

Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No. 2007/2004, Regulation (EC) No. 863/2007 and Council Decision 2005/267/EC (COM(2015) 671 final)

APPROVED FINAL DOCUMENT

The Standing Committee on Constitutional Affairs, the Presidency of Council of Ministers and Internal Affairs of Italy's Chamber of Deputies,

having examined, in accordance with Rule of Procedure No. 127 of the Chamber of Deputies, the Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No. 2007/2004, Regulation (EC) No. 863/2007 and Council Decision 2005/267/EC,

whereas:

- Since the start of 2016 about 190,000 migrants have crossed the Mediterranean into the European Union, of whom 32,000 have landed in Italy and more than 155,000 in Greece. This inflow comes in the wake of the record number of more than one million migrants who arrived in the EU in 2015;
- The enduring situation of heightened instability and violent conflict in the migrants' home countries suggest that this is not a temporary phenomenon likely to abate at any time in the near future;
- The unprecedented scale and long-term nature of the migration to Europe have persuaded the European institutions finally to address the issue of border management, migration and asylum by adopting a common policy - as explicitly envisioned in the Treaties - that is inspired by the principles of solidarity and responsibility;
- The proposed Regulation, which aims to set up a European border and coast guard, and strengthen the mandate of the Frontex Agency, conforms to these principles, and is one of the initiatives contained in the European Agenda on Migration that the European Commission presented in May 2015;
- The initiative proceeds from the EU's stronger commitment to addressing the issue of border management, which in recent months has resulted in, among other things, the Triton and Poseidon operations by Frontex and the EUNAVFOR MED Sophia military mission, all of which have intensified efforts to curtail the smuggling of migrants, and have enabled the rescue of thousands of migrants;
- The question of the common management of EU external borders became even more pressing after many Member States, particularly those lying along the migratory route of the western Balkans, decided to reintroduce controls at some of their internal borders, by appealing to a clause in the Schengen Borders Code that allows countries

to take such as step in the event of a threat to the overall functioning of the common area without frontiers;

- The fear, however, is that these measures will displace the migrant flow to the central Mediterranean route towards Italy, with Libya as the principal point of departure, also because the continuing political instability in the latter favours the proliferation of criminal networks of people traffickers;
- In application of the principle of the shared responsibility of the EU and its Member States in the management of external borders, the proposed Regulation would lead to the creation of a system in which borders are policed by national authorities (including the coast guard when performing this function) and by Frontex whose name is to be changed to the "European Border and Coast Guard Agency" as a result of the expansion of some of its functions;
- The Regulation would introduce a system of regular monitoring system and information exchange, through which the Agency will assess the capacity of Member States to deal swiftly with emerging challenges, including present and future threats and pressures at the external borders. Once it assesses the vulnerability of a Member State to these pressures, the Agency may set out the necessary corrective measures that the Member State concerned should take, and lay down the time limit within which it must do so;
- The most important innovation contained in the proposal is the provision that if a Member State should fail to comply with the corrective measures indicated or in the event of disproportionate migratory pressure at the external borders jeopardising the functioning of the Schengen area, the Commission may determine the measures to be implemented by the Agency, and require the Member State concerned to cooperate with the Agency in their implementation. Finally, the proposal would allow the Commission to adopt immediately applicable implementing acts on duly justified imperative grounds of urgency relating to the functioning of the Schengen area;
- The Regulation also provides for the establishment of a rapid reserve pool consisting of a standing corps at the immediate disposal of the Agency to be sent to crisis areas. The pool would be composed of a percentage of the total number of border guards of the Member States and comprise a minimum of 1,500 people;
- The Regulation would require each Member State to make available to the Agency a number of border guards on a yearly basis commensurate to at least 3% of the staff of Member States without land or sea external borders and 2% of the staff of Member States with land or sea external borders;
- Mindful that the present final document needs to be forwarded without delay to the European Commission as part of the political dialogue, as well as to the European Parliament and the Council;

expresses its

FAVOURABLE OPINION

with the following remarks:

- a)* Close attention must be paid to the progress of the negotiations on the proposal, which must lead to rules and instruments that are capable of coping with the present and possible future scale of the migration emergency, and of guaranteeing maximum effectiveness in the control of external borders, without, however, curtailing the responsibilities of Member States where no crisis situations exist. It is appropriate to engage the full involvement of Member States in the vulnerability assessment process so that the decisions may be reached in a shared decision-making process rather than unilaterally adopted by the European Commission and the Agency regardless of the views of the Member States concerned;
- b)* In keeping with the principle of solidarity, consideration needs to be given to revising the amount of resources that the proposed Regulation would have each Member State provide annually to the rapid reserve pool placed at the disposal of the new Agency, taking into account the extra burden on EU countries most exposed to migration flows as a result of the larger external borders that they have to control;
- c)* It also seems advisable to consider amending the name of the newly established Agency with respect to that proposed by the Commission so as to exclude - in line with the position adopted by the Justice and Home Affairs Council of 21 April 2016 - explicit reference to coast guard functions. This would help prevent misunderstandings and uncertainties about the functions currently carried out by the relevant national bodies, which do not need to be reformed. Further, a careful assessment needs to be made of the role of the new rapid intervention pool to make sure its border guard functions are coordinated with those of the national structures;
- d)* The EU should guarantee the constant availability of adequate financial resources for the Agency, and greater support for the national authorities responsible for border management.

CHAIR OF THE COMMITTEE ON
CONSTITUTIONAL AFFAIRS, THE
PRESIDENCY OF COUNCIL OF MINISTERS
AND INTERNAL AFFAIRS,

Rome, 19 May 2016