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2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2011/0427(COD)

29.11.2012

*****I**

ORIENTATION VOTE RESULT

on the proposal for a regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR)
(COM(2011)0873 – C7-0506/2011 – 2011/0427(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jan Mulder

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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

Amendment 1

Draft legislative resolution
Citation 4 a (new)

Draft legislative resolution

Amendment

- having regard to the Geneva Convention of 1951 and the protocols thereof,

Amendment 2

Draft legislative resolution
Paragraph 1 a (new)

Draft legislative resolution

Amendment

1a. Stresses that point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹ should apply for the extension of the mandate for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union; emphasises that any decision of the legislative authority in favour of such an extension shall be without prejudice to the decisions of the budgetary authority in the context of the annual budgetary procedure;

¹ *OJ C 139, 14.6.2006, p. 1.*

Amendment 3

Draft legislative resolution
Paragraph 1 b (new)

Draft legislative resolution

Amendment

1b. Requests that the Commission present a new financial statement which fully

takes into account the result of the legislative agreement between the European Parliament and Council to meet the budgetary and staff requirements in the Agency and in Commission's services;

Amendment 4

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004 (Frontex), hereinafter referred to as 'the Agency'. EUROSUR should provide these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability *when detecting and preventing* irregular migration and cross-border crime *as well as protecting and saving* lives of *migrants* at the external borders of the Member States of the Union.

Amendment

(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004 (Frontex), hereinafter referred to as 'the Agency'. EUROSUR should provide these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability *towards situations which might turn out to be* irregular migration and cross-border crime *with an aim to protect and save* lives of *people in distress* at the external borders of the Member States of the Union.

Amendment 5

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The practice of travelling in small and unseaworthy vessels has dramatically

increased the number of migrants and refugees drowning at the southern maritime external borders. EUROSUR should considerably improve the operational and technical ability of the Agency and Member States to detect these small vessels and to improve the reaction capability of the Agency and the Member States for saving the lives of migrants and refugees, leading to a considerable reduction of the loss of migrants and refugees at sea.

Amendment 6

Proposal for a regulation Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Migration and the crossing of external borders by third-country nationals should not per se be considered to be a threat to public policy or internal security. A border surveillance system should not be built on the assumption that irregular migration is a pattern among third-country nationals.

Amendment 7

Proposal for a regulation Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) A mechanism should be established for a quick and effective determining of the Member State responsible for rendering assistance and rescuing persons in distress who are aboard of vessels that have been detected.

Amendment 8

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) This Regulation requires that the Agency improves the cooperation and information exchange with other Union bodies and agencies, such as the European Maritime Safety Agency and the EU Satellite Centre, in order to make best use of existing information, capabilities and systems which are already available at European level.

Justification

It is necessary that all Union Agencies and bodies contribute to the good functioning of EUROSUR, to the extent of their mandate.

Amendment 9

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to ensure that the information contained in EUROSUR is as complete and updated as possible, notably as regards the situation in third countries, the Agency should cooperate with the European External Action Service and European Union delegations and offices should provide all information relevant for EUROSUR to the Agency.

Justification

The European Union, through the European External Action Service, has representations throughout the world and the information they have, including as regards migration trends and flows, should be made available to EUROSUR.

Amendment 10

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The Agency should be provided with the appropriate financial and human resources in order to adequately fulfil the additional tasks assigned to it under this Regulation. For this purpose, the procedure for the establishment, implementation and control of its budget as set out in Articles 29 and 30 of Regulation (EC) No 2007/2004 should take due account of these tasks. The budgetary authority should ensure that the best standards of efficiency are met.

Amendment 11

Proposal for a regulation
Recital 6

Text proposed by the Commission

Amendment

(6) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably human dignity, prohibition of torture and inhuman or degrading treatment or punishment, right to liberty and security, right to the protection of personal data, non-refoulement, non-discrimination and rights of the child. This Regulation should be applied by Member States in accordance with these rights and principles.

(6) This Regulation respects the fundamental rights and observes the principles recognised by ***Articles 2 and 6 of the Treaty on European Union***, the Charter of Fundamental Rights of the European Union, notably ***the right to life***, human dignity, prohibition of torture and inhuman or degrading treatment or punishment, ***prohibition of trafficking in human beings***, right to liberty and security, right to the protection of personal data, ***right of access to documents, right of asylum and protection in cases of removal and expulsion***, non-refoulement, non-discrimination and rights of the child. This Regulation should be applied by Member States in accordance with these rights and principles.

Amendment 12

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) This Regulation recognises the nature of the mixed flows of migrants and refugees approaching and crossing the Union external borders and takes into account that refugees in need of international protection are often taking the same routes and vessels as migrants; it fully respects the obligations of the Union and the Member States on the protection of refugees under European and international law.

Amendment 13

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) Any exchange of personal data using the communication network for EUROSUR should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ***and, in the framework of police and judicial cooperation, the Council Framework Decision 2008/977/JHA 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters*** are applicable in cases in which more

(7) Any exchange of personal data using the communication network for EUROSUR should ***remain an exception. It should*** be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data are applicable in cases in which more specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.

specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.

Amendment 14

Proposal for a regulation Recital 9

Text proposed by the Commission

Amendment

(9) In order to implement a gradual geographical roll-out of EUROSUR, the obligation to designate and operate national coordination centres should apply in three successive stages, first to the Member States located at the southern sea external borders and at the eastern land external borders, at a second stage to the remaining Member States with land or sea external borders and at a third stage to the remaining Member States.

deleted

Justification

The national coordination centres should be functional in all Member States at the same time.

Amendment 15

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) This Regulation includes provisions on the cooperation with neighbouring third countries, because a well-structured and permanent cooperation and information exchange with these countries, in particular in the Mediterranean region, is a key factor for achieving the objectives of EUROSUR. It is essential that any cooperation and information exchange between Member States and neighbouring third countries be carried out in full compliance with fundamental rights, such as the obligation

to provide a safe haven for persons in need of international protection.

Justification

Cooperation with neighbouring third countries is necessary for the good functioning of the EUROSUR network, in full respect of fundamental rights.

Amendment 16

**Proposal for a regulation
Recital 9 b (new)**

Text proposed by the Commission

Amendment

(9b) There is a need to better coordinate spending of the Union and Member States' funds in the area of home affairs in order to optimise the use of their own budgets. This should contribute to a better complementarity, efficiency and visibility of their spending. In particular, EUROSUR should make the best possible use of existing capabilities in terms of human resources as well as technical equipments, both at EU and national level.

Amendment 17

**Proposal for a regulation
Recital 9 c (new)**

Text proposed by the Commission

Amendment

(9c) Mechanisms involving the Union budget in the implementation of EUROSUR should be transparent, responsible and subject to democratic scrutiny.

Amendment 18

Proposal for a regulation

Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) There is a need to ensure sound financial management of the system and its implementation in the most effective manner possible, while preserving legal certainty and the accessibility of the system to all participants.

Amendment 19

Proposal for a regulation

Recital 9 e (new)

Text proposed by the Commission

Amendment

(9e) The Commission should regularly assess the results of the implementation of EUROSUR with the aid of clear, simple and measurable indicators. These indicators should provide the basis for determining the extent to which the objectives of the system have been achieved.

Amendment 20

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) Implementation of this Regulation ***does not prejudice the division of competence between the Union and the Member States, and*** does not affect 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 Organised Crime and

(16) Implementation of this Regulation does not affect ***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 Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the

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.

Status of Refugees, the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.

Justification

The fact that Member States should respect their obligations under international maritime law should be made clearer.

Amendment 21

Proposal for a regulation

Article 1

Text proposed by the Commission

This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).

Amendment

This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability ***to protect and save the lives of migrants and refugees and to prevent irregular migration and cross-border crime*** at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).

Amendment 22

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including measures for monitoring, detection, identification, tracking, prevention and interception of illegal border crossings.

Amendment

1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including measures for ***protecting lives of migrants and refugees, for*** monitoring, detection, identification, tracking, prevention and interception of illegal border crossings ***and***

cross-border crime.

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Regulation may also apply to surveillance of air borders as well as to checks at border crossing points if Member States voluntarily provide such information to EUROSUR.

Amendment 24

Proposal for a regulation

Article 2 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. This Regulation shall be without prejudice to the Schengen Borders Code.

Amendment 25

Proposal for a regulation

Article 2 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. This Regulation shall be without prejudice to Union legislation as regards fundamental rights, access to international protection, return and trafficking of human beings, including identification of victims thereof.

Amendment 26

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

2. This Regulation shall not apply to **operational**, procedural and legal measures taken after interception.

Amendment

2. This Regulation shall not apply to procedural and legal measures taken after interception.

Justification

Operational information shall not be excluded from the scope of this Regulation.

Amendment 27

Proposal for a regulation

Article 2 – paragraph 3

Text proposed by the Commission

3. Member States and the Agency shall comply with fundamental rights, including data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment

3. Member States and the Agency shall comply with fundamental rights, including ***the principles of non-refoulement and human dignity*** and data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, ***in particular unaccompanied minors***, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.

Amendment 28

Proposal for a regulation

Article 3 – point a

Text proposed by the Commission

(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control

Amendment

(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control

measures on the basis of **combining** new information **with** existing knowledge;

measures on the basis of new information, **analysis and** existing knowledge, **and to be better able to prevent loss of life at sea**;

Amendment 29

Proposal for a regulation Article 3 – point b

Text proposed by the Commission

(b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements, including the means and timelines to react adequately to unusual circumstances;

Amendment

(b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements **and protecting lives of migrants and refugees, including at sea**, including the means and timelines to react adequately to unusual circumstances **and emergency situations**;

Amendment 30

Proposal for a regulation Article 3 – point d

Text proposed by the Commission

(d) 'cross-border crime' means any serious or organised crime committed at the external borders of Member States, such as trafficking in human beings, smuggling of drugs and other illicit activities;

Amendment

(d) 'cross-border crime' means any serious or organised crime committed at the external borders of Member States **or at their proximity**, such as trafficking in human beings, smuggling of drugs and other illicit activities **that have a cross-border dimension**;

Amendment 31

Proposal for a regulation Article 3 – point f a (new)

Text proposed by the Commission

Amendment

(fa) 'Agency' means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council

Amendment 32

**Proposal for a regulation
Article 3 – point f b (new)**

Text proposed by the Commission

Amendment

(fb) 'incident' means an event relating to a potential risk for the lives of migrants, irregular border crossing or cross-border crime at or nearby the external borders of a Member State;

Justification

It is important to define the term 'incident' as it is used throughout the proposal.

Amendment 33

**Proposal for a regulation
Article 3 – point f c (new)**

Text proposed by the Commission

Amendment

(fc) 'interception' means all measures taken by a Member State or a Member State together with the Agency in order to prevent, interrupt or stop cross-border crime or the movement of persons crossing external borders without the required documentation, or to protect lives of migrants and refugees.

Amendment 34

**Proposal for a regulation
Article 4 - paragraph 1 - point c**

Text proposed by the Commission

Amendment

(c) communication network;

(c) ***data exchange and*** communication network;

Amendment 35

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency.

Amendment

2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation ***within the framework of EUROSUR*** with other national coordination centres and with the Agency.

Justification

It should be made clear that the national coordination centre should be the single point of contact with the Agency as regards EUROSUR, but that other points of contact can exist within other networks.

Amendment 36

Proposal for a regulation

Article 5 – paragraph 3 – introductory part

Text proposed by the Commission

3. The national coordination centre shall:

Amendment

3. The national coordination centre shall, ***in accordance with national law***:

Amendment 37

Proposal for a regulation

Article 5 – paragraph 3 – point a

Text proposed by the Commission

(a) ensure the timely information exchange and cooperation between all national authorities with a responsibility for external border surveillance and with relevant law enforcement authorities at national level as well as with other national coordination centres and the Agency;

Amendment

(a) ensure the timely information exchange and cooperation between all national authorities with a responsibility for external border surveillance ***and search and rescue*** and with relevant law enforcement, ***asylum and immigration*** authorities at national level as well as with other national coordination centres and the Agency;

Amendment 38

Proposal for a regulation

Article 5 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) ensure that its personnel and the personnel of other authorities with a responsibility for external border surveillance are properly trained for detecting and dealing with situations involving vulnerable persons, such as persons in need of international protection, unaccompanied minors and victims of trafficking;

Amendment 39

Proposal for a regulation

Article 5 – paragraph 3 – point b b (new)

Text proposed by the Commission

Amendment

(bb) ensure compliance with human rights and the principle of non-refoulement within each activity carried out by the National Coordination Centre and the other authorities with a responsibility for external border surveillance;

Amendment 40

Proposal for a regulation

Article 5 – paragraph 3 – point f

Text proposed by the Commission

Amendment

f) measure regularly the effects of national border surveillance activities;

(f) measure regularly the effects of national border surveillance activities, *including as regards the protection of lives of migrants and refugees, and assess their compliance with fundamental rights and the principle of non-refoulement;*

Amendment 41

Proposal for a regulation

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. While performing their tasks, staff of the National Coordination Centres shall comply with Union and international law and shall observe fundamental rights and the national law of the Member State.

Justification

This corresponds to a similar provision in the Frontex Regulation.

Amendment 42

Proposal for a regulation

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The Agency shall

1. In accordance with Regulation (EC) No 2007/2004 and with the Agency's Fundamental Rights Strategy, the Agency shall

Amendment 43

Proposal for a regulation

Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) ensure compliance with human rights and the principle of non-refoulement within each activity carried out in the framework of EUROSUR.

Amendment 44

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Consultative Forum and the Fundamental Rights Officer shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency within the framework of EUROSUR, in accordance with Article 26a of Regulation (EC) No 2007/2004.

Amendment 45

Proposal for a regulation

Article 7 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) secure handling, storing, processing of non-classified sensitive information;

(c) secure handling, storing, **transmission and** processing of non-classified sensitive information;

Justification

The reference to "transmission" is missing from this point in the Commission proposal, but included in the following point. It should be added here as well.

Amendment 46

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. The Agency **and the national coordination centres** shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with **rules and standards which apply the basic principles and common standards of or are equivalent to the** Commission Decision 2001/844/EC amending its internal Rules of Procedure.

3. In accordance with Article 11d of Regulation (EC) No 2007/2004, the Agency shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with Commission Decision 2001/844/EC amending its internal Rules of Procedure.

Justification

For clarity, the provisions as regards the Agency and the national coordination centres (see AM 18) should be separated.

Amendment 47

Proposal for a regulation

Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure.

Justification

For clarity, the provisions as regards the Agency (see AM 17) and the national coordination centres should be separated.

Amendment 48

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.

1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for ***the protection of the lives of migrants and refugees***, the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.

Amendment 49

Proposal for a regulation
Article 9 – paragraph 2 – point a

Text proposed by the Commission

(a) national border surveillance system, where applicable in accordance with national law;

Amendment

(a) national border surveillance system, where ***existing and*** applicable in accordance with national law;

Amendment 50

Proposal for a regulation
Article 9 – paragraph 2 – point g

Text proposed by the Commission

(g) national coordination centres in other Member States ***and in third countries***;

Amendment

(g) national coordination centres in other Member States;

Justification

Since not all third countries have a national coordination centre, it is clearer to separate this provision (see AM 21) from the reference to other Member States' coordination centres.

Amendment 51

Proposal for a regulation
Article 9 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) authorities of third countries;

Justification

Since not all third countries have a national coordination centre, it should be made clear that information can come from any third country authority.

Amendment 52

Proposal for a regulation
Article 9 – paragraph 2 – point h

Text proposed by the Commission

(h) regional networks with neighbouring third countries, ***such as the SEAHORSE***

Amendment

(h) regional networks with neighbouring

*Atlantic network, SEAHORSE
Mediterranean network, the Baltic Sea
Region Border Control Cooperation
network CoastNet, the Black Sea Border
Coordination and Information Centre and
other regional networks set up at the
external land borders;*

third countries;

Justification

The list is not exhaustive and may not be complete if other networks are set up. It should be deleted.

Amendment 53

Proposal for a regulation

Article 9 – paragraph 2 – point i

Text proposed by the Commission

Amendment

(i) ship reporting systems, *such as the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS)*. Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;

(i) ship reporting systems. Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;

Justification

The list is not exhaustive and may not be complete if other systems are created. It should be deleted.

Amendment 54

Proposal for a regulation

Article 9 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) a sub-layer on irregular migration, which shall contain information on incidents concerning illegal border crossings of migrants occurring at or nearby the external borders of the Member State concerned, on facilitations of irregular border crossings and on any other

(a) a sub-layer on irregular migration, which shall contain information on incidents concerning illegal border crossings of migrants occurring at or nearby the external borders of the Member State concerned, on facilitations of irregular border crossings and on any other

relevant irregular migration incident, such as a search and rescue mission for persons attempting to cross the border illegally.

relevant irregular migration incident, such as a search and rescue mission for persons ***whose life or personal integrity is at risk and who may or may not be*** attempting to cross the border illegally.

Amendment 55

Proposal for a regulation Article 9 – paragraph 3 – point c

Text proposed by the Commission

c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact ***on the control of*** the external borders;

Amendment

c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents, ***humanitarian or political crisis*** and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact ***at*** the external borders;

Amendment 56

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. Each incident in the events layer of the national situational picture shall be assigned with a single indicative impact level, ranging from ‘low’ and ‘medium’ to ‘high’ impact. All events assigned with a ‘medium’ to ‘high’ impact level shall be shared with the Agency.

Amendment

4. Each incident in the events layer of the national situational picture shall be assigned with a single indicative impact level, ranging from ‘low’ and ‘medium’ to ‘high’ impact. ***Incidents regarding persons in distress at sea shall be assigned with a 'high' impact level.*** All events assigned with a ‘medium’ to ‘high’ impact level shall be shared with the Agency.

Amendment 57

Proposal for a regulation Article 9 – paragraph 6 – point a

Text proposed by the Commission

(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime.

Amendment

(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of ***the protection of the lives of migrants and refugees***, irregular migration and cross-border crime.

Amendment 58

Proposal for a regulation

Article 9 – paragraph 6 – point c

Text proposed by the Commission

(c) an intelligence picture sub-layer, which shall contain ***migrant profiles***, routes, information on the impact levels attributed to the external land and sea border sections and ***facilitation*** analysis.

Amendment

(c) an intelligence picture sub-layer, which shall contain ***an analysis of migration flows and routes and their potential risk for the lives of migrants and refugees***, information on the impact levels attributed to the external land and sea border sections and analysis ***of smuggling and trafficking***.

Amendment 59

Proposal for a regulation

Article 9 – paragraph 6 – point d

Text proposed by the Commission

(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.

Amendment

(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and ***external*** border permeability maps.

Amendment 60

Proposal for a regulation

Article 9 – paragraph 9 – point d a (new)

Text proposed by the Commission

Amendment

(da) all crisis situations related to preventing the loss of human lives and rescuing people at the land and sea borders of the Member State concerned.

Amendment 61

Proposal for a regulation

Article 9 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. All information on situations where migrants and refugees are found in distress at sea shall be shared immediately with the Agency and the national coordination centres, which shall immediately inform the Maritime Rescue Coordination Centre responsible for the area in which the situation occurs.

Amendment 62

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member States.

1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for ***the protection of the lives of migrants and refugees*** and the prevention of irregular migration and cross-border crime at the external borders of the Member States.

Amendment 63

Proposal for a regulation

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) national situational pictures, including basic information received under Article 9(8);

Amendment

(a) national situational pictures, including basic information received under Article 9(5)(a);

Justification

This amendment aims to correct a reference mistake in the Commission proposal.

Amendment 64

Proposal for a regulation

Article 10 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) European Union delegations and offices;

Justification

EU delegations and offices should contribute to EUROSUR by providing to the Agency the information they have, which is relevant for the European Situational Picture of EUROSUR.

Amendment 65

Proposal for a regulation

Article 10 – paragraph 2 – point c

Text proposed by the Commission

(c) other relevant European and international organisations;

Amendment

(c) other relevant European and international organisations, ***including entities referred to in Article 17;***

Amendment 66

Proposal for a regulation

Article 10 – paragraph 3 – point b

Text proposed by the Commission

(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, **once it is having a moderate or significant** impact on the external borders of the Member States;

Amendment

(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, **which have a medium or high** impact on the external borders of the Member States;

Justification

This amendment aims to harmonise the wording with the rest of the proposal, which refers to a 'medium' or 'high' impact.

Amendment 67

Proposal for a regulation

Article 10 – paragraph 5 – point a

Text proposed by the Commission

(a) a sub-layer on own assets, which shall contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;

Amendment

(a) a sub-layer on own assets, which shall contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations **and pilot projects** or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;

Justification

Information on the pilot projects led by Frontex should also be included in the European Situational Picture.

Amendment 68

Proposal for a regulation

Article 10 – paragraph 5 – point b

Text proposed by the Commission

(b) a sub-layer on operations, which shall contain information on the joint operations coordinated by the Agency, 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;

Amendment

(b) a sub-layer on operations, which shall contain information on the joint operations ***and pilot projects*** coordinated by the Agency, 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;

Justification

Information on the pilot projects led by Frontex should also be included in the European Situational Picture.

Amendment 69

Proposal for a regulation

Article 10 – paragraph 6 – point a

Text proposed by the Commission

(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime;

Amendment

(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration, ***the protection of migrants and refugees*** and cross-border crime;

Amendment 70

Proposal for a regulation

Article 10 – paragraph 6 – point b a (new)

Text proposed by the Commission

Amendment

(ba) an analytical sub-layer, which shall present relevant information provided by the Commission, including potential deficiencies and risks, based on assessments undertaken in the framework

Justification

The Schengen Evaluation Mechanism will provide valuable information regarding potential weak points and deficiencies in the management of external borders which could be used in order to have a clearer picture of potential threats at the external borders.

Amendment 71

Proposal for a regulation

Article 10 – paragraph 6 – point c

Text proposed by the Commission

(c) an intelligence picture sub-layer, which shall contain *migrant profiles*, routes, information on the impact levels attributed to the external land and sea border sections and *facilitation* analysis;

Amendment

(c) an intelligence picture sub-layer, which shall contain *an analysis of migration flows and routes and their potential risk for the lives of migrants and refugees*, information on the impact levels attributed to the external land and sea border sections and analysis *of smuggling and trafficking*.

Amendment 72

Proposal for a regulation

Article 10 – paragraph 6 – point d

Text proposed by the Commission

(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.

Amendment

(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and *external* border permeability maps.

Amendment 73

Proposal for a regulation

Article 10 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. If the Agency gains knowledge of

persons in distress at sea, it shall immediately inform the neighbouring national coordination centres for the area in which the situation occurs. The Agency shall confirm the responsibility of the Member State concerned and coordinate the appropriate actions.

Amendment 74

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.

Amendment

1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for ***the protection of the lives of migrants and refugees and*** the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.

Amendment 75

Proposal for a regulation Article 11 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) European Union delegations and offices;

Justification

EU delegations and offices should contribute to EUROSUR by providing to the Agency the information they have, which is relevant for the Common Pre-Frontier Intelligence Picture of EUROSUR.

Amendment 76

Proposal for a regulation
Article 11 – paragraph 2 – point d

Text proposed by the Commission

(d) other relevant European and international organisations;

Amendment

(d) other relevant European and international organisations, ***including entities referred to in Article 17;***

Amendment 77

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance operations and checks at border crossing points.

Amendment

3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance operations and checks at ***external*** border crossing points.

Amendment 78

Proposal for a regulation
Article 11 – paragraph 4

Text proposed by the Commission

4. The events layer of the common pre-frontier intelligence picture shall include information on: any incident, crisis situation and on any other event in the pre-frontier area, which could have a ***moderate*** or ***significant*** impact on irregular migration and cross-border crime at the external borders of the Member States.

Amendment

4. The events layer of the common pre-frontier intelligence picture shall include information on any incident, crisis situation and on any other event in the pre-frontier area, which could have a ***medium*** or ***high*** impact on ***the protection of lives of migrants and refugees***, irregular migration and cross-border crime at the external borders of the Member States. ***The impact level shall be assigned by the Agency.***

Amendment 79

Proposal for a regulation Article 11 – paragraph 5

Text proposed by the Commission

Amendment

5. The Agency shall assign a single indicative impact level to each incident in the events layer of the common pre-frontier intelligence picture. The Agency shall inform the national coordination centres on any incident in the pre-frontier area, which has been assigned with a medium or high impact level.

deleted

Justification

This paragraph is merged into paragraph 4 (see AM 78), as they are repetitive.

Amendment 80

Proposal for a regulation Article 11 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. If the Agency gains knowledge of migrants and refugees in distress at sea, Article 10(7a) shall apply.

Amendment 81

Proposal for a regulation Article 12 – paragraph 2 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 82

Proposal for a regulation
Article 12 – paragraph 2 – point b

Text proposed by the Commission

(b) tracking of a vessel over high seas which is suspected of or has been identified as being used for irregular migration **and** cross-border crime;

Amendment

(b) tracking of a vessel over high seas which is suspected of or has been identified as being used for irregular migration **or** cross-border crime;

Amendment 83

Proposal for a regulation
Article 12 – 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 suspected of or used for irregular migration **and** cross-border crime;

Amendment

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

Amendment 84

Proposal for a regulation
Article 12 – paragraph 2 – point e

Text proposed by the Commission

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

Amendment

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

Amendment 85

Proposal for a regulation
Article 12 – paragraph 3 – point a

Text proposed by the Commission

(a) ship reporting systems within their given legal limitations, **such as the**

Amendment

(a) ship reporting systems within their given legal limitations;

***Automated Identification System (AIS)
and the Vessel Monitoring System (VMS);***

Justification

The list is not exhaustive and may not be complete if other systems are created. It should be deleted.

Amendment 86

**Proposal for a regulation
Article 12 a (new)**

Text proposed by the Commission

Amendment

Article 12 a

Processing of personal data

1. The National Situational Picture may be used for processing personal data to the extent necessary for the purposes of EUROSUR in accordance with Directive 95/46/EC, the national legislation implementing it and other relevant national legislation.

2. The European Situational Picture and the Common Pre-Frontier Intelligence Picture may only be used for processing personal data:

(a) for the registration numbers of vehicles, vessels and other craft, which shall be processed in accordance with Regulation (EC) No 45/2001 and with Directive 95/46/EC;

(b) to the extent allowed by paragraph 3 of Article 11c of Regulation (EC) No 2007/2004.

Amendment 87

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

Text proposed by the Commission

Amendment

1. Based on the Agency's risk analysis and

1. Based on the Agency's risk analysis, ***on***

after consultation of the Member States concerned, the Agency shall attribute the following impact levels to each of the external land and sea border sections of Member States:

relevant aspects of the assessments undertaken in the framework of the Schengen Evaluation Mechanism and after consultation of the Member States concerned, the Agency shall attribute the following impact levels to each of the external land and sea border sections of Member States:

Justification

The Schengen Evaluation Mechanism will provide valuable information regarding potential weak points and deficiencies in the management of external borders which could be used in order to have a clearer picture of potential threats at the external borders.

Amendment 88

Proposal for a regulation

Article 14 – paragraph 1 – point a

Text proposed by the Commission

(a) low impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have an insignificant impact on border security;

Amendment

(a) low impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have an insignificant impact on border security *or migrant safety*;

Amendment 89

Proposal for a regulation

Article 14 – paragraph 1 – point b

Text proposed by the Commission

(b) medium impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a moderate impact on border security;

Amendment

(b) medium impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a moderate impact on border security *or migrant safety*;

Amendment 90

Proposal for a regulation

Article 14 – paragraph 1 – point c

Text proposed by the Commission

(c) high impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a significant impact on border security.

Amendment

(c) high impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a significant impact on border security ***or migrant safety, or in cases the incidents relate to migrants and refugees in an emergency situation at sea.***

Amendment 91

Proposal for a regulation

Article 15 – paragraph 1 – point a

Text proposed by the Commission

(a) where a low impact level is attributed to an external border section, the local or regional coordination centre shall organize regular surveillance on the basis of risk analysis and ensure that sufficient patrols are being kept in the border area in readiness for tracking, identification ***and*** interception;

Amendment

(a) where a low impact level is attributed to an external border section, the local or regional coordination centre shall organize regular surveillance on the basis of risk analysis and ensure that sufficient patrols are being kept in the border area in readiness for tracking, identification, interception ***and rescue;***

Amendment 92

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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 a third country, the national coordination centre shall coordinate the measures taken with the national coordination centre of the neighbouring country.

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 a third country, the national coordination centre shall coordinate the measures taken with the national coordination centre of the neighbouring country ***and the Agency.***

Amendment 93

Proposal for a regulation
Article 17 – paragraph 2 – point a

Text proposed by the Commission

(a) **European Police Office (Europol)**, the Maritime Analysis and Operations Centre – Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture;

Amendment

(a) the Maritime Analysis and Operations Centre – Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture;

Amendment 94

Proposal for a regulation
Article 17 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the European Police Office in order to exchange information on cross-border crime;

Amendment 95

Proposal for a regulation
Article 17 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the European Commission and EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;

(c) the European Commission, ***the European External Action Service, the European Asylum Support Office*** and ***other*** EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;

Justification

Both the European External Action Service and the EASO should be specifically mentioned, as they can provide useful and relevant information.

Amendment 96

Proposal for a regulation Article 17 – paragraph 5

Text proposed by the Commission

5. The agencies and centres referred to in paragraph 2 *may* use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights.

Amendment

5. The agencies and centres referred to in paragraph 2 *shall* use information received in the context of EUROSUR *only* within the limits of their legal framework and in compliance with fundamental rights.

Amendment 97

Proposal for a regulation Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Cooperation with Ireland and the United Kingdom

1. The exchange of information and cooperation with Ireland and the United Kingdom on protecting lives of migrants and preventing irregular migration and cross-border crime at the external borders may take place on the basis of bilateral or multilateral agreements between Ireland and the United Kingdom and one or several neighbouring Member States. The national coordination centres of the Member States shall be the contact point for the exchange of information between the communication network referred to in Article 7 and Ireland and the United Kingdom. Those agreements shall be notified to the Commission.

2. The agreements referred to in paragraph 1 shall be limited to the following exchange of information between the national coordination centre of a Member State and Ireland and the United Kingdom:

(a) information contained in the national

situational picture of a Member State to the extent transmitted to the Agency for the purposes of the European situational picture and the Common pre-frontier intelligence picture,

(b) information collected by Ireland and the United Kingdom which is relevant for the purposes of the European situational picture and the Common pre-frontier intelligence picture,

(c) information as laid down in Article 9(9).

3. Prior approval of any other Member State, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1, shall be required before that information can be shared with Ireland and the United Kingdom under that agreement.

4. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.

5. The agreements referred to in paragraph 1 shall provide that Ireland and the United Kingdom shall bear all financial costs arising from their participation in EUROSUR.

Justification

A specific provision regarding the UK and Ireland should be inserted in line with the provisions foreseen for neighbouring third countries, as they do not participate as such in the EUROSUR network.

Amendment 98

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

1. The exchange of information and cooperation with neighbouring third countries on preventing irregular migration

Amendment

1. The exchange of information and cooperation with neighbouring third countries on ***protecting lives of migrants***

and cross-border crime *may* take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third countries.

and refugees and preventing irregular migration and cross-border crime *shall* take place on the basis of bilateral or multilateral agreements between *the Union or* one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third countries. *Member States shall inform the Commission of such agreements before these are concluded. Once they are concluded, they shall be notified to the Commission and the European Parliament.*

Amendment 99

Proposal for a regulation

Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Those agreements shall be in compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union, the relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Justification

It must be underlined that the agreements with third countries must be in compliance with the relevant law on fundamental rights.

Amendment 100

Proposal for a regulation

Article 18 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Any exchange of personal data with third countries shall be prohibited.

Justification

The exchange of personal data through EUROSUR is allowed, with specific safeguards (see Article 12a) but exchange of personal data with third countries must be forbidden.

Amendment 101

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2), which a third country *that* could use *this information* to identify persons or groups of persons 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.

2. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2), which a third country could use to identify persons or groups of persons ***who request access to international protection 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 102

Proposal for a regulation

Article 18 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Any information provided by the Agency, in particular on the basis of risk analyses, information provided by liaison officers or on the basis of the use of surveillance tools defined in Article 12, may be shared with any third country under any agreement referred to in

paragraph 1 or under any network referred to in point (h) of Article 9(2) only with prior approval of the Agency.

Justification

Some of the information contained in Eurosur will come from Frontex (e.g. the contents of the "analysis layers", certain contents of the common tools, information provided by Frontex liaison officers in third countries or certain results of Frontex own analyses). This Frontex information may also be sensitive or even classified. For such information to be shared with third countries by the Member States, Frontex approval should be required.

Amendment 103

Proposal for a regulation

Article 18 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.

Justification

It must be underlined that third countries which have agreements with Member States in the framework of EUROSUR are not allowed to further transmit the information they receive to other third countries or third parties.

Amendment 104

Proposal for a regulation

Article 18 – paragraph 5

Text proposed by the Commission

Amendment

5. Any exchange ***of information*** with third countries of information derived from ***service for*** the common application of surveillance tools is subject to the legislation and rules governing those tools and systems ***as well as to the relevant provisions of Directive 95/46/EC and Regulation (EC) No 45/2001.***

5. Any exchange with third countries of information derived from ***the use of*** the common application of surveillance tools is subject to the legislation and rules governing those tools and systems.

Justification

Since the exchange of personal data with third countries is prohibited, there is no need for a reference to the Personal Data Protection instruments.

Amendment 105

Proposal for a regulation

Article 19

Text proposed by the Commission

The European Commission shall, in close cooperation with the Member States **and** the Agency, make available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices. The European Commission shall adopt the Handbook in the form of a recommendation.

Amendment

The European Commission shall, in close cooperation with the Member States, the Agency, **the European Data Protection Supervisor (EDPS) and any other relevant Union body**, make **publicly** available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices. ***This handbook shall include, inter alia, details on minimum standards and requirements for any agreements with third countries in accordance with Article 18(1a).*** The European Commission shall adopt the Handbook in the form of a recommendation.

Amendment 106

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. The Agency shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against the objectives of achieving an adequate situational awareness and reaction capability at the external borders.

Amendment

1. The Agency shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against ***fundamental rights and*** the objectives of achieving an adequate situational awareness and reaction capability at the external borders ***and of protecting the lives of migrants and refugees.***

Amendment 107

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

2. The Agency shall submit a report on the functioning of EUROSUR *on* 1 October 2015 and every two years thereafter.

Amendment

2. The Agency shall submit a report on the functioning of EUROSUR, ***including on the use and efficiency of surveillance tools, to the European Parliament, the Council and the Commission by*** 1 October 2014 and every two years thereafter.

Amendment 108

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council *on* 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

Amendment

3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council *by* 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives ***a cost-efficiency evaluation*** and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with ***and the impact on*** fundamental rights, ***including as regards the processing of personal data and access to international protection***. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

Amendment 109

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. Article 5(1) shall apply to the Member States located at the southern sea and eastern land external borders of the Union (Bulgaria, Cyprus, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain) from 1 October 2013. **deleted**

Justification

The national coordination centres should be functional in all Member States at the same time.

Amendment 110

Proposal for a regulation Article 21 – paragraph 4

Text proposed by the Commission

Amendment

Article 5(1) shall apply to the remaining Member States with land and sea external borders (Belgium, Germany, Netherlands and Sweden) as from 1 October 2014. **deleted**

Justification

The national coordination centres should be functional in all Member States at the same time.

Amendment 111

Proposal for a regulation Annex - point b

Text proposed by the Commission

Amendment

(b) Principles of coherent management and of using existing structures: The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework

(b) Principles of coherent management and of using existing structures: The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework

shall make use of existing systems and capabilities. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.

shall make use of existing systems and capabilities, ***in order to optimise the use of the Union budget and to avoid the creation of redundancies***. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.