amendment

(75) Cooperation with third countries, **following the conclusion of a status agreement between the Union and the third country concerned**, is an **important** element of European Integrated Border Management. It should serve to promote European border management and return standards, to exchange information and risk analysis, to facilitate the implementation of returns with a view to increasing their efficiency and to support third countries in the area of border management and migration, including the deployment of the European Border and Coast Guard standing corps when such support is required to protect external borders and the effective management of the Union's migration policy.

Amendment 66

Proposal for a regulation

Recital 76

Text proposed by the Commission

(76) Cooperation with third countries should take place in the framework of the external action of the Union and in line with the principles and objectives of Article 21 of the Treaty on European Union. The Commission will ensure consistency between the European Integrated Border Management and other Union policies in the field of the Union's external action and in particular the Common Security and Defence Policy. The Commission should be assisted by the High Representative of the Union and his or her services. Such cooperation should apply in particular to the activities of the Agency taking place on the territory of third countries or involving third country officials in areas such as risk analysis, planning and conduct of operations, training, information exchange and cooperation.

Amendment

(76) Cooperation with third countries should take place in the framework of the external action of the Union, and in line with the principles and objectives of Article 21 of the Treaty on European Union **and subject to the carrying out of a fundamental rights assessment prior to commencing such cooperation.** The Commission will ensure consistency between the European Integrated Border Management and other Union policies in the field of the Union's external action and in particular the Common Security and Defence Policy. The Commission should be assisted by the High Representative of the Union and his or her services. Such cooperation should apply in particular to the activities of the Agency taking place on the territory of third countries or involving third country officials in areas such as risk analysis, planning and conduct of operations, training, information exchange and cooperation.

Amendment 67

Proposal for a regulation

Recital 83

Text proposed by the Commission

(83) During the transitional period, it should be ensured that the FADO system is fully operational until the transfer is effectively carried out and the existing data are transferred to the new system. The **ownership of** the existing data should then be transferred to the Agency.

Amendment

(83) During the transitional period, it should be ensured that the FADO system is fully operational until the transfer is effectively carried out and the existing data are transferred to the new system. The **control over** the existing data should then be transferred to the Agency.

Amendment 68

Proposal for a regulation

Recital 86

Text proposed by the Commission

(86) In order to properly implement its tasks in the area of return, including by assisting Member States in the proper implementation of return procedures and successful enforcement of return decisions, as well as to facilitate return operations, the Agency may need to transfer personal data of returnees to third countries. The third countries of return are not often subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679, or under Article 36 of Directive (EU) 2016/680, and have often not concluded or do not intend to conclude a readmission agreement with the Union or otherwise provide for appropriate safeguards within the meaning of Article **49 of [Regulation (EU) 45/2001]** or within the meaning of the national provisions transposing Article 37 of Directive (EU) 2016/680. However, despite the extensive efforts of the Union in cooperating with the main countries of origin of **illegally** staying third-country nationals subject to an obligation to return, it is not always possible to ensure such third countries systematically fulfil the obligation established by international law to readmit their own nationals. Readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for personal data, cover a limited number of such third countries. In the situation where such agreements do not yet exist, personal data should be transferred by the Agency for the purposes of facilitating the return operations of the Union, **when the conditions laid down in Article 49(1)(d) of [Regulation (EU) 45/2001] are met.**

Amendment

(86) In order to properly implement its tasks in the area of return, including by assisting Member States in the proper implementation of return procedures and successful enforcement of return decisions, as well as to facilitate return operations, the Agency may need to transfer personal data of returnees to third countries. The third countries of return are not often subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679, or under Article 36 of Directive (EU) 2016/680, and have often not concluded or do not intend to conclude a readmission agreement with the Union or otherwise provide for appropriate safeguards within the meaning of Article **69 of Regulation (EU) 2018/1725** or within the meaning of the national provisions transposing Article 37 of Directive (EU) 2016/680. However, despite the extensive efforts of the Union in cooperating with the main countries of origin of **irregularly** staying third-country nationals subject to an obligation to return, it is not always possible to ensure such third countries systematically fulfil the obligation established by international law to readmit their own nationals. Readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for personal data, cover a limited number of such third countries. In the situation where such agreements do not yet exist, personal data should be transferred by the Agency for the purposes of facilitating the return operations of the Union.

Amendment 69

Proposal for a regulation

Recital 88

Text proposed by the Commission

(88) This Regulation should establish a complaints mechanism for the Agency in cooperation with the fundamental rights officer, to safeguard the respect for fundamental rights in all the activities of the Agency. This should be an administrative mechanism whereby the fundamental rights officer should be responsible for handling complaints received by the Agency in accordance with the right to good administration. The fundamental rights officer should review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the executive director, forward complaints concerning members of the teams to the home Member State, and register the follow-up by the Agency or that Member State. The mechanism should be effective, ensuring that complaints are properly followed up. The complaints mechanism should be without prejudice to access to administrative and judicial remedies and not constitute a requirement for seeking such remedies. Criminal investigations should be conducted by the Member States. In order to increase transparency and accountability, the Agency should report on the complaints mechanism in its annual report. It should cover in particular the number of complaints it has received, the types of fundamental rights violations involved, the operations concerned and, where possible, the follow-up measures taken by the Agency and Member States. The Fundamental Rights Officer should have access to all information concerning respect for fundamental rights in relation to all the activities of the Agency.

Amendment

(88) This Regulation should establish a complaints mechanism for the Agency in cooperation with the fundamental rights officer, to safeguard the respect for fundamental rights in all the activities of the Agency. This should be an administrative mechanism whereby the fundamental rights officer should be responsible for handling complaints received by the Agency in accordance with the right to good administration. The fundamental rights officer should review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the executive director, forward complaints concerning members of the teams to the home Member State, and register the follow-up by the Agency or that Member State. The mechanism should be effective, ensuring that complaints are properly followed up. The complaints mechanism should be without prejudice to access to administrative and judicial remedies and not constitute a requirement for seeking such remedies. Criminal investigations should be conducted by the Member States. In order to increase transparency and accountability, the Agency should report on the complaints mechanism in its annual report. It should cover in particular the number of complaints it has received, the types of fundamental rights violations involved, the operations concerned and, where possible, the follow-up measures taken by the Agency and Member States. The Fundamental Rights Officer should have access to all information concerning respect for fundamental rights in relation to all the activities of the Agency. ***The fundamental rights officer should be provided with the resources and staff***

necessary to enable him or her to effectively perform all the tasks in accordance with this Regulation. The staff provided to the fundamental rights officer should have the skills and seniority that correspond to the expansion of activities and powers of the Agency. Any regular or extraordinary increase in staff allocated to the Agency should be directed in support of the fundamental rights officer.

Amendment 70

Proposal for a regulation Recital 90

Text proposed by the Commission

(90) The Commission and the Member States should be represented within a management board to exercise oversight over the Agency. The management board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. The parties represented in the management board should make efforts to limit turnover of their representatives in order to ensure continuity of the management board's work. The management board should be entrusted with the necessary powers to establish the Agency's budget, verify its execution, adopt appropriate financial rules, establish transparent working procedures for decision-making by the Agency and appoint the executive director and three deputy executive directors each of whom could be assigned responsibilities in a certain field of competences of the Agency, such as managing the European Border and Coast Guard standing Corps, overseeing the Agency's tasks regarding returns or managing the involvement in the large scale IT systems. The Agency should be governed and operated taking into account the principles of the common

Amendment

(90) ***The European Parliament***, the Commission and the Member States should be represented within a management board to exercise oversight over the Agency. The management board should, where possible, consist of the operational heads of the national services responsible for border guard management or their representatives. The parties represented in the management board should make efforts to limit turnover of their representatives in order to ensure continuity of the management board's work. ***The representatives nominated by the Member States should have knowledge of the political positions in their respective countries on European Integrated Border Management.*** The management board should be entrusted with the necessary powers to establish the Agency's budget, verify its execution, adopt appropriate financial rules, establish transparent working procedures for decision-making by the Agency and appoint the executive director and three deputy executive directors each of whom could be assigned responsibilities in a certain field of competences of the Agency, such as managing the European Border and Coast Guard standing Corps, overseeing

approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the Commission.

the Agency's tasks regarding returns or managing the involvement in the large scale IT systems. The Agency should be governed and operated taking into account the principles of the common approach on Union decentralised agencies adopted on 19 July 2012 by the European Parliament, the Council and the Commission.

Amendment 71

Proposal for a regulation

Recital 91

Text proposed by the Commission

(91) In order to guarantee the autonomy of the Agency, it should be granted a stand-alone budget with a revenue which comes mostly from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

Amendment

(91) In order to guarantee the autonomy of the Agency, it should be granted a stand-alone budget with a revenue which comes mostly from a contribution from the Union. ***The Agency's budget should be prepared in accordance with the principle of performance-based budgeting, taking into account the Agency's objectives and the expected results of its tasks.*** The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors. ***In exceptional situations where the available budget is deemed insufficient and the budgetary procedure does not allow adequate response to a fast developing situations the Agency should have the possibility to receive grants from Union funds to fulfil its tasks.***

Amendment 72

Proposal for a regulation

Recital 92 a (new)

(92 a) Under the assumption of shared responsibility, the Agency should require the staff it employs, in particular the standing corps, including the statutory staff deployed in operational activities, to possess the same level of training, special expertise and professionalism as staff seconded or employed by the Member States. Therefore, the Agency should ascertain, by means of review and evaluation, that its statutory staff conduct themselves properly when it comes to operational activities in the field of border control and return.

Amendment 73

Proposal for a regulation Recital 93

Text proposed by the Commission

Amendment

(93) In view of the Agency's mandate and the important mobility of its staff members on the one hand, and, in order to prevent differences of treatment within the Agency's staff on the other hand, whereas staff's place of employment should in principle be set as Warsaw, the Agency's management board should, for a period of five years following the entry into force of this Regulation, be given the possibility to grant a "differential" monthly payment to Agency's staff members, ***taking due account of the overall remuneration received by individual staff members, including reimbursements of mission expenses.*** The modalities for granting such payment should be subject to prior approval by the Commission that should ensure that they remain proportionate to the importance of the objectives pursued and do not give rise to unequal treatment among staff of EU institutions, agencies and other bodies. Those modalities should

(93) In view of the Agency's mandate and the important mobility of its staff members on the one hand, and, in order to prevent differences of treatment within the Agency's staff on the other hand, whereas staff's place of employment should in principle be set as Warsaw, the Agency's management board should, for a period of five years following the entry into force of this Regulation, be given the possibility to grant a "differential" monthly payment to Agency's staff members ***when faced with difficulties in achieving its mission and tasks as set out in this Regulation.*** The modalities for granting such payment should be subject to prior approval by the Commission that should ensure that they remain proportionate to the importance of the objectives pursued and do not give rise to unequal treatment among staff of EU institutions, agencies and other bodies. Those modalities should be reviewed by 2024 to assess the payment's contribution

be reviewed by 2024 to assess the payment's contribution to the objectives pursued.

to the objectives pursued.

Amendment 74

Proposal for a regulation Recital 98

Text proposed by the Commission

(98) Any processing of personal data by the Agency within the framework of this Regulation should be conducted in accordance with Regulation (EC) No 45/2001.

Amendment

(98) Any processing of personal data by the Agency within the framework of this Regulation should be conducted in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council^{1a}.

^{1a} Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 75

Proposal for a regulation Recital 113 a (new)

Text proposed by the Commission

Amendment

(113 a) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession and should be read in conjunction with Council Regulation (EC) No 2007/2004^{1a}.

^{1a} Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

Amendment 76

Proposal for a regulation Recital 113 b (new)

Text proposed by the Commission

Amendment

(113 b) As regards Croatia, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 4(2) of the 2011 Act of Accession and should be read in conjunction with Council Regulation (EC) No 2007/2004^{1a}.

^{1a} Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1 and OJ L 153M, 7.6.2006, p. 136).

Amendment 77

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Regulation establishes a European Border and Coast Guard to ensure European Integrated Border Management at the external borders with a view to ***managing the crossing of those external borders efficiently***, as well as increasing the efficiency of the common return policy ***as a key component of sustainable***

This Regulation establishes a European Border and Coast Guard to ensure European Integrated Border Management at the external borders ***of the Union*** with a view to ***support the capacity of Member States to manage*** those borders efficiently, ***ensuring the saving of lives of persons in distress***, as well as ***ensuring compliance***

migration management.

with fundamental rights and increasing the efficiency of the common return policy.

Amendment 78

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

The Regulation addresses migratory challenges, **including return**, and potential future threats at **those** borders, thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it.

Amendment

This Regulation addresses migratory **and security** challenges and potential future **challenges and** threats at **the external borders and the pre-frontier area** thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it.

Amendment 79

Proposal for a regulation Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘external borders’ means external borders as defined in point 2 of Article 2 of Regulation (EU) 2016/399, to which Title II of that Regulation applies;

Amendment

(1) ‘external borders’ means **the** external borders **of the Union** as defined in point 2 of Article 2 of Regulation (EU) 2016/399, to which Title II of that Regulation applies;

Amendment 80

Proposal for a regulation Article 2 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘situational picture’ means an aggregation of geo-referenced near-real-time data and information received from different authorities, sensors, platforms and other sources, which is transmitted across

Amendment

(10) ‘situational picture’ means an aggregation of geo-referenced near-real-time data and information received from different authorities, sensors, platforms and other sources, which is transmitted across

secured communication and information channels and can be processed and selectively displayed and shared with other relevant authorities in order to achieve situational awareness and support the reaction capability at, along or in proximity of the external borders and the pre-frontier area;

secured communication and information channels and can be processed and selectively displayed and shared with other relevant authorities in ***the Union in*** order to achieve situational awareness and support the reaction capability at, along or in proximity of the external borders and the pre-frontier area;

Amendment 81

Proposal for a regulation

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘pre-frontier area’ means the geographical area beyond the external borders;

Amendment

(13) ‘pre-frontier area’ means the geographical area beyond the external borders ***which is relevant for risk analysis, border surveillance and checks at external border crossing points;***

Amendment 82

Proposal for a regulation

Article 2 – paragraph 1 – point 13 a (new)

Text proposed by the Commission

Amendment

(13 a) Neighbouring country means a country which shares a common land border with one or more Member States and which have ratified and implemented in full the European Convention on Human Rights and the 1951 Convention Relating to the Statues of Refugees and the 1967 Protocol thereto;

Amendment 83

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘incident’ means a situation relating

Amendment

(14) ‘incident’ means a situation relating

to *illegal immigration*, cross-border crime or a risk to the lives of migrants at, along or in the proximity of, the external borders;

to *irregular migration*, cross-border crime, *such as drugs or weapons smuggling*, or a risk to the lives of migrants at, along or in the proximity of, the external borders;

Amendment 84

Proposal for a regulation

Article 2 – paragraph 1 – point 16

Text proposed by the Commission

(16) ‘operational staff’ means border guards, return escorts, return specialists and other relevant staff **constituting** the "European Border and Coast Guard standing corps". In accordance with the **three** categories **defined under** Article 55(1), operational staff is either employed by the European Border and Coast Guard Agency as statutory staff (category 1), seconded to the Agency by the Member States (category 2) or provided for **short term** deployment by the Member States (category 3). **Operational staff is to act as members of border management teams, migration management support teams or return teams having executive powers. Operational staff also includes the statutory staff responsible for the functioning of the central unit of ETIAS;**

Amendment

(16) ‘operational staff’ means border guards, return escorts, return specialists, **return monitors, statutory staff responsible for the functioning of the central unit of ETIAS** and other relevant staff **that constitute** the "European Border and Coast Guard standing corps" in accordance with the **four** categories **set out in** Article 55(1); operational staff is either employed by the European Border and Coast Guard Agency as statutory staff (category 1), seconded to the Agency by the Member States (category 2), or provided for **short-term** deployment by the Member States (category 3) **or deployed from the rapid reaction pool for rapid border interventions (category 4);**

Amendment 85

Proposal for a regulation

Article 2 – paragraph 1 – point 19

Text proposed by the Commission

(19) ‘migration management support team’ means a team of experts which provide technical and operational reinforcement to Member States, including at hotspot areas **or in controlled centres**, composed of operational staff from the European Border and Coast Guard standing corps, experts deployed by the [the

Amendment

(19) ‘migration management support team’ means a team of experts which provide technical and operational reinforcement to Member States, including at hotspot areas, composed of operational staff from the European Border and Coast Guard standing corps, experts deployed by the [the European Union Agency for

European Union Agency for Asylum], and from Europol, or other relevant Union agencies as well as from Member States;

Asylum], and from Europol, *the European Union Agency for Fundamental Rights* or other relevant Union agencies as well as from Member States;

Amendment 86

Proposal for a regulation

Article 2 – paragraph 1 – point 23

Text proposed by the Commission

(23) ‘hotspot area’ means an area in which the host Member State, the Commission, relevant Union agencies and participating Member States cooperate, with the aim of managing an existing or potential disproportionate migratory challenge characterised by a significant increase in the number of migrants arriving at the external borders;

Amendment

(23) ‘hotspot area’ means an area ***created at the request of the host Member State*** in which the host Member State, the Commission, relevant Union agencies and participating Member States cooperate, with the aim of managing an existing or potential disproportionate migratory challenge characterised by a significant increase in the number of migrants arriving at the external borders;

Amendment 87

Proposal for a regulation

Article 2 – paragraph 1 – point 24

Text proposed by the Commission

(24) ‘***controlled centre***’ means a centre, ***established at the request of the Member State, where relevant Union agencies in support of the host Member State and with participating Member States, distinguish between third-country nationals in need of international protection and those who are not in need of such protection, as well as carry out security checks and where they apply rapid procedures for international protection and/or return;***

Amendment

deleted

Amendment 88

Proposal for a regulation

Article 2 – paragraph 1 – point 26

Text proposed by the Commission

(26) ‘return decision’ means **return** decision as defined in point 4 of Article 3 of Directive 2008/115/EC;

Amendment

(26) ‘return decision’ means **an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be irregular and imposing or stating an obligation to return in accordance with Directive 2008/115/EC** as defined in point 4 of Article 3 of Directive 2008/115/EC;

Amendment 89

Proposal for a regulation

Article 2 – paragraph 1 – point 27

Text proposed by the Commission

(27) ‘returnee’ means an **illegally** staying third-country national who is the subject of a return decision **or its equivalent in a third country**;

Amendment

(27) ‘returnee’ means an **irregularly** staying third-country national who is the subject of a return decision **that is not under appeal**;

Amendment 90

Proposal for a regulation

Article 2 – paragraph 1 – point 28

Text proposed by the Commission

(28) ‘return operation’ means an operation that is organised or coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement provided to one or more Member States **or to a third country**, under which returnees from one or more Member States **or from a third country** are returned, either on a forced or voluntary basis, irrespective of the means of transport;

Amendment

(28) ‘return operation’ means an operation that is organised or coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement provided to one or more Member States, under which returnees from one or more Member States are returned, either on a forced or voluntary basis, irrespective of the means of transport;

Amendment 91

Proposal for a regulation
Article 2 – paragraph 1 – point 29

Text proposed by the Commission

(29) ‘return intervention’ means an activity of the European Border and Coast Guard Agency providing Member States *or third countries* with enhanced technical and operational assistance consisting of the deployment of return teams and the organisation of return operations;

Amendment

(29) ‘return intervention’ means an activity of the European Border and Coast Guard Agency providing Member States with enhanced technical and operational assistance consisting of the deployment of return teams and the organisation of return operations;

Amendment 92

Proposal for a regulation
Article 2 – paragraph 1 – point 30

Text proposed by the Commission

(30) ‘return teams’ means teams formed from the European Border and Coast Guard standing corps to be deployed during return operations, return interventions in Member States *and third countries* or other operational activities linked to the implementation of return-related tasks;

Amendment

(30) ‘return teams’ means teams formed from the European Border and Coast Guard standing corps to be deployed during return operations, return interventions in Member States or other operational activities linked to the implementation of return-related tasks;

Amendment 93

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

European Integrated Border Management shall consist of *the following* components:

Amendment

European Integrated Border Management shall consist of *sectoral and horizontal* components. *The sectoral components are:*

Amendment 94

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) border control, including measures to facilitate legitimate border crossings and, where appropriate, measures related to the prevention and detection of cross-border crime, ***such as migrant smuggling, trafficking in human beings and terrorism***, and measures related to the referral of persons who are in need of, or wish to apply for, international protection;

Amendment

(a) border control, including measures to facilitate legitimate border crossings and, where appropriate, measures related to the prevention and detection of cross-border crime, and measures related to the referral of persons who are in need of, or wish to apply for, international protection, ***in full respect of human dignity***;

Amendment 95

Proposal for a regulation

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) establishment and maintenance of clear mechanisms and procedures, in cooperation with relevant authorities, for the identification of, provision of information and referral of persons who may be in need of international protection or for the referral of vulnerable persons and unaccompanied minors to the relevant referral mechanisms and authorities;

Amendment 96

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) search and rescue operations for persons in distress at sea ***launched and*** carried out in accordance with Regulation (EU) No 656/2014 ***and with international law, taking place in situations which may arise during border surveillance operations at sea;***

(b) search and rescue operations for persons in distress at sea ***carried out in accordance with international law, including those*** carried out in accordance with Regulation (EU) No 656/2014;

Amendment 97

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) inter-agency cooperation among the national authorities in each Member State which are responsible for border control or for other tasks carried out at the border, as well as between authorities responsible for return in each Member State, including the regular exchange of information through existing information exchange tools;

Amendment

(e) inter-agency cooperation among the national authorities in each Member State which are responsible for border control or for other tasks carried out at the border, ***including national and international bodies in charge of protecting fundamental rights***, as well as between authorities responsible for return in each Member State, including the regular exchange of information through existing information exchange tools;

Amendment 98

Proposal for a regulation

Article 3 – paragraph 1 – point f

Text proposed by the Commission

(f) cooperation among the relevant Union institutions, bodies, offices and agencies in the areas covered by this Regulation, including through regular exchange of information;

Amendment

(f) cooperation among the relevant Union institutions, bodies, offices and agencies in the areas covered by this Regulation, including ***cross-border crime, including*** through regular exchange of information;

Amendment 99

Proposal for a regulation

Article 3 – paragraph 1 – point g

Text proposed by the Commission

(g) cooperation with third countries in the areas covered by this Regulation;

Amendment

(g) cooperation with third countries in the areas covered by this Regulation, ***focusing in particular on neighbouring countries and on those third countries which have been identified through risk analysis as being countries of origin and/or transit for illegal immigration, as***

well as in the deployment of return operations and field visit;

Amendment 100

Proposal for a regulation

Article 3 – paragraph 1 – point h

Text proposed by the Commission

(h) technical and operational measures within the *Schengen area* which are related to border control and designed to address *illegal immigration* and to counter cross-border crime better;

Amendment

(h) technical and operational measures within the *Union* which are related to border control and designed to address *irregular migration* and to counter cross-border crime better;

Amendment 101

Proposal for a regulation

Article 3 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(k a) Capacity and readiness , through the vulnerabilities assessment, in order to assess the capability of Member States to address current and future challenges and threats at the external borders, including disproportionate migratory pressure;

Amendment 102

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Fundamental rights, education and training, and research and innovation shall be horizontal components that are to be present in the implementation of each of the sectoral components listed in the first subparagraph.

Amendment 103

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

(2) The Agency shall include the European Border and Coast Guard standing corps **of 10 000 operational staff** as referred to in Article 55.

Amendment

(2) The Agency shall include the European Border and Coast Guard standing corps as referred to in Article 55.

Amendment 104

Proposal for a regulation

Article 5 – paragraph 4

Text proposed by the Commission

(4) The Agency shall contribute to the continuous and uniform application of Union law, including the Union acquis on fundamental rights, at all external borders. Its contribution shall include the exchange of good practices.

Amendment

(4) The Agency shall contribute to the continuous and uniform application of Union law, including the Union acquis on fundamental rights, **and ensure the application of the Charter of Fundamental Rights of the European Union in all its activities ('the Charter')** at all external borders. Its contribution shall include the exchange of good practices.

Amendment 105

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

(2) The Agency shall provide technical and operational assistance in the implementation of measures relating to the enforcement of return decisions. Member States shall retain the responsibility for issuing return decisions and the measures pertaining to the detention of returnees in accordance with Directive 2008/115/EC.

Amendment

(2) The Agency shall provide technical and operational assistance in the implementation of measures relating to the enforcement of return decisions, **in agreement with the Member States concerned**. Member States shall retain the responsibility for issuing return decisions and the measures pertaining to the detention of returnees in accordance with Directive 2008/115/EC.

Amendment 106

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

(3) Member States shall ensure the management of their external borders and the enforcement of return decisions, in their own interests and in the common interest of all Member States in full compliance with Union law and in line with the multiannual strategic policy cycle for European Integrated Border Management referred to in Article 8, in close cooperation with the Agency.

Amendment

(3) Member States shall ensure the management of their external borders and the enforcement of return decisions in their own interests and in the common interest of all Member States in full compliance with Union law, ***including concerning the respect of fundamental rights***, and in line with the multiannual strategic policy cycle for European Integrated Border Management referred to in Article 8 ***and the technical and operational strategy referred to in Article 8(5)***, in close cooperation with the Agency.

Amendment 107

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

(4) The Agency shall support the application of Union measures relating to the management of the external borders and the enforcement of return decisions by reinforcing, assessing and coordinating the actions of Member States, as well as providing direct technical and operational assistance, in the implementation of those measures and in return matters.

Amendment

(4) The Agency shall support the application of Union measures relating to the management of the external borders and the enforcement of return decisions by reinforcing, assessing and coordinating the actions of Member States, as well as providing direct technical and operational assistance, in the implementation of those measures and in return matters. ***The Agency shall not support any measures or be involved in any activities related to controls at internal borders. The Agency shall be fully responsible and accountable for all its activities, and for any decisions it takes, under this Regulation.***

Amendment 108

Proposal for a regulation

Article 7 – paragraph 5

Text proposed by the Commission

(5) Member States may continue cooperation at an operational level with other Member States and/or third countries, where such cooperation is compatible with the tasks of the Agency. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives. Member States shall report to the Agency on that operational cooperation with other Member States and/or third countries at the external borders and in the field of return. The executive director shall inform the management board on those matters on a regular basis and at least once a year.

Amendment

(5) Member States may continue cooperation at an operational level with other Member States and/or third countries, where such cooperation is compatible ***with a fundamental rights assessment to be carried out prior to any cooperation with a third country and*** with the tasks of the Agency. Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives. Member States shall report to the Agency ***and to the European Parliament*** on that operational cooperation with other Member States and/or third countries at the external borders and in the field of return. The executive director shall inform the management board ***and the fundamental rights officer*** on those matters on a regular basis and at least once a year.

Amendment 109

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

(1) ***The Commission and the European Border and Coast Guard shall ensure*** the effectiveness of European Integrated Border Management through a multiannual strategic policy cycle ***for*** the European ***Integrated*** Border Management.

Amendment

(1) The effectiveness of European Integrated Border Management ***shall be ensured*** through a multiannual strategic policy cycle ***to be adopted in accordance with the procedure laid down in paragraph 4. The effective implementation of that multiannual strategic policy cycle shall be the responsibility of*** the European Border and Coast Guard Agency ***in accordance with paragraph 5 and Member States in accordance with paragraph 6.***

Amendment 110

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

(2) The multiannual strategic policy for the European Integrated Border Management shall define how the challenges ***in the area of*** border management ***and return*** are to be addressed in a coherent, integrated and systematic manner.

Amendment

(2) The multiannual strategic policy for the European Integrated Border Management shall define how the challenges ***related to European Integrated*** Border Management are to be addressed in a coherent, integrated and systematic manner, ***in line with Union law and with 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 United Nations Convention relating to the Status of Stateless Persons and other relevant international instruments. It shall define the policy priorities and provide the strategic guidelines for a period of four years in relation to the sectoral and horizontal components set out in Article 3.***

Amendment 111

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

(4) ***Based on*** the strategic risk analysis for European Integrated Border Management referred to in Article 30(2), the Commission shall be empowered to adopt delegated acts in accordance with Article 118 ***developing a*** multiannual

Amendment

(4) ***By ... [two months after the entry into force of this Regulation], the Commission shall present the European Parliament and the Council with a draft multiannual strategic policy for the first multiannual strategic policy cycle taking***

strategic policy for European Integrated Border Management. ***That delegated act shall define policy priorities and provide the strategic guidelines for the following four years in relation to the components set out in Article 3.***

into consideration the strategic risk analysis for European Integrated Border Management referred to in Article 30(2), ***the results of the vulnerability assessments referred to in Article 33 and a risk analysis requested from agencies referred to in Article 69(1), where appropriate. Within two months of its presentation by the Commission, a meeting between the European Parliament, the Council and Commission shall be convened to discuss the draft multiannual strategic policy. Following that discussion, the Commission shall be empowered to adopt delegated acts in accordance with Article 118 to supplement this Regulation by setting out the multiannual strategic policy for European Integrated Border Management.***

Amendment 112

Proposal for a regulation Article 8 – paragraph 6

Text proposed by the Commission

(6) In order to implement the delegated act referred to in paragraph 4, the Member States shall establish their national strategies for integrated border management through close cooperation between all national authorities responsible for the management of borders and return. Those national strategies shall be in line with Article 3, the delegated act referred to in paragraph 4 and the technical and operational strategy referred to in paragraph 5.

Amendment

(6) In order to implement the delegated act referred to in paragraph 4, the Member States shall establish their national strategies for integrated border management through close cooperation between all national authorities responsible for the management of borders and return. Those national strategies shall be in line with Article 3, the delegated act referred to in paragraph 4 and the technical and operational strategy referred to in paragraph 5. ***Member States shall make their national strategies public and communicate those to the European Parliament, the Council, the Commission and to the Agency.***

Amendment 113

Proposal for a regulation

Article 8 – paragraph 7

Text proposed by the Commission

(7) Forty-two months after the adoption of the delegated act referred to in paragraph 4, the Commission shall carry out, ***with the support of the Agency***, a thorough evaluation of its implementation. The results of the evaluation shall be taken into account for the preparation of the following cycle.

Amendment

(7) Forty-two months after the adoption of the delegated act referred to in paragraph 4, the Commission shall carry out a thorough evaluation of its implementation. The results of the evaluation shall be taken into account for the preparation of the following cycle. ***The Commission shall communicate the results of the evaluation to the European Parliament and to the Council. Member States and the Agency shall provide the Commission with the necessary information in a timely manner so that it can produce the overall evaluation.***

Amendment 114

Proposal for a regulation Article 8 – paragraph 8

Text proposed by the Commission

(8) Where the *situation* at the external borders or in the area of return ***requires a change of the policy priorities, the Commission shall amend*** the multiannual strategic policy ***for European Integrated Border Management*** in accordance with ***the procedure set out in paragraph 4. Also the strategies mentioned in paragraph 5 and 6 shall be adapted where needed.***

Amendment

(8) ***During the period of validity of the multiannual strategic policy referred to in paragraph 4***, where the ***challenges*** at the external borders or in the area of return ***evolve to such a degree that it becomes necessary to adapt*** the multiannual strategic policy, ***the Commission is empowered to adopt a delegated act*** in accordance with ***Article 118 to amend that multiannual strategic policy. The Agency’s technical and operational strategy and the Member States’ national strategies shall then be adapted where necessary.***

Amendment 115

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

(1) On the basis of the multiannual strategic policy cycle for European Integrated Border Management referred to in Article 8, the European Border and Coast Guard shall establish an integrated planning for border management **and returns**.

Amendment

(1) On the basis of the multiannual strategic policy cycle for European Integrated Border Management referred to in Article 8, the European Border and Coast Guard shall establish an integrated planning for **European Integrated** Border Management.

Amendment 116

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

(3) Each plan of the integrated planning shall contain the scenario against which it is developed. Scenarios shall be derived from risk analysis and shall reflect the possible evolution of the situation at the external borders **and in the area of illegal migration** and the challenges identified in the multiannual strategic policy cycle for European Integrated Border Management.

Amendment

(3) Each plan of the integrated planning shall contain the scenario against which it is developed. Scenarios shall be derived from risk analysis and shall reflect the possible evolution of the situation at the external borders, **the developments in each of the components of European Integrated Border Management as set out in Article 3**, and the challenges identified in the multiannual strategic policy cycle for European Integrated Border Management.

Amendment 117

Proposal for a regulation

Article 10 – title

Text proposed by the Commission

Tasks of the European **border** and **coast guard agency**

Amendment

Tasks of the European **Border** and **Coast Guard Agency**

Amendment 118

Proposal for a regulation

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

(1) The Agency shall perform the following tasks with a view to contributing to an efficient, high and uniform level of border control **and** return:

(1) The Agency, **while avoiding unnecessary duplication of operational work of the Member States, shall support the implementation of the European Integrated Border Management and** shall perform the following tasks with a view to contributing to an efficient, high and uniform level of border control, **to facilitating the movement of bona fide travellers, to detecting and preventing cross-border crime in relation to internal security, to migration management and to** return:

Amendment 119

Proposal for a regulation

Article 10 – paragraph 1 – point 4 a (new)

Text proposed by the Commission

Amendment

4 a. monitor the compliance with fundamental rights at the external borders and in return operations by means of the fundamental rights officer and independent return monitors in cooperation with the European Union Agency for Fundamental Rights;

Amendment 120

Proposal for a regulation

Article 10 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

7. assist Member States in circumstances requiring increased technical and operational assistance at the external borders, by launching rapid border interventions at the external borders of those Member States facing specific and disproportionate challenges, taking into account that some situations may involve

7. assist Member States, **upon their request**, in circumstances requiring increased technical and operational assistance at the external borders, by launching rapid border interventions at the external borders of those Member States facing specific and disproportionate challenges, taking into account that some

humanitarian emergencies and rescue at sea in accordance with Union and international law;

situations may involve humanitarian emergencies and rescue at sea in accordance with Union and international law;

Amendment 121

Proposal for a regulation

Article 10 – paragraph 1 – point 8

Text proposed by the Commission

8. provide technical and operational assistance to Member States and third countries in ***accordance with Regulation (EU) No 656/2014 and international law, in support of search and rescue operations for persons in distress at sea which may arise during border surveillance operations at sea;***

Amendment

8. provide technical and operational assistance to Member States and third countries in support of search and rescue operations for persons in distress at sea ***in accordance with international law, including those carried out under Regulation (EU) No 656/2014;***

Amendment 122

Proposal for a regulation

Article 10 – paragraph 1 – point 9

Text proposed by the Commission

9. ***deploy*** the European Border and Coast Guard standing corps in the framework of border management teams, migration management support teams and return teams during joint operations and in rapid border interventions, return operations and return interventions;

Amendment

9. ***set up*** the European Border and Coast Guard standing corps, ***including the strengthening of the rapid reaction pool as provided for in this Regulation, and deploy it*** in the framework of border management teams, migration management support teams and return teams during joint operations and in rapid border interventions, return operations and return interventions;

Amendment 123

Proposal for a regulation

Article 10 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

11 a. create an internal quality control mechanism in order to ascertain the level of training, special expertise and professionalism possessed by the Agency's staff, in particular, the statutory staff involved in border control and return;

Amendment 124

Proposal for a regulation

Article 10 – paragraph 1 – point 12

Text proposed by the Commission

Amendment

12. within the framework of the migration management support teams at hotspot areas *or in controlled centres*;

12. within the framework of the migration management support teams at hotspot areas **deploy operational staff and technical equipment to provide assistance in screening, debriefing, identification and fingerprinting**;

Amendment 125

Proposal for a regulation

Article 10 – paragraph 1 – point 13

Text proposed by the Commission

Amendment

13. deploy operational staff and technical equipment to provide assistance in screening, debriefing, identification and fingerprinting;

deleted

Amendment 126

Proposal for a regulation

Article 10 – paragraph 1 – point 14

Text proposed by the Commission

Amendment

14. establish a procedure for referring and providing initial information to persons who are in need of, or wish to apply for,

14. establish a procedure for referring and providing initial information to persons who are in need of, or wish to apply for,

international protection, in cooperation with the [European Union Agency for Asylum] and competent national authorities;

international protection, ***including a procedure for the identification of vulnerable groups***, in cooperation with the [European Union Agency for Asylum] and competent national authorities;

Amendment 127

Proposal for a regulation Article 10 – paragraph 1 – point 15

Text proposed by the Commission

15. provide assistance ***in*** all stages of the return process ***and*** with the coordination and organisation of return operations, as well as return interventions;

Amendment

15. provide assistance, ***and monitor compliance with fundamental rights, at all stages of the return process without entering into the merits of return decisions which remain the sole responsibility of the Member States and assist*** with the coordination and organisation of return operations ***and provide technical and operational support to implement the obligation to return returnees***, as well as ***technical and operational support to return operations and*** interventions;

Amendment 128

Proposal for a regulation Article 10 – paragraph 1 – point 16

Text proposed by the Commission

16. ***assist Member States in circumstances requiring increased technical and operational assistance to implement the obligation to return irregular migrants, including, coordination or organisation of return operations;***

Amendment

deleted

Amendment 129

Proposal for a regulation Article 10 – paragraph 1 – point 17

Text proposed by the Commission

Amendment

17. set up a pool of forced-return monitors;

17. set up a pool of forced-return monitors ***in cooperation with the European Union Agency for Fundamental Rights, and pools of forced-return escorts and return specialists;***

Amendment 130

Proposal for a regulation

Article 10 – paragraph 1 – point 19

Text proposed by the Commission

Amendment

19. within the respective mandates of the agencies concerned, cooperate with Europol and Eurojust and provide support to Member States in circumstances requiring increased technical and operational assistance at the external borders in the fight against ***organised*** cross-border crime ***and terrorism;***

19. within the respective mandates of the agencies concerned, cooperate with Europol and Eurojust and provide support to Member States in circumstances requiring increased technical and operational assistance at the external borders in the fight against cross-border crime;

Amendment 131

Proposal for a regulation

Article 10 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

20. cooperate with the European Union Agency for Asylum ***in particular to facilitate measures where third country nationals, whose application for international protection has been rejected by means of a final decision, are subject to return;***

20. cooperate with the [European Union Agency for Asylum];

Amendment 132

Proposal for a regulation

Article 10 – paragraph 1 – point 20 a (new)

Text proposed by the Commission

Amendment

20 a. cooperate with the European Union Agency for Fundamental Rights, in order to ensure the continuous and uniform application of the Union acquis on fundamental rights in all its activities;

Amendment 133

Proposal for a regulation Article 10 – paragraph 1 – point 21

Text proposed by the Commission

Amendment

21. cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency, within their respective mandates, to support the national authorities carrying out the coast guard functions set out in Article 70, by providing services, information, equipment and training, as well as by coordinating multipurpose operations;

21. cooperate with the European Fisheries Control Agency and the European Maritime Safety Agency, within their respective mandates, to support the national authorities carrying out the coast guard functions set out in Article 70, **including the saving of lives of migrants and refugees**, by providing services, information, equipment and training, as well as by coordinating multipurpose operations;

Amendment 134

Proposal for a regulation Article 10 – paragraph 1 – point 22

Text proposed by the Commission

Amendment

22. cooperate with third countries in the areas covered by the Regulation, including through the possible operational deployment of border management teams **and return teams** in third countries;

22. cooperate with third countries in the areas covered by the Regulation, including through the possible operational deployment of border management teams in third countries;

Amendment 135

Proposal for a regulation Article 10 – paragraph 1 – point 23

Text proposed by the Commission

Amendment

23. support third countries in the coordination or organisation of return activities to other third countries, including the sharing of personal data for return purposes;

deleted

Amendment 136

Proposal for a regulation

Article 10 – paragraph 1 – point 25

Text proposed by the Commission

Amendment

25. assist Member States and third countries in training of national border guards, other relevant staff and experts on return, including the establishment of common training standards;

25. assist Member States and third countries in training of national border guards, other relevant staff and experts on return, including **through** the establishment of common training standards **and programmes which shall include fundamental rights**;

Amendment 137

Proposal for a regulation

Article 10 – paragraph 1 – point 26

Text proposed by the Commission

Amendment

26. participate in the development and management of research and innovation activities relevant for the **control and surveillance** of the external borders, including the use of advanced surveillance technology, and develop pilot projects **regarding matters covered by** this Regulation;

26. participate in the development and management of research and innovation activities relevant for the **management** of the external borders, including the use of advanced surveillance technology, and develop pilot projects **where necessary for the implementation of activities, provided for in** this Regulation;

Amendment 138

Proposal for a regulation

Article 10 – paragraph 1 – point 27

Text proposed by the Commission

Amendment

27. support the development of technical standards of equipment in the area of border **control** and return including for interconnection of systems and networks;

27. support the development of technical standards of equipment in the area of border **management** and return including for interconnection of systems and networks;

Amendment 139

Proposal for a regulation

Article 10 – paragraph 1 – point 29

Text proposed by the Commission

Amendment

29. develop and operate, in accordance **with [Regulation (EC) No 45/2001]**, information systems that enable swift and reliable exchanges of information regarding emerging risks in the management of the external borders, **illegal immigration** and return, in close cooperation with the Commission, Union bodies, offices and agencies as well as the European Migration Network established by Decision 2008/381/EC;

29. develop and operate, in accordance Regulation (EU) 2018/1725, information systems that enable swift and reliable exchanges of information regarding emerging risks in the management of the external borders, **irregular migration** and return, in close cooperation with the Commission, Union bodies, offices and agencies as well as the European Migration Network established by Decision 2008/381/EC;

Amendment 140

Proposal for a regulation

Article 10 – paragraph 1 – point 30

Text proposed by the Commission

Amendment

30. provide, **as appropriate**, the necessary assistance for the development of a common **information-sharing** environment, including interoperability of systems;

30. provide the necessary assistance **in the framework of integrated maritime surveillance** for the development of a common **information sharing** environment, including interoperability of systems;

Amendment 141

Proposal for a regulation

Article 10 – paragraph 1 – point 30 a (new)

30 a. adopt and promote the highest standards for border management practises, allowing for transparency and public scrutiny and ensuring respect, protection and promotion of fundamental rights and rule of law;

Amendment 142

Proposal for a regulation Article 10 – paragraph 1 – point 32

Text proposed by the Commission

32. fulfil the tasks and obligations entrusted to the Agency referred to in **[Regulation *establishing a European Travel Information and Authorisation System (ETIAS)*]** and ensure the setting up and operation of the ETIAS Central Unit in accordance with Article 7 of **[Regulation *establishing a European Travel Information and Authorisation System (ETIAS)*]**.

Amendment

32. fulfil the tasks and obligations entrusted to the Agency referred to in Regulation **(EU) 2018/1240 of the European Parliament and of the Council^{1a}** and ensure the setting up and operation of the ETIAS Central Unit in accordance with Article 7 of **that** Regulation;

^{1a} **Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).**

Amendment 143

Proposal for a regulation Article 10 – paragraph 1 – point 32 a (new)

Text proposed by the Commission

Amendment

32 a. assist Member States in the

prevention and detection of cross-border crime, such as migrant smuggling, trafficking in human beings and terrorism at the external borders and at the pre-frontier area;

Amendment 144

Proposal for a regulation Article 10 – paragraph 1 – point 32 b (new)

Text proposed by the Commission

Amendment

32 b. assist Member States in the facilitation of the crossing of the external borders by bona fide (legitimate) travellers.

Amendment 145

Proposal for a regulation Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Agency shall communicate *on its own initiative* on matters falling within its mandate. It shall provide the public with accurate and comprehensive information about its activities.

The Agency shall communicate on matters falling within its mandate. It shall provide the public with accurate, *detailed, timely* and comprehensive information about its activities *and analyses*.

Amendment 146

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. In order to perform the tasks conferred on them by this Regulation, *in particular for the Agency to monitor the migratory flows towards and within the Union*, to carry out risk analysis and to perform the vulnerability assessment, as well as to provide technical and operational assistance in the field of return, the Agency

1. In order to perform the tasks conferred on them by this Regulation, to carry out risk analysis and to perform the vulnerability assessment, as well as to provide technical and operational assistance in the field of return, the Agency and the national authorities responsible for border management and return, including

and the national authorities responsible for border management and return, including coast guards to the extent that they carry out border control tasks, shall, in accordance with this Regulation and other relevant Union and national law regarding the exchange of information, share in a timely and accurate manner all necessary information.

coast guards to the extent that they carry out border control tasks, shall, in accordance with this Regulation and other relevant Union and national law regarding the exchange of information, share in a timely and accurate manner all necessary information.

Amendment 147

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

2. The Agency shall take appropriate 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.

Amendment

2. The Agency shall take appropriate measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and, where appropriate, ***information relevant for the performance of its tasks with the relevant Union agencies, in accordance with relevant data protection law.***

Amendment 148

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

3. ***The Agency and the [European Union Agency for Asylum] shall exchange information for the purpose of risk analysis, collection of statistical data, assessment of the situation in third countries, training and the support to Member States on contingency planning. For those purposes, the*** necessary tools and structures shall be developed between the Agencies.

Amendment

3. For the purpose of ***exchange of information as referred to in paragraphs 1 and 2*** necessary tools and structures shall be developed between the Agencies.

Amendment 149

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

Member States shall appoint a national contact point for communication with the Agency on all matters pertaining to the activities of the Agency. The national contact point shall be ***reachable at all times and ensure the timely*** dissemination of ***all information from the Agency to all the relevant authorities within the Member State concerned, in particular the members of the management board and the National Coordination Centre.***

Amendment

Member States shall appoint a national contact point for communication with the Agency on all matters pertaining to the activities of the Agency. The national contact point shall be ***appointed for administrative purposes to facilitate routine communication between the Agency and the Member States. For the purpose of ensuring the*** dissemination of ***urgent and operational*** information the National Coordination ***Centres shall act as points of contact.***

Amendment 150

Proposal for a regulation Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency shall establish and maintain a communication network in order to provide communication and analytical tools and allow for the exchange of sensitive non-classified and classified information in a secure manner and in near real time with, and among, the national coordination centres. The network shall be operational twenty-four hours a day and seven days a week and shall allow for:

Amendment

1. The Agency shall establish and maintain a communication network in order to provide communication and analytical tools and allow for the exchange of sensitive non-classified and classified information in a secure manner and in near real time with, and among, the national coordination centres. The network shall ***comply with all Union data protection law throughout its life cycle. The network shall*** be operational twenty-four hours a day and seven days a week and shall allow for:

Amendment 151

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

1. 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, ***third parties and third countries as*** referred to in Article 69 and Article 71.

Amendment

1. The Agency may take all necessary measures to facilitate the exchange of information relevant to its tasks with the ***European Parliament, the*** Commission and the Member States and, where appropriate, ***the international organisations, the Union institutions, bodies, offices and agencies*** referred to in Article 69 and ***third countries referred to in*** Article 72.

Amendment 152

**Proposal for a regulation
Article 15 – paragraph 2**

Text proposed by the Commission

2. The Agency shall develop, deploy and operate an information system capable of exchanging classified and sensitive non-classified information with those actors, and of exchanging personal data referred to in Article 80 and Articles 87 to 91 in accordance with Commission Decision (EU, Euratom) 2015/444³⁹, Commission Decision 2015/443⁴⁰ and ***Regulation (EC) No 45/2001***.

Amendment

2. The Agency shall develop, deploy and operate an information system capable of exchanging classified and sensitive non-classified information with those actors, and of exchanging personal data referred to in Article 80 and Articles 87 to 91 in accordance with Commission Decision (EU, Euratom) 2015/444³⁹, Commission Decision 2015/443⁴⁰ and ***Regulation (EU) 2018/1725***.

³⁹ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

⁴⁰ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

³⁹ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

⁴⁰ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

Amendment 153

**Proposal for a regulation
Article 15 – paragraph 4**

Text proposed by the Commission

4. In relation to return, the Agency shall **develop and** operate **a central return management system** for processing all information necessary for the Agency to provide operational assistance in accordance with Article 49 automatically communicated by the Member States' national systems, including operational return data.

Amendment

4. In relation to return, the Agency shall operate **and maintain the Integrated Return Management Application (IRMA) as a platform** for processing all information necessary for the Agency to provide operational assistance in accordance with Article 49 automatically communicated by the Member States' national systems, including operational return data.

Amendment 154

**Proposal for a regulation
Article 17 – paragraph 1 – point a**

Text proposed by the Commission

(a) have proper access to the relevant systems and networks;

Amendment

(a) have proper **and continuous** access to the relevant systems and networks;

Amendment 155

**Proposal for a regulation
Article 18 – paragraph 1**

Text proposed by the Commission

This Regulation establishes EUROSUR as an integrated framework for the exchange of information and for cooperation within the European Border and Coast Guard in order to improve situational awareness and to increase the reaction capability for border management **of the Union for the purpose of detecting, preventing** and combating **illegal immigration** and cross-border crime and contributing to ensuring the protection and saving the lives of migrants.

Amendment

This Regulation establishes EUROSUR as an integrated framework for the exchange of information and for cooperation within the European Border and Coast Guard in order to improve situational awareness and to increase the reaction capability for **the purpose of** border management, **including the detection, prevention** and combating **of irregular migration** and cross-border crime and contributing to ensuring the protection and saving the lives of migrants.

Amendment 156

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

(1) EUROSUR shall apply to border checks at authorised border crossing points, and to the surveillance of external land, sea and air borders, including the monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating **illegal immigration** and cross-border crime and contributing to ensuring the protection and saving the lives of migrants.

Amendment

(1) EUROSUR shall apply to border checks at authorised border crossing points, and to the surveillance of external land, sea and air borders, including the monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating **irregular migration** and cross-border crime and contributing to ensuring the protection and saving the lives of migrants. ***Member States may provide EUROSUR with information on the phenomenon of secondary movements within the Union in terms of migratory trends, volume and routes with the aim of improving situational awareness.***

Amendment 157

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

(2) The national coordination centres shall provide the Agency, via the communication network **and relevant systems**, with information, from their national situational pictures and as appropriate from specific situational pictures, which is required for the establishment and maintenance of the European situational picture.

Amendment

(2) The national coordination centres shall provide the Agency, via the communication network with information, from their national situational pictures and as appropriate from specific situational pictures, which is required for the establishment and maintenance of the European situational picture.

Amendment 158

Proposal for a regulation Article 24 – paragraph 2

Text proposed by the Commission

(2) The Agency shall constantly monitor the quality of the service offered by the communication network and the quality of the data shared in the EUROSUR situational picture.

Amendment

(2) The Agency shall constantly **and continuously** monitor the quality of the service offered by the communication network and the quality of the data shared in the EUROSUR situational picture.

Amendment 159

Proposal for a regulation

Article 25 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The national situational pictures, the European situational picture and the specific situational pictures shall be produced through the collection, evaluation, collation, analysis, interpretation, generation, visualisation and dissemination of information.

Amendment

The national situational pictures, the European situational picture and the specific situational pictures shall be produced through the collection, evaluation, collation, analysis, interpretation, generation, visualisation and dissemination of information **where this information is available to Member States**.

Amendment 160

Proposal for a regulation

Article 25 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) an events layer including all events related to unauthorised border crossings, cross-border crime, **and the detection of** unauthorised secondary movements;

Amendment

(a) an events layer including all events **and incidents** related to unauthorised border crossings **and** cross-border crime. **Member States may also provide information on** unauthorised secondary movements **in terms of trends, volumes and routes**;

Amendment 161

Proposal for a regulation

Article 26 – paragraph 3

Text proposed by the Commission

(3) The national coordination centre shall attribute a single indicative impact level, ranging from ‘low’ and ‘medium’ to ‘high’ **and ‘critical’**, to each incident in the events layer of the national situational picture. All incidents shall be shared with the Agency.

Amendment

(3) The national coordination centre shall attribute a single indicative impact level, ranging from ‘low’ and ‘medium’ to ‘high’, to each incident in the events layer of the national situational picture. All incidents shall be shared with the Agency.

Amendment 162

Proposal for a regulation

Article 27 – paragraph 2 – point c

Text proposed by the Commission

(c) Union delegations and missions **and operations of the Common Security and Defence Policy;**

Amendment

(c) Union delegations and missions;

Amendment 163

Proposal for a regulation

Article 27 – paragraph 3 – point c

Text proposed by the Commission

(c) incidents in the operational area of a joint operation, or rapid intervention coordinated by the Agency, or in a hotspot **or controlled centre.**

Amendment

(c) incidents in the operational area of a joint operation, or rapid intervention coordinated by the Agency, or in a hotspot.

Amendment 164

Proposal for a regulation

Article 27 – paragraph 4

Text proposed by the Commission

(4) The operational layer of the European situational picture shall contain information on the joint operations, and rapid interventions coordinated by the Agency and on hotspots **and controlled**

Amendment

(4) The operational layer of the European situational picture shall contain information on the joint operations, and rapid interventions coordinated by the Agency and on hotspots, including the

centres, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media.

mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media.

Amendment 165

Proposal for a regulation Article 28 – paragraph 1

Text proposed by the Commission

(1) The Agency and the Member States may establish and maintain specific situational pictures in order to support specific operational activities at the external borders or to share information with *third parties* referred to in Article 69 or third countries as provided for in Article 76 *or with both*.

Amendment

(1) The Agency and the Member States may establish and maintain specific situational pictures in order to support specific operational activities at the external borders or to share information with *the international organisations, Union institutions, bodies, offices and agencies* referred to in Article 69 or third countries as provided for in Article 76.

Amendment 166

Proposal for a regulation Article 29 – paragraph 2 – point a

Text proposed by the Commission

(a) selective monitoring of designated third-country ports and coasts which have been identified through risk analysis and information as being embarkation or transit points for vessels or other craft used for *illegal immigration* or cross-border crime;

Amendment

(a) selective monitoring of designated third-country ports and coasts which have been identified through risk analysis and information as being embarkation or transit points for vessels or other craft used for *irregular migration* or cross-border crime;

Amendment 167

Proposal for a regulation Article 29 – paragraph 2 – point b

Text proposed by the Commission

(b) tracking of vessels or other craft

Amendment

(b) tracking of vessels or other craft

over high seas which are suspected of, or have been identified as, being used for *illegal immigration or* cross-border crime;

over high seas which are suspected of, or have been identified as, being used for *irregular migration, for carrying persons in distress at sea requiring the launching of a search and rescue operation, or for* cross-border crime;

Amendment 168

Proposal for a regulation

Article 29 – paragraph 2 – point c

Text proposed by the Commission

(c) monitoring of designated areas in the maritime domain in order to detect, identify and track vessels and other craft being used for, or suspected of being used for, *illegal immigration or* cross-border crime;

Amendment

(c) monitoring of designated areas in the maritime domain in order to detect, identify and track vessels and other craft being used for, or suspected of being used for, *irregular migration, for carrying persons in distress at sea requiring the launching of a search and rescue operation, or for* cross-border crime;

Amendment 169

Proposal for a regulation

Article 29 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) monitoring of designated areas of air borders in order to detect, identify and track aircraft and other forms of equipment being used for, or suspected of being used for irregular migration or cross-border crime;

Amendment 170

Proposal for a regulation

Article 29 – paragraph 2 – point d

Text proposed by the Commission

(d) environmental assessment of designated areas in the maritime domain

Amendment

(d) environmental assessment of designated areas in the maritime domain

and at the external land and air borders in order to optimise monitoring and patrolling activities;

and at the external land and air borders in order to optimise **search and rescue**, monitoring and patrolling activities;

Amendment 171

Proposal for a regulation

Article 29 – paragraph 2 – point e

Text proposed by the Commission

(e) selective monitoring of designated pre-frontier areas at the external borders which have been identified through risk analysis and information as being potential departure or transit areas for **illegal immigration** or cross-border crime;

Amendment

(e) selective monitoring of designated pre-frontier areas at the external borders which have been identified through risk analysis and information as being potential departure or transit areas for **irregular migration** or cross-border crime;

Amendment 172

Proposal for a regulation

Article 29 – paragraph 2 – point f

Text proposed by the Commission

(f) monitoring of migratory flows towards and within the Union;

Amendment

(f) monitoring **trends, volume and routes** of migratory flows towards and within the Union;

Amendment 173

Proposal for a regulation

Article 29 – paragraph 2 – point g

Text proposed by the Commission

(g) media monitoring, open source intelligence and analysis of internet activities in line with Directive (EU) 2016/680 **of the European Parliament and of the Council**⁴² for preventing **illegal immigration** or cross-border crime;

Amendment

(g) media monitoring, open source intelligence and analysis of internet activities in line with Directive (EU) 2016/680⁴² **or with Regulation (EU) 2016/679 as applicable** for preventing **irregular migration** or cross-border crime;

⁴² Directive (EU) 2016/680 of the European Parliament and of the Council of

⁴² Directive (EU) 2016/680 of the European Parliament and of the Council of

27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

Amendment 174

Proposal for a regulation

Article 29 – paragraph 2 – point h

Text proposed by the Commission

(h) analysis of large-scale information systems for the purpose of detecting changing routes and methods used for **illegal immigration** and cross-border crime.

Amendment

(h) analysis of large-scale information systems for the purpose of detecting changing routes and methods used for **irregular migration** and cross-border crime.

Amendment 175

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

1. The Agency shall monitor migratory flows towards **and within** the Union, trends and other possible challenges at the external borders of the Union and with regard to return. For this purpose, the Agency shall, by a decision of the management board based on a proposal of the executive director, establish a common integrated risk analysis model, which shall be applied by the Agency and the Member States. The common integrated risk analysis model shall be updated based on the outcome of the evaluation of the multiannual Strategic policy cycle for European Integrated Border Management referred to in Article 8 (7). The Agency

Amendment

1. The Agency shall monitor migratory flows towards the Union **and, where provided by Member States with such information, migratory trends, volume and routes within the Union, as well as** trends and other possible challenges at the external borders of the Union and with regard to return. For this purpose, the Agency shall, by a decision of the management board based on a proposal of the executive director, establish a common integrated risk analysis model, which shall be applied by the Agency and the Member States. The common integrated risk analysis model shall be **established and** updated based on the

shall also carry out the vulnerability assessment in accordance with Article 33.

outcome of the evaluation of the multiannual Strategic policy cycle for European Integrated Border Management referred to in Article 8 (7). The Agency shall also carry out the vulnerability assessment in accordance with Article 33.

Amendment 176

Proposal for a regulation Article 30 – paragraph 3

Text proposed by the Commission

3. The risk analyses referred to in paragraph 2 prepared by the Agency shall cover all **aspects relevant to** European Integrated Border Management with a view to developing a pre-warning mechanism.

Amendment

3. The risk analyses referred to in paragraph 2 prepared by the Agency shall cover all **components of the** European Integrated Border Management with a view to developing a pre-warning mechanism.

Amendment 177

Proposal for a regulation Article 30 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Agency shall develop and make public its methodology and criteria for the risk analysis.

Amendment 178

Proposal for a regulation Article 30 – paragraph 4

Text proposed by the Commission

4. Member States shall provide the Agency with all necessary information regarding the situation, trends and possible **threats** at the external borders and in the field of return. Member States shall regularly, or upon the request of the Agency, provide it with all relevant information such as statistical and

Amendment

4. Member States shall provide the Agency with all necessary information regarding the situation, trends and possible **risks** at the external borders and in the field of return. Member States shall regularly, or upon the request of the Agency, provide it with all relevant information such as statistical and operational data collected in

operational data collected in relation to the implementation of the Schengen acquis as well as information from the analysis layer of the national situational picture as provided for in Article 26.

relation to the implementation of the Schengen acquis as well as information from the analysis layer of the national situational picture as provided for in Article 26.

Amendment 179

Proposal for a regulation Article 30 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. In the results of risk analyses, data shall be anonymised.

Amendment 180

Proposal for a regulation Article 32 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The Agency shall ensure regular monitoring of all Member States' management **of the external borders and return** through liaison officers of the Agency.

The Agency shall ensure regular monitoring of all Member States' **implementation of the European Integrated Border** Management through liaison officers of the Agency.

Amendment 181

Proposal for a regulation Article 32 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) support the collection of information required by the Agency for the monitoring of **illegal immigration** and risk analyses referred to in Article 30;

(b) support the collection of information required by the Agency for the monitoring of **irregular migration** and risk analyses referred to in Article 30;

Amendment 182

Proposal for a regulation Article 32 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) monitor the measures taken by the Member State at border sections to which a high ***or critical*** impact level has been attributed in accordance with Article 35;

(d) monitor the measures taken by the Member State at border sections to which a high impact level has been attributed in accordance with Article 35;

Amendment 183

Proposal for a regulation

Article 32 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(e a) report to the executive director and the fundamental rights officer on any concerns about or violations of fundamental rights in relation to the management of external borders and return and on the follow-up of any complaints involving one or more Member States;

Amendment 184

Proposal for a regulation

Article 32 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

(e b) cooperate with the fundamental rights officer, where necessary, with a view to contributing to the promotion of respect for fundamental rights in the work of the Agency in line with subparagraph (e);

Amendment 185

Proposal for a regulation

Article 32 – paragraph 3 – point j

Text proposed by the Commission

Amendment

(j) monitor the measures taken by the

(j) monitor the measures taken by the

Member State with regard to return and support the collection of information required by the Agency to carry out activities referred to in Article 49.

Member State ***and facilitate the communication between the Member State and the Agency*** with regard to return and support the collection of information required by the Agency to carry out activities referred to in Article 49.

Amendment 186

Proposal for a regulation Article 32 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. If the liaison officer's reports referred to in point (f) of paragraph 3 raise concerns about fundamental rights compliance for the Member State concerned, the EU Ombudsman and the EU Fundamental Rights Agency will be informed without delay by Fundamental Rights Officer.

Amendment 187

Proposal for a regulation Article 32 – paragraph 6

Text proposed by the Commission

Amendment

6. The report of the liaison officer shall form part of the vulnerability assessment as referred to in Article 33. ***The report shall be transmitted to the Member State concerned.***

6. The report of the liaison officer shall form part of the vulnerability assessment as referred to in Article 33.

Amendment 188

Proposal for a regulation Article 33 – paragraph 2

Text proposed by the Commission

Amendment

2. The Agency shall monitor and assess the availability of the technical equipment, systems, capabilities, resources,

2. The Agency shall monitor and assess the availability of the technical equipment, systems, capabilities, resources,

infrastructure, adequately skilled and trained staff of Member States necessary for border control as defined in Article 3(1)(a). In this context, the Agency shall assess the capability development plans referred to in Article 67 (4) as regards their feasibility and implementation. For future planning it shall do so as a preventive measure on the basis of a risk analysis prepared in accordance with Article 30 (2). The Agency shall carry out such monitoring and assessment at least once a year, unless the executive director, based on risk assessments or a previous vulnerability assessment, decides otherwise.

infrastructure, adequately skilled and trained staff of Member States necessary for border control as defined in Article 3(1)(a) ***in full respect of fundamental rights***. In this context, the Agency shall assess the capability development plans referred to in Article 67 (4) as regards their feasibility and implementation. For future planning it shall do so as a preventive measure on the basis of a risk analysis prepared in accordance with Article 30 (2). The Agency shall carry out such monitoring and assessment at least once a year, unless the executive director, based on risk assessments or a previous vulnerability assessment, decides otherwise. ***In any event, each Member State shall be subject to monitoring and assessment at least once every three years.***

Amendment 189

Proposal for a regulation Article 33 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The vulnerability assessment shall be based on objective indicators. The management board shall decide on the indicators.

Amendment 190

Proposal for a regulation Article 33 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The objective indicators referred to in paragraph 2a shall include, inter alia, an assessment of the respect for fundamental rights. The methodology for that aspect of the vulnerability assessment shall be established in consultation with the fundamental rights officer and the consultative forum, as well as other

relevant Union agencies, such as the [European Union Agency for Asylum] and the European Union Agency for Fundamental Rights.

Amendment 191

Proposal for a regulation Article 33 – paragraph 3

Text proposed by the Commission

3. Without prejudice to Articles 9 and 67, Member States shall, at the request of the Agency, provide information as regards technical equipment, staff and to the extent possible, the financial resources available at national level to carry out border control. Member States shall also provide information on their contingency plans on border management at the Agency's request.

Amendment

3. Without prejudice to Articles 9 and 67, Member States shall, at the request of the Agency, provide ***non national classified-non sensitive*** information ***necessary for the vulnerability assessment in particular*** as regards ***the state of functioning of all procedures at the border in accordance with Chapter II of Directive 2013/32/EU of the European Parliament and of the Council***, technical equipment, staff and to the extent possible, the financial resources available at national level to carry out border control. Member States shall also provide ***non national classified-non sensitive*** information on their contingency plans on border management at the Agency's request.

Amendment 192

Proposal for a regulation Article 33 – paragraph 4

Text proposed by the Commission

4. The aim of the vulnerability assessment is for the Agency to assess the capacity and readiness of Member States to face ***upcoming challenges***, including present and future threats and challenges at the external borders; to identify, especially for those Member States facing specific and disproportionate challenges, possible immediate consequences at the external borders and subsequent consequences on

Amendment

4. The aim of the vulnerability assessment is for the Agency to assess the capacity and readiness of Member States to face ***situational risk***, including present and future threats and challenges at the external borders; to identify, especially for those Member States facing specific and disproportionate challenges, possible immediate consequences at the external borders and subsequent consequences on

the functioning of the Schengen area; and to assess their capacity to contribute to the European Border and Coast Guard standing corps and Technical Equipment Pool, including the Rapid Reaction Equipment Pool. That assessment is without prejudice to the Schengen evaluation mechanism.

the functioning of the Schengen area; and to assess their capacity to contribute to the European Border and Coast Guard standing corps and Technical Equipment Pool, including the Rapid Reaction Equipment Pool. That assessment is without prejudice to the Schengen evaluation mechanism.

Amendment 193

Proposal for a regulation Article 33 – paragraph 5

Text proposed by the Commission

5. In the vulnerability assessment, the Agency shall **take into account** Member States' capacity to carry out all border management tasks, including their capacity to deal with the potential arrival of large numbers of persons on their territory.

Amendment

5. In the vulnerability assessment, the Agency shall **assess the** Member States' capacity, **in qualitative and quantitative terms**, to carry out all border management tasks, including their capacity to deal with the potential arrival of large numbers of persons on their territory. **For that purpose, the Agency shall, as appropriate, consult the relevant Union Agencies, in particular the [European Union Agency for Asylum].**

Amendment 194

Proposal for a regulation Article 33 – paragraph 6

Text proposed by the Commission

6. The results of the vulnerability assessment shall be submitted to the Member States concerned. The Member States concerned may comment on that assessment.

Amendment

6. The **preliminary** results of the vulnerability assessment shall be submitted to the Member States concerned. The Member States concerned may comment on that assessment.

Amendment 195

Proposal for a regulation Article 33 – paragraph 8 – subparagraph 1

Text proposed by the Commission

The executive director shall recommend measures to the Member States concerned on the basis of the results of the vulnerability assessment, taking into account the Agency's risk analysis, the comments of the Member State concerned and the results of the Schengen evaluation mechanism.

Amendment

The executive director shall recommend measures to the Member States concerned on the basis of the results of the vulnerability assessment, taking into account the Agency's risk analysis, the comments of the Member State concerned and the results of the Schengen evaluation mechanism. ***Those recommendations shall be made available to the European Parliament.***

Amendment 196

**Proposal for a regulation
Article 33 – paragraph 8 – subparagraph 2**

Text proposed by the Commission

The ***measures*** measures should be aimed at eliminating the vulnerabilities identified in the assessment in order for Member States to increase their readiness to face ***upcoming challenges*** by enhancing or improving their capabilities, technical equipment, systems, resources and contingency plans.

Amendment

The measures should be aimed at eliminating the vulnerabilities identified in the assessment in order for Member States to increase their readiness to face ***situational risk*** by enhancing or improving their capabilities, technical equipment, systems, resources and contingency plans.

Amendment 197

**Proposal for a regulation
Article 33 – paragraph 10**

Text proposed by the Commission

10. Where a Member State does not implement the necessary measures of the recommendation within the time limit referred to in paragraph 7 of this Article, the executive director shall refer the matter to the management board and notify the Commission. The management board shall adopt a decision on a proposal of the executive director setting out the necessary measures to be taken by the Member State

Amendment

10. Where a Member State does not implement the necessary measures of the recommendation within the time limit referred to in paragraph 7 of this Article, the executive director shall refer the matter to the management board and notify the Commission. The management board shall adopt a decision on a proposal of the executive director setting out the necessary measures to be taken by the Member State

concerned and the time limit within which such measures shall be implemented. The decision of the management board shall be binding on the Member State. If the Member State does not implement the measures within the time limit foreseen in that decision, the management board shall notify the Council and the Commission and further action may be taken in accordance with **Article 43**.

concerned and the time limit within which such measures shall be implemented. The decision of the management board shall be binding on the Member State. If the Member State does not implement the measures within the time limit foreseen in that decision, the management board shall notify the **European Parliament, the Council and the Commission** and further action may be taken in accordance with **Articles 43 and 47**.

Amendment 198

Proposal for a regulation Article 33 – paragraph 11

Text proposed by the Commission

11. The results of the vulnerability assessment shall be transmitted, in accordance with Article 91, on a regular basis and at least once a year to the European Parliament, to the Council and to the Commission.

Amendment

11. The results of the vulnerability assessment, ***including a detailed description of the outcome of the vulnerability assessment, the measures taken by the Member States and the status of the implementation of any previous recommendations***, shall be transmitted, in accordance with Article 91, on a regular basis and at least once a year to the European Parliament, to the Council and to the Commission. ***If the results of the vulnerability assessment carried out with regard to a particular Member State reveal a serious deficiency that is deemed to constitute a serious threat to the functioning of the Schengen area, the management of the external borders, public policy or internal security within the area without internal border control, the Commission shall immediately inform the European Parliament and the Council thereof.***

Amendment 199

Proposal for a regulation Article 34 – paragraph 2

Text proposed by the Commission

2. For the purpose referred to in paragraph 1 the Commission and the Agency shall establish the necessary arrangements to share with each other in a regular, secured and timely manner all information related to the results of vulnerability assessments and the Schengen evaluation mechanism in the area of border management. The exchange mechanism shall cover the reports of vulnerability assessments and of Schengen evaluation visits, subsequent recommendations, action plans and any updates on the implementation of the action plans provided by the Member States.

Amendment

2. For the purpose referred to in paragraph 1, the Commission, **together with the European Parliament, the Council** and the Agency, shall establish the necessary arrangements to share with each other in a regular, secured and timely manner all information related to the results of vulnerability assessments and the Schengen evaluation mechanism in the area of border management. The exchange mechanism shall cover the reports of vulnerability assessments and of Schengen evaluation visits, subsequent recommendations, action plans and any updates on the implementation of the action plans provided by the Member States.

Amendment 200

Proposal for a regulation
Article 35 – paragraph 1 – point a

Text proposed by the Commission

(a) low impact level where the incidents ***related to illegal immigration or cross-border crime occurring at the relevant border section*** have an insignificant impact on border security;

Amendment

(a) low impact level where the incidents have an insignificant impact on border security;

Amendment 201

Proposal for a regulation
Article 35 – paragraph 1 – point b

Text proposed by the Commission

(b) medium impact level where the incidents ***related to illegal immigration or cross-border crime occurring at the relevant border section*** have a moderate impact on border security;

Amendment

(b) medium impact level where the incidents have a moderate impact on border security;

Amendment 202

Proposal for a regulation Article 35 – paragraph 1 – point c

Text proposed by the Commission

(c) high impact level where the incidents *related to illegal immigration or cross-border crime occurring at the relevant border section* have a significant impact on border security;

Amendment

(c) high impact level where the incidents have a significant impact on border security;

Amendment 203

Proposal for a regulation Article 35 – paragraph 1 – point d

Text proposed by the Commission

(d) *critical impact level where the incidents related to illegal immigration or cross-border crime occurring at the relevant border section have a decisive impact on border security to such an extent that they risk jeopardising the functioning of the Schengen Area.*

Amendment

deleted

Amendment 204

Proposal for a regulation Article 36 – paragraph 1 – point d

Text proposed by the Commission

(d) *where a critical impact level is attributed to an external border section, the Agency shall notify it to the Commission. The Member State concerned and the Agency shall, in addition to the measures taken under point (c), implement the recommendation issued by the executive director of the Agency in accordance with Article 42.*

Amendment

deleted

Amendment 205

Proposal for a regulation Article 36 – paragraph 2

Text proposed by the Commission

2. The national coordination centre shall regularly inform the Agency of the measures taken at national level pursuant to points (b), **(c) and (d)** of paragraph 1.

Amendment

2. The national coordination centre shall regularly inform the Agency of the measures taken at national level pursuant to points (b) **and (c)** of paragraph 1.

Amendment 206

Proposal for a regulation Article 36 – paragraph 3

Text proposed by the Commission

3. Where a medium high **or critical** impact level is attributed to an external border section which is adjacent to the border section of another Member State or of a third country with which there are agreements or regional networks, as referred to in Article 73 and Article 74, the national coordination centre shall contact the national coordination centre of the neighbouring Member State or the competent authority of the neighbouring country and shall endeavour to coordinate together with the Agency the necessary cross-border measures.

Amendment

3. Where a medium **or** high impact level is attributed to an external border section which is adjacent to the border section of another Member State or of a third country with which there are agreements or regional networks, as referred to in Article 73 and Article 74, the national coordination centre shall contact the national coordination centre of the neighbouring Member State or the competent authority of the neighbouring country and shall endeavour to coordinate together with the Agency the necessary cross-border measures.

Amendment 207

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

1. A Member State may request the Agency's assistance in implementing its obligations with regard to the control of the external borders. The Agency shall also carry out measures in accordance with Article 42 and Article 43.

Amendment

1. A Member State may request the Agency's assistance in implementing its obligations with regard to the control of the external borders **and to the protection and saving of lives of migrants and refugees**. The Agency shall also carry out measures

in accordance with Article 42 and Article 43.

Amendment 208

Proposal for a regulation

Article 37 – paragraph 2 – point d

Text proposed by the Commission

(d) deploy the European Border and Coast Guard standing corps in the framework of the migration management support teams, among others at hotspot areas ***or in controlled centres***, including if necessary to provide technical and operational assistance in return activities;

Amendment

(d) deploy the European Border and Coast Guard standing corps in the framework of the migration management support teams, among others at hotspot areas, including if necessary to provide technical and operational assistance in return activities;

Amendment 209

Proposal for a regulation

Article 37 – paragraph 2 – point e

Text proposed by the Commission

(e) within the framework of operations mentioned in points (a), (b) and (c) of this paragraph and in accordance with Regulation (EU) No 656/2014 and international law, provide technical and operational assistance to Member States and third countries, in support of search and rescue operations for persons in distress at sea ***which may arise during border surveillance operations at sea***;

Amendment

(e) within the framework of operations mentioned in points (a), (b) and (c) of this paragraph and in accordance with Regulation (EU) No 656/2014 and international law, provide technical and operational assistance to Member States and ***neighbouring*** third countries, in support of search and rescue operations for persons in distress at sea;

Amendment 210

Proposal for a regulation

Article 38 – paragraph 1

Text proposed by the Commission

1. A Member State may request that the Agency launch joint operations to face upcoming challenges, including ***illegal***

Amendment

1. A Member State may request that the Agency launch joint operations to face upcoming challenges, including ***irregular***

immigration, present or future threats at its external borders or cross-border crime, or to provide increased technical and operational assistance when implementing its obligations with regard to the control of the external borders.

migration, present or future threats at its external borders or cross-border crime, or to provide increased technical and operational assistance when implementing its obligations with regard to the control of the external borders.

Amendment 211

Proposal for a regulation Article 38 – paragraph 4

Text proposed by the Commission

4. The objectives of a joint operation or rapid border intervention may be achieved as part of a multipurpose operation. Such operations may involve coast guard functions and the prevention of cross-border crime, **including the fight against migrant smuggling or trafficking in human beings**, and migration management, **including identification, registration, debriefing and return**.

Amendment

4. The objectives of a joint operation or rapid border intervention may be achieved as part of a multipurpose operation. Such operations may involve coast guard functions and the prevention of cross-border crime and migration management.

Amendment 212

Proposal for a regulation Article 39 – paragraph 2

Text proposed by the Commission

2. The executive director shall draw up an operational plan for joint operations at the external borders. The executive director and the host Member State, in consultation with the participating Member States, shall agree on the operational plan detailing the organisational and procedural aspects of the joint operation.

Amendment

2. The executive director shall draw up an operational plan for joint operations at the external borders. The executive director and the host Member State, in consultation with the participating Member States, shall agree on the operational plan detailing the organisational and procedural aspects of the joint operation. **Participating Member States may annex their observations or reservations to the operational plan.**

Amendment 213

Proposal for a regulation

Article 39 – paragraph 3 – introductory part

Text proposed by the Commission

3. The operational plan shall be binding on the Agency, the host Member State and the participating Member States. It shall cover all aspects considered necessary for carrying out the joint operation, including the following:

Amendment

3. The operational plan shall be binding on the Agency, the host Member State and the participating Member States. It shall cover all aspects considered necessary for carrying out the joint operation, including ***where there is cooperation with third countries, including*** the following:

Amendment 214

Proposal for a regulation

Article 39 – paragraph 3 – point d

Text proposed by the Commission

(d) a description of the tasks, responsibilities, including with regard to the respect for fundamental rights, and special instructions for the teams, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State;

Amendment

(d) a description of the tasks, ***powers and limitations thereof***, responsibilities, including with regard to the respect for fundamental rights, and special instructions for the teams ***and for the officers involved in activities of the Agency***, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State;

Amendment 215

Proposal for a regulation

Article 39 – paragraph 3 – point m

Text proposed by the Commission

(m) procedures setting out a mechanism to receive and transmit to the Agency a complaint against all persons participating in a joint operation ***or*** rapid border intervention, including border guards or other relevant staff of the host Member State and members of the teams alleging

Amendment

(m) procedures setting out a mechanism to receive and transmit to the Agency a complaint against all persons participating in a joint operation, ***including an operation with third countries, in a rapid border intervention, in migration management support teams in hotspot***

breaches of fundamental rights in the context of their participation in a joint operation or rapid border intervention;

areas, in a return operation or in a return intervention, including border guards or other relevant staff of the host Member State and members of the teams alleging breaches of fundamental rights in the context of their participation in a joint operation or rapid border intervention;

Amendment 216

Proposal for a regulation

Article 39 – paragraph 3 – point n a (new)

Text proposed by the Commission

Amendment

(n a) detailed provisions on fundamental rights safeguards;

Amendment 217

Proposal for a regulation

Article 39 – paragraph 3 – point n b (new)

Text proposed by the Commission

Amendment

(n b) provisions on the risk of fundamental rights violations and steps needed to be taken to avoid such violations, to ensure accountability for them and to ensure that they will not be repeated, including in relation to the powers to suspend and terminate an operation in accordance with Article 47.

Amendment 218

Proposal for a regulation

Article 40 – paragraph 6

Text proposed by the Commission

Amendment

6. The executive director together with the host Member State shall draw up an operational plan as referred to in Article 39 (3) immediately and, in any event, no later than three working days from the date

6. The executive director together with the host Member State shall draw up **and agree upon** an operational plan as referred to in Article 39 (3) immediately and, in any event, no later than three

of the decision.

working days from the date of the decision.

Amendment 219

Proposal for a regulation Article 40 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. If a situation arises where the measures described in paragraphs 5 and 8 of this Article are insufficient, the executive director may request from each Member State the number and profiles of additional staff to be deployed from the rapid reaction pool as provided for in Article 58a. This information shall be provided in writing to the national contact points and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also be provided to them.

Amendment 220

Proposal for a regulation Article 40 – paragraph 9

Text proposed by the Commission

Amendment

9. Member States shall ensure that the number and profiles of the operational staff are immediately made available to the Agency to guarantee a complete deployment in accordance with Article 58(5) **and (7)**.

9. Member States shall ensure that the number and profiles of the operational staff are immediately made available to the Agency to guarantee a complete deployment in accordance with Article 58(5), **(7) and (8)**.

Amendment 221

Proposal for a regulation Article 41 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Migration management support teams may be deployed, at the request of a

Where a Member State faces disproportionate migratory challenges at

Member State, *or upon the initiative of the Agency and with the agreement of the Member State concerned, to provide* technical and operational reinforcement *to* that Member State, in particular *at hotspot areas and controlled centres*.

particular hotspot areas of its external borders characterised by large inward mixed migratory flows, that Member State may request technical and operational reinforcement *by migration management support teams*. That Member State *shall submit a request for reinforcement and an assessment of its needs to the Agency and other relevant Union agencies*, in particular *the [European Union Agency for Asylum] and Europol*.

Amendment 222

Proposal for a regulation

Article 41 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The Member State referred to in first paragraph shall submit a request for reinforcement by migration management support teams and an assessment of its needs to the Commission. The Commission shall, based on the assessment of needs of that Member State, transmit the request to the Agency, to [the European Union Agency for Asylum], Europol or other relevant Union agencies, as appropriate.

deleted

Amendment 223

Proposal for a regulation

Article 41 – paragraph 2

Text proposed by the Commission

Amendment

2. The relevant Union agencies shall assess a Member State's request for reinforcement and the assessment of its needs *to define, under the coordination of the Commission, the necessary measures, including the deployment of technical equipment*, to be agreed upon by the Member State concerned.

2. The *executive director, in coordination with other* relevant Union agencies, shall assess a Member State's request for reinforcement and the assessment of its needs *for the purpose of defining a comprehensive reinforcement package consisting of various activities coordinated by the relevant Union agencies* to be agreed upon by the Member

State concerned.

Amendment 224

Proposal for a regulation Article 41 – paragraph 3

Text proposed by the Commission

3. The Commission shall, in cooperation with the host Member State and the relevant *Union* agencies, establish the terms of cooperation *for the deployment of the migration management support teams as well as the deployment of technical equipment, and shall* be responsible for the coordination of the activities of *those* teams.

Amendment

3. The Commission shall, in cooperation with the host Member State and the relevant agencies, establish the terms of cooperation *at the hotspot area and* be responsible for the coordination of the activities of *the migration management support* teams.

Amendment 225

Proposal for a regulation Article 41 – paragraph 4 – introductory part

Text proposed by the Commission

4. The technical and operational reinforcement provided, *in full respect for fundamental rights, by* migration management support teams may include:

Amendment

4. The technical and operational reinforcement provided *by the European Border and Coast Guard teams, the European return intervention teams and experts from the Agency's staff in the framework of the* migration management support teams, may include:

Amendment 226

Proposal for a regulation Article 41 – paragraph 4 – point a

Text proposed by the Commission

(a) assistance in screening of third-country nationals arriving at the external borders, including the identification, registration, and debriefing of those third-country nationals and, where requested by

Amendment

(a) *in full respect for fundamental rights, providing* assistance in screening of third-country nationals arriving at the external borders, including the identification, registration, and debriefing

the Member State, the fingerprinting of third-country nationals, **security checks** and providing information regarding the purpose of these procedures;

of those third-country nationals and, where requested by the Member State, the fingerprinting of third-country nationals and providing information regarding the purpose of these procedures;

Amendment 227

Proposal for a regulation Article 41 – paragraph 4 – point b

Text proposed by the Commission

(b) initial information to persons who wish to apply for international protection and their referral to the competent national authorities of the Member State concerned or **to the experts deployed by [the European Union Agency for Asylum]**;

Amendment

(b) **the provision of** initial information to persons who wish to apply for international protection and their referral to the competent national authorities of the Member State concerned or **the** [European Union Agency for Asylum];

Amendment 228

Proposal for a regulation Article 41 – paragraph 4 – point c

Text proposed by the Commission

(c) technical and operational assistance in the return **process**, including **in the preparation of return decisions, acquisition of travel documents,** preparation and organisation of return operations, **including with regard to voluntary returns;**

Amendment

(c) technical and operational assistance in the **field of** return, including **the** preparation and organisation of return operations.

Amendment 229

Proposal for a regulation Article 41 – paragraph 4 – point d

Text proposed by the Commission

(d) **the necessary technical equipment.**

Amendment

deleted

Amendment 230

Proposal for a regulation Article 41 – paragraph 5

Text proposed by the Commission

Amendment

5. *The Agency shall cooperate with the [the European Union Agency for Asylum] to facilitate measures for the referral to the procedure for international protection and, for third country nationals whose application for international protection has been rejected by means of a final decision, to the return procedure.*

deleted

Amendment 231

Proposal for a regulation Article 41 – paragraph 6

Text proposed by the Commission

Amendment

6. Migration management support teams shall, where necessary, include staff with expertise in child protection, trafficking in human beings, protection *of fundamental rights and* against gender-based persecution.

6. Migration management support teams shall, where necessary, include staff with expertise in child protection, trafficking in human beings, protection against gender-based persecution *and/or fundamental rights*.

Amendment 232

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

Amendment

1. The executive director *shall*, based on the results of the vulnerability assessment *or when a critical impact is attributed to one or more external border sections* and taking into account the relevant elements in the Member State's contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, recommend to the Member State concerned to initiate

1. The executive director *may*, based on the results of the vulnerability assessment and taking into account the relevant elements in the Member State's contingency plans, the Agency's risk analysis and the analysis layer of the European situational picture, recommend to the Member State concerned to initiate and carry out joint operations or rapid border interventions or any other relevant

and carry out joint operations or rapid border interventions or any other relevant actions by the Agency as defined in Article 37.

actions by the Agency as defined in Article 37.

Amendment 233

Proposal for a regulation Article 42 – paragraph 2

Text proposed by the Commission

2. The Member State concerned shall respond to the recommendation of the Executive director within five working days. In case of a negative reply on the proposed actions, the Member State shall also provide the justifications underlying this reply. The Executive Director shall without delay notify the Commission on the proposed actions and the justifications for the negative reply in view of assessing whether **urgent** action may be required **in accordance with Article 43**.

Amendment

2. The Member State concerned shall respond to the recommendation of the Executive director within five working days. In case of a negative reply on the proposed actions, the Member State shall also provide the justifications underlying this reply. The executive director shall without delay notify the Commission on the proposed actions and the justifications for the negative reply in view of assessing whether **further** action may be required.

Amendment 234

Proposal for a regulation Article 43 – paragraph 1 – subparagraph 2

Text proposed by the Commission

the Commission, **after consulting the Agency**, may adopt without delay a decision by means of an implementing act **in accordance with the procedure as referred to in Article 117(3)**, identifying measures to mitigate those risks to be implemented by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures.

Amendment

the Council, on the basis of a proposal from the Commission, may adopt without delay a decision by means of an implementing act, identifying measures to mitigate those risks to be implemented by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures. **The Commission shall consult the Agency before making its proposal.**

Amendment 235

Proposal for a regulation

Article 43 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

On duly justified imperative grounds of urgency relating to the functioning of the Schengen area, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 117(4).

deleted

Amendment 236

Proposal for a regulation

Article 43 – paragraph 2

Text proposed by the Commission

Amendment

2. Where a situation requiring urgent action arises, the European Parliament ***and the Council*** shall be informed of that situation without delay as well as of all subsequent measures and decisions taken in response.

2. Where a situation requiring urgent action arises, the European Parliament shall be informed of that situation without delay as well as of all subsequent measures and decisions taken in response.

Amendment 237

Proposal for a regulation

Article 43 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. To mitigate the risk of putting in jeopardy the Schengen area, the ***Commission*** decision referred to in paragraph 1 shall provide for one or more of the following measures to be taken by the Agency:

3. To mitigate the risk of putting in jeopardy the Schengen area, the ***Council*** decision referred to in paragraph 1 shall provide for one or more of the following measures to be taken by the Agency:

Amendment 238

Proposal for a regulation

Article 43 – paragraph 3 – point a

Text proposed by the Commission

(a) organise and coordinate rapid border interventions and deploy the European Border and Coast Guard standing corps;

Amendment

(a) organise and coordinate rapid border interventions and deploy the European Border and Coast Guard standing corps ***including teams from the rapid reaction pool for rapid border interventions***;

Amendment 239

**Proposal for a regulation
Article 43 – paragraph 3 – point b**

Text proposed by the Commission

(b) deploy the European Border and Coast Guard standing corps in the framework of the migration management support teams ***in particular*** at hotspot areas;

Amendment

(b) deploy the European Border and Coast Guard standing corps in the framework of the migration management support teams at hotspot areas;

Amendment 240

**Proposal for a regulation
Article 43 – paragraph 4 – introductory part**

Text proposed by the Commission

4. The executive director shall, within two working days from the date of adoption of the ***Commission*** decision referred to in paragraph 1,

Amendment

4. The executive director shall, within two working days from the date of adoption of the ***Council*** decision referred to in paragraph 1,

Amendment 241

**Proposal for a regulation
Article 43 – paragraph 4 – point b**

Text proposed by the Commission

(b) ***submit the*** draft operational plan to the Member States concerned.

Amendment

(b) ***draw up a*** draft operational plan ***and submit it*** to the Member States concerned.

Amendment 242

Proposal for a regulation Article 43 – paragraph 5

Text proposed by the Commission

5. The executive director and the Member State concerned shall **draw up** the operational plan within two working days from the date of its submission.

Amendment

5. The executive director and the Member State concerned shall **agree on** the operational plan within two working days from the date of its submission.

Amendment 243

Proposal for a regulation Article 43 – paragraph 6

Text proposed by the Commission

6. The Agency shall, without delay and in any case within five working days from establishment of the operational plan, deploy the necessary operational staff from the European Border and Coast Guard standing corps referred to in Article 55 for the practical execution of the measures identified in the **Commission** decision referred to in paragraph 1 of this Article. Additional teams shall be deployed as necessary at a second stage and in any case within seven working days from the deployment of the first teams deployed in the operational area.

Amendment

6. The Agency shall, without delay and in any case within five working days from establishment of the operational plan, deploy the necessary operational staff from the European Border and Coast Guard standing corps referred to in Article 55 for the practical execution of the measures identified in the **Council** decision referred to in paragraph 1 of this Article. Additional teams shall be deployed as necessary at a second stage and in any case within seven working days from the deployment of the first teams deployed in the operational area.

Amendment 244

Proposal for a regulation Article 43 – paragraph 7 – subparagraph 1

Text proposed by the Commission

The Agency shall, without delay and in any case within 10 working days from establishment of the operational plan, deploy the necessary technical equipment

Amendment

The Agency shall, without delay and in any case within 10 working days from establishment of the operational plan, deploy the necessary technical equipment

for practical execution of the measures identified in the **Commission** decision referred to in paragraph 1.

for practical execution of the measures identified in the **Council** decision referred to in paragraph 1.

Amendment 245

Proposal for a regulation Article 43 – paragraph 8

Text proposed by the Commission

8. The Member State concerned shall comply with the **Commission** decision referred to in paragraph 1. For that purpose it shall immediately cooperate with the Agency and take the necessary action, in particular by implementing the obligations provided in Articles 44, 83 and 84, to facilitate the implementation of that decision and the practical execution of the measures set out in that decision and in the operational plan.

Amendment

8. The Member State concerned shall comply with the **Council** decision referred to in paragraph 1. For that purpose it shall immediately cooperate with the Agency and take the necessary action, in particular by implementing the obligations provided in Articles 44, 83 and 84, to facilitate the implementation of that decision and the practical execution of the measures set out in that decision and in the operational plan **agreed upon with the executive director.**

Amendment 246

Proposal for a regulation Article 43 – paragraph 9 – subparagraph 2

Text proposed by the Commission

If the Member State concerned does not comply with the **Commission** decision referred to in paragraph 1 within 30 days and does not cooperate with the Agency pursuant to paragraph 8 of this Article, the Commission may trigger the procedure provided for in Article 29 of Regulation (EU) 2016/399.

Amendment

The Commission shall monitor the implementation of the measures identified in the Council decision referred to in paragraph 1, and the actions taken for that purpose, by the Agency. If the Member State concerned does not comply with the **Council** decision referred to in paragraph 1 within 30 days and does not cooperate with the Agency pursuant to paragraph 8 of this Article, the Commission may trigger the procedure provided for in Article 29 of Regulation (EU) 2016/399.

Amendment 247

Proposal for a regulation Article 44 – paragraph 1

Text proposed by the Commission

1. During deployment of border management teams, return teams and migration management support teams, the host Member State shall issue instructions to the teams in accordance with the operational plan.

Amendment

1. During deployment of border management teams, return teams and migration management support teams, the host Member State ***or – in the case of cooperation with a third country in accordance with the status agreement – the third country concerned*** shall issue instructions to the teams in accordance with the operational plan.

Amendment 248

Proposal for a regulation Article 44 – paragraph 2

Text proposed by the Commission

2. The Agency, through its coordinating officer, may communicate its views to the host Member State on the instructions given to the teams. In that case, the host Member State shall take those views into consideration and follow them to the extent possible.

Amendment

2. The Agency, through its coordinating officer, may communicate its views to the host Member State on the instructions given to the teams, ***including with regard to the protection, respect and promotion of fundamental rights***. In that case, the host Member State shall take those views into consideration and follow them to the extent possible.

Amendment 249

Proposal for a regulation Article 44 – paragraph 4

Text proposed by the Commission

4. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures, and human dignity. Any measures taken in the performance of

Amendment

4. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures, and human dignity ***and shall pay particular attention to***

their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons **on grounds of** sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

vulnerable persons. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons **based on any grounds such as** sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation **in line with Article 21 of the Charter.**

Amendment 250

Proposal for a regulation Article 44 – paragraph 5

Text proposed by the Commission

5. Members of the teams which are not statutory staff members of the Agency, shall remain subject to the disciplinary measures of their home Member State. The home Member State shall provide for appropriate disciplinary or other measures in accordance with its national law regarding violations of fundamental rights or international protection obligations in the course of **a joint operation or rapid border intervention.**

Amendment

5. Members of the teams which are not statutory staff members of the Agency, shall remain subject to the disciplinary measures of their home Member State. The home Member State shall provide for appropriate disciplinary or other measures in accordance with its national law regarding violations of fundamental rights or international protection obligations in the course of **all operations or interventions.**

Amendment 251

Proposal for a regulation Article 46 – paragraph 1 – point f

Text proposed by the Commission

(f) costs related to the Agency's technical equipment.

Amendment

(f) costs related to the Agency's technical equipment, **including search and rescue equipment.**

Amendment 252

Proposal for a regulation Article 46 – paragraph 2

Text proposed by the Commission

2. Following prior approval by the Commission, the management board shall establish detailed rules, and update them as necessary, as regards the payment of the costs incurred by staff deployed for short duration in accordance with Article 58. The detailed rules shall be based to the extent possible on simplified cost options. **Where relevant**, the Management Board shall aim at ensuring coherency with the rules applicable to reimbursement of mission expenses of the statutory staff members.

Amendment

2. Following prior approval by the Commission, the management board shall establish detailed rules, and update them as necessary, as regards the payment of the costs incurred by staff deployed for short duration in accordance with Article 58. ***An advance payment preceding the annual payment may be granted in accordance with Article 61.*** The detailed rules shall be based to the extent possible on simplified cost options. The Management Board shall aim at ensuring coherency with the rules applicable to reimbursement of mission expenses of the statutory staff members.

Amendment 253

**Proposal for a regulation
Article 47 – paragraph 1**

Text proposed by the Commission

1. The executive director shall terminate activities of the Agency if the conditions to conduct those activities are no longer fulfilled. The executive director shall inform the Member State concerned prior to such termination.

Amendment

1. The executive director shall terminate activities of the Agency, ***including when cooperating with third countries***, if the conditions to conduct those activities are no longer fulfilled. The executive director shall inform the Member State concerned prior to such termination.

Amendment 254

**Proposal for a regulation
Article 47 – paragraph 2**

Text proposed by the Commission

2. The Member States participating in ***a joint operation, rapid border intervention or migration management support team deployment*** may request that the executive director terminate that ***joint operation, or rapid border intervention or migration management support team***

Amendment

2. The Member States participating in ***any operational activity by the Agency*** may request that the executive director terminate that ***operational activity***.

deployment.

Amendment 255

Proposal for a regulation Article 47 – paragraph 4

Text proposed by the Commission

4. The executive director shall, after consulting the fundamental rights officer and informing the Member State concerned, withdraw the financing *of* a joint operation, rapid border intervention, pilot project, migration management support team deployment, return operation, return intervention or working arrangement ***or suspend or terminate, in whole or in part such activities***, if he or she considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist. The executive director shall inform the management board of such a decision.

Amendment

4. The executive director shall, after consulting the fundamental rights officer and informing the Member State concerned, withdraw the financing ***or suspend or terminate, in whole or in part***, a joint operation, rapid border intervention, pilot project, migration management support team deployment, return operation, return intervention or working arrangement if he or she considers that there are violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist. ***Such decision shall be taken on the basis of objective criteria.*** The executive director shall inform the management board of such a decision. ***When taking such decision, the executive director shall, amongst others, take into account relevant information, such as the number and substance of complaints registered, serious incidents reports, reports from the liaison officers and coordinating officers posted in the host Member State and other relevant international organisations, Union institutions, bodies, offices and agencies in the areas covered by this Regulation.***

Amendment 256

Proposal for a regulation Article 47 – paragraph 5

Text proposed by the Commission

5. If the executive director decides to suspend or terminate deployment by the Agency of a migration management

Amendment

5. If the executive director decides to suspend or terminate deployment by the Agency of a migration management

support team, he or she shall inform the other relevant agencies active in that hotspot area *or controlled centre* of that decision.

support team, he or she shall inform the other relevant agencies active in that hotspot area of that decision.

Amendment 257

Proposal for a regulation Article 48 – paragraph 1

Text proposed by the Commission

The executive director shall evaluate the results of *the joint operations and rapid border interventions*, pilot projects, *migration management support team deployments and operational cooperation with third countries*. He or she shall transmit detailed evaluation reports within 60 days following the end of those activities to the management board, together with the observations of the fundamental rights officer. The executive director shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future activities, and shall include that analysis in the Agency's annual activity report.

Amendment

The executive director shall evaluate the results of *all the Agency's operational activities and* pilot projects. He or she shall transmit detailed evaluation reports within 60 days following the end of those activities to *the European Parliament, the Council, the Commission*, the management board, together with the observations of the fundamental rights officer. The executive director shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future activities, and shall include that analysis in the Agency's annual activity report.

Amendment 258

Proposal for a regulation Article 49 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency shall, with regard to return, and in accordance with the respect for fundamental rights *and* general principles of Union law *as well as for* international law, including refugee protection and children's rights, *in particular*:

Amendment

1. *Without entering into the merits of return decisions which remain the sole responsibility of the Member States* the Agency shall, with regard to return, and in accordance with the respect for fundamental rights, general principles of Union law *and* international law, including refugee protection, *the respect for the principle of non-refoulement* and

children's rights:

Amendment 259

Proposal for a regulation

Article 49 – paragraph 1 – point a

Text proposed by the Commission

(a) provide technical and operational assistance to Member States in the return of **third country nationals**, including **the preparation** of return decisions, the identification of **third country nationals** and other pre-return and return-related activities of the Member States, **including** voluntary departures, to achieve an integrated system of return management among competent authorities of the Member States, with the participation of relevant authorities of third countries and other relevant stakeholders;

Amendment

(a) provide technical and operational assistance to Member States **that expressly request it** in the return of **returnees**, including **providing assistance in the collection of information for the purpose** of return decisions, the identification of **returnees and the acquisition of travel documents, including by means of consular cooperation, without disclosing information relating to the fact that an application for international protection has been made or any other information that is not strictly relevant for the purpose of executing the return of the returnees concerned** and other pre-return and return-related activities of the Member States; **organise and coordinate return operations and provide support with** voluntary departures **in cooperation with the Member States** to achieve an integrated system of return management among competent authorities of the Member States, with the participation of relevant authorities of third countries and other relevant stakeholders;

Amendment 260

Proposal for a regulation

Article 49 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a a) coordinate at technical and operational level assisted voluntary returns from the Member States, providing assistance during the pre-departure, travel and post-arrival phase,

taking into account the needs of vulnerable migrants and in cooperation with the International Organisation for Migration;

Amendment 261

Proposal for a regulation Article 49 – paragraph 1 – point b

Text proposed by the Commission

(b) provide technical and operational assistance to Member States experiencing challenges with regard to return *or migratory pressure, including by deploying migration management teams;*

Amendment

(b) provide technical and operational assistance to Member States experiencing challenges with regard to *their* return systems;

Amendment 262

Proposal for a regulation Article 49 – paragraph 1 – point c

Text proposed by the Commission

(c) develop a reference model for a return case management system prescribing the structure of national return management systems, as well as provide technical and operational assistance to Member States in developing national return management systems aligned with the model;

Amendment

[(c) develop, in consultation with the fundamental rights officer and consultative forum, a reference model for a return case management system prescribing the structure of national return management systems, as well as provide technical and operational assistance to Member States in developing national return management systems aligned with the model;]

Amendment 263

Proposal for a regulation Article 49 – paragraph 1 – point d

Text proposed by the Commission

(d) *develop and* operate a central system and a communication infrastructure between national return management

Amendment

(d) operate *and maintain IRMA as a platform* and a communication infrastructure between national return

systems of the Member States and the **central system**, as well as provide technical and operational assistance to Member States in connecting to the communication structure;

management systems of the Member States and the **platform**, as well as provide technical and operational assistance to Member States in connecting to the communication structure;

Amendment 264

Proposal for a regulation Article 49 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) provide technical and operational assistance to the Member States in the identification of third-country nationals and the acquisition of travel documents, including by means of consular cooperation, without disclosing information relating to the fact that an application for international protection has been made; organise and coordinate return operations and provide support with voluntary departures in cooperation with the Member States;

deleted

Amendment 265

Proposal for a regulation Article 49 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The technical and operational assistance referred to in point (b) of paragraph 1 shall include activities to help Member States carry out return procedures by the competent national authorities **by providing**, in particular:

2. The technical and operational assistance referred to in point (b) of paragraph 1 shall include activities to help Member States carry out return procedures by the competent national authorities in particular **by**:

Amendment 266

Proposal for a regulation Article 49 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) interpreting services;

(a) **providing** interpreting services;

Amendment 267

Proposal for a regulation

Article 49 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) practical information, **analysis** and recommendations on third countries of return relevant for the implementation of this Regulation, in cooperation, where appropriate, with other Union bodies, offices and agencies, including **EASO**;

(b) **providing** practical information and recommendations on third countries of return relevant for the implementation of this Regulation, in cooperation, where appropriate, with other Union bodies, offices and agencies, including **[the European Union Agency for Asylum] and the European Union Agency for Fundamental Rights**;

Amendment 268

Proposal for a regulation

Article 49 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **advice on and technical and operational assistance in the implementation and management of return procedures in compliance with Directive 2008/115/EC, including in the preparation of return decisions, in identification and in the acquisition of travel documents;**

deleted

Amendment 269

Proposal for a regulation

Article 49 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) advice on and assistance in

(d) **providing** advice on and assistance

measures necessary to ensure the availability of returnees for return purposes **and to prevent** returnees from absconding, in accordance with Directive 2008/115/EC and international law;

in measures ***taken by Member States that are legitimate, proportionate and*** necessary to ensure the availability of returnees for return purposes ***as well as preventing*** returnees from absconding, ***and on alternatives to detention*** in accordance with Directive 2008/115/EC and international law;

Amendment 270

Proposal for a regulation Article 49 – paragraph 2 – point e

Text proposed by the Commission

(e) equipment, capacities and expertise for the implementation of return decisions and for the identification of third-country nationals.

Amendment

(e) ***providing*** equipment, capacities and expertise for the implementation of return decisions and for the identification of third-country nationals.

Amendment 271

Proposal for a regulation Article 49 – paragraph 4

Text proposed by the Commission

4. The Agency may exceptionally receive grants from Union funds dedicated to return activities in accordance with the financial rules applicable to the Agency. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect for the Charter.

Amendment

deleted

Amendment 272

Proposal for a regulation Article 50 – paragraph 1

Text proposed by the Commission

The Agency shall develop, deploy and

Amendment

The Agency shall develop, deploy and

operate information systems and software applications allowing for the exchange of classified and sensitive non-classified information for the purpose of return within the European Border and Coast Guard and for the purpose of exchanging personal data referred to in Articles 87-89 in accordance with Commission Decision (EU, Euratom) 2015/444, Commission Decision (EU, Euratom) 2015/443 and [Regulation (EC) No 45/2001].

Amendment 273

Proposal for a regulation Article 50 – paragraph 2

Text proposed by the Commission

In particular, the Agency shall **set up**, operate and maintain **a central system** for processing all information and data, **automatically** communicated by the Member States' national return management systems, necessary for the Agency to provide technical and operational assistance in accordance with **Article 49**.

Amendment 274

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. Without entering into the merits of return decisions, the Agency shall provide technical and operational assistance and ensure the coordination or the organisation **of return operations, including through the chartering of aircraft for the purpose of such operations or organising returns on scheduled flights**. The Agency may, on its own initiative coordinate or organise return

operate information systems and software applications allowing for the exchange of classified and sensitive non-classified information for the purpose of return within the European Border and Coast Guard and for the purpose of exchanging personal data referred to in Articles 87-89 in accordance with Commission Decision (EU, Euratom) 2015/444, Commission Decision (EU, Euratom) 2015/443 and Regulation (EU) 2018/1725.

Amendment

In particular, the Agency shall operate and maintain **IRMA as a platform** for processing all information and data, communicated by the Member States' national return management systems, necessary for the Agency to provide technical and operational assistance in accordance with **Articles 49, 51 and 54**.

Amendment

1. Without entering into the merits of return decisions **which remain the sole responsibility of the Member States**, the Agency shall provide technical and operational assistance and ensure the coordination or the organisation **to be able to carry out** return operations. The Agency may, on its own initiative **with the agreement of the Member State concerned** coordinate or organise return operations **in**

operations.

accordance with Article 7(2).

When the Agency provides technical and operational assistance to Member States in organising the return of returnees, the Agency, through its coordinating officer, shall verify that all third-country nationals embarking on flights organised or coordinated by the Agency have received a final return decision. Member States shall transmit to the Agency a copy of the return decision in respect of any returnee who is to be returned with the technical and operational assistance of the Agency.

The Agency shall not coordinate, organise or propose return operations to third countries where risks of fundamental rights violations or serious deficiencies in relevant civil and criminal law systems and procedures have been identified. This shall be determined, amongst other, on the basis of verified reports by the fundamental rights officer.

Amendment 275

Proposal for a regulation Article 51 – paragraph 2

Text proposed by the Commission

2. Member States shall **on a monthly basis** provide operational data on return necessary for the assessment of return needs by the Agency and inform the Agency of their indicative planning of the number of returnees and of the third countries of return, both with respect to relevant national return operations, and of their needs for assistance or coordination by the Agency. The Agency shall draw up and maintain a rolling operational plan to provide the requesting Member States with the necessary operational assistance and reinforcements, including through technical equipment. The Agency may, on its own initiative or at the request of a

Amendment

2. Member States shall, **through the system referred to in Article 50(1)**, provide operational data on return necessary for the assessment of return needs by the Agency and inform the Agency of their indicative planning of the number of returnees and of the third countries of return, both with respect to relevant national return operations, and of their needs for assistance or coordination by the Agency. The Agency shall draw up and maintain a rolling operational plan to provide the requesting Member States with the necessary operational assistance and reinforcements, including through technical equipment. The Agency may, on

Member State, include in the rolling operational plan the dates and destinations of return operations it considers necessary, based on a needs assessment. The management board shall decide, on a proposal of the executive director, on the modus operandi of the rolling operational plan.

its own initiative ***with the agreement of the Member State concerned and in accordance with Article 7(2)*** or at the request of a Member State, include in the rolling operational plan the dates and destinations of return operations it considers necessary, based on a needs assessment. The management board shall decide, on a proposal of the executive director, on the modus operandi of the rolling operational plan. ***The Agency, through its coordinating officer, shall verify whether all returnees embarked on return flights organised or coordinated by the Agency, have received a final return decision in accordance with Directive 2008/115/EC.***

Operational plans for all return operations and interventions supported and coordinated by the Agency shall be agreed between, and be binding upon, the Agency, the participating Member States and participating third countries in all return operations and return interventions, on the proposal of the executive director. Operational plans shall cover all aspects necessary for carrying out the return operation, including inter alia, procedures for monitoring, reporting and the complaints mechanism, and detailed provisions on the implementation of fundamental rights and rule of law safeguards, with reference to relevant standards and codes of conduct.

Amendment 276

Proposal for a regulation Article 51 – paragraph 3

Text proposed by the Commission

3. The Agency may provide technical and operational assistance and, either at the request of the participating Member States or on its own initiative, ensure the coordination or the organisation of return

Amendment

3. The Agency may provide technical and operational assistance and ***may also***, either at the request of the participating Member States or on its own initiative ***with the agreement of the Member State***

operations for which the means of transport and forced-return escorts are provided by a third country of return ('collecting return operations'). The participating Member States and the Agency shall ensure that the respect for fundamental rights, the principle of non-refoulement, *and* the proportionate use of means of constraints are guaranteed during the entire return operation. At least one Member State representative, and one forced-return monitor from the pool established under Article 52 or from the national monitoring system of the participating Member State, shall be present throughout the entire return operation until arrival at the third country of return.

concerned and in accordance with Article 7(2), ensure the coordination or the organisation of return operations for which the means of transport and forced-return escorts are provided by a third country of return ('collecting return operations'). The participating Member States and the Agency shall ensure that the respect for fundamental rights, the principle of non-refoulement, the proportionate use of means of constraints *and the dignity of the returnee* are guaranteed during the entire return operation. At least one Member State representative, and one forced-return monitor from the pool established under Article 52 or from the national monitoring system of the participating Member State, shall be present throughout the entire return operation until arrival at the third country of return.

Amendment 277

Proposal for a regulation

Article 51 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Every return operation shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. The monitoring of forced-return operations shall be carried out by the forced-return monitor on the basis of objective and transparent criteria and shall cover the whole return operation from the pre-departure phase until the *hand-over* of the returnees in the third country of return. The forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer *and* to the competent national authorities of all the Member States involved in the given operation. If necessary, appropriate follow-up shall be ensured by the executive director and competent national authorities respectively.

Amendment

Every return operation shall be monitored in accordance with Article 8(6) of Directive 2008/115/EC. The monitoring of forced-return operations shall be carried out by the forced-return monitor on the basis of objective and transparent criteria and shall cover the whole return operation from the pre-departure phase until the *handover* of the returnees in the third country of return. The forced-return monitor shall submit a report on each forced-return operation to the executive director, the fundamental rights officer, to the competent national authorities of all the Member States involved in the given operation, *and where necessary, to the European Ombudsman*. If necessary, appropriate follow-up shall be ensured by the executive director and competent

national authorities respectively.

Amendment 278

Proposal for a regulation

Article 51 – paragraph 5 – subparagraph 3

Text proposed by the Commission

If the Agency has concerns regarding the respect of fundamental **rights during** a return operation, it shall communicate them to the participating Member States **and** to the Commission.

Amendment

If the Agency has concerns regarding the respect of fundamental **rights of** a return operation, it shall communicate them to the participating Member States, to the Commission, **to the European Union Agency for Fundamental Rights, and where necessary, to the European Ombudsman.**

Amendment 279

Proposal for a regulation

Article 51 – paragraph 6

Text proposed by the Commission

6. The executive director shall evaluate the results of the return operations **and shall** transmit every six months a detailed evaluation report covering all return operations conducted in the previous semester to the management board, together with the observations of the fundamental rights officer. The executive director shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future return operations. The executive director shall include that analysis in the Agency's annual activity report.

Amendment

6. The executive director shall evaluate the results of the return operations **and shall** transmit every six months a detailed evaluation report covering all return operations conducted in the previous semester **to the European Parliament, to the Council, to the Commission and** to the management board, together with the observations of the fundamental rights officer. The executive director shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and effectiveness of future return operations. The executive director shall include that analysis in the Agency's annual activity report.

Amendment 280

Proposal for a regulation

Article 51 – paragraph 7

Text proposed by the Commission

7. The Agency shall finance ***or co-finance*** return operations from its budget, in accordance with the financial rules applicable to the Agency, giving priority to those conducted by more than one Member State, or from hotspot areas ***or controlled centres***.

Amendment

7. The Agency shall finance return operations from its budget, in accordance with the financial rules applicable to the Agency, giving priority to those conducted by more than one Member State, or from hotspot areas.

Amendment 281

Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. The Agency shall, after ***consulting*** the fundamental rights officer, constitute a pool of forced-return monitors from competent bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 62 of this Regulation.

Amendment

1. The Agency shall, after ***taking due account to the recommendation by*** the fundamental rights officer, constitute a pool of forced-return monitors ***as part of the European Border and Coast Guard standing corps referred to in Article 55 and*** from competent bodies who carry out forced-return monitoring activities in accordance with Article 8(6) of Directive 2008/115/EC and who have been trained in accordance with Article 62 of this Regulation. ***The forced-return monitors shall report to the Agency, including its fundamental rights officer.***

Amendment 282

Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

2. The management board shall, on a proposal of the executive director determine the profile and the number of forced-return monitors to be made available to that pool. The same procedure shall apply with regard to any subsequent changes in the profile and overall numbers.

Amendment

2. The management board shall, on a proposal of the executive director, ***and in cooperation with the Fundamental Rights Agency,*** determine the profile and the number of forced-return monitors to be made available to that pool, ***taking into account the number of return specialists***

Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile. Forced-return monitors with specific expertise in child protection shall be included in the pool.

and forced-return escorts available to the Agency to assist in return operations and interventions. The same procedure shall apply with regard to any subsequent changes in the profile and overall numbers. Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile. Forced-return monitors with specific expertise in child protection shall be included in the pool.

Amendment 283

Proposal for a regulation Article 52 – paragraph 5

Text proposed by the Commission

5. Forced-return monitors shall remain subject to the disciplinary measures of their home Member State in the course of a return operation or return intervention.

Amendment

5. Forced-return monitors shall remain subject to the disciplinary measures of their home Member State in the course of a return operation or return intervention.

After the pool of forced-return monitors is constituted by the Agency, following the determination of the profile and the number of forced-return monitors, the Agency shall entrust the Council of Europe and its forced-return monitors within its Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to conduct spot-checks on a selected sample of a maximum of 20 per cent of return operations carried out or facilitated by the Agency. The Council of Europe's forced return monitors shall compile a report following each spot-check. The Council of Europe shall compile an annual evaluation report from the information collected which shall be communicated to the executive director, the Agency's management board, the fundamental rights officer and the consultative forum, the European Parliament, the Council and the Commission. The Council of Europe shall receive an adequate funding

from the Agency on an annual basis to evaluate the Agency's pool of forced-return monitors. The results of the annual evaluation report shall be taken into account in the evaluation of this Regulation in accordance with Article 116.

No forced return shall be carried out or facilitated by the Agency before its pool of forced-return monitors is fully constituted and ready for deployment.

Amendment 284

Proposal for a regulation Article 53 – paragraph 1

Text proposed by the Commission

1. The Agency may deploy return teams either at the request of a Member State or on its own initiative, during return interventions, in the framework of migration management teams or as necessary to provide additional technical and operational assistance in the area of return, ***including where such challenges are linked to large inward mixed migratory flows or taking in third-country nationals rescued at sea.***

Amendment

1. The Agency may deploy return teams, ***that also consist of officers with specific expertise in child protection,*** either at the request of a Member State, or on its own initiative ***with the agreement of the Member State concerned,*** during return interventions, in the framework of migration management teams or as necessary to provide additional technical and operational assistance in the area of return. ***Only border guards, experts and staff who have received training in accordance with Article 62 shall be deployed to an activity by the Agency.***

Amendment 285

Proposal for a regulation Article 54 – paragraph 1

Text proposed by the Commission

1. In circumstances where a Member State is facing a burden when implementing the obligation to return ***third-country nationals who are the subject of return decisions issued by a***

Amendment

1. In circumstances where a Member State is facing a burden when implementing the obligation to return ***returnees,*** the Agency shall, either on its own initiative ***with the agreement of the***

Member State, the Agency shall, either on its own initiative or upon request of that Member State, provide the appropriate technical and operational assistance in the form of a return intervention. Such intervention may consist of the deployment of return teams to the host Member State providing assistance in the implementation of return procedures and the organisation of return operations from the host Member State.

Member State concerned or upon request of that Member State, provide the appropriate technical and operational assistance in the form of a return intervention . Such intervention may consist of the deployment of return teams to the host Member State providing assistance in the implementation of return procedures and the organisation of return operations from the host Member State. **At least a Member State representative and a forced-return monitor from the pool established under Article 51 shall be present throughout the entire return intervention until arrival at the third country of return.**

Amendment 286

Proposal for a regulation Article 54 – paragraph 2

Text proposed by the Commission

2. ***The Agency may also launch return interventions in third countries, based on the directions set out in the multiannual strategic policy cycle, where such third country requires additional technical and operational assistance with regard to its return activities. Such intervention may consist of the deployment of return teams for the purpose of providing technical and operational assistance to return activities of the third country.***

Amendment

deleted

Amendment 287

Proposal for a regulation Article 54 – paragraph 3

Text proposed by the Commission

3. In circumstances where a Member State is facing specific and disproportionate challenges when

Amendment

3. In circumstances where a Member State is facing specific and disproportionate challenges when

implementing its obligation to return **third-country nationals** who are the subject of return decisions, the Agency shall, either on its own initiative or upon the request of that Member State, provide the appropriate technical and operational assistance in the form of a rapid return intervention. A rapid return intervention may consist in the rapid deployment of return teams to the host Member State providing assistance in the implementation of return procedures and the organisation of return operations from the host Member State.

implementing its obligation to return **returnees** who are the subject of return decisions, the Agency shall, either on its own initiative **with the agreement of the Member State concerned** or upon the request of that Member State, **and following an assessment of fundamental rights and rule of law situation in the Member State concerned**, provide the appropriate technical and operational assistance in the form of a rapid return intervention. A rapid return intervention may consist in the rapid deployment of return teams to the host Member State providing assistance in the implementation of return procedures and the organisation of return operations from the host Member State. **At least a Member State representative and a forced-return monitor from the pool established under Article 51 shall be present throughout the entire return intervention until arrival at the third country of return.**

Amendment 288

Proposal for a regulation Article 54 – paragraph 6

Text proposed by the Commission

6. The Agency shall finance **or co-finance** return interventions from its budget in accordance with the financial rules applicable to the Agency.

Amendment

6. The Agency shall finance return interventions from its budget in accordance with the financial rules applicable to the Agency.

Amendment 289

Proposal for a regulation Article 55 – paragraph 1 – introductory part

Text proposed by the Commission

1. A European Border and Coast Guard standing corps **of 10 000 operational staff** shall be part of the Agency. This standing corps shall be

Amendment

1. A European Border and Coast Guard standing corps shall be part of the Agency. This standing corps shall be composed of the following **four** categories

composed of the following **three** categories of staff in accordance with the annual availability scheme set in Annex I:

of staff in accordance with the annual availability scheme set in Annex I:

Amendment 290

Proposal for a regulation Article 55 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) Category 4: a rapid reaction pool consisting of operational staff from the Member States to be deployed for the purpose of rapid border interventions in accordance with Article 58a.

Amendment 291

Proposal for a regulation Article 55 – paragraph 2

Text proposed by the Commission

Amendment

2. The Agency shall deploy members of the European Border and Coast Guard standing corps as members of the border management teams, migration management support teams, return teams in joint operations, rapid border interventions or return interventions or any other relevant operational activities in the Member States or in third countries.

2. The Agency shall deploy members of the European Border and Coast Guard standing corps as members of the border management teams, migration management support teams, return teams in joint operations, **including forced-return monitors**, rapid border interventions or return interventions or any other relevant operational activities in the Member States or in third countries. **The Agency and the Member State concerned shall ensure that no operational overlap is created.**

Amendment 292

Proposal for a regulation Article 55 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Team members of the Agency deployed in an operation may cooperate

with Europol teams deployed in the same geographic area in matters relating to cross-border crime.

Amendment 293

Proposal for a regulation Article 55 – paragraph 3

Text proposed by the Commission

3. In accordance with Article 83, all the members of the European Border and Coast Guard standing corps shall be enabled to carry out border control or return tasks, including the tasks requiring executive powers defined in the relevant national laws or, for the staff of the Agency, in accordance with Annex II.

Amendment

3. In accordance with Article 83, all the members of the European Border and Coast Guard standing corps shall, ***subject to the agreement of the host Members State***, be enabled to carry out border control or return tasks, including the tasks requiring executive powers defined in the relevant national laws or, for the staff of the Agency, in accordance with Annex II ***to this Regulation. The standing corps, including the statutory staff, shall meet the requirements for specialised training and professionalism as provided for in Article 16(1) of Regulation (EU) 2016/399.***

Amendment 294

Proposal for a regulation Article 55 – paragraph 4 – point a

Text proposed by the Commission

(a) on the numbers per specific profiles of operational staff under ***each of the three*** categories within the European Border and Coast Guard standing corps to form teams in the following year;

Amendment

(a) on the numbers per specific profiles of operational staff under categories ***1 to 3*** within the European Border and Coast Guard standing corps, ***and category 4 in case of rapid border interventions***, to form teams in the following year;

Amendment 295

Proposal for a regulation Article 55 – paragraph 6

Text proposed by the Commission

6. The Agency may recruit up to **4%** of the total number of the European Border and Coast Guard standing corps as staff having supportive functions for the establishment of the standing Corps, planning and management of its operations and for the acquisition of the Agency's own equipment.

Amendment

6. The Agency may recruit up to **10%** of the total number of the European Border and Coast Guard standing corps, ***taken from Category 1 or use seconded national experts***, as staff having supportive functions for the establishment of the standing Corps, planning and management of its operations and for the acquisition of the Agency's own equipment.

Amendment 296

**Proposal for a regulation
Article 55 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6 a. After ... [five years after the entry into force of this Regulation], the numbers of staff set out in Annex I shall be reviewed annually provided that the standing corps has been established and is fully functional. Where necessary, the numbers of staff in categories 1, 2, 3 and 4 may be increased or decreased by up to 30 % as long as those numbers do not go under the minimum threshold of 5 000 operational staff or do not exceed the maximum threshold of 7 000 operational staff. The Commission is empowered to adopt delegated acts in accordance with Article 118 to amend this Regulation in order to adjust the numbers of staff set out in Annex I.

Amendment 297

**Proposal for a regulation
Article 56 – paragraph 1**

Text proposed by the Commission

Amendment

1. The Agency shall contribute to the European Border and Coast Guard standing

1. The Agency shall contribute to the European Border and Coast Guard standing

corps members of its statutory staff (Category 1) to be deployed to operational areas as members of the teams with all the tasks and powers, including the task to operate the Agency's own equipment.

corps members of its statutory staff (Category 1) to be deployed to operational areas as members of the teams with all the tasks and powers, including the task to ***monitor the fundamental rights compliance and*** operate the Agency's own equipment.

Amendment 298

Proposal for a regulation Article 56 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Agency shall contribute to the European Border and Coast Guard standing corps at a minimum 100 members of its statutory staff (Category 1) to be deployed to operational areas and return operations and activities, reporting directly to the fundamental rights officer, tasked with monitoring the fundamental rights compliance of all activities and operations of the Agency, the host Member State or third country. The monitors of fundamental rights compliance as members of the statutory staff shall be independent in the performance of their duties. They shall report directly to the fundamental rights officer and to the consultative forum. They shall have the necessary qualifications and experience in the field of fundamental rights and return monitoring.

Amendment 299

Proposal for a regulation Article 56 – paragraph 2

Text proposed by the Commission

Amendment

2. In accordance with Article 62(2), following their recruitment, the new staff members shall undergo full border-guard

2. In accordance with Article 62(2), following their recruitment, the new staff members shall undergo full ***training***,

or return-related training, as relevant, in the framework of dedicated training programmes designed by the Agency, and, based on agreements with selected Member States, implemented in their specialised academies. The cost of training shall be entirely covered by the Agency.

including on fundamental rights, according to their profile. A border-guard training, return-related training or enhanced fundamental rights training shall be organised, as relevant, in the framework of dedicated training programmes designed by the Agency, and, based on agreements with selected Member States, implemented in their specialised academies. The cost of training shall be entirely covered by the Agency.

Amendment 300

Proposal for a regulation Article 56 – paragraph 3

Text proposed by the Commission

3. Throughout their employment, the Agency shall ensure that its statutory staff members discharge their duties as team members ***with high*** standards. Adequate training maps shall be designed for each staff member ensuring their constant professional qualification to fulfil border guard or return-related tasks.

Amendment

3. Throughout their employment, the Agency shall ensure that its statutory staff members discharge their duties as team members ***according to the highest standards and in full compliance with fundamental rights.*** Adequate training maps shall be designed for each staff member ensuring their constant professional qualification to fulfil border guard, ***fundamental rights monitor*** or return-related tasks.

Amendment 301

Proposal for a regulation Article 56 – paragraph 4

Text proposed by the Commission

4. Other staff members employed by the Agency who are not qualified to perform border control or return functions shall only be deployed during joint operations for coordination and other related tasks. They shall not form part of the teams.

Amendment

4. Other staff members employed by the Agency who are not qualified to perform border control, ***fundamental rights monitor*** or return functions shall only be deployed during joint operations for coordination and other related tasks. They shall not form part of the teams.

Amendment 302

Proposal for a regulation Article 57 – paragraph 1

Text proposed by the Commission

1. The Member States shall contribute to the European Border and Coast Guard standing corps operational staff seconded as team members to the Agency (Category 2). The duration of individual secondments shall be determined in accordance with Article 93(7). In order to facilitate the implementation of the financial support system referred to in Article 61, the secondment shall, as a general rule, start at the beginning of a calendar year.

Amendment

1. The Member States shall contribute to the European Border and Coast Guard standing corps operational staff seconded as team members to the Agency (Category 2). The duration of individual secondments shall be determined in accordance with Article 94 (7). In order to facilitate the implementation of the financial support system referred to in Article 61, the secondment shall, as a general rule, start at the beginning of a calendar year.

Amendment 303

Proposal for a regulation Article 57 – paragraph 4

Text proposed by the Commission

4. By 30 June each year, each Member State shall nominate for secondment their operational staff in accordance with the specific numbers and profiles decided by the Management Board for the following year as referred to in Article 55(4). The Agency *may* verify whether the operational staff proposed by Member States correspond to the defined profiles and possess the necessary language skills. By 15 September, the Agency shall accept the proposed candidates or ***request that a Member State propose another candidate for secondment*** in case of incompliance with the required profiles, insufficient language skills, misconduct or infringement of the applicable rules during previous deployments.

Amendment

4. By 30 June each year, each Member State shall nominate for secondment their operational staff in accordance with the specific numbers and profiles decided by the Management Board for the following year as referred to in Article 55(4). The Agency ***shall*** verify whether the operational staff proposed by Member States correspond to the defined profiles and possess the necessary language skills. By 15 September, the Agency shall accept the proposed candidates or ***refuse them*** in case of incompliance with the required profiles, insufficient language skills, misconduct or infringement of the applicable rules during previous deployments ***and request that a Member State propose another candidate for secondment.***

Amendment 304

Proposal for a regulation Article 57 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Without prejudice to Article 75(3), all deployments of category 2 staff shall be mandatory. Where Article 75(3) is invoked, statutory staff shall replace the category 2 staff in question.

Amendment 305

Proposal for a regulation Article 58 – paragraph 2

Text proposed by the Commission

Amendment

2. Each Member State shall be responsible to ensure that operational staff nominated are available upon request of the Agency in accordance with the arrangements defined in this Article. Each operational staff member shall be available for a period of up to a maximum of 4 months within a calendar year.

2. Each Member State shall be responsible to ensure that operational staff nominated are available upon request of the Agency in accordance with the arrangements defined in this Article. Each operational staff member shall be available for a period of **a minimum of 2 months and** up to a maximum of 4 months within a calendar year.

Amendment 306

Proposal for a regulation Article 58 – paragraph 3

Text proposed by the Commission

Amendment

3. The Agency **may** verify whether operational staff nominated for short-term deployments by Member States correspond to the defined profiles and possess the necessary language skills. The Agency **may request that a Member State remove an operational staff member from the national list** in case of incompliance with the required profiles, insufficient linguistic skills, misconduct or infringement of the

3. The Agency **shall** verify whether operational staff nominated for short-term deployments by Member States correspond to the defined profiles and possess the necessary language skills. The Agency **shall refuse nominated** operational staff in case of incompliance with the required profiles, insufficient linguistic skills, misconduct or infringement of the applicable rules during previous

applicable rules during previous deployments.

deployments *and request that a Member State to nominate another candidate.*

Amendment 307

Proposal for a regulation Article 58 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. Without prejudice to Article 75(3) all deployments of category 3 staff shall be mandatory. Where Article 75(3) is invoked, statutory staff shall replace the category 3 staff in question.

Amendment 308

Proposal for a regulation Article 58 a (new)

Text proposed by the Commission

Amendment

Article 58 a

Member States' participation in the European Border and Coast Guard standing corps through the rapid reaction pool

1. The Member States shall place the operational staff forming part of the rapid reaction pool at the immediate disposal of the Agency (Category 4). Operational staff may be deployed as part of the rapid reaction pool from each Member State within five working days from the date on which the operational plan is agreed by the executive director and the host Member State exclusively for rapid border interventions, provided that category 1 to 3 staff required for the operation in question have already been fully deployed. For that purpose, each Member State shall, on a yearly basis, make available to the Agency a number of border guards or other relevant staff. Their profiles shall be as defined in the decision of the

management board. The total number of staff made available by the Member States shall amount to 3 000 border guards or other relevant staff. The Agency shall verify whether the border guards proposed by Member States correspond to the defined profiles. The Agency shall accept the proposed candidates or refuse them in case of incompliance with the required profiles, insufficient language skills, misconduct or infringement of the applicable rules during previous deployments and request that a Member State propose another candidate for secondment.

2. Each Member State shall be responsible for its contribution to the number of border guards or other relevant staff, as referred to in paragraph 1, in accordance with Annex Va.

Amendment 309

Proposal for a regulation Article 59 – title

Text proposed by the Commission

Mid-term review of the functioning of the EUROPEAN BORDER AND COAST GUARD standing corps

Amendment

Review of the functioning of the EUROPEAN BORDER AND COAST GUARD standing corps

Amendment 310

Proposal for a regulation Article 59 – paragraph 1

Text proposed by the Commission

1. By **31 June 2024**, based in particular on the reports referred to in Article 65, the Commission shall carry out a *mid-term* review on the functioning of European Border and Coast Guard standing corps, assessing its overall number and composition. The review shall take into

Amendment

1. By *[two years after entry into force of this Regulation]*, based in particular on the reports referred to in Article 65 *and Article 62(8a)*, the Commission, *together with the Member States*, shall carry out a review on the functioning of *the* European Border and Coast Guard standing corps,

account the evolution of the statutory staff for the Agency's contributions or any significant changes in the individual Member States' capabilities affecting their abilities to contribute to the standing corps.

including the rapid reaction pool, assessing its overall *training, specialised expertise, professionalism,* number and composition. The review shall take into account the evolution of the statutory staff for the Agency's contributions or any significant changes in the individual Member States' capabilities affecting their abilities to contribute to the standing corps.

Amendment 311

Proposal for a regulation Article 59 – paragraph 2

Text proposed by the Commission

2. This *mid-term* review shall be accompanied, where necessary, by appropriate proposals to amend Annexes I, III *and IV*.

Amendment

2. This review shall be accompanied, where necessary, by appropriate proposals to amend Annexes I, III, *IV and Va*.

Amendment 312

Proposal for a regulation Article 59 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. By ... [two years after entry into force of this Regulation], and every four years thereafter, the Commission, together with the Member States and with the assistance of the Agency, shall carry out an independent review of the level of training, specialised expertise and professionalism possessed by the staff of the European Border and Coast Guard standing corps. The Commission shall communicate the results of the review to the European Parliament, to the Council and to the Commission.

Amendment 313

Proposal for a regulation

Article 60 – paragraph 1

Text proposed by the Commission

1. Subject to the agreement **of** the host Member State, the Agency may set up antenna offices on **its** territory to facilitate and improve coordination of the operational activities, including in the field of returns, organised by the Agency in that Member State or in **the neighbouring region** and to ensure the effective management of the human and technical resources of the Agency. The antenna offices shall be **temporary establishments** set up for the period of time necessary for the Agency to carry out significant operational activities in that specific Member State or the **neighbouring region** concerned. That period of time may be prolonged, if necessary.

Amendment

1. Subject to the agreement **with** the host Member State **or the explicit inclusion of this possibility in the status agreement concluded with the host third country**, the Agency may set up antenna offices on **the** territory **of that Member State or third country, in order** to facilitate and improve coordination of the operational activities, including in the field of returns, organised by the Agency in that Member State or in **a third country** and to ensure the effective management of the human and technical resources of the Agency. The antenna offices shall be set up for the period of time necessary for the Agency to carry out significant operational activities in that specific Member State or the **third country** concerned. That period of time may be prolonged, if necessary.

Amendment 314

Proposal for a regulation Article 60 – paragraph 2

Text proposed by the Commission

2. The Agency and the host Member State where the antenna office is set up shall **endeavour to** make the necessary arrangements in order to provide the best possible conditions needed to fulfil the tasks assigned to the antenna office.

Amendment

2. The Agency and the host Member State **or the host third country** where the antenna office is set up shall make the necessary arrangements in order to provide the best possible conditions needed to fulfil the tasks assigned to the antenna office. **The place of employment for the staff working in antenna offices shall be set in accordance with Article 94(2).**

Amendment 315

Proposal for a regulation Article 60 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) provide operational support to the Member State in the operational areas concerned;

(b) provide operational support to the Member State **or the third country** in the operational areas concerned;

Amendment 316

Proposal for a regulation

Article 60 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(c a) monitor the fundamental rights compliance of operations and activities in the area of border management and return and report directly to the fundamental rights officer;

Amendment 317

Proposal for a regulation

Article 60 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) cooperate with the host Member State(s) on all issues related to the practical implementation of the operational activities organised by the Agency in that Member State(s), including any additional issues that might have occurred in the course of these activities;

(d) cooperate with the host Member State(s) **or host third country** on all issues related to the practical implementation of the operational activities organised by the Agency in that Member State(s) **or third country**, including any additional issues that might have occurred in the course of these activities;

Amendment 318

Proposal for a regulation

Article 60 – paragraph 3 – point f

Text proposed by the Commission

Amendment

(f) support the coordinating officer in facilitating, if necessary, the coordination and communication between the Agency's

(f) support the coordinating officer in facilitating, if necessary, the coordination and communication between the Agency's

Teams and the relevant authorities of the host Member State;

Teams and the relevant authorities of the host Member State *or host third country*;

Amendment 319

Proposal for a regulation

Article 60 – paragraph 3 – point i

Text proposed by the Commission

(i) support the Agency's liaison officer to identify any current or future challenges for the border management of the area they are responsible for or for the implementation of the return acquis and regularly report to the headquarters;

Amendment

(i) support the Agency's liaison officer to identify any current or future challenges for the border management of the area they are responsible for, or for the implementation of the return acquis *or for fundamental rights issues* and regularly report to the headquarters;

Amendment 320

Proposal for a regulation

Article 60 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The host Member State where the antenna office is set up shall provide the Agency with assistance to ensure operational capacity.

Amendment 321

Proposal for a regulation

Article 60 – paragraph 6

Text proposed by the Commission

6. The Executive Director shall report to the Management Board on a quarterly basis on the activities of antenna offices. The activities of the antenna offices shall be described in a separate section of the annual activity report referred to 98(2) point **10**.

Amendment

6. The executive director *and the fundamental rights officer* shall report to the Management Board on a quarterly basis on the activities of *antenna offices and on fundamental rights compliance as monitored by the* antenna offices. The activities of the antenna offices shall be described in a separate section of the annual activity report referred to 98(2)

point *j*.

Amendment 322

Proposal for a regulation Article 60 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. *Where the Commission establishes that there are generalised deficiencies as regards the rule of law in a Member State in which the Agency has established an antenna office, the Commission shall, without delay, report this finding to the executive director. Within a period of one month from being informed of this finding - and unless the antenna office has closed in the meantime - the management board, on a proposal from the executive director, shall decide upon whether to close the antenna office taking full account of the opinion of the Commission.*

Amendment 323

Proposal for a regulation Article 61 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States are entitled to receive funding in the form of financing not linked to costs on yearly basis in order to support the development of human resources to secure their contributions to the European and Border Guard standing corps in accordance with Annexes III and IV, in accordance with *Article* 125 (1) (a) of Regulation (EU, Euratom) 2018/1046 which shall be payable after the end of the year concerned and upon fulfilment of conditions laid down in accordance with paragraphs 3 and 4. That financing shall be based on a reference amount as set in

1. Member States are entitled to receive funding in the form of financing not linked to costs on yearly basis in order to support the development of human resources to secure their contributions to the European and Border Guard standing corps in accordance with Annexes III and IV, in accordance with *Article* 125 (1) (a) of Regulation (EU, Euratom) 2018/1046 which shall be payable after the end of the year concerned and upon fulfilment of conditions laid down in accordance with paragraphs 3 and 4. That financing shall be based on a reference amount as set in

paragraph 2 and shall **amount** to:

paragraph 2 and shall **amount** to:

Amendment 324

Proposal for a regulation Article 61 – paragraph 3

Text proposed by the Commission

3. The annual payment of the **ammount** referred to in paragraph 1(a) shall be due on condition that the Member States increase accordingly their respective overall national border guards staffing through the recruitment of new border guards and other officers in the period concerned. The relevant information for the purpose of reporting shall be provided to the Agency in the annual bilateral negotiations and verified through the vulnerability assessment in the following year. The annual payment of the **ammount** referred to in paragraph 1(b) shall be due in relation the number of border guards or other officers effectively deployed for at least 4 months in accordance with Article 58 within the limit set by Annex IV.

Amendment

3. The annual payment of the **amount** referred to in paragraph 1(a) shall be due on condition that the Member States increase accordingly their respective overall national border guards staffing through the recruitment of new border guards and other officers in the period concerned. The relevant information for the purpose of reporting shall be provided to the Agency in the annual bilateral negotiations and verified through the vulnerability assessment in the following year. The annual payment of the **amount** referred to in paragraph 1(b) shall be due in **full in** relation **to** the number of border guards or other officers effectively deployed for **a consecutive or non-consecutive period of at least 4 months, or on a pro-rata basis for deployments for a consecutive or non-consecutive period of less than 4 months** in accordance with Article 58 within the limit set by Annex IV. **An advance payment linked to the annual payments of the amounts referred to in points (a) and (b) of paragraph 1 shall be granted following the submission of a specific and justified request by the contributing Member State.**

Amendment 325

Proposal for a regulation Article 61 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. When implementing the financial support under this Article, the Agency and

the Member States shall ensure the compliance with the principles of co-financing and no double funding.

Amendment 326

Proposal for a regulation Article 62 – paragraph 1

Text proposed by the Commission

1. The Agency shall, taking into account the capability roadmap referred to in Article 9(4), where available, and in cooperation with the appropriate training entities of the Member States, and, **where appropriate, EASO** and the European Union Agency for Fundamental Rights, develop specific training tools, including specific training in the protection of children and other persons in a vulnerable situation. It shall provide border guards, return specialists and other relevant staff who are members of the European Border and Coast Guard standing corps with advanced training relevant to their tasks and powers. Experts from the staff of the Agency shall conduct regular exercises with those border guards and other team members in accordance with the advanced training and exercise schedule referred to in the annual work programme of the Agency.

Amendment

1. The Agency shall, taking into account the capability roadmap referred to in Article 9(4), where available, and in cooperation with the appropriate training entities of the Member States, and **[the European Union Agency for Asylum]** and the European Union Agency for Fundamental Rights, develop specific training tools, including specific training in the protection of children and other persons in a vulnerable situation. It shall provide border guards, return specialists, **return escorts and forced-return monitors** and other relevant staff who are members of the European Border and Coast Guard standing corps with advanced training relevant to their tasks and powers. Experts from the staff of the Agency shall conduct regular exercises with those border guards and other team members in accordance with the advanced training and exercise schedule referred to in the annual work programme of the Agency.

Amendment 327

Proposal for a regulation Article 62 – paragraph 2

Text proposed by the Commission

2. The Agency shall ensure that all the staff members recruited to act as operational staff of the European Border and Coast Guard standing corps have received adequate training in relevant

Amendment

2. The Agency shall ensure that all the staff members recruited to act as operational staff of the European Border and Coast Guard standing corps have received adequate training in relevant

Union and international law, including on fundamental rights, access to international protection and, *where* appropriate, search and rescue, prior to their initial deployment in operational activities organised by the Agency. *For that purpose, the Agency shall, based on agreements with selected Member States, implement the necessary training programmes in their national academies. The cost of training shall be entirely covered by the Agency.*

Union and international law, including on fundamental rights, access to international protection, *guidelines for the purpose of identifying persons seeking protection and directing them towards the appropriate procedures, guidelines for addressing the special needs of children, including unaccompanied minors, victims of trafficking in human being, persons in need of urgent medical assistance, and other particularly vulnerable persons and, where it is intended that they participate in maritime operations*, search and rescue, prior to their initial deployment in operational activities organised by the Agency. *If the operational activities potentially necessitate the use of firearms, the staff members shall receive a comprehensive practical, legal and ethical training, taking into account the staff member's previous training or experience.*

Amendment 328

Proposal for a regulation Article 62 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For that purpose, the Agency shall, based on agreements with selected Member States, implement the necessary training programmes in their national academies. The Agency shall ensure that the training follows the common core curriculum, is harmonised and fosters mutual understanding and a common culture based on the values enshrined in the Treaties. The cost of training shall be entirely covered by the Agency.

Amendment 329

Proposal for a regulation Article 62 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. *The Agency may, after obtaining the approval of the management board, set up an Agency training centre to further facilitate the inclusion of a common European culture in the training provided.*

Amendment 330

Proposal for a regulation Article 62 – paragraph 3

Text proposed by the Commission

Amendment

3. *The Agency shall take the necessary initiatives to ensure that all operational staff of the Member States who participate in the teams from the European Border and Coast Guard standing corps, have received training in relevant Union and international law, including on fundamental rights, access to international protection and where appropriate search and rescue, prior to their participation in operational activities organised by the Agency.*

deleted

Amendment 331

Proposal for a regulation Article 62 – paragraph 4

Text proposed by the Commission

Amendment

4. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks who are allocated to the European Border and Coast Guard standing corps and the pool referred to in Article 52. The Agency shall ensure that its staff and all staff who participate in return operations and in return interventions have received training in relevant Union and international law,

4. The Agency shall take the necessary initiatives to ensure training for staff involved in return-related tasks who are allocated to the European Border and Coast Guard standing corps and the pool referred to in Article 52. The Agency shall ensure that its staff and all staff who participate in return operations and in return interventions have received training in relevant Union and international law,

including on fundamental rights **and** access to international protection, prior to their participation in operational activities organised by the Agency.

including on fundamental rights, access to international protection **and to the referral mechanism for vulnerable persons**, prior to their participation in operational activities organised by the Agency.

Amendment 332

Proposal for a regulation Article 62 – paragraph 8

Text proposed by the Commission

8. The Agency shall establish an exchange programme enabling border guards participating in its teams and staff participating in the European return intervention teams to acquire knowledge or specific know-how from experiences and good practices abroad by working with border guards and staff involved in return-related tasks in a Member State other than their own.

Amendment

8. The Agency shall establish an exchange programme enabling border guards participating in its teams and staff participating in the European return intervention teams to acquire knowledge or specific know-how from experiences, **fundamental rights compliance** and good practices abroad by working with border guards and staff involved in return-related tasks in a Member State other than their own.

Amendment 333

Proposal for a regulation Article 62 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. The Agency shall establish and further develop an internal quality control mechanism to ascertain the high level of training, special expertise and professionalism of all its staff as well as the operational staff of the Member States who participate in the operational activities of the Agency. The Agency shall prepare an annual evaluation report on the basis of the implementation of the quality control mechanism. The Agency shall communicate the annual evaluation report to the European Parliament, to the Council and to the Commission.

Amendment 334

Proposal for a regulation

Article 63 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Based on a proposal of the executive director after receiving the positive opinion of the Commission, the management board shall establish a comprehensive multiannual strategy on how the Agency's own technical capabilities *shall* be developed ***taking into account the multiannual strategic policy cycle for the European Integrated Border Management including the capability roadmap referred to in Article 9(4) as available and the budgetary resources made available for this purpose in the multiannual financial framework.***

Amendment

Based on a proposal of the executive director after receiving the positive opinion of the Commission ***and on the multiannual strategic policy cycle for the European Integrated Border Management, including the capability roadmap referred to in Article 9(4), as available, and on the budgetary resources made available for this purpose in the multiannual financial framework,*** the management board shall establish a comprehensive multiannual strategy on how the Agency's own technical capabilities ***are to*** be developed.

Amendment 335

Proposal for a regulation

Article 63 – paragraph 5

Text proposed by the Commission

5. On the basis of a model agreement drawn up by the Agency and approved by the management board, the Member State of registration and the Agency shall agree on terms ensuring the operability of the equipment. In the case of co-owned assets, the terms shall also cover the periods of full availability of the assets for the Agency and determine the use of the equipment, including specific provisions on rapid deployment during rapid border interventions.

Amendment

5. On the basis of a model agreement drawn up by the Agency and approved by the management board, the Member State of registration and the Agency shall agree on terms ensuring the operability of the equipment. ***In this regard, the Member State of registration shall authorise such equipment as being on government service.*** In the case of co-owned assets, the terms shall also cover the periods of full availability of the assets for the Agency and determine the use of the equipment, including specific provisions on rapid deployment during rapid border interventions.

Amendment 336

Proposal for a regulation

Article 63 – paragraph 6

Text proposed by the Commission

6. Where the Agency does not have the required qualified statutory staff, the Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. In such case, technical equipment owned solely by the Agency shall be made available to the Agency upon its request and the Member State of registration may not invoke the exceptional situation referred to in Article 64(8).

Amendment

6. Where the Agency does not have the required qualified statutory staff, the Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner. ***Where the Member State of registration offers the necessary experts and technical crew, they shall count as part of the contribution of that particular Member State to the standing corps.*** In such case, technical equipment owned solely by the Agency shall be made available to the Agency upon its request and the Member State of registration may not invoke the exceptional situation referred to in Article 64(8). ***When requesting a Member State to provide technical equipment and operational staff, the Agency shall take into account the particular operational challenges facing that Member State at the time of the request.***

Amendment 337

Proposal for a regulation

Article 65 – paragraph 2 – point a

Text proposed by the Commission

(a) the number of operational staff that each Member State has committed to the European and Border Guard standing corps ***and*** the pool of forced return monitors;

Amendment

(a) the number of operational staff that each Member State has committed to the European and Border Guard standing corps ***including*** the pool of forced return monitors;

Amendment 338

Proposal for a regulation

Article 65 – paragraph 2 – point e

Text proposed by the Commission

(e) the number of items of technical equipment deployed by each Member State and the Agency in the previous year from the technical equipment pool, ***with special reference to***

Amendment

(e) the number of items of technical equipment deployed by each Member State and the Agency in the previous year from the technical equipment pool;

Amendment 339

Proposal for a regulation Article 66 – paragraph 1

Text proposed by the Commission

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for European Integrated Border Management ***including the use of advanced surveillance technology***, taking into account the capability roadmap referred to in Article 9 (4). The Agency shall disseminate the results of that research to the European Parliament, to the Member States and to the Commission in accordance with Article 50. It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

Amendment

1. The Agency shall proactively monitor and contribute to research and innovation activities relevant for European Integrated Border Management taking into account the capability roadmap referred to in Article 9 (4). The Agency shall disseminate the results of that research to the European Parliament, to the Member States and to the Commission in accordance with Article 50. It may use those results as appropriate in joint operations, rapid border interventions, return operations and return interventions.

Amendment 340

Proposal for a regulation Article 66 – paragraph 4

Text proposed by the Commission

4. The Agency may plan and implement pilot projects ***regarding matters covered by*** this Regulation.

Amendment

4. The Agency may plan and implement pilot projects ***where necessary for the implementation of obligations provided for under*** this Regulation.

Amendment 341

Proposal for a regulation Article 66 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Agency shall make public all its research projects, including demonstration projects, the cooperation partners involved and the project budget.

Amendment 342

Proposal for a regulation Article 67 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States and the Agency shall establish operational plans for border management and returns. The operational plans of Member States related to border sections with high **and critical** impact **levels** shall be established in cooperation with neighbouring Member States and with the Agency. For the activities of the Agency, operational planning for the following year shall be defined in annex to the single programming document referred to in Article 100 and for each specific operational activity through the operational plan referred to in Article 39 and Article 75(3).

2. Member States and the Agency shall establish operational plans for border management and returns. The operational plans of Member States related to border sections with **a** high impact **level** shall be established in cooperation with neighbouring Member States and with the Agency. For the activities of the Agency, operational planning for the following year shall be defined in annex to the single programming document referred to in Article 100 and for each specific operational activity through the operational plan referred to in Article 39 and Article 75(3).

Amendment 343

Proposal for a regulation Article 67 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

The national capability development plan shall address in particular the recruitment and training policy of the border guards **and** return specialists, the acquisition and maintenance of equipment and the

The national capability development plan shall address in particular the recruitment and training policy of the border guards, return specialists, **return escorts and forced-return monitors**, the acquisition

necessary research and development activities and the corresponding financial aspects.

and maintenance of equipment and the necessary research and development activities and the corresponding financial aspects.

Amendment 344

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

2. The Agency shall ensure the setting-up and operation of an ETIAS Central Unit referred to in Article 7 of *[Regulation establishing a European Travel Information and Authorisation System (ETIAS)]."*

Amendment

2. The Agency shall ensure the setting-up and operation of an ETIAS Central Unit referred to in Article 7 of Regulation (EU) 2018/1240.

Amendment 345

Proposal for a regulation Section 11 – sub section 1 - title

Text proposed by the Commission

Cooperation within the EU

Amendment

deleted

Amendment 346

Proposal for a regulation Article 69 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Agency shall cooperate with Union institutions, bodies, offices and agencies, **and international organisations**, within their respective legal frameworks and make use of existing information, capabilities and systems available in the framework of EUROSUR.

Amendment

The Agency shall cooperate with Union institutions, bodies, offices and agencies, within their respective legal frameworks and make use of existing information, capabilities and systems available in the framework of EUROSUR.

Amendment 347

Proposal for a regulation

Article 69 – paragraph 1 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

In accordance with paragraph 1, the Agency shall cooperate *in particular* with:

In accordance with paragraph 1, the Agency shall cooperate with *the following*:

Amendment 348

Proposal for a regulation

Article 69 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

Amendment

(c) the European *Asylum* Agency;

(c) [the European *Union* Agency *for Asylum*];

Amendment 349

Proposal for a regulation

Article 69 – paragraph 1 – subparagraph 2 – point k

Text proposed by the Commission

Amendment

(k) *Missions and operations of the Common Security and Defence Policy.*

deleted

Amendment 350

Proposal for a regulation

Article 69 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Agency may also cooperate with the following international organisations relevant to its tasks, within their respective legal frameworks:

(a) *the United Nations through its relevant offices, agencies, organisations and other entities, in particular the Office of the United Nations High Commissioner for Refugees, the Office of the High*

Commissioner for Human Rights, the International Organization for Migration, the United Nations Office on Drugs and Crime and the International Civil Aviation Organization;

(b) the International Criminal Police Organization (INTERPOL);

(c) the Organisation for Security and Cooperation in Europe;

(d) the World Customs Organisation;

The Agency shall cooperate with the Council of Europe and the Commissioner for Human Rights of the Council of Europe for the purposes of overseeing the pool of forced-return monitors.

Amendment 351

Proposal for a regulation Article 69 – paragraph 2

Text proposed by the Commission

2. Cooperation referred to in paragraph 1 shall take place within the framework of working arrangements concluded with the entities referred to in paragraph 1. Such arrangements shall have received the **Commission's** prior approval. In every case, the Agency shall inform the European Parliament of any such arrangements.

Amendment

2. Cooperation referred to in paragraph 1 shall take place within the framework of working arrangements concluded with the entities referred to in paragraph 1. Such arrangements shall have received the prior approval **of the Commission, and of the European Data Protection Supervisor in so far as the working arrangements concern the exchange of personal data.** In every case, the Agency shall inform the European Parliament of any such arrangements **and make them publicly available. Such arrangements should clearly indicate the scope, the extent and the level of intrusiveness of the proposed measure to assess the necessity and proportionality of the measure at stake.**

Amendment 352

Proposal for a regulation

Article 69 – paragraph 5

Text proposed by the Commission

5. The Union institutions, bodies, offices, agencies **and international organisations** 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 or other communication of personal data processed by the Agency to other Union institutions, bodies, offices and 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 87 to 90. As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office, agency or international organisation 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 or other communication of personal data processed by the Agency to other Union institutions, bodies, offices and agencies **may only take place if there is a legal basis in Union law, and it shall not lead to the processing of personal data for other incompatible purposes pursuant to Article 6 of Regulation (EU) 2018/1725**, 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. **The European Border and Coast Guard Agency shall keep record of the onward transfers and of the justification for such transfers. The European Data Protection Supervisor shall have the possibility to verify their lawfulness, and, in particular, compliance with the principles of necessity and proportionality.** Any transfer of personal data by the Agency shall be in line with the data protection provisions laid down in Articles 87 to 90 **and with Regulation (EU) 2018/1725**. As regards the handling of classified information, those arrangements shall provide that the Union institution, body, office, agency or international organisation concerned shall comply with security rules and standards equivalent to those applied by the Agency.

Amendment 353

Proposal for a regulation

Article 69 – paragraph 5 a (new)

5 a. The Agency shall ensure that personal data transferred or disclosed to international organisations is only processed for the purposes for which it was transferred or disclosed. The Agency shall ensure that working arrangements concluded with international organisations fully respect the Union data protection law, and in particular Chapter V of Regulation (EU) 2018/679.

Amendment 354

Proposal for a regulation Article 70 – paragraph 1 – point e

Text proposed by the Commission

(e) sharing capacity by planning and implementing multipurpose operations and by sharing assets and other capabilities, to the extent that these activities are coordinated by those agencies and are agreed to by the competent authorities of the Member States concerned.

Amendment

(e) sharing capacity by planning and implementing multipurpose operations, **including Search and Rescue**, and by sharing assets and other capabilities, to the extent that these activities are coordinated by those agencies and are agreed to by the competent authorities of the Member States concerned.

Amendment 355

Proposal for a regulation Article 70 – paragraph 2

Text proposed by the Commission

2. The precise forms of cooperation on coast guard functions between the Agency, the European Fisheries Control Agency and the European Maritime Safety Agency shall be determined in a working arrangement, in accordance with their respective mandates and the financial rules applicable to those agencies. Such an arrangement shall be approved by the management board of the Agency and the

Amendment

2. The precise forms of cooperation on coast guard functions between the Agency, the European Fisheries Control Agency and the European Maritime Safety Agency shall be determined in a working arrangement, in accordance with their respective mandates and the financial rules applicable to those agencies. Such an arrangement shall be approved by the management board of the Agency and the

administrative boards of the European Maritime Safety Agency and the European Fisheries Control Agency.

administrative boards of the European Maritime Safety Agency and the European Fisheries Control Agency. ***The agencies shall use information received in the context of their cooperation only within the limits of their legal framework and in compliance with fundamental rights, including data protection requirements.***

Amendment 356

Proposal for a regulation Article 71 – paragraph 5

Text proposed by the Commission

5. Onward transmission or other communication of information exchanged under this Article to third countries or to third parties shall be prohibited.

Amendment

5. Onward transmission or other communication of information exchanged under this Article to third countries or to ***any other*** third parties shall be prohibited.

Justification

This amendment is tabled for consistency purposes.

Amendment 357

Proposal for a regulation Section 11 – sub section 2 - title

Text proposed by the Commission

Cooperation with third countries

Amendment

deleted

Amendment 358

Proposal for a regulation Article 72 – paragraph 1

Text proposed by the Commission

1. In line with Article 3 (g), the Member States and the Agency shall cooperate with third Countries for the purpose of integrated border management and migration policy, ***including returns.***

Amendment

1. In line with Article 3 (g), the Member States and the Agency shall cooperate with third Countries for the purpose of integrated border management and migration policy.

Amendment 359

Proposal for a regulation Article 72 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *The Commission, together with the European External Action Service, shall assess the situation in a third country, including its respect for fundamental rights and the level of data protection, prior to any activity of the Agency in or with that third country and prior to commencing the negotiation of any agreement or arrangement with that third country under this Regulation.*

Amendment 360

Proposal for a regulation Article 72 – paragraph 3

Text proposed by the Commission

Amendment

3. The Agency and Member States shall comply with Union law, including norms and standards which form part of the Union acquis, also when cooperation with third countries takes place on the territory of those countries.

3. The Agency and Member States shall comply with Union law, including norms and standards which form part of the Union acquis, also when cooperation with third countries takes place on the territory of those countries. ***The establishment of cooperation with third countries shall serve to promote European Integrated Border Management standards.***

Amendment 361

Proposal for a regulation Article 73 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *Member States shall ensure that personal data transferred or disclosed to third countries or international*

organisations is only processed for the purposes for those it was transferred or disclosed, and that data subjects can exercise their rights also in those third countries or in relation to those international organisations. For this, Member States shall in the bilateral or multilateral agreements with third countries or in working arrangements with international organisations include legally binding and enforceable assurances, pursuant to points 2(a) or 3(b) of Article 46 of Regulation (EU) 2018/679. Where no such agreements or arrangements exist pursuant to paragraph 1, Member States shall not transfer or disclose any personal data to the third countries or international organisations.

Amendment 362

Proposal for a regulation Article 74 – paragraph 2

Text proposed by the Commission

2. When doing so, it shall act within the framework of the external action policy of the Union, including with regard to the protection of fundamental rights and the principle of non-refoulement, with the support of, and in coordination with, Union delegations *and, where relevant, CSDP missions and operations.*

Amendment

2. When doing so, it shall act within the framework of the external action policy of the Union, including with regard to the protection of fundamental rights and the principle of non-refoulement, ***the prohibition of arbitrary detention and the prohibition of torture, inhuman or degrading treatment or punishment,*** with the support of, and in coordination with, Union delegations.

Amendment 363

Proposal for a regulation Article 74 – paragraph 3

Text proposed by the Commission

3. In circumstances requiring the deployment of border management ***and*** return teams from the European Border and

Amendment

3. In circumstances requiring the deployment of border management, return ***and fundamental rights monitoring*** teams

Coast Guard standing corps to a third country where the team members will exert executive powers, a status agreement shall be concluded by the Union with the third country concerned. The status agreement shall cover all aspects that are necessary for carrying out the actions. It shall in particular set out the scope of the operation, civil and criminal liability and the tasks and powers of the members of the teams. The status agreement shall ensure the full respect of fundamental rights during these operations.

from the European Border and Coast Guard standing corps to a third country where the team members will exert executive powers, a status agreement, ***drawn up on the basis of the model status agreement referred to in Article 77(1a), shall be concluded by the Union with the third country concerned on the basis of Article 218 TFEU.*** The status agreement shall cover all aspects that are necessary for carrying out the actions. It shall in particular set out the scope of the operation, civil and criminal liability and the tasks and powers of the members of the teams, ***measures related to the establishment of an antenna office and measures ensuring the operationalisation of fundamental rights safeguards, including deployment of the fundamental rights monitors, the fundamental rights strategy in line with Article 81 and the code of conduct in line with Article 82.*** The status agreement shall ensure the full respect of fundamental rights during these operations ***and provide for a complaints mechanism. The European Data Protection Supervisor shall be consulted on the provisions of the status agreement related to the transfers of data. Operations shall be carried out on the basis on an operational plan agreed also by the participating Member States. The participation of Member States in joint operations on the territory of third countries shall be on a voluntary basis.***

Amendment 364

Proposal for a regulation Article 74 – paragraph 4

Text proposed by the Commission

4. Where available, it shall also act within the framework of working arrangements concluded with those authorities in accordance with Union law and policy, in accordance with 77(6).

Amendment

4. Where available, it shall also act within the framework of working arrangements concluded with those authorities in accordance with Union law and policy, in accordance with 77(6).

Those working arrangements shall specify the scope, nature and purpose of the cooperation and be related to the management of operational cooperation and may include provisions concerning the exchange of sensitive non-classified information and cooperation in the framework of EUROSUR in accordance with Article 75 (3). Any working arrangements on exchanging classified information shall be concluded in accordance with Article 77(6). The Agency shall comply with Union law, including norms and standards, which form part of the Union acquis.

Those working arrangements shall specify the scope, nature and purpose of the cooperation and be related to the management of operational cooperation and may include provisions concerning the exchange of sensitive non-classified information and cooperation in the framework of EUROSUR in accordance with Article 75 (3). Any working arrangements on exchanging classified information shall be concluded in accordance with Article 77(6). The Agency shall comply with Union law, including norms and standards, which form part of the Union acquis. ***The Agency shall request prior authorisation from the European Data Protection Supervisor, as far as these working arrangements provide for the transfer of personal data.***

Amendment 365

Proposal for a regulation Article 74 – paragraph 5

Text proposed by the Commission

5. The Agency shall contribute to the implementation of international agreements and of ***non-legally binding arrangements on return*** concluded by the Union with third countries within the framework of the external action policy of the Union and regarding matters covered by this Regulation.

Amendment

5. The Agency shall contribute to the implementation of international agreements and of ***readmission agreements*** concluded by the Union with third countries within the framework of the external action policy of the Union and regarding matters covered by this Regulation.

Amendment 366

Proposal for a regulation Article 74 – paragraph 6

Text proposed by the Commission

6. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting in and in relation to third

Amendment

6. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting in and in relation to third

countries. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation and in accordance with the financial rules applicable to the Agency.

countries. ***Subject to the approval of the European Parliament, and following a thorough fundamental rights impact assessment,*** it may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation and in accordance with the financial rules applicable to the Agency.

Amendment 367

Proposal for a regulation Article 74 – paragraph 7

Text proposed by the Commission

7. The Agency shall inform the European Parliament of activities conducted pursuant to this Article.

Amendment

7. The Agency shall inform the European Parliament ***quarterly*** of activities conducted pursuant to this Article ***and, in particular, of the activities related to the technical and operational assistance in the field of border management and return in third countries, the exchange of sensitive non-classified information with third countries and the deployment of liaison officers and including detailed information on compliance with fundamental rights and international protection. The Agency shall make public all agreements, working arrangements, pilot projects and technical assistance projects with third countries.***

Amendment 368

Proposal for a regulation Article 74 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. The Agency shall ensure that information transferred or disclosed to third countries or international organisations is only processed for the purposes for which it was transferred or disclosed, and that data subjects can exercise their rights also in those third

countries or in relation to those international organisations.

Amendment 369

Proposal for a regulation Article 75 – paragraph 4

Text proposed by the Commission

Amendment

4. The Agency may provide assistance to return activities of third countries and ensure the coordination or the organisation of return operations, during which a number of returnees are returned from this third country to another third country. Such return operations may be organised with participation of one or more Member States ('mixed return operations') or as national return operations, in particular when this is justified by the priorities of the irregular migration policy of the Union. The participating Member States and the Agency shall ensure that the respect of fundamental rights and the proportionate use of means of constraints are guaranteed during the whole removal operation, notably with the presence of forced return monitors and of third-country forced return escorts.

deleted

Amendment 370

Proposal for a regulation Article 76 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Agency shall ensure that information transferred or disclosed to third countries is only processed for the purposes for which it was transferred or disclosed, and that data subjects can exercise their rights also in those third countries. To this end, any exchange of information under Article 73(1), which

provides a third country with information that could be used to identify persons or groups of persons whose request for access to international protection is under examination or who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.

Amendment 371

Proposal for a regulation Article 77 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. *The Commission shall not conclude any negotiations concerning agreements on cooperation between the Union and a third country under this Regulation until an assessment of the fundamental rights situation in that third country is concluded in accordance with Article 72(2a). This assessment shall be included in the consent procedure.*

Amendment 372

Proposal for a regulation Article 77 – paragraph 1

Text proposed by the Commission

Amendment

1. *The Commission shall negotiate the status agreement referred to in Article 74 (3) in accordance with Article 218(3) TFEU.*

deleted

Amendment 373

Proposal for a regulation Article 77 – paragraph 1 a (new)

1 a. *The Commission, after consulting the Member States and the Agency, shall draw up a model status agreement, which shall include the framework for the fundamental rights evaluation referred to in point (a) of Article 54(2), for actions conducted on the territory of third countries.*

Amendment 374

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Commission, after consulting the Member States and the Agency, shall draw up model provisions for the bilateral and multilateral agreements referred to in Article 71(2) and Article 73 for the exchange of information in the framework of EUROSUR as provided for in Article 76 (2).

Amendment

The Commission, after consulting the Member States and the Agency, shall **also** draw up model provisions for the bilateral and multilateral agreements referred to in Article 71(2) and Article 73 for the exchange of information in the framework of EUROSUR as provided for in Article 76 (2). **Model provisions shall include detailed measures ensuring the operationalisation of fundamental rights safeguards, the fundamental rights strategy in line with Article 81 and the code of conduct in line with Article 82.**

Amendment 375

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Commission, after consulting the Agency, shall draw up a model for the working arrangements referred to in Article 74.

Amendment

The Commission, after consulting the Agency, shall draw up a model for the working arrangements referred to in Article 74. **Such model shall include detailed measures ensuring the operationalisation of fundamental rights safeguards, the fundamental rights strategy in line with**

Amendment 376

Proposal for a regulation Article 77 – paragraph 3

Text proposed by the Commission

3. The Member States concerned shall notify existing bilateral and multilateral agreements referred to in Article 73 (1) to the Commission, which shall verify whether their provisions comply with this Regulation.

Amendment

3. The Member States concerned shall notify existing bilateral and multilateral agreements referred to in Article 73 (1) to the Commission, which shall ***inform the European Parliament, the Council and the Agency thereof and*** verify whether their provisions comply with this Regulation.

Amendment 377

Proposal for a regulation Article 77 – paragraph 4

Text proposed by the Commission

4. Before a new bilateral or multilateral agreement referred to in Article 73 (1) is concluded, the Member State(s) concerned shall notify it to the Commission, which shall verify whether its provisions comply with this Regulation and inform the Member State accordingly.

Amendment

4. Before a new bilateral or multilateral agreement referred to in Article 73 (1) is concluded, the Member State(s) concerned shall notify it to the Commission, which shall ***inform the European Parliament, the Council and the Agency thereof and*** verify whether its provisions comply with this Regulation and inform the Member State accordingly.

Amendment 378

Proposal for a regulation Article 77 – paragraph 6

Text proposed by the Commission

6. Before any working arrangements with third parties or third countries are concluded, the Agency shall notify them to

Amendment

6. Before any working arrangements with third parties or third countries are concluded, the Agency shall notify them to

the Commission, *which* shall give its *prior* approval. Once working arrangements are concluded, the Agency shall notify them to the Commission, which shall inform the European Parliament and the Council thereof.

the *European Parliament, to the Council and to the Commission. The Commission* shall give its approval *prior to the conclusion of such arrangements*. Once working arrangements are concluded, the Agency shall notify them to the Commission, which shall inform the European Parliament and the Council thereof.

Amendment 379

Proposal for a regulation Article 78 – paragraph 1

Text proposed by the Commission

1. The Agency may deploy experts from its statutory staff as liaison officers, who should enjoy the highest possible protection when carrying out their duties in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States, including the network set up pursuant to Regulation (EC) No 377/2004. By decision of the management board the Agency may lay down specific profiles of liaison officers, *such as return liaison officers*, depending on the operational needs with regard to the third country concerned.

Amendment

1. The Agency may deploy experts from its statutory staff as liaison officers, who should enjoy the highest possible protection when carrying out their duties in third countries. They shall form part of the local or regional cooperation networks of immigration liaison officers and security experts of the Union and of the Member States, including the network set up pursuant to Regulation (EC) No 377/2004. By decision of the management board the Agency may lay down specific profiles of liaison officers, depending on the operational needs with regard to the third country concerned.

Amendment 380

Proposal for a regulation Article 78 – paragraph 2

Text proposed by the Commission

2. Within the framework of the external action policy of the Union, priority for the deployment of liaison officers shall be given to those third countries which, on the basis of a risk analysis, constitute a country of origin or transit regarding

Amendment

2. Within the framework of the external action policy of the Union, priority for the deployment of liaison officers shall be given to those third countries which, on the basis of a risk analysis, constitute a country of origin or transit regarding

illegal immigration. The Agency may receive liaison officers posted by those third countries on a reciprocal basis. The management board shall, on a proposal of the executive director, adopt the list of priorities on a yearly basis. The deployment of liaison officers shall be approved by the management board upon the opinion of the Commission.

irregular migration. The Agency may receive liaison officers posted by those third countries on a reciprocal basis. The management board shall, on a proposal of the executive director, adopt the list of priorities on a yearly basis. The deployment of liaison officers shall be approved by the management board upon the opinion of the Commission.

Amendment 381

Proposal for a regulation Article 78 – paragraph 3

Text proposed by the Commission

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and respecting fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against ***illegal immigration*** and the return of returnees, including by providing technical assistance in identification of third-country nationals and the acquisition of travel documents. Those liaison officers shall coordinate closely with Union delegations ***and, where relevant, CSDP missions and operations.***

Amendment

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and respecting fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against ***irregular migration*** and the return of returnees, including by providing technical assistance in identification of third-country nationals and the acquisition of travel documents. Those liaison officers shall coordinate closely with Union delegations. ***They shall, wherever possible, have their offices in the same building. The Agency's liaison officers shall contribute to assessing the fundamental rights impact of the Agency's operations and cooperation with the third countries and shall report to the executive director and to the fundamental rights officer on their assessment.***

Amendment 382

Proposal for a regulation Article 79 – paragraph 1

Text proposed by the Commission

1. The Agency may, with the agreement of the Member States concerned, invite observers of Union institutions, bodies, offices, agencies or international organisations **and CSDP missions and operations** to participate in its activities, in particular joint operations and pilot projects, risk analysis and training, to the extent that their presence is in accordance with the objectives of those activities, may contribute to the improvement of cooperation and the exchange of best practices, and does not affect the overall safety and security of those activities. The participation of those observers in risk analysis and training may take place only with the agreement of the Member States concerned. As regards joint operations and pilot projects, the participation of observers shall be subject to the agreement of the host Member State. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive appropriate training from the Agency prior to their participation.

Amendment 383

Proposal for a regulation
Article 79 – paragraph 2

Text proposed by the Commission

2. The Agency may, with the agreement of the Member States concerned, invite observers from third countries to participate in its activities at the external borders referred to in Article 37, return operations referred to in Article 51, return interventions referred to in Article 54 and training referred to in Article 62, to the extent that their presence is in accordance with the objectives of those activities, may contribute to

Amendment

1. The Agency may, with the agreement of the Member States concerned, invite observers of Union institutions, bodies, offices, agencies or international organisations to participate in its activities, in particular joint operations and pilot projects, risk analysis and training, to the extent that their presence is in accordance with the objectives of those activities, may contribute to the improvement of cooperation and the exchange of best practices, and does not affect the overall safety and security of those activities **or pose risks to fundamental rights**. The participation of those observers in risk analysis and training may take place only with the agreement of the Member States concerned. As regards joint operations and pilot projects, the participation of observers shall be subject to the agreement of the host Member State. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive appropriate training from the Agency prior to their participation.

Amendment

2. The Agency may, with the agreement of the Member States concerned, invite observers from third countries to participate in its activities at the external borders referred to in Article 37, return operations referred to in Article 51, return interventions referred to in Article 54 and training referred to in Article 62, to the extent that their presence is in accordance with the objectives of those activities, may contribute to

improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities. The participation of those observers may take place only with the agreement of the Member States concerned **regarding the activities referred to in Articles 37, 43, 51 and 62 and only with the agreement of the host Member State regarding those referred to in Articles 37 and 54**. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive appropriate training from the Agency prior to their participation. They shall be required to adhere to the codes of conduct of the Agency while participating in its activities.

Amendment 384

Proposal for a regulation

Article 80 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Agency shall take over and operate False and Authentic Documents Online (FADO) which is a database that shall contain information on genuine travel and residence documents issued by Member States, third countries, territorial entities, international organisations and other entities subjects of international law and on falsifications thereof. The FADO system shall not contain any personal data.

Amendment 385

Proposal for a regulation

Chapter 3 a (new)

Text proposed by the Commission

improving cooperation and the exchange of best practices, and does not affect the overall safety of those activities **or the safety of third country nationals and the right to asylum**. The participation of those observers may take place only with the agreement of the Member States concerned. Detailed rules on the participation of observers shall be included in the operational plan. Those observers shall receive appropriate training from the Agency prior to their participation. They shall be required to adhere to the codes of conduct of the Agency while participating in its activities.

Amendment

The Agency shall take over and operate **the** False and Authentic Documents Online (FADO) **database established by Joint Action 98/700/JHA** which is a database that shall contain information on genuine travel and residence documents issued by Member States, third countries, territorial entities, international organisations and other entities subjects of international law and on falsifications thereof. The FADO system shall not contain any personal data.

Amendment

Joint parliamentary scrutiny

Article 80 a

Joint parliamentary scrutiny

1. In order to ensure parliamentary oversight of the Agency and to take into account the objective of shared responsibility at both the Union and national levels, as outlined in Article 7, the scrutiny functions attributed to the European Parliament by this Regulation shall be complemented by scrutiny exercised by a Joint Parliamentary Scrutiny Group (JPSG) established jointly by the national parliaments and the competent committee of the European Parliament.

2. The organisation and rules of procedure of the JPSG shall be determined jointly by the European Parliament and the national parliaments in accordance with Article 9 of Protocol No 1 on the role of national parliaments in the European Union, annexed to the TEU and to the TFEU. The rules of procedure shall contain provisions regarding the treatment and access of classified information and sensitive non-classified information in accordance with Article 91 of this Regulation. The rules of procedure shall also contain, amongst others, provisions regarding the frequency and location of meetings, the procedure of setting the agenda, clear decision-making provisions, the composition of the JPSG and information on the co-chairs of the JPSG, which shall be assigned to the competent committee of the European Parliament and the Member State holding the Presidency of the Council of the European Union in accordance with paragraph 3(b) of this Article. Members of the JPSG shall be chosen by their respective parliaments on the basis of their expertise on border management and the Agency with, where possible, a fixed mandate until the end of their mandate in their respective parliament. The European Parliament shall provide the secretariat of the JPSG.

3. The JPSG shall politically monitor the fulfilment by the Agency of its tasks and the fulfilment by the Member States of their responsibilities under this Regulation. For the purposes of the first subparagraph:

(a) the chairperson of the management board and the executive director shall appear before the JPSG at its request to discuss matters relating to the activities referred to in the first subparagraph;

(b) the Member State holding the Presidency of the Council of the European Union at the time of the meeting of the JPSG shall appear before the JPSG at its request to discuss matters relating to the activities referred to in the first subparagraph; where that Member State does not participate in the European Border and Coast Guard, the responsibility shall be taken up by the first Member State to both hold a subsequent Presidency and participate in the European Border and Coast Guard;

(c) the JPSG may decide to invite other relevant persons to its meetings, such as a representative of the consultative forum and the fundamental rights officer, to discuss general matters relating to the protection of fundamental rights.

4. The Agency shall transmit all the documents that it transmits to the European Parliament to the JPSG. Member States shall inform the JPSG, on an annual basis, about the fulfilment of their responsibilities under this Regulation.

Subject to Regulation (EC) No 1049/2001, the Agency shall provide the JPSG with any other document, upon its request, provided that the document is necessary for the fulfilment of its tasks relating to the political monitoring of the Agency's activities. The Member States shall provide the JPSG with any further

information it requests taking into account their obligations regarding discretion and confidentiality.

5. The JPSG may draw up summary conclusions on the political monitoring of the European Border and Coast Guard and submit those conclusions to the European Parliament and to the national parliaments. The European Parliament shall forward those conclusions, for information purposes, to the Council, to the Commission and to the Agency.

Amendment 386

Proposal for a regulation

Article 81 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter, relevant international law — including the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol thereto and obligations related to access to international protection, in particular the principle of non-refoulement.

Amendment

The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter **and** relevant international law — including the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol thereto, **the Convention on the Rights of the Child** and obligations related to access to international protection, in particular the principle of non-refoulement.

Amendment 387

Proposal for a regulation

Article 81 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For that purpose, the Agency shall draw up, further develop and implement a fundamental rights strategy including an effective mechanism to monitor the respect for fundamental rights in all the activities

Amendment

For that purpose, the Agency, **subject to the endorsement by the fundamental rights officer**, shall draw up, further develop and implement a fundamental rights strategy **and action plan**, including

of the Agency.

an effective mechanism to monitor the respect for fundamental rights in all the activities of the Agency. **Implementation of the strategy and action plan shall be reported by the fundamental rights officer in accordance with Article 107(2).**

Amendment 388

Proposal for a regulation Article 81 – paragraph 2

Text proposed by the Commission

2. In performing of its tasks, the European Border and Coast Guard shall ensure that no person is disembarked in, forced to enter, conducted to, or otherwise handed over or returned to, the authorities of a country in contravention of the principle of non-refoulement, or from which there is a risk of expulsion or return to another country in contravention of that principle.

Amendment

2. In performing of its tasks, the European Border and Coast Guard shall ensure that no person is disembarked in, forced to enter, conducted to, or otherwise handed over or returned to, the authorities of a country ***where there is, inter alia, a serious risk that he or she would be subjected to the death penalty, torture, persecution, or other inhuman or degrading treatment or punishment, 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,*** in contravention of the principle of non-refoulement, or from which there is a risk of expulsion, ***removal, extradition*** or return to another country in contravention of that principle.

Amendment 389

Proposal for a regulation Article 81 – paragraph 3 – subparagraph 1

Text proposed by the Commission

In performing of its tasks the European Border and Coast Guard shall take into account the special needs of children, unaccompanied minors, persons with disabilities, victims of trafficking in human beings, persons in need of medical

Amendment

In performing of its tasks the European Border and Coast Guard shall take into account ***and address*** the special needs of children, unaccompanied minors, persons with disabilities, victims of trafficking in human beings, persons in need of medical

assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment 390

Proposal for a regulation Article 81 – paragraph 4

Text proposed by the Commission

4. In performing its tasks, in its relations with Member States and in its cooperation with third countries, the Agency shall take into account the reports of the consultative forum referred to in Article 70 and the fundamental rights officer.

Amendment

4. In performing ***all*** its tasks, ***including the further development and implementation of an effective mechanism to monitor the respect for fundamental rights***, in its relations with Member States and in its cooperation with third countries, the Agency shall take into account the reports of the consultative forum referred to in Article 70 and the fundamental rights officer.

Amendment 391

Proposal for a regulation Article 83 – paragraph 1

Text proposed by the Commission

1. Members of the teams deployed from the European Border and Coast Guard standing corps shall have the capacity to perform all tasks and exercise all powers for border control and return as well as those which are necessary for the realisation of the objectives of ***Regulation*** (EU) 2016/399 ***and*** Directive 2008/115/EC.

Amendment

1. Members of the teams deployed from the European Border and Coast Guard standing corps shall have the capacity to perform all tasks and exercise all powers for border control and return as well as those which are necessary for the realisation of the objectives of ***Regulations*** (EU) No 656/2014 ***and*** (EU) 2016/399, ***as well as*** Directive 2008/115/EC.

Amendment 392

Proposal for a regulation Article 83 – paragraph 2

Text proposed by the Commission

2. While performing their tasks and exercising their powers, members of the teams shall comply with Union and international law and shall **observe** fundamental rights and the national law of the host Member State.

Amendment

2. While performing their tasks and exercising their powers, members of the teams shall comply with Union and international law and shall **ensure at all times the respect of** fundamental rights and **observe** the national law of the host Member State.

Amendment 393

Proposal for a regulation Article 83 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. When establishing an operational plan, the host Member State may limit the executive powers of the members of the teams in accordance with national law or operating procedures during operations. The specific executive powers which the members of the teams may exercise shall be presented in an operational plan as provided for in Article 39.

Amendment 394

Proposal for a regulation Article 83 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Members of the teams deployed from the Agency's statutory operational staff or deployed following secondment for a long-term duration to the Agency by the Member States shall wear, **where appropriate**, the uniform of the European Border and Coast Guard standing corps while performing their tasks and exercising their powers. Members of the teams deployed from Member States for a short duration shall wear, **where appropriate**, their own uniform while performing their

Amendment

Members of the teams deployed from the Agency's statutory operational staff or deployed following secondment for a long-term duration to the Agency by the Member States shall wear the uniform of the European Border and Coast Guard standing corps while performing their tasks and exercising their powers. Members of the teams deployed from Member States for a short duration shall wear their own uniform while performing their tasks and

tasks and exercising their powers.

exercising their powers.

Amendment 395

Proposal for a regulation Article 83 – paragraph 6

Text proposed by the Commission

6. While performing their tasks and exercising their powers, members of the teams shall be authorised to use force, including service weapons, ammunition and equipment, with the consent of the home Member State and the host Member State or, for the Agency's staff with the consent of the Agency, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State. The host Member State may, with the consent of the home Member State or the Agency where appropriate authorise members of the teams to use force in the absence of border guards of the host Member State.

Amendment

6. While performing their tasks and exercising their powers, members of the teams shall **may** be authorised to use force, including service weapons, ammunition and equipment, with the consent of the home Member State and the host Member State or, for the Agency's staff with the consent of the Agency **and the host Member State**, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State. The host Member State may, with the consent of the home Member State or the Agency where appropriate authorise members of the teams to use force in the absence of border guards of the host Member State.

Amendment 396

Proposal for a regulation Article 83 – paragraph 7

Text proposed by the Commission

7. Service weapons, ammunition and equipment may be used in legitimate self-defence and in legitimate defence of members of the teams or of other persons in accordance with the national law of the host Member State.

Amendment

7. Service weapons, ammunition and equipment may be used in legitimate self-defence and in legitimate defence of members of the teams or of other persons in accordance with the national law of the host Member State, **as well as with international human rights law and the Charter of Fundamental Rights**.

Amendment 397

Proposal for a regulation

Article 83 – paragraph 8 – subparagraph 1

Text proposed by the Commission

For the purpose of this Regulation, the host Member State shall authorise members of the teams to consult European databases the consultation of which is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return. The host Member State may also authorise them to consult its national databases where necessary for the same purpose. Member States shall ensure that they provide such database access in an efficient and effective manner. The members of the teams shall consult only those data which are **required** for performing their tasks and exercising their powers. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.

Amendment

For the purpose of this Regulation, the host Member State shall authorise members of the teams to consult European databases the consultation of which is necessary for fulfilling operational aims specified in the operational plan on border checks, border surveillance and return **in accordance with the legislative instruments establishing such databases**. The host Member State may also authorise them to consult its national databases where necessary for the same purpose. Member States shall ensure that they provide such database access in an efficient and effective manner. The members of the teams shall consult only those data which are **strictly necessary** for performing their tasks and exercising their powers. The host Member State shall, in advance of the deployment of the members of the teams, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.

Amendment 398

Proposal for a regulation

Article 83 – paragraph 8 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The host Member State's authorities shall be the data controllers for the processing of any personal data collected or processed by members of the teams while performing their tasks and exercising their powers.

Amendment 399

Proposal for a regulation

Article 85 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 94, where members of the teams are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

Amendment 400

**Proposal for a regulation
Article 86 – paragraph 1**

Text proposed by the Commission

Without prejudice to Article 94 during a joint operation, pilot project, migration management support team deployment, rapid border intervention, return operation or return intervention, members of the teams shall be treated in the same way as officials of the host Member State with regard to any criminal offences that might be committed against them or by them.

Amendment 401

**Proposal for a regulation
Article 87 – paragraph 1**

Text proposed by the Commission

1. The Agency shall apply [Regulation (EC) No 45/2001] when processing personal data.

Amendment 402

**Proposal for a regulation
Article 87 – paragraph 2**

Amendment

1. Without prejudice to Article 94 **and 96(-1) and (-1a)**, where members of the teams are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

Amendment

During a joint operation, pilot project, migration management support team deployment, rapid border intervention, return operation or return intervention, members of the teams, **including the Agency's statutory staff**, shall be treated in the same way as officials of the host Member State with regard to any criminal offences that might be committed against them or by them.

Amendment

1. The Agency shall apply Regulation (EU) 2018/1725 when processing personal data.

Text proposed by the Commission

2. The management board shall take the necessary **administrative** measures to apply [Regulation (EC) No 45/2001] by the Agency, **including those** concerning the data protection officer of the Agency.

Amendment

2. The management board shall take the necessary **implementing** measures to apply Regulation (EU) 2018/1725 by the Agency, **as well as implementing measures** concerning the data protection officer of the Agency, **in particular with a view to enable him or her to perform his or her tasks, duties and powers.**

Amendment 403

**Proposal for a regulation
Article 87 – paragraph 3**

Text proposed by the Commission

3. The Agency may transfer personal data to an authority of a third country or to an international organisation in accordance with the provisions of [Regulation (EC) No 45/2001] insofar as such transfer is necessary for the performance of the Agency's tasks in the area of return **activities. Where** in the framework of organising return operations the personal data of returnees are not transmitted to the carrier by a Member State, the Agency may also transfer such data under the same conditions. In **application of** [Article 25(1)(c)] **of** [Regulation (EC) No 45/2001], **[Article 19] thereof shall not apply to the processing of data for the purpose of return by the Agency, for as long as the third country national is not returned.** The Agency may provide for internal rules on restricting the application of the rights under [Articles 17 and 18] **of** [Regulation (EC) No 45/2011] on a case by case basis as long as the exercise of such right would risk to jeopardise the return procedure.

Amendment

3. The Agency may transfer personal data to an authority of a third country or to an international organisation in accordance with the provisions of [Regulation (EC) No 45/2001] insofar as such transfer is necessary for the performance of the Agency's tasks in the area of return **activities. Where** in the framework of organising return operations the personal data of returnees are not transmitted to the carrier by a Member State, the Agency may also transfer such data under the same conditions. In **accordance with** Article 25(1)(c) **of** Regulation (EU) 2018/1725, the Agency may provide for internal rules on restricting the application of the rights under Articles 17 and 18 **of that** Regulation on a case by case basis as long as the exercise of such right would risk to jeopardise the return procedure. **Such restrictions shall respect the essence of the right to protection of personal data and the right to private and family life and be necessary and proportionate to the objective pursued, taking into account the risks to those rights of the person concerned.**

Amendment 404

Proposal for a regulation Article 87 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *Any exchange of information which provides a third country with information that could be used to identify persons or groups of persons whose request for access to is or has been under examination or who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited. The Agency shall not disclose the fact that a person has lodged an application for international protection to a third country.*

Amendment 405

Proposal for a regulation Article 87 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *Onward transmission or other communication of information exchanged under this Regulation to other third countries or to third parties shall be prohibited.*

Amendment 406

Proposal for a regulation Article 87 a (new)

Text proposed by the Commission

Amendment

Article 87 a

Sources of personal data and ownership of data

1. *The Agency may process personal*

data relevant to its tasks as provided in this Regulation obtained from:

- (a) Member States;*
- (b) staff of the Agency;*
- (c) European Border and Coast Guard standing corps;*
- (d) other Union bodies, agencies and offices in particular those referred to in Article 69(1);*
- (e) third countries or international organisations;*
- (f) open sources.*

2. The party providing the personal data retains the ownership of that data as well as the responsibilities related to data accuracy. When personal data is provided by the sources referred to in points (b), (e) and (f) of paragraph 1 the responsibility lies with the Agency.

3. Information from open sources shall be assessed by the Agency in accordance with the following principles:

(a) the reliability of the source of information shall be assessed using the following source evaluation codes:

(A): where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is provided by a source which has proved to be reliable in all instances;

(B): where the information is provided by a source which has in most instances proved to be reliable;

(C): where the information is provided by a source which has in most instances proved to be unreliable;

(X): where the reliability of the source cannot be assessed;

(b) the accuracy of information shall be assessed using the following information evaluation codes:

(1): information the accuracy of which

is not in doubt;

(2): information known personally to the source but not known personally to the official passing it on;

(3): information not known personally to the source but corroborated by other information already recorded;

(4): information not known personally to the source and which cannot be corroborated.

Amendment 407

Proposal for a regulation

Article 88 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency may process personal data only for the following purposes:

Amendment

1. The Agency may process personal data only *where strictly necessary* for the following purposes:

Amendment 408

Proposal for a regulation

Article 88 – paragraph 1 – point a

Text proposed by the Commission

(a) performing its tasks *of organising and coordinating* joint operations, pilot projects, rapid border interventions and in the framework of the migration management support teams *in accordance with*;

Amendment

(a) performing its tasks *related to* joint operations, pilot projects, rapid border interventions and in the framework of the migration management support teams *as provided for in this Regulation*;

Amendment 409

Proposal for a regulation

Article 88 – paragraph 1 – point c

Text proposed by the Commission

(c) facilitating the exchange of

Amendment

(c) facilitating the exchange of

information with Member States, *EASO*, Europol or Eurojust in accordance with Article 89;

information with Member States, [*the European Union Agency for Asylum*], Europol or Eurojust in accordance with Article 89;

Amendment 410

Proposal for a regulation Article 88 – paragraph 2

Text proposed by the Commission

2. A Member State or other Union agency providing personal data to the Agency shall determine the purpose or the purposes for which those data shall be processed as referred to in paragraph 1. The Agency may process such personal data for a different purpose which also falls under paragraph 1 only if authorised by the provider of the personal data

Amendment

2. A Member State or other Union agency providing personal data to the Agency shall determine the purpose or the purposes for which those data shall be processed as referred to in paragraph 1. The Agency may process such personal data for a different purpose which also falls under paragraph 1 only if authorised by the provider of the personal data ***and only after having assessed that the change in purpose for such processing complies with the data protection principles of necessity and proportionality. The Agency shall keep written records of a case-by-case compatibility assessment when processing personal data under this paragraph.***

Amendment 411

Proposal for a regulation Article 88 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. In duly justified cases, the Agency through the implementing measures adopted in accordance with Article 87(2) may assign restrictions of use by Member States, Union bodies, third countries and international organisations of information and personal data retrieved from open sources.

Amendment 412

Proposal for a regulation

Article 89 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency shall only process the following categories of personal data collected and transmitted to it by the Member States, by its staff or by *EASO*, Europol or Eurojust in the context of joint operations, pilot projects and rapid border interventions, and by migration management support teams:

Amendment

1. The Agency shall only process the following categories of personal data collected and transmitted to it by the Member States, by its staff, ***by members of the European Border and Coast Guard standing corps*** or by ***[the European Union Agency for Asylum]***, Europol or Eurojust in the context of joint operations, pilot projects and rapid border interventions, and by migration management support teams:

Amendment 413

Proposal for a regulation

Article 89 – paragraph 1 – point a

Text proposed by the Commission

(a) personal data of persons who are suspected, on reasonable grounds, by the competent authorities of the Member States and *EASO*, Europol or Eurojust, of involvement in cross-border crime, ***such as migrant smuggling, trafficking in human beings or terrorism***;

Amendment

(a) personal data of persons who are suspected, on reasonable grounds, by the competent authorities of the Member States and ***[the European Union Agency for Asylum]***, Europol or Eurojust, of involvement in cross-border crime;

Amendment 414

Proposal for a regulation

Article 89 – paragraph 2 – point a

Text proposed by the Commission

(a) where exchange of information with *EASO*, Europol or Eurojust is necessary for use in accordance with their respective mandates and in accordance with Article 69;

Amendment

(a) where exchange of information with ***[the European Union Agency for Asylum]***, Europol or Eurojust is necessary for use in accordance with their respective mandates and in accordance with Article 69;

Amendment 415

Proposal for a regulation

Article 89 – paragraph 2 – point e

Text proposed by the Commission

(e) in specific cases, where the Agency becomes aware that personal data processed in the fulfilment of its tasks is strictly necessary to law enforcement authorities for the purposes of preventing, detecting, investigating or prosecuting serious crime

Amendment

(e) in specific cases, where the Agency becomes aware that **transmission of** personal data processed in the fulfilment of its tasks is strictly necessary to law enforcement authorities for the purposes of preventing, detecting, investigating or prosecuting serious crime.

Amendment 416

Proposal for a regulation

Article 89 – paragraph 3

Text proposed by the Commission

3. Personal data shall be deleted as soon as they have been transmitted to **EASO**, Europol or Eurojust or to the competent authorities of Member States or used for the preparation of risk analyses. The storage period shall, in any event, not exceed 90 days after the date of the collection of those data. In the results of risk analyses, data shall be anonymised. The provisions of this paragraph shall not apply to data processed for the purpose of performing return-related tasks.

Amendment

3. Personal data shall be deleted as soon as they have been transmitted to **[the European Union Agency for Asylum]**, Europol or Eurojust or to the competent authorities of Member States or used for the preparation of risk analyses. The storage period shall, in any event, not exceed 90 days after the date of the collection of those data. In the results of risk analyses, data shall be anonymised. The provisions of this paragraph shall not apply to data processed for the purpose of performing return-related tasks.

Amendment 417

Proposal for a regulation

Article 89 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Any exchange of information which provides a third country with information that could be used to identify persons or groups of persons whose

request for access to international protection is under examination of who are under a serious risk of being subjected to torture, inhuman or degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited

Amendment 418

Proposal for a regulation Article 90 – paragraph 1

Text proposed by the Commission

1. Where the national situational picture requires the processing of personal data, those data shall be processed in accordance with the relevant Union and national provisions on data protection. Each Member State shall designate the authority which is to be considered as controller in accordance with Article 4(7) of Regulation (EU) 2016/679 and which shall have central responsibility for the processing of data by that Member State. Each Member State shall notify the details of that authority to the Commission.

Amendment

1. Where the national situational picture requires the processing of personal data, those data shall be processed in accordance with the relevant Union and national provisions on data protection. Each Member State shall designate the authority which is to be considered as controller in accordance with Article 4(7) of Regulation (EU) 2016/679 and which shall have central responsibility for the processing of *personal* data by that Member State. Each Member State shall notify the details of that authority to the Commission.

Amendment 419

Proposal for a regulation Article 90 – paragraph 2

Text proposed by the Commission

2. Ship and aircraft identification numbers are the only personal data that *can* be processed in the European situational and specific situational pictures.

Amendment

2. Ship and aircraft identification numbers are the only personal data that *may* be processed in the European situational and specific situational pictures.

Amendment 420

Proposal for a regulation Article 90 – paragraph 3

Text proposed by the Commission

3. Any exchange of personal data with third countries in the framework of EUROSUR shall be strictly limited to what is absolutely necessary for the purposes of this Regulation. It shall be carried out in accordance with Regulation (EU) 2016/679, and the relevant national provisions on data protection.

Amendment

3. Any exchange of personal data with third countries in the framework of EUROSUR shall be strictly limited to what is absolutely necessary for the purposes of this Regulation. It shall be carried out in accordance with Regulation (EU) 2016/679 **or Directive (EU) 2016/680 as applicable**, and the relevant national provisions on data protection.

Amendment 421

**Proposal for a regulation
Article 90 – paragraph 4**

Text proposed by the Commission

4. Any exchange of information **under Article 73(2), Article 74(3) and Article 75(3)** which provides a third country with information that could be used to identify persons or groups of persons whose request for access to international protection is under examination or who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.

Amendment

4. Any exchange of information which provides a third country with information that could be used to identify persons or groups of persons whose request for access to international protection is under examination or who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.

Amendment 422

**Proposal for a regulation
Article 90 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4 a. Member States shall keep logs of all exchanges of information and personal data for the purposes of monitoring the lawfulness of data processing and ensuring compliance with this Regulation. The logs shall show, in particular, the date, the name of the third

country and the type of information shared.

Amendment 423

Proposal for a regulation Article 90 – paragraph 5

Text proposed by the Commission

5. ***Onward transmission or other communication of information exchanged under Article 73(2), Article 74(3) and Article 75(3) to other third countries or to third parties shall be prohibited.***

Amendment

5. ***Member States and the Agency shall ensure that information transferred or disclosed to third countries pursuant to Article 73(2), Article 74(3) and Article 75(3) is not transmitted onwards to other third countries or to any other third parties. Provisions in this regard shall be included in any agreement or arrangement concluded with a third country providing for the exchange of information.***

Amendment 424

Proposal for a regulation Article 91 – paragraph 2

Text proposed by the Commission

2. The security rules shall be adopted by the Management Board ***following approval by the Commission.***

Amendment

2. The security rules shall be adopted by the Management Board.

Amendment 425

Proposal for a regulation Article 91 – paragraph 3

Text proposed by the Commission

3. Classification shall not preclude information being made available to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament in accordance with this Regulation shall ***be***

Amendment

3. Classification shall not preclude information being made available to the European Parliament. The transmission and handling of information and documents transmitted to the European Parliament in accordance with this Regulation shall ***comply with rules concerning the***

approved by the Commission .

forwarding and handling of classified information which are applicable between the European Parliament and the Commission.

Amendment 426

Proposal for a regulation

Article 94 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The Management Board may grant a monthly differential payment to Agency statutory staff members. This differential payment shall be calculated as a percentage of the remuneration of each staff member concerned. That percentage shall not exceed the difference between 100% and the correction coefficient applicable in the place of employment and shall regularly be reviewed. ***Before granting this benefit, due account shall be taken of the overall remuneration received by individual staff members, including reimbursements of mission expenses.***

Amendment

The Management Board may grant a monthly differential payment to Agency statutory staff members ***when faced with difficulties in achieving its mission and tasks as set out in this Regulation.*** This differential payment shall be calculated as a percentage of the remuneration of each staff member concerned. That percentage shall not exceed the difference between 100% and the correction coefficient applicable in the place of employment and shall regularly be reviewed.

Amendment 427

Proposal for a regulation

Article 96 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. The Agency shall be liable for any activities it has undertaken in accordance with this Regulation.

Amendment 428

Proposal for a regulation

Article 96 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1 a. Where statutory staff of the Agency carry out the tasks referred to in Annex II the Agency shall be liable for any damage caused.

Amendment 429

Proposal for a regulation Article 96 a (new)

Text proposed by the Commission

Amendment

Article 96 a

Actions before the Court of Justice of the European Union

- 1. Proceedings may be brought before the Court of Justice of the European Union, in accordance with Article 263 TFEU, to challenge the legality of acts of the Agency.***
- 2. Member States, the Union institutions, and natural and legal persons, may institute proceedings before the Court of Justice of the European Union against acts of the Agency in accordance with Article 263 TFEU.***
- 3. In the event that the Agency has an obligation to act and fails to do so, proceedings for failure to act may be brought before the Court of Justice of the European Union in accordance with Article 265 TFEU.***
- 4. The Agency shall take the necessary measures to comply with judgments of the Court of Justice of the European Union.***

Amendment 430

Proposal for a regulation Article 97 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) consultative forum; **deleted**

Amendment 431

Proposal for a regulation

Article 97 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) a fundamental rights officer. **deleted**

Amendment 432

Proposal for a regulation

Article 97 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The following shall function independently outside the administrative and management structure:

(a) consultative forum;

(b) a fundamental rights officer.

Amendment 433

Proposal for a regulation

Article 98 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) appoint the executive director on a proposal from the Commission in accordance with Article 105; **deleted**

Amendment 434

Proposal for a regulation

Article 98 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) appoint the deputy executive directors on a proposal from the **Commission** in accordance with Article 105;

(b) appoint the deputy executive directors on a proposal from the **executive director** in accordance with Article 105;

Amendment 435

Proposal for a regulation

Article 98 – paragraph 2 – subparagraph 1 – point bb

Text proposed by the Commission

Amendment

(bb) adopt, **after the prior approval of the Commission**, the security rules of the Agency on protecting EU classified information and sensitive non-classified information as **referred** to in Article 91;

(bb) adopt the security rules of the Agency on protecting EU classified information and sensitive non-classified information as **referred** to in Article 91;

Amendment 436

Proposal for a regulation

Article 98 – paragraph 4

Text proposed by the Commission

Amendment

4. The management board may advise the executive director on any matter related to the development of operational management of the external borders **and** return, including activities related to research.

4. The management board may advise the executive director on any matter related to the development of operational management of the external borders, return **and training**, including activities related to research.

Amendment 437

Proposal for a regulation

Article 99 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to paragraph 3, the management board shall be composed of one representative of each Member State **and** two representatives of the

1. Without prejudice to paragraph 3, the management board shall be composed of one representative of each Member State, two representatives of the

Commission, all with a right to vote. To this effect, each Member State shall appoint a member of the management board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. The terms of office shall be extendable.

Commission ***and one representative of the European Parliament***, all with a right to vote. To this effect, each Member State shall appoint a member of the management board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. The ***European Parliament shall appoint one Member of the European Parliament from the competent committee and another Member of the European Parliament as his or her alternate. The*** duration of the terms of office shall be four years. The terms of office shall be extendable.

Amendment 438

Proposal for a regulation Article 100 – paragraph 1

Text proposed by the Commission

1. The management board shall, by 30 November each year, adopt a final programming document containing inter alia the Agency's multiannual programming and annual programming for the following year, based on a draft put forward by the executive director and endorsed by the management board. The final programming document shall be adopted after a positive opinion of the Commission, as regards the multiannual programming, after having consulted the European Parliament. If the Agency decides not to take into account elements of the opinion of the Commission, it shall provide a thorough justification. The management board shall forward the document to the European Parliament, to the Council and to the Commission.

Amendment

1. The management board shall, by 30 November each year, ***and taking into account the recommendations of the Inter-Institutional Working Group on agencies' resources***, adopt a final programming document containing inter alia the Agency's multiannual programming and annual programming for the following year, based on a draft put forward by the executive director and endorsed by the management board. The final programming document shall be adopted after a positive opinion of the Commission, as regards the multiannual programming, after having consulted the European Parliament. If the Agency decides not to take into account elements of the opinion of the Commission ***or the European Parliament***, it shall provide a thorough justification. The management board shall forward the document to the European Parliament, to the Council and to the Commission ***without delay***.

Amendment 439

Proposal for a regulation Article 100 – paragraph 3

Text proposed by the Commission

3. The multiannual programming shall set out overall strategic programming in the medium and long term, including objectives, expected results, performance indicators and resource planning, including the multiannual budget, staff and the development of the Agency's own capabilities. The multiannual programming shall set out the strategic areas of intervention and explain what needs to be done to achieve the objectives. It shall include a strategy for relations with third countries and international organisations as well as the actions linked to *that strategy*.

Amendment

3. The multiannual programming shall set out overall strategic programming in the medium and long term, including objectives, expected results, performance indicators and resource planning, including the multiannual budget, staff and the development of the Agency's own capabilities. The multiannual programming shall set out the strategic areas of intervention and explain what needs to be done to achieve the objectives. It shall include a strategy for ***the monitoring and respect for fundamental rights and for*** relations with third countries and international organisations as well as the actions linked to ***these strategies***.

Amendment 440

Proposal for a regulation Article 102 – paragraph 6

Text proposed by the Commission

6. Representatives of the European Union Agency for Asylum and EUROPOL shall be invited to attend the meetings of the Management Board. The management board may also invite a representative of relevant Union institutions, bodies, offices and agencies.

Amendment

6. Representatives of the European Union Agency for Asylum, ***the European Union Agency for Fundamental rights*** and EUROPOL shall be invited to attend the meetings of the Management Board. The management board may also invite a representative of ***other*** relevant Union institutions, bodies, offices and agencies.

Amendment 441

Proposal for a regulation Article 104 – paragraph 2

Text proposed by the Commission

2. The European Parliament or the Council may invite the executive director to report on the carrying out of his or her tasks. This includes reporting on the implementation and monitoring of the fundamental rights strategy, the annual activity report of the Agency for the previous year, the work programme for the following year and the Agency's multiannual programming or any other matter related to the activities of the Agency. The executive director shall also make a statement before the European Parliament, if requested **and report to it** regularly.

Amendment

2. The European Parliament or the Council may invite the executive director to report on the carrying out of his or her tasks. This includes reporting **on the activities of the Agency**, on the implementation and monitoring of the fundamental rights strategy, the annual activity report of the Agency for the previous year, the work programme for the following year and the Agency's multiannual programming or any other matter related to the activities of the Agency. The executive director shall also make a statement before the European Parliament, if requested, **and answer any question put forward by a Member of the European Parliament in writing within 15 calendar days. The executive director shall** report regularly **to the appropriate bodies and committees of the European Parliament. Except where specific deadlines are already provided for in this Regulation, the executive director shall ensure that reports are transmitted to the European Parliament within six months after the end of the reporting period unless a delay is duly justified in writing to the appropriate bodies and committees of the European Parliament.**

Amendment 442

**Proposal for a regulation
Article 105 – paragraph 1**

Text proposed by the Commission

1. The **Commission** shall **propose at least three candidates for the post of executive director and for the posts of each of the deputy executive directors** based on a list following publication of the post in the Official Journal of the European Union and, as appropriate, other press or

Amendment

1. The **European Parliament and the Council** shall **appoint by common accord the executive director** based on a list **drawn up by the Commission** following publication of the post in the Official Journal of the European Union and, as appropriate, other press or internet sites.

internet sites.

Amendment 443

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The executive director shall be **appointed by the management board** on the grounds of merit and documented high-level administrative and management skills, including relevant senior professional experience in the field of management of the external-borders and return, on the proposal from the Commission referred to in paragraph 1. Before appointment, the candidates proposed by the Commission shall be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.

Amendment

The executive director shall be **chosen** on the grounds of merit, **independence** and documented high-level administrative and management skills, including relevant senior professional experience in the field of management of the external-borders and return **and after demonstrating a thorough knowledge of the role and activities of the Agency**, on the proposal from the Commission referred to in paragraph 1. Before appointment, the candidates proposed by the Commission shall be invited to make a statement before the competent committee or committees of the European Parliament and answer questions put by its or their members.

Amendment 444

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Following such a statement, the European Parliament shall adopt an opinion setting out its views and may indicate a preferred candidate.

Amendment

deleted

Amendment 445

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The management board shall appoint the executive director taking these views into account. The management board shall take its decision by a two-thirds majority of all members with a right to vote.

deleted

Amendment 446

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Amendment

If the management board takes a decision to appoint a candidate other than the candidate whom the European Parliament indicated as its preferred candidate, the management board shall inform the European Parliament and the Council in writing of the manner in which the opinion of the European Parliament was taken into account.

deleted

Amendment 447

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 5

Text proposed by the Commission

Amendment

Power to dismiss the executive director shall lie with the ***management board***, acting on a proposal from the Commission.

Power to dismiss the executive director ***and the deputy executive directors*** shall lie with the ***European Parliament and the Council***, acting on a proposal from the Commission. ***The European Parliament or the Council may request the Commission to present such a proposal.***

Amendment 448

Proposal for a regulation

Article 105 – paragraph 2 – subparagraph 5 a (new)

The outgoing executive director or the deputy executive directors shall remain in office until the European Parliament and the Council appoint his or her replacement. In case of dismissal or if he or she no longer fulfils the conditions required for the performance of his or her duties, the termination of his or hers duties shall become effective immediately. The management board shall nominate an interim executive director or deputy executive director until a new executive director or deputy executive director has been appointed in accordance with paragraphs 1 or 4.

Amendment 449

Proposal for a regulation

Article 105 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The deputy executive directors shall be appointed by the management board on the grounds of merit and appropriate administrative and management skills, including relevant professional experience in the field of management of the external borders and return, ***on the proposals from the Commission referred to in paragraph 1***, after ***having consulted the*** executive director. The management board shall take its decision by a two-thirds majority of all members with a right to vote.

Amendment

The deputy executive directors shall be appointed by the management board ***on the proposal of the executive director. The deputy executive directors shall be appointed*** on the grounds of merit and appropriate administrative and management skills, including relevant professional experience in the field of management of the external borders and return ***and after demonstrating a thorough knowledge of the role and activities of the Agency. The executive director shall propose at least three candidates for the each post of deputy*** executive director. The management board shall take its decision by a two-thirds majority of all members with a right to vote. ***The outgoing deputy executive directors shall remain in office until the management board appoints their replacement in accordance with this paragraph.***

Amendment 450

Proposal for a regulation

Article 105 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The *management board* shall have the power to dismiss the deputy executive directors in accordance with the procedure set out in *the first subparagraph*.

Amendment

The *European Parliament and the Council* shall have the power to dismiss the deputy executive directors in accordance with the procedure set out in *paragraph 2*.

Amendment 451

Proposal for a regulation

Article 105 – paragraph 5

Text proposed by the Commission

5. The term of office of the executive director shall be five years. By the end of that period, 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.

Amendment

5. The term of office of the executive director shall be five years. By the end of that period, 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. *The European Parliament and the Council may extend the term of the executive director once, for another period of five years, by common accord.*

Amendment 452

Proposal for a regulation

Article 105 – paragraph 6

Text proposed by the Commission

6. *The management board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 5, may extend the term of office of the executive director once, for another period of up to five years.*

Amendment

deleted

Amendment 453

Proposal for a regulation Article 105 – paragraph 7

Text proposed by the Commission

7. The term of the office of the deputy executive directors shall be five years. It may be extended by the management board once, for another period of up to five years.

Amendment

7. The term of the office of the deputy executive directors shall be five years. It may be extended by the management board once, ***on the proposal of the executive director***, for another period of up to five years.

Amendment 454

Proposal for a regulation Article 106 – paragraph 1

Text proposed by the Commission

1. A consultative forum shall be established by the Agency to assist ***the executive director and the management board*** with independent advice in fundamental rights matters.

Amendment

1. A consultative forum shall be established by the Agency to assist ***it*** with independent advice in fundamental rights matters.

Amendment 455

Proposal for a regulation Article 106 – paragraph 2

Text proposed by the Commission

2. The Agency shall invite ***EASO***, the European Union Agency for Fundamental Rights, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the consultative forum. On a proposal by the ***executive director***, the management board shall decide on the composition of the consultative forum and the terms of the transmission of information to the consultative forum. The consultative forum

Amendment

2. The Agency shall invite ***[the European Union Agency for Asylum]***, the European Union Agency for Fundamental Rights, the United Nations High Commissioner for Refugees and other relevant organisations to participate in the consultative forum. On a proposal by the ***fundamental rights officer***, the management board shall decide on the composition of the consultative forum and the terms of the transmission of

shall, after consulting the management board and the executive director, define its working methods and set up its work programme.

information to the consultative forum. The consultative forum shall, after consulting the management board and the executive director, define its working methods and set up its work programme.

Amendment 456

Proposal for a regulation Article 106 – paragraph 3

Text proposed by the Commission

3. The consultative forum shall be consulted on the further development and implementation of the fundamental rights strategy, on the ***establishment of the*** complaints mechanism, on codes of conduct and on common core curricula.

Amendment

3. The consultative forum shall be consulted on the further development and implementation of the fundamental rights strategy, on the complaints mechanism, on codes of conduct, ***on working arrangements or other projects in cooperation with third countries, on operational plans*** and on common core curricula ***as well as on establishing the criteria referred to in Article 12 and Article 24. The Agency shall inform the consultative forum whether and how it has implemented the reports and recommendations of the consultative forum.***

Amendment 457

Proposal for a regulation Article 106 – paragraph 5

Text proposed by the Commission

5. Without prejudice to the tasks of the fundamental rights officer, the consultative forum shall have effective access to all information concerning the respect for fundamental rights, including by carrying out on-the-spot visits to joint operations or rapid border interventions subject to the agreement of the host Member State, ***and*** to hotspot areas ***or controlled centres***, return operations and

Amendment

5. Without prejudice to the tasks of the fundamental rights officer, the consultative forum shall have effective access to all information concerning the respect for fundamental rights ***in a timely and effective manner***, including by carrying out on-the-spot visits to joint operations or rapid border interventions subject to the agreement of the host Member State, to hotspot areas ***and to*** return operations and return interventions,

return interventions.

including in third countries. Where the host Member State exceptionally does not agree with an on-the-spot visit of the consultative forum to a joint operation or rapid border intervention carried out in its territory it shall provide duly justified reasons in a letter to the executive director and the management board.

The consultative forum shall be supported by a secretariat which shall have sufficient financial and human resources to assist the forum in its tasks.

Amendment 458

Proposal for a regulation Article 107 – paragraph 1

Text proposed by the Commission

1. A fundamental rights officer shall be appointed by the management board. He or she shall have the tasks of contributing to the Agency's fundamental rights strategy, of monitoring its compliance with fundamental rights and of promoting its respect of fundamental rights. The fundamental rights officer shall have the necessary qualifications and experience in the field of fundamental rights.

Amendment

1. A fundamental rights officer shall be appointed by the management board, ***based on a list of three candidates recommended by the consultative forum.*** He or she shall have the tasks of contributing to the Agency's fundamental rights strategy, of monitoring its compliance with fundamental rights and of promoting its respect of fundamental rights. The fundamental rights officer shall have the necessary qualifications and, ***expert knowledge and professional*** experience in the field of fundamental rights.

Amendment 459

Proposal for a regulation Article 107 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The fundamental rights officer shall have the power to conduct investigations into any of the activities of the Agency to verify the respect of

fundamental rights. He or she shall advise the Agency without delay by issuing formal opinions prior to any activity of the Agency under this Regulation and by issuing recommendations for improving the Agency's fundamental rights strategy which requires his or her endorsement, as well as by establishing the conditions for compliance with fundamental rights and promoting respect of fundamental rights. The fundamental rights officer shall also be responsible for further developing and implementing the complaints mechanism.

Amendment 460

Proposal for a regulation Article 107 – paragraph 2

Text proposed by the Commission

2. The fundamental rights officer shall be independent in the performance of his or her duties. He or she shall report directly to the management board and *cooperate with* the consultative forum. The fundamental rights officer shall *so* report on *a regular basis and as such contribute to the mechanism for monitoring* fundamental rights.

Amendment

2. *Special rules applicable to* the fundamental rights officer shall be *laid down by the Agency, in consultation with the consultative forum and the fundamental rights officer, in order to guarantee that the fundamental rights officer is* independent in the performance of his or her duties. He or she shall report directly to the management board and the consultative forum. The fundamental rights officer shall *publish an annual* report on *his or her activities and on the respect of fundamental rights in all activities of the Agency. Those reports shall include information on the complaints mechanism and the implementation of the fundamental rights strategy. The management board shall ensure that action is taken with regard to recommendations of the fundamental rights officer.*

Amendment 461

Proposal for a regulation Article 107 – paragraph 2 a (new)

2 a. *The fundamental rights officer shall have full administrative autonomy and independence in the conduct of his or her duties. He or she shall not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his or her appointment, are assigned to him or her under this Regulation. The fundamental rights officer shall have adequate resources and staff at his or her disposal, necessary for the fulfilment of his or her the tasks of and corresponding to the mandate and the size of the Agency. Staff allocated to the fundamental rights officer shall report to him or her. Any regular or extraordinary assignment of staff to the Agency shall be accompanied with the proportional allocation of staff to support the fundamental rights officer.*

Amendment 462

**Proposal for a regulation
Article 107 – paragraph 2 b (new)**

2 b. *The fundamental rights officer shall be assisted by a deputy fundamental rights officer. A deputy fundamental rights officer shall be appointed by the management board from a list of at least three candidates presented by the fundamental rights officer. The deputy fundamental rights officer shall have the necessary qualifications and experience in the field of fundamental rights. If the fundamental rights officer is absent or indisposed, the deputy fundamental rights officer shall take his or her place.*

Amendment 463

Proposal for a regulation Article 107 – paragraph 3

Text proposed by the Commission

3. The fundamental rights officer shall be consulted on the operational plans drawn up in accordance with Articles 39, **43, 54(4) and 75(3)**. He or she shall have access to all information concerning respect for fundamental rights in all the activities of the Agency.

Amendment

3. The fundamental rights officer shall be consulted on the operational plans drawn up in accordance with Articles 39, **40, 41, 43, 51, 54 and 75 as well as on pilot projects and technical assistance projects in third countries**. He or she shall have access to all information concerning respect for fundamental rights in all the activities of the Agency, **including by carrying out on-the-spot visits to any joint operation, rapid border intervention, pilot project, migration management support team, return operation or return intervention, including in third countries**.

Amendment 464

Proposal for a regulation Article 108 – paragraph 1

Text proposed by the Commission

1. The Agency shall, in cooperation with the fundamental rights officer, take the necessary measures to set up **a** complaints mechanism in accordance with this Article to monitor and ensure the respect for fundamental rights in all the activities of the Agency.

Amendment

1. The Agency shall, in cooperation with the fundamental rights officer, take the necessary measures to set up **and further develop an independent and effective** complaints mechanism in accordance with this Article to monitor and ensure the respect for fundamental rights in all the activities of the Agency.

Amendment 465

Proposal for a regulation Article 108 – paragraph 2

Text proposed by the Commission

2. Any person who is directly affected by the actions of staff involved in a joint

Amendment

2. Any person who is directly affected by the actions **or omissions** of staff

operation, pilot project, rapid border intervention, migration management support team deployment, joint return operation *or* return intervention and who considers him or herself to have been the subject of a breach of his or her fundamental rights due to those actions, or any party representing such a person, may submit a complaint in writing to the Agency.

involved in a joint operation, pilot project, rapid border intervention, migration management support team deployment, joint return operation, return intervention *or any other operational action of the Agency* and who considers him or herself to have been the subject of a breach of his or her fundamental rights due to those actions *or omissions*, or any party representing such a person, may submit a complaint in writing to the Agency.

Amendment 466

Proposal for a regulation Article 108 – paragraph 3

Text proposed by the Commission

3. Only substantiated ***complaints involving*** concrete fundamental rights violations shall be admissible.

Amendment

3. Only ***complaints that are*** substantiated ***and involve*** concrete fundamental rights violations shall be admissible. ***Complaints which are ill founded, malicious, frivolous, vexatious, hypothetical or unidentifiable shall be excluded from the complaints mechanism.***

Amendment 467

Proposal for a regulation Article 108 – paragraph 4

Text proposed by the Commission

4. The fundamental rights officer shall be responsible for handling complaints received by the Agency in accordance with the right to good administration. For this purpose, the fundamental rights officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the executive director, ***forward*** complaints concerning members of the teams to the home Member State, ***inform*** the relevant authority or body competent for fundamental rights in a Member State, ***and***

Amendment

4. The fundamental rights officer shall be responsible for handling complaints received by the Agency in accordance with the right to good administration. For this purpose, the fundamental rights officer shall review the admissibility of a complaint, register admissible complaints, forward all registered complaints to the executive director ***and*** complaints concerning members of the teams to the home Member State, ***including*** the relevant authority or body competent for fundamental rights in a Member State ***for***

register and ensure the follow-up by the Agency or that Member State.

further action in accordance with their mandate, within a specified time. The fundamental rights officer shall also register and ensure the follow-up by the Agency or that Member State.

Amendment 468

Proposal for a regulation

Article 108 – paragraph 5 – subparagraph 1

Text proposed by the Commission

In accordance with the right to good administration, if a complaint is admissible, complainants shall be informed that a complaint has been registered, that an assessment has been initiated and that a response may be expected as soon as it becomes available. If a complaint is forwarded to national authorities or bodies, the complainant shall be provided with their contact details. If a complaint is *not admissible*, complainants shall be informed of the reasons and, if possible, provided with further options for addressing their concerns.

Amendment

In accordance with the right to good administration, if a complaint is admissible, complainants shall be informed that a complaint has been registered, that an assessment has been initiated and that a response may be expected as soon as it becomes available. If a complaint is forwarded to national authorities or bodies, the complainant shall be provided with their contact details. If a complaint is *declared inadmissible*, complainants shall be informed of the reasons and, if possible, provided with further options for addressing their concerns. ***Complainants shall be granted the possibility to appeal a decision declaring the complaint inadmissible to the European Ombudsman.***

Amendment 469

Proposal for a regulation

Article 108 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Any decision shall be in written form and reasoned.

Amendment

Any decision shall be in written form and reasoned. ***The fundamental rights officer shall reopen the case if the complainant submits new evidence in situations where the case has been deemed inadmissible.***

Amendment 470

Proposal for a regulation

Article 108 – paragraph 6 – subparagraph 1

Text proposed by the Commission

In **the** case of a registered complaint concerning a staff member of the Agency, the **executive director** shall ensure appropriate follow-up, **in consultation with the fundamental rights officer**, including disciplinary measures as necessary. The executive director shall report back within a determined timeframe to the fundamental rights officer as to the findings and follow-up **made by the Agency in response** to a complaint, **including disciplinary measures as necessary**.

Amendment

In case of a registered complaint concerning a staff member of the Agency, the **fundamental rights officer** shall ensure appropriate follow-up, including **recommending** disciplinary measures **to the executive director, and referral to civil or criminal justice procedures** as necessary **in accordance with this Regulation and national law**. The executive director shall report back **to the fundamental rights officer regarding the implementation of disciplinary measures** within a determined timeframe, **and if necessary, at regular intervals thereafter. Where the executive director decides not to follow up the recommendation, he or she shall provide the reasons without delay. In the case of civil or criminal justice proceedings, the relevant Member State shall report back** to the fundamental rights officer as to the findings and follow-up to a complaint **within a determined timeframe, and if necessary, at regular intervals thereafter. Where the relevant Member State does not report back, the Agency shall send a letter of warning recalling the possible actions which the Agency can take if no follow-up is received to the letter.**

Amendment 471

Proposal for a regulation

Article 108 – paragraph 6 – subparagraph 2

Text proposed by the Commission

If a complaint is related to data protection issues, the executive director shall **involve the data protection officer of the Agency**. The fundamental rights officer and the data

Amendment

If a complaint is related to data protection issues, the executive director shall **consult the Agency's data protection officer before taking his or her decision on the**

protection officer shall establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation as regards complaints received.

complaint. The fundamental rights officer and the data protection officer shall establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation as regards complaints received.

Amendment 472

Proposal for a regulation Article 108 – paragraph 7

Text proposed by the Commission

7. ***If a complaint is registered that concerns a team member*** of a host Member State or a team member from other participating Member States, including a seconded member of the teams or seconded national expert, the home Member State shall ensure appropriate follow-up, including disciplinary measures as necessary or other measures in accordance with national law. The relevant Member State shall report back to the fundamental rights officer as to the findings and follow-up ***made in response to the*** complaint within ***a determined time period***, and if necessary, at regular intervals thereafter. The Agency shall follow-up ***the matter if no*** report is received from the relevant Member State.

Amendment

7. ***In case of a registered complaint concerning a border guard*** of a host Member State or a team member from other participating Member States, including a seconded member of the teams or seconded national expert, the home Member State shall ensure appropriate follow-up, including disciplinary measures ***and referral to civil or criminal justice procedures*** as necessary or other measures in accordance with national law. The relevant Member State shall report back to the fundamental rights officer as to the findings and follow-up ***to a*** complaint within ***one year***, and if necessary, at regular intervals thereafter. ***In case the relevant Member State does not report back***, the Agency shall ***send a letter of warning recalling the possible actions which the Agency can take if no*** follow-up is received ***to the letter***. ***In such a case, the fundamental rights officer shall inform the management board and the relevant authority or body competent for fundamental rights in a Member State as referred to in paragraph 4. The Agency may suspend the deployment of that team member and financing of such deployment under Article 61 if the*** report is ***not*** received from the relevant Member State.

Amendment 473

Proposal for a regulation Article 108 – paragraph 8

Text proposed by the Commission

8. Where a team member is found to have violated fundamental rights or international protection obligations, the Agency *may* request that the Member State remove that member immediately from the activity of the Agency or the European Border and Coast Guard standing corps.

Amendment

8. Where a team member is found to have violated fundamental rights or international protection obligations, the Agency *shall* request that the Member State remove that member immediately from the activity of the Agency or the European Border and Coast Guard standing corps.

Amendment 474

Proposal for a regulation Article 108 – paragraph 9

Text proposed by the Commission

9. The fundamental rights officer shall report *to the executive director and to the management board as* to the Agency's and Member States' findings and *follow-up* made in response to complaints. *The Agency shall include information on the complaints mechanism in its annual report.*

Amendment

9. The fundamental rights officer shall *in his or her annual* report *include information on the complaints mechanism, including specific references* to the Agency's and Member States' findings and *follow-ups* made in response to complaints.

Amendment 475

Proposal for a regulation Article 108 – paragraph 10 – subparagraph 2

Text proposed by the Commission

The Agency shall ensure that information about the possibility and procedure for making a complaint is readily available, including for vulnerable persons. The standardised complaint form shall be made available on the Agency's website and in hardcopy during all activities of the Agency, in languages that third-country

Amendment

The Agency shall ensure that information about the possibility and procedure for making a complaint is readily available, including for vulnerable persons. The standardised complaint form shall be made available *and be easily accessible* on the Agency's website, *ensuring easy use on mobile devices*, and in hardcopy during all

nationals understand or are reasonably believed to understand. Complaints shall be considered by the fundamental rights officer even when they are not submitted in the standardised complaint form.

activities of the Agency in languages that third-country nationals understand or are reasonably believed to understand. ***The Agency shall ensure that further guidance and assistance on the complaints procedure is provided to complainants.*** Complaints shall be considered by the fundamental rights officer even when they are not submitted in the standardised complaint form.

Amendment 476

Proposal for a regulation

Article 108 – paragraph 11 – subparagraph 1

Text proposed by the Commission

Any personal data contained in a complaint shall be handled and processed by the Agency including the fundamental rights officer in accordance with ~~/Regulation (EC) No 45/2001/~~ and by Member States in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680.

Amendment

Any personal data contained in a complaint shall be handled and processed by the Agency including the fundamental rights officer in accordance with Regulation (EU) **2018/1725** and by Member States in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680.

Amendment 477

Proposal for a regulation

Article 108 – paragraph 11 – subparagraph 2

Text proposed by the Commission

When a complainant submits a complaint, that complainant shall be understood to consent to the processing of his or her personal data by the Agency and the fundamental rights officer within the meaning of point (d) of Article 5 of ~~/Regulation (EC) No 45/2001/~~.

Amendment

When a complainant submits a complaint, that complainant shall be understood to consent to the processing of his or her personal data by the Agency and the fundamental rights officer within the meaning of point (d) of Article 5 of Regulation (EU) **2018/1725**.

Amendment 478

Proposal for a regulation

Article 110 – paragraph 2

Text proposed by the Commission

2. The Agency shall communicate on matters falling within the scope of its tasks on its own initiative. It shall make public relevant information including the annual activity report referred to in point **(10)** of Article 98(2) and ensure, without prejudice to Article 91, in particular that the public and any interested party are rapidly given objective, comprehensive, reliable and easily understandable information with regard to its work. It shall do so without revealing operational information which, if made public, would jeopardise attainment of the objective of operations.

Amendment

2. The Agency shall communicate on matters falling within the scope of its tasks on its own initiative. It shall make public relevant information including the annual activity report referred to in point **(j)** of Article 98(2), ***the annual work programme, the code of conduct, the risk analyses, detailed descriptions of past and current joint operations, rapid border interventions, pilot projects, migration management support teams, return operations or return interventions, including in third countries, and working arrangements*** and ensure, without prejudice to Article 91, in particular that the public and any interested party are rapidly given objective, ***detailed***, comprehensive, reliable and easily understandable information with regard to its work. It shall do so without revealing operational information which, if made public, would jeopardise attainment of the objective of operations.

Amendment 479

Proposal for a regulation

Article 111 – paragraph 5 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

The provisional draft estimate shall be based on the detailed objectives and the expected results of the annual work programme and shall take into account the financial resources necessary to achieve those objectives and results, in accordance with the principle of performance-based budgeting.

Amendment 480

Proposal for a regulation

Article 114 – paragraph 1 a (new)

The Agency shall ensure lobby transparency through a transparency register by disclosing all its meetings with third party stakeholders. The transparency register shall include all meetings and contacts of the executive director, deputy executive directors and heads of division in matters concerning procurements and tenders for services, equipment or outsourced projects and studies. The Agency shall keep a record of all meetings of its staff with third party stakeholders.

Amendment 481

Proposal for a regulation

Article 116 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

By **[31 May 2023]** and every four years thereafter, the Commission shall carry-out an evaluation of this Regulation. The evaluation will assess in particular:

By ... **[two years after the entry into force of this Regulation]**, and every four years thereafter, the Commission shall carry-out an evaluation of this Regulation. The evaluation will assess in particular:

Amendment 482

Proposal for a regulation

Article 116 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the results achieved by the Agency having regard to its objectives, mandate **and** tasks;

(a) the results achieved by the Agency having regard to its objectives, mandate, tasks **and compliance with the Charter of Fundamental Rights**;

Amendment 483

Proposal for a regulation

Article 116 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The evaluation shall include a specific analysis on the way the Charter and other relevant Union law has been complied with in the application of this Regulation.

Amendment

The evaluation shall include a specific analysis on the way the Charter and other relevant Union law has been complied with in the application of this Regulation. ***This analysis shall be carried out in consultation with the European Union Agency for Fundamental Rights and the consultative forum.***

Amendment 484

Proposal for a regulation

Article 116 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

As part of the evaluation, the Commission shall provide an overall evaluation of the Agency in light of its operational performance in the field of external border management and, in particular, in carrying out border control and return tasks on behalf of the Member States or third countries.

Amendment 485

Proposal for a regulation

Article 116 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall send the evaluation report together with its conclusions on the report to the European Parliament, to the Council and to the management board. The management board may issue recommendations regarding changes to this Regulation to the Commission. The evaluation report and the conclusions on the report shall be made public. The Member States and the Agency shall provide the Commission with the

2. The Commission shall send the evaluation report together with its conclusions on the report ***without delay*** to the European Parliament, to the Council and to the management board. The management board may issue recommendations regarding changes to this Regulation to the Commission. The evaluation report and the conclusions on the report shall be made public. The Member States and the Agency shall provide the Commission with the

information necessary to draft this report.

information necessary to draft this report.

Amendment 486

Proposal for a regulation

Article 116 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall provide the Agency with the information necessary to draft *that*s report.

Amendment

Member States shall provide the Agency with the information necessary to draft *this* report.

Amendment 487

Proposal for a regulation

Article 117 – paragraph 4

Text proposed by the Commission

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Amendment

deleted

Amendment 488

Proposal for a regulation

Article 118 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 8 (4) shall be conferred on the Commission for an undetermined period of time from [the date of entry into force of this Regulation].

Amendment

2. The power to adopt delegated acts referred to in *Articles 8(4) and (8) and Article 55(6a)* shall be conferred on the Commission for an undetermined period of time from [the date of entry into force of this Regulation].

Amendment 489

Proposal for a regulation

Article 118 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Article 8 (4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in **Articles 8(4) and (8) and Article 55(6a)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 490

**Proposal for a regulation
Article 118 – paragraph 6**

Text proposed by the Commission

6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to **Articles 8(4) and (8) and Article 55(6a)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 491

**Proposal for a regulation
Article 119 – paragraph 2**

Text proposed by the Commission

2. Regulation (EU) 2016/1624 is repealed with the exception of Articles 20, 30 and 31 thereof which are repealed with

Amendment

2. Regulation (EU) 2016/1624 is repealed with the exception of Articles 20, **29**, 30 and 31 thereof which are repealed

effect from *1 January 2020*.

with effect from *[two years after the entry into force of this Regulation]*.

Amendment 492

Proposal for a regulation Article 119 – paragraph 3

Text proposed by the Commission

3. Joint Action 98/700/JHA is repealed with effect from the date of the effective implementation of the system referred to in Article 80, to be decided by an implementing act adopted in accordance with the procedures referred to in the Article 117.

Amendment

3. Joint Action 98/700/JHA is repealed with effect from the date of the effective implementation of the system referred to in Article 80, to be decided by an implementing act adopted *by ... [one year after the entry into force of this Regulation]* in accordance with the procedures referred to in the Article 117.

Amendment 493

Proposal for a regulation Article 120 – paragraph 5

Text proposed by the Commission

5. Deployments in accordance with *Article 55 to 58* shall take place as *of 1 January 2020*.

Amendment

5. Deployments in accordance with *Articles 55 to 58a* shall take place as *soon as the first operational staff are recruited or seconded to the Agency in line with the deadlines laid down in Annex I to this Regulation*.

Amendment 494

Proposal for a regulation Annex I – paragraph 1

Text proposed by the Commission

Composition of the European Border and Coast Guard standing corps per year and category in accordance with *Article XX*

Amendment

Composition of the European Border and Coast Guard standing corps per year and category in accordance with *Articles 55 to 58a*.

Amendment 495

Proposal for a regulation Annex I – table

Text proposed by the Commission

Category Year	Category 1 Agency Staff	Category 2 Operational staff for long term secondments	Category 3 Operational staff for short term deployments	Total for the European Border and Coast Guard standing Corps
2020	1500	1500	7000	10000
2021	2000	2000	6000	10000
2022	2000	2000	6000	10000
2023	2500	2500	5000	10000
2024	2500	2500	5000	10000
2025	3000	3000	4000	10000
2026	3000	3000	4000	10000
2027	3000	3000	4000	10000

Amendment

Category Year	Category 1 Agency staff	Category 2 Operational staff for long-term secondments	Category 3 Operational staff for short-term deployments	Category 4 Rapid reaction pool	Total for the European Border and Coast Guard standing corps
[Year of Entry into Force +2]	750	750	2.000	1.500	5.000
[Year of Entry into Force	1.000	1.000	2.500	1.500	6.000

+3]					
[Year of Entry into Force +4]	1.500	1.500	2.500	3.000	8.500
[Year of Entry into Force +5]	2.000	2.000	3.000	3.000	10.000

Amendment 496

Proposal for a regulation Annex II – point 5

Text proposed by the Commission

Amendment

5. issuing or refusing of visas at the border in accordance with Article 35 of the Visa Code and introduce the relevant data in VIS; **deleted**

Amendment 497

Proposal for a regulation Annex III – table

Text proposed by the Commission

Country / Year	2020	2021	2022	2023	2024	2025	2026	2027
Belgium	30	40	40	50	50	60	60	60
Bulgaria	40	53	53	67	67	80	80	80
Czech Republic	20	27	27	33	33	40	40	40
Denmark	29	39	39	48	48	58	58	58
Germany	225	298	298	377	377	450	450	450
Estonia	18	24	24	30	30	36	36	36
Greece	50	67	67	83	83	100	100	100
Spain	111	148	148	185	185	222	222	222
France	170	225	225	285	285	340	340	340

Croatia	65	87	87	108	108	130	130	130
Italy	125	167	167	208	208	250	250	250
Cyprus	8	11	11	13	13	16	16	16
Latvia	30	40	40	50	50	60	60	60
Lithuania	39	52	52	65	65	78	78	78
Luxembourg	8	11	11	13	13	16	16	16
Hungary	65	87	87	108	108	130	130	130
Malta	6	8	8	10	10	12	12	12
Netherlands	50	67	67	83	83	100	100	100
Austria	34	45	45	57	57	68	68	68
Poland	100	133	133	167	167	200	200	200
Portugal	47	63	63	78	78	94	94	94
Romania	75	100	100	125	125	150	150	150
Slovenia	35	47	47	58	58	70	70	70
Slovakia	35	47	47	58	58	70	70	70
Finland	30	40	40	50	50	60	60	60
Sweden	17	23	23	28	28	34	34	34
[Switzerland]	16	21	21	27	27	32	32	32
[Iceland]	2	3	3	3	3	4	4	4
[Liechtenstein]*	0	0	0	0	0	0	0	0
[Norway]	20	27	27	33	33	40	40	40
TOTAL	1500	2000	2000	2500	2500	3000	3000	3000

(*) Liechtenstein will contribute through proportional financial support

Amendment

Country / Year	<i>[Year of Entry into Force +2]</i>	<i>[Year of Entry into Force +3]</i>	<i>[Year of Entry into Force +4]</i>	<i>[Year of Entry into Force +5]</i>
Belgium	15	20	30	40
Bulgaria	20	27	40	53
Czech Republic	10	13	20	27
Denmark	14	19	29	39
Germany	113	151	225	298
Estonia	9	12	18	24
Greece	25	33	50	67
Spain	56	75	111	148
France	85	113	170	225
Croatia	33	44	65	87
Italy	63	84	125	167
Cyprus	4	5	8	11

Latvia	15	20	30	40
Lithuania	19	25	39	52
Luxembourg	4	5	8	11
Hungary	33	44	65	87
Malta	3	3	6	8
Netherlands	25	33	50	67
Austria	17	23	34	45
Poland	50	67	100	133
Portugal	23	31	47	63
Romania	38	51	75	100
Slovenia	17	23	35	47
Slovakia	17	23	35	47
Finland	15	20	30	40
Sweden	8	11	17	23
[Switzerland]	8	11	16	21
[Iceland]	1	1	2	3
[Liechtenstein]*	0	0	0	0
[Norway]	10	13	20	27
TOTAL	750	1.000	1.500	2.000

(*) Liechtenstein will contribute through proportional financial support

Amendment 498

Proposal for a regulation Annex IV – table

Text proposed by the Commission

Country / Year	2020	2021	2022	2023	2024	2025	2026	2027
Belgium	140	120	120	100	100	80	80	80
Bulgaria	187	160	160	133	133	107	107	107
Czech Republic	93	80	80	67	67	53	53	53
Denmark	135	116	116	97	97	77	77	77
Germany	1052	900	900	748	748	602	602	602
Estonia	84	72	72	60	60	48	48	48
Greece	233	200	200	167	167	133	133	133
Spain	518	444	444	370	370	296	296	296
France	795	680	680	565	565	455	455	455
Croatia	303	260	260	217	217	173	173	173

Italy	583	500	500	417	417	333	333	333
Cyprus	37	32	32	27	27	21	21	21
Latvia	140	120	120	100	100	80	80	80
Lithuania	182	156	156	130	130	104	104	104
Luxembourg	37	32	32	27	27	21	21	21
Hungary	303	260	260	217	217	173	173	173
Malta	28	24	24	20	20	16	16	16
Netherlands	233	200	200	167	167	133	133	133
Austria	159	136	136	113	113	91	91	91
Poland	467	400	400	333	333	267	267	267
Portugal	219	188	188	157	157	125	125	125
Romania	350	300	300	250	250	200	200	200
Slovenia	163	140	140	117	117	93	93	93
Slovakia	163	140	140	117	117	93	93	93
Finland	140	120	120	100	100	80	80	80
Sweden	79	68	68	57	57	45	45	45
[Switzerland]	75	64	64	53	53	43	43	43
[Iceland]	9	8	8	7	7	5	5	5
[Liechtenstein] *	0	0	0	0	0	0	0	0
[Norway]	93	80	80	67	67	53	53	53
TOTAL	7000	6000	6000	5000	5000	4000	4000	4000

(*) Liechtenstein will contribute through proportional financial support

Amendment

Country / Year	<i>[Year of Entry into Force +2]</i>	<i>[Year of Entry into Force +3]</i>	<i>[Year of Entry into Force +4]</i>	<i>[Year of Entry into Force +5]</i>
Belgium	40	50	50	70
Bulgaria	53	67	67	93
Czech Republic	27	33	33	47
Denmark	39	48	48	68
Germany	298	377	377	522
Estonia	24	30	30	42
Greece	67	83	83	117
Spain	148	185	185	259
France	225	285	285	394
Croatia	87	108	108	153
Italy	167	208	208	292
Cyprus	11	13	13	19
Latvia	40	50	50	70

Lithuania	52	65	65	91
Luxembourg	11	13	13	19
Hungary	87	108	108	153
Malta	8	10	10	14
Netherlands	67	83	83	117
Austria	45	57	57	79
Poland	133	167	167	233
Portugal	63	78	78	110
Romania	100	125	125	175
Slovenia	47	58	58	82
Slovakia	47	58	58	82
Finland	40	50	50	70
Sweden	23	28	28	40
[Switzerland]	21	27	27	37
[Iceland]	3	3	3	5
[Liechtenstein]*	0	0	0	0
[Norway]	27	33	33	47
TOTAL	2.000	2.500	2.500	3.000

(*) Liechtenstein will contribute through proportional financial support

Amendment 499

Proposal for a regulation Annex V – part 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

When establishing an operational plan, the host Member State may limit the possibility of statutory staff to bear firearm weapons in accordance with national law or operating procedures during operations.

Amendment 500

Proposal for a regulation Annex V – part 1 – paragraph 4

Text proposed by the Commission

Amendment

Whenever the lawful use of force or firearms is unavoidable, the Agency's

Whenever the lawful use of force or firearms is unavoidable, the Agency's

statutory operational staff shall act in proportion to the seriousness of the offence and the legitimate objective to be achieved. During operational activities, the proportionality principle should guide both the nature of force used (e.g. the need for use of weapons) as well as the extent of force applied. The Agency's statutory operational staff shall not use more force than is absolutely necessary to achieve the legitimate law enforcement objective. If a firearm is used, the Agency's statutory operational staff shall ensure that such use causes the least possible injuries and *minimizes* injury or damage to the greatest possible extent. The principle requires the Agency to provide equipment and self-defensive tools for its statutory staff necessary to enable the appropriate level of force to be applied.

statutory operational staff shall act in proportion to the seriousness of the offence and the legitimate objective to be achieved. During operational activities, the proportionality principle should guide both the nature of force used (e.g. the need for use of weapons) as well as the extent of force applied. The Agency's statutory operational staff shall not use more force than is absolutely necessary to achieve the legitimate law enforcement objective. If a firearm is used, the Agency's statutory operational staff shall ensure that such use causes the least possible injuries and *minimises* injury or damage to the greatest possible extent. ***If the measures lead to an unacceptable result, the operational staff shall waive the measure.*** The principle requires the Agency to provide equipment and self-defensive tools for its statutory staff necessary to enable the appropriate level of force to be applied.

Amendment 501

Proposal for a regulation Annex V – part 1 – paragraph 5

Text proposed by the Commission

Operational activities carried out by the Agency's statutory operational staff shall fully respect and aim to preserve human life. All necessary steps that can minimise the risk of injury and damage during operations shall be done. This obligation includes a general obligation for the Agency's statutory operational staff to provide clear warnings of the intention to use force unless provision of such a warning would unduly place the members of the teams at risk or would create a risk of death or serious harm to others, or would be clearly inappropriate or ineffective in the particular circumstances.

Amendment

Operational activities carried out by the Agency's statutory operational staff shall fully respect and aim to preserve human life ***and human dignity***. All necessary steps that can minimise the risk of injury and damage during operations shall be done. This obligation includes a general obligation for the Agency's statutory operational staff to provide clear warnings of the intention to use force unless provision of such a warning would unduly place the members of the teams at risk or would create a risk of death or serious harm to others, or would be clearly inappropriate or ineffective in the particular circumstances.

Amendment 502

Proposal for a regulation Annex V – part 2 – indent 1

Text proposed by the Commission

– Shall only be placed on persons who are considered to represent a danger to themselves or to others to ensure their safe detention or transportation and the safety of the Agency’s statutory operational staff and other team members.

Amendment

– Shall only be placed on persons who are considered to represent a danger to themselves or to others to ensure their safe detention or transportation and the safety of the Agency’s statutory operational staff and other team members. ***They may only be used for the shortest time possible and only when strictly necessary.***

Amendment 503

Proposal for a regulation Annex V – part 3 – paragraph 2

Text proposed by the Commission

The training provided in accordance with Article 62(2) shall cover theoretical and practical aspects in relation to the prevention and the use of force. The theoretical training shall incorporate psychological training (including training in resilience and working in situations of high pressure), as well as techniques to prevent the use of force, such as negotiation and mediation. The theoretical training shall be followed by an obligatory and adequate theoretical and practical training on the use of force, weapons, ammunition and equipment. The practical training, to ensure a common practical understanding and approach, shall be concluded, by a simulation relevant for the activities to be carried out during the deployment.

Amendment

The training provided in accordance with Article 62(2) shall cover theoretical and practical aspects in relation to the prevention and the use of force. The theoretical training shall incorporate psychological training (including training in resilience and working in situations of high pressure), as well as techniques to prevent the use of force, such as negotiation and mediation. The theoretical training shall be followed by an obligatory and adequate theoretical and practical training on the use of force, weapons, ammunition and equipment ***and on applicable fundamental rights safeguards.*** The practical training, to ensure a common practical understanding and approach, shall be concluded, by a simulation relevant for the activities to be carried out during the deployment ***and shall include a practical simulation involving the operationalisation of fundamental rights safeguards.***

Amendment 504

Proposal for a regulation Annex V – part 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

The Agency shall provide statutory staff with ongoing training on the use of force. This training shall take place annually as per the training provided for in Article 62(2). In order for the statutory staff to be allowed to carry service weapons and to use force, they shall be required to have successfully completed the annual ongoing training. The annual ongoing training shall cover theoretical and practical aspects as described above. The annual ongoing training shall last at least 24 hours in total, with the theoretical training taking at least 8 hours and the practical training taking at least 16 hours. The practical training shall be divided into at least 8 hours for physical training, using physical restraint techniques, and at least 8 hours for the use of firearms.

Amendment 505

Proposal for a regulation Annex V – part 3 – paragraph 8

Text proposed by the Commission

Amendment

Any person may report suspected breaches by the Agency's statutory operational staff of the rules on the use of force applicable under this Annex under the complaint mechanism provided for in Article **107**.

Any person may report suspected breaches by the Agency's statutory operational staff of the rules on the use of force applicable under this Annex under the complaint mechanism provided for in Article **108**.

Amendment 506

Proposal for a regulation Annex V – part 3 – paragraph 10

Text proposed by the Commission

The Fundamental Rights Officer shall verify and provide feedback on the content of the inception and refreshment training with special regards to their fundamental rights aspects and the situation where the use of force is necessary, and ensure relevant preventive techniques are included.

Amendment

The Fundamental Rights Officer shall verify and provide feedback on the content of the inception and refreshment training with special regards to their fundamental rights aspects and ***their operationalisation in*** the situation where the use of force is necessary, and ensure relevant preventive techniques are included.

Amendment 507

**Proposal for a regulation
Annex V – part 3 – paragraph 11**

Text proposed by the Commission

The Fundamental Rights Officer shall report on the respect of fundamental rights in law enforcement practice in the host Member State. This report shall be submitted to the Executive director and shall be taken into account while designing the operational plan.

Amendment

The Fundamental Rights Officer shall report on the respect of fundamental rights in law enforcement practice in the host Member State ***or third country***. This report shall be submitted to the ***consultative forum and*** Executive director and shall be taken into account while designing the operational plan.

Amendment 508

**Proposal for a regulation
Annex V – part 3 – paragraph 12**

Text proposed by the Commission

The Fundamental Rights Officer shall ensure that ***an*** incidents related to the use of force, use of weapons, ammunition and equipment shall be reported without delay to the Executive Director.

Amendment

The Fundamental Rights Officer shall ensure that incidents related to the use of force, use of weapons, ammunition and equipment shall be ***thoroughly investigated and*** reported without delay to the ***consultative forum and the*** Executive Director.

Amendment 509

Proposal for a regulation

Annex V – part 4 – paragraph 2

Text proposed by the Commission

The personal equipment set shall be used by all the Agency’s statutory operational staff deployed as team members of the **three** types of teams deployed from the European Border and Coast Guard standing corps. The Agency may also complement the personal equipment set by additional weapon, ammunition or other equipment specific for the purpose of carrying specific tasks within one or two types of teams.

Amendment

The personal equipment set shall be used by all the Agency’s statutory operational staff deployed as team members of the **four** types of teams deployed from the European Border and Coast Guard standing corps. The Agency may also complement the personal equipment set by additional weapon, ammunition or other equipment specific for the purpose of carrying specific tasks within one or two types of teams.

Amendment 510

Proposal for a regulation Annex V – part 4 – paragraph 6

Text proposed by the Commission

Weapons, ammunition and equipment can be carried **and used** during operations. Carrying or using them off duty periods is not allowed. The Agency shall establish specific rules and measures to facilitate the storage of weapons, ammunition and other equipment of the Agency’s statutory operational staff during off duty periods in secured facilities.

Amendment

Weapons, ammunition and equipment can be carried during operations **and may be used only as measures of last resort**. Carrying or using them off duty periods is not allowed. The Agency shall establish specific rules and measures to facilitate the storage of weapons, ammunition and other equipment of the Agency’s statutory operational staff during off duty periods in secured facilities.

Amendment 511

Proposal for a regulation Annex V a (new)

Text proposed by the Commission

Amendment

<i>Country / Year</i>	<i>[Year of Entry into Force +2]</i>	<i>[Year of Entry into Force +3]</i>	<i>[Year of Entry into Force +4]</i>	<i>[Year of Entry into Force +5]</i>
<i>Belgium</i>	<i>30</i>	<i>30</i>	<i>60</i>	<i>60</i>

<i>Bulgaria</i>	<i>40</i>	<i>40</i>	<i>80</i>	<i>80</i>
<i>Czech Republic</i>	<i>20</i>	<i>20</i>	<i>40</i>	<i>40</i>
<i>Denmark</i>	<i>29</i>	<i>29</i>	<i>58</i>	<i>58</i>
<i>Germany</i>	<i>225</i>	<i>225</i>	<i>450</i>	<i>450</i>
<i>Estonia</i>	<i>18</i>	<i>18</i>	<i>36</i>	<i>36</i>
<i>Greece</i>	<i>50</i>	<i>50</i>	<i>100</i>	<i>100</i>
<i>Spain</i>	<i>111</i>	<i>111</i>	<i>222</i>	<i>222</i>
<i>France</i>	<i>170</i>	<i>170</i>	<i>340</i>	<i>340</i>
<i>Croatia</i>	<i>65</i>	<i>65</i>	<i>130</i>	<i>130</i>
<i>Italy</i>	<i>125</i>	<i>125</i>	<i>250</i>	<i>250</i>
<i>Cyprus</i>	<i>8</i>	<i>8</i>	<i>16</i>	<i>16</i>
<i>Latvia</i>	<i>30</i>	<i>30</i>	<i>60</i>	<i>60</i>
<i>Lithuania</i>	<i>39</i>	<i>39</i>	<i>78</i>	<i>78</i>
<i>Luxembourg</i>	<i>8</i>	<i>8</i>	<i>16</i>	<i>16</i>
<i>Hungary</i>	<i>65</i>	<i>65</i>	<i>130</i>	<i>130</i>
<i>Malta</i>	<i>6</i>	<i>6</i>	<i>12</i>	<i>12</i>
<i>Netherlands</i>	<i>50</i>	<i>50</i>	<i>100</i>	<i>100</i>
<i>Austria</i>	<i>34</i>	<i>34</i>	<i>68</i>	<i>68</i>
<i>Poland</i>	<i>100</i>	<i>100</i>	<i>200</i>	<i>200</i>
<i>Portugal</i>	<i>47</i>	<i>47</i>	<i>94</i>	<i>94</i>
<i>Romania</i>	<i>75</i>	<i>75</i>	<i>150</i>	<i>150</i>
<i>Slovenia</i>	<i>35</i>	<i>35</i>	<i>70</i>	<i>70</i>
<i>Slovakia</i>	<i>35</i>	<i>35</i>	<i>70</i>	<i>70</i>
<i>Finland</i>	<i>30</i>	<i>30</i>	<i>60</i>	<i>60</i>
<i>Sweden</i>	<i>17</i>	<i>17</i>	<i>34</i>	<i>34</i>
<i>[Switzerland]</i>	<i>16</i>	<i>16</i>	<i>32</i>	<i>32</i>
<i>[Iceland]</i>	<i>2</i>	<i>2</i>	<i>4</i>	<i>4</i>
<i>[Liechtenstein]*</i>				
<i>[Norway]</i>	<i>20</i>	<i>20</i>	<i>40</i>	<i>40</i>
<i>TOTAL</i>	<i>1500</i>	<i>1500</i>	<i>3000</i>	<i>3000</i>

() Liechtenstein will contribute through proportional financial support*

EXPLANATORY STATEMENT

Introduction

Two years ago, Frontex was expanded to become the European Border and Coast Guard (EBCG) Agency that it is today. The Agency's new mandate and its increased resources are a clear and strong response to the challenges faced at the EU's external borders. These challenges were a result of the migration crisis, but also related to the difficulty in encouraging greater solidarity among Member States, to strengthening exchange of information between Member States and cooperation of law enforcement in the fight against cross-border crime and terrorism.

The establishment of the EBCG in 2016 has led to significant progress being achieved in the past 2 years. However, the reliance on voluntary Member State contributions of staff and equipment has resulted in persistent gaps that have affected the efficiency of the Agency's joint operations. The need for a more effective control of the EU's external borders is clear. The role of the EBCG must be further strengthened through increased resources and an enhanced mandate. Europe needs to be able to effectively manage its external borders, ensure that returns are effected more efficiently and provide for an enhanced security within the Union.

The EBCG proposal addresses the need to ensure the proper control of the Schengen external borders as a precondition to manage migration effectively, to ensure high level of security within the system while safeguarding free movement of persons within the Union. While we must have the strongest respect for Member States' sovereignty and competence at all times, the necessary operational support has to be provided to ensure that EU solidarity is effectively delivered whenever it is needed.

In preparation of the report and to complement the Parliament's work a request for an opinion of the Fundamental Rights Agency and the European Data Protection Supervisor was made.

Background

The idea behind Frontex was to improve the integrated management of the external borders and the implementation of the common rules to promote, coordinate and develop the concept of European border management.

The mandate of Frontex has been revised three times. Regulation 863/2007 introduced the concept of rapid border interventions and Regulation 1168/2011 highlighted the responsibility of Frontex to protect fundamental rights.

Regulation 1052/2013 established the European Border Surveillance System (EUROSUR), which is managed by Frontex. In addition Regulation 656/2014 established rules for the surveillance of the external sea borders in the context of sea operations coordinated by the Agency.

In 2015, the proposed Regulation 2016/1624 aimed at setting up the EBCG in order to ensure a European integrated border management of the EU's external borders, with a view to

managing migration effectively and ensuring a high level of security within the Union, while safeguarding the free movement of persons therein.

Moreover, the European Parliament Resolution of 30 May 2018 on the annual report on the functioning of the Schengen area underlined the need for a prompt introduction of the full European Integrated Border Management (IBM) strategy. This was agreed between the EU Institutions, leading to technical and operational strategies by the EBCG and the Member States. The European Parliament expressed its concern over inconsistencies in the implementation of the IBM Strategy in the Member States and stressed that the full execution of the IBM Strategy in all Member States is vital for the functioning of the Schengen area.

Currently, the Agency is a cornerstone of the EU's efforts to guarantee an area of freedom, security and justice. To help safeguard Europe's internal security, Frontex has started conducting regular vulnerability tests in all EU Member States, and has already shared its first findings with national authorities and EU institutions. Through its return operations, the Agency is also playing a central role in migration enforcement, while at the same time fundamental rights protection is strengthened in areas ranging from operational guidance to return monitoring. The EBCG can already carry out deployments and joint operations on the territory of neighbouring non-EU countries, subject to the prior conclusion of a status agreement between the EU and the country concerned.

The proposal on reinforcing the EBCG

The Commission proposes a number of changes to the EBCG, in particular by providing the Agency with its own operational arm: a EBCG standing corps of 10.000 operational staff with executive powers for its activities to effectively support Member States. The EBCG standing corps will not only constitute a quantitative increase but it will provide for the necessary capabilities to intervene when needed to protect the EU external borders, prevent secondary movements and effectively implement returns of irregular migrants.

The Commission proposal aims at structuring the political steering of the European Integrated Border Management by establishing a policy cycle of European and national integrated border management strategies. The coordination of the planning processes of European Integrated Border Management need to better prepare border operations, define the reaction to higher impact levels and in particular possible intervention of the standing corps and other capabilities of the Agency in support of Member States. It will also improve the preparation of the capabilities of the EBCG by coordinating training and education, the acquisition of equipment in the short and longer term, including research and development.

Cooperation with third countries is another key element of European Integrated Border Management. This proposal reinforces the cooperation of the Agency with third countries with the aim of promoting European border management and return standards, to exchange information and risk analysis, to facilitate the implementation of returns with a view to increasing their efficiency and to support third countries in the area of border management and migration. This includes the deployment of the EBCG standing corps when such support is required to protect external borders and the effective management of the Union's migration policy. Under the new proposal to further reinforce the EBCG, status agreements between the EU could also be concluded with countries beyond the EU's immediate neighbourhood.

The Commission also proposes to encompass the European Border Surveillance System (EUROSUR) in the European Border and Coast Guard proposal, to improve the functioning of EUROSUR and enlarge its scope to cover most of the components of Integrated Border Management. This means better detecting, anticipating and reacting to crises at EU external borders and in third countries.

Position of the Rapporteur

The Rapporteur welcomes and supports the proposal as a further element, that once adopted, will enhance solidarity between the Member States, reinforce integration regarding border management and contribute to preventing crisis situations at the external borders. The proposal is **a response to the weaknesses identified due to the insufficient contributions of border guards or technical equipment by Member States and consequently, of the lack of flexibility in redeployment by the Agency.** It is also a response to the **inconsistencies recognised for the full implementation of the Integrated Border Management Strategy** in the Member States, or to the fact that mechanisms that have been created were not activated by Member States. In an area of free movement without internal borders, managing the Union's external borders must be a shared responsibility among all Member States. The amendments proposed by the rapporteur aim to further strengthen the proposal by increasing the Agency's effectiveness, as well as its efficiency and accountability while respecting Member State competence.

The Rapporteur proposes a number of amendments that should enable the Agency to better achieve its enhanced objectives. It is crucial that the Agency has the necessary border guards and equipment at its disposal whenever this is needed and especially that it is able to deploy them within a short timeframe when necessary.

As regards the EBCG standing corps (Article 55), the Rapporteur is proposing the addition of **a fourth category of operational staff** from Member States for the sole purpose of rapid border interventions which will be placed at the immediate disposal of the Agency and which can be deployed from each Member State within five working days. The rapid reaction pool will only be utilised as a last resort and only when the type of categories 1 to 3 staff that are required for the type of operation needed that form part of the standing corps are already fully deployed. The total number of staff made available by the Member States, for category four shall amount to a 3.000.

With regards to the Integrated Border Management (IBM), (Articles 3 and 8), the Rapporteur, proposes that the multiannual strategic policy cycle for the IBM shall define the policy priorities and provide the strategic guidelines **for a period of four years** in relation to the sectorial and horizontal components where the European Parliament and the Council shall be involved. The Rapporteur is proposing that fundamental rights, education and training, and research and innovation shall be horizontal components that are to be present in every sectorial component during its implementation.

The Rapporteur also considers that there is no reason to move away from the agreement reached with the Council EBCG 1.0 in 2016 on the situation at the external borders requiring urgent action (Article 43).

On costs (Article 46), the Rapporteur is proposing **a more flexible payment system** providing Member States the possibility to receive advance payments before they receive the annual payment for the purposes of deploying operational staff for short duration as team members from the EBCG standing corps. A pro-rata advance and annual payment will also be provided for short-term secondments of less than 4 months.

The Rapporteur considers the above-mentioned changes as being essential in addressing the shortcomings identified following the adoption of the EBCG 1.0 and to ensure that the EBCG is well-equipped, efficient and fully operational providing assistance to and effective support to the Member States for the protection of Union's external borders.

11.12.2018

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action No 98/700/JHA, Regulation (EU) No 1052/2013 of the European Parliament and of the Council and Regulation (EU) No 2016/1624 of the European Parliament and of the Council (COM(2018)0631 – C8-0406/2018 – 2018/0330(COD))

Rapporteur for opinion: Jens Geier

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) The standing corps of 10 000 operational staff should mainly consist of operational staff seconded from Member States. The Member States are responsible for making sure that the standing corps is set up and operational without any delay.

Amendment 2

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) European Integrated Border Management should be implemented as a shared responsibility of the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out maritime border surveillance operations and any other border control tasks, and those responsible for returns. While Member States retain the primary responsibility for the management of their external borders in their interest and in the interest of all Member States and are responsible for issuing return decisions, the Agency should support the application of Union measures relating to the management of the external borders and returns by reinforcing, assessing and coordinating the actions of Member States which implement those measures.

Amendment

(10) European Integrated Border Management should be implemented as a shared responsibility of the Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out maritime border surveillance operations and any other border control tasks, and those responsible for returns. While Member States retain the primary responsibility for the management of their external borders in their interest and in the interest of all Member States and are responsible for issuing return decisions, the Agency should support the application of Union measures relating to the management of the external borders and returns by reinforcing, assessing and coordinating the actions of Member States which implement those measures. ***There should be no operational overlaps between the Agency and the Member States.***

Amendment 3

Proposal for a regulation

Recital 91

Text proposed by the Commission

(91) In order to guarantee the autonomy of the Agency, it should be granted a stand-alone budget with a revenue which comes mostly from a contribution from the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

Amendment

(91) In order to guarantee the autonomy of the Agency, it should be granted a stand-alone budget with a revenue which comes mostly from a contribution from the Union. ***The Agency's budget should be prepared in accordance with the principle of performance-based budgeting, taking into account the Agency's objectives and the expected results of its tasks.*** The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken

by the Court of Auditors.

Amendment 4

Proposal for a regulation

Article 2 – paragraph 1 – point 28

Text proposed by the Commission

(28) ‘return operation’ means an operation that is organised or coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement provided to one or more Member States ***or to a third country***, under which returnees from one or more Member States or from a third country are returned, either on a forced or voluntary basis, irrespective of the means of transport;

Amendment

(28) ‘return operation’ means an operation that is organised or coordinated by the European Border and Coast Guard Agency and involves technical and operational reinforcement provided to one or more Member States, under which returnees from one or more Member States or from a third country are returned, either on a forced or voluntary basis, irrespective of the means of transport;

Amendment 5

Proposal for a regulation

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

(1) The Agency shall perform the following tasks with a view to contributing to an efficient, high and uniform level of border control and return:

Amendment

(1) The Agency, ***while avoiding duplicating Member States' operational work***, shall perform the following tasks with a view to contributing to an efficient, high and uniform level of border control and return:

Amendment 6

Proposal for a regulation

Article 10 – paragraph 1 – point 23

Text proposed by the Commission

23. ***support third countries in the coordination or organisation of return activities to other third countries, including the sharing of personal data for***

Amendment

deleted

return purposes;

Amendment 7

Proposal for a regulation Article 54 – paragraph 2

Text proposed by the Commission

Amendment

2. The Agency may also launch return interventions in third countries, based on the directions set out in the multiannual strategic policy cycle, where such third country requires additional technical and operational assistance with regard to its return activities. Such intervention may consist of the deployment of return teams for the purpose of providing technical and operational assistance to return activities of the third country.

deleted

Amendment 8

Proposal for a regulation Article 55 – paragraph 2

Text proposed by the Commission

Amendment

2. The Agency shall deploy members of the European Border and Coast Guard standing corps as members of the border management teams, migration management support teams, return teams in joint operations, rapid border interventions or return interventions or any other relevant operational activities in the Member States or in third countries.

2. The Agency shall deploy members of the European Border and Coast Guard standing corps as members of the border management teams, migration management support teams, return teams in joint operations, rapid border interventions or return interventions or any other relevant operational activities in the Member States or in third countries. ***The Agency and the relevant Member State should make sure no operational overlaps are created.***

Amendment 9

Proposal for a regulation

Article 78 – paragraph 3

Text proposed by the Commission

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and respecting fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against illegal immigration and the return of returnees, including by providing technical assistance in identification of third-country nationals and the acquisition of travel documents. Those liaison officers shall coordinate closely with Union delegations and, where relevant, CSDP missions and operations.

Amendment

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and respecting fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against illegal immigration and the return of returnees, including by providing technical assistance in identification of third-country nationals and the acquisition of travel documents. Those liaison officers shall coordinate closely with Union delegations and, where relevant, CSDP missions and operations. ***They shall, wherever possible, have their offices in the same building.***

Amendment 10

Proposal for a regulation

Article 99 – paragraph 1

Text proposed by the Commission

1. Without prejudice to paragraph 3, the management board shall be composed of one representative of each Member State **and** two representatives of the Commission, all with a right to vote. To this effect, each Member State shall appoint a member of the management board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. The terms of office shall be extendable.

Amendment

1. Without prejudice to paragraph 3, the management board shall be composed of one representative of each Member State, two representatives of the Commission **and one member appointed by the European Parliament**, all with a right to vote. To this effect, each Member State shall appoint a member of the management board as well as an alternate who will represent the member in his or her absence. The Commission shall appoint two members and their alternates. The duration of the terms of office shall be four years. The terms of office shall be extendable.

Amendment 11

Proposal for a regulation Article 100 – paragraph 1

Text proposed by the Commission

1. The management board shall, by 30 November each year, adopt a final programming document containing inter alia the Agency's multiannual programming and annual programming for the following year, based on a draft put forward by the executive director and endorsed by the management board. The final programming document shall be adopted after a positive opinion of the Commission, as regards the multiannual programming, after having consulted the European Parliament. If the Agency decides not to take into account elements of the opinion of the Commission, it shall provide a thorough justification. The management board shall forward the document to the European Parliament, to the Council and to the Commission.

Amendment

1. The management board shall, by 30 November each year, ***and taking into account the recommendations of the Inter-Institutional Working Group on agencies' resources***, adopt a final programming document containing inter alia the Agency's multiannual programming and annual programming for the following year, based on a draft put forward by the executive director and endorsed by the management board. The final programming document shall be adopted after a positive opinion of the Commission, as regards the multiannual programming, after having consulted the European Parliament. If the Agency decides not to take into account elements of the opinion of the Commission ***or the European Parliament***, it shall provide a thorough justification. The management board shall forward the document to the European Parliament, to the Council and to the Commission.

Amendment 12

Proposal for a regulation Article 111 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The provisional draft estimate shall be based on the detailed objectives and the expected results of the annual work programme and shall take into account the financial resources necessary to achieve those objectives and results, in accordance with the principle of performance-based budgeting.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	European Border and Coast Guard
References	COM(2018)0631 – C8-0406/2018 – 2018/0330(COD)
Committee responsible Date announced in plenary	LIBE 22.10.2018
Opinion by Date announced in plenary	BUDG 22.10.2018
Rapporteur Date appointed	Jens Geier 9.10.2018
Discussed in committee	21.11.2018
Date adopted	10.12.2018
Result of final vote	+: 21 –: 5 0: 1
Members present for the final vote	Jean Arthuis, Richard Ashworth, Lefteris Christoforou, Manuel dos Santos, André Elissen, José Manuel Fernandes, Eider Gardiazabal Rubial, Jens Geier, Ingeborg Gräßle, John Howarth, Siegfried Mureşan, Liadh Ní Riada, Jan Olbrycht, Pina Picierno, Paul Rübige, Petri Sarvamaa, Jordi Solé, Patricija Šulin, Indrek Tarand, Monika Vana, Daniele Viotti, Marco Zanni
Substitutes present for the final vote	Xabier Benito Ziluaga, Karine Gloanec Maurin, Marco Valli
Substitutes under Rule 200(2) present for the final vote	Clara Eugenia Aguilera García, Claudia Schmidt

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE	Jean Arthuis
PPE	Richard Ashworth, Lefteris Christoforou, José Manuel Fernandes, Ingeborg Gräßle, Siegfried Mureşan, Jan Olbrycht, Petri Sarvamaa, Claudia Schmidt, Patricija Šulin
S&D	Clara Eugenia Aguilera García, Eider Gardiazabal Rubial, Jens Geier, Karine Gloanec Maurin, John Howarth, Pina Picierno, Manuel dos Santos, Daniele Viotti
VERTS/ALE	Jordi Solé, Indrek Tarand, Monika Vana

5	-
EFDD	Marco Valli
ENF	André Elissen, Marco Zanni
GUE/NGL	Xabier Benito Ziluaga, Liadh Ní Riada

1	0
PPE	Paul Rübiger

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	European Border and Coast Guard		
References	COM(2018)0631 – C8-0406/2018 – 2018/0330(COD)		
Date submitted to Parliament	12.9.2018		
Committee responsible Date announced in plenary	LIBE 22.10.2018		
Committees asked for opinions Date announced in plenary	AFET 22.10.2018	BUDG 22.10.2018	PECH 22.10.2018
Not delivering opinions Date of decision	AFET 9.10.2018	PECH 17.9.2018	
Rapporteurs Date appointed	Roberta Metsola 10.10.2018		
Discussed in committee	15.10.2018	26.11.2018	11.2.2019
Date adopted	11.2.2019		
Result of final vote	+: –: 0:	35 9 8	
Members present for the final vote	Asim Ademov, Gerard Batten, Heinz K. Becker, Monika Beňová, Malin Björk, Caterina Chinnici, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Romeo Franz, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Sophia in 't Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Cécile Kshetu Kyenge, Juan Fernando López Aguilar, Monica Macovei, Roberta Metsola, Louis Michel, Claude Moraes, Judith Sargentini, Giancarlo Scottà, Birgit Sippel, Csaba Sógor, Sergei Stanishev, Marie-Christine Vergiat, Harald Vilimsky, Josef Weidenholzer, Cecilia Wikström, Tomáš Zdechovský		
Substitutes present for the final vote	Marina Albiol Guzmán, Carlos Coelho, Pál Csáky, Gérard Deprez, Maria Grapini, Teresa Jiménez-Becerril Barrio, Marek Jurek, Ska Keller, Jeroen Lenaers, Innocenzo Leontini, Andrejs Mamikins, Emilian Pavel, Emil Radev, Christine Revault d'Allonnes Bonnefoy, Róza Gräfin von Thun und Hohenstein, Maria Gabriela Zoană		
Substitutes under Rule 200(2) present for the final vote	Lukas Mandl, Georg Mayer, Julia Pitera		
Date tabled	12.2.2019		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

35	+
ALDE	Gérard Deprez, Nathalie Griesbeck, Louis Michel, Cecilia Wikström
ECR	Monica Macovei
PPE	Asim Ademov, Heinz K. Becker, Carlos Coelho, Pál Csáky, Agustín Díaz de Mera García Consuegra, Monika Hohlmeyer, Teresa Jiménez-Becerril Barrio, Barbara Kudrycka, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Julia Pitera, Emil Radev, Csaba Sógor, Róza Gräfin von Thun und Hohenstein, Tomáš Zdechovský
S&D	Monika Beňová, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Cécile Kashetu Kyenge, Juan Fernando López Aguilar, Andrejs Mamikins, Claude Moraes, Emilian Pavel, Christine Revault d'Allonnes Bonnefoy, Birgit Sippel, Sergei Stanishev, Josef Weidenholzer, Maria Gabriela Zoană

9	-
ECR	Jussi Halla-aho, Marek Jurek, Innocenzo Leontini
ENF	Giancarlo Scottà
GUE/NGL	Marina Albiol Guzmán, Malin Björk, Cornelia Ernst, Marie-Christine Vergiat
S&D	Dietmar Köster

8	0
ALDE	Sophia in 't Veld
ENF	Gerard Batten, Georg Mayer, Harald Vilimsky
VERTS/ALE	Romeo Franz, Eva Joly, Ska Keller, Judith Sargentini

Key to symbols:

+ : in favour

- : against

0 : abstention