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Report on the evaluation and future development of the FRONTEX Agency

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

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SUMMARY

1. INTRODUCTION

The Community policy in the field of the EU external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary pre-condition to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice. To this end, the establishment of common rules on standards and procedures for the control of external borders is foreseen.

An efficient implementation of the common rules calls for increased coordination of the operational cooperation between the Member States. On the basis of the experiences of the External Borders Practitioners' Common Unit, acting within the Council, a specialised expert body tasked with improving the coordination of operational cooperation between Member States in the field of external border management has been established in the shape of a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (hereinafter referred to as the FRONTEX Agency).

2. STATE OF PLAY AND PROBLEMS

The Hague Programme as adopted by the European Council on 4/5 November 2004 requested the Commission to submit an evaluation of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to the Council before the end of 2007.

The evaluation should contain a review of the tasks and mandate of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters, against the background of the overall development of the common border policy of the Community.

Based on the outcome of the evaluation the problems, or more exactly the shortcomings, that can be defined at this stage and for the purpose of the impact assessment are therefore rather linked to whether the implementation allows for reaching the overall policy objectives in the most optimal way: is FRONTEX growing too fast, are certain activities more successfully implemented than others, are Member States contributing or able to contribute to the activities of the Agency, are expectations and punctual requests for action coherent and realistic, or do they entail a risk for ad hoc priorities bringing the Agency "off course" in the longer term.

The Council as well as the European Council have responded to crisis situations and problems faced at the external borders by repeatedly, in the form of political conclusions, calling on FRONTEX to take forward specific initiatives.

Against this background the following points must be considered:

- How can the potential of FRONTEX be maximised for the purpose of reaching the policy objectives, having regard to the continuous challenges involved in managing the external borders related to the movement of persons;
- How can a coherent development be assured whereby attention is paid to all parts of the FRONTEX mandate;
- How can an appropriate priority setting of the activities of the Agency be achieved.

The following key areas of activities of the Agency have been scrutinised in more detail based on the outcome of the evaluation:

- joint operations coordinated by FRONTEX;
- technical equipment put at the disposal by the Member States to the Agency;
- possibility to set up specialised branches ;
- relation between joint operations and the European Patrol Network;
- risk analysis reports;
- management of ICONet (Information and Co-ordination Network for Member States' Migration Management Services);
- management of the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI);
- providing training to border guards;
- launch and participation in research projects;
- assistance for return operations conducted by Member States;
- cooperation with third countries;
- horizontal integration with other authorities;
- contribution to the integrated border management concept as a whole.

3. POLICY OBJECTIVES

The evaluation report is the response of the Commission to the request of the European Council as included in the Hague Programme.

The policy objectives correspond to the objectives set for the Agency at the time of its inception and are still valid for the integrated border management policy of the Union as a whole.

3.1. General policy objectives

The general policy objectives can be defined as follows:

- contribute to an integrated management of the external borders at European level;
- effective control and surveillance of the external borders;
- facilitate the application of existing and future Community measures relating to the management of the external borders by ensuring the coordination of operational cooperation between Member States.

3.2. Specific policy objectives

The specific policy objectives can be defined as the enumeration of tasks in the current mandate of the Agency.

- coordinate the operational cooperation between Member States in the field of management of external borders;
- assist Member States on training of national border guards, including the establishment of common training standards;
- carry out risk analyses;
- follow up on the development of research relevant for the control and surveillance of external borders;
- assist Member States in circumstances requiring increased technical and operational assistance at external borders;
- provide Member States with the necessary support in organising joint return operations;
- deploy Rapid Border Intervention Teams to Member States;
- international cooperation.

4. POLICY OPTIONS

The following three policy options have been identified that contribute to reaching the overall objectives and provide solutions to the identified shortcomings.

These options include 15 separate recommendations which have been grouped into three policy options:

Policy Option 1: A **status quo** policy option;

Policy Option 2: An option including mainly non-legislative recommendations that should be relatively inexpensive, uncontroversial and straightforward to implement in the **short/medium term**;

Policy Option 3: An option including all of the recommendations of policy option 2 plus additional recommendations for the **longer term** that will require further discussion.

The policy options are outlined in Table 4.1. The recommendations have been numbered and classified according to whether they could imply a legislative (l) or non legislative action (nl).

Table 4.1 – Overview of Policy Options

Description of policy option	
Policy Option 1	No changes are made to the current situation
Policy Option 2	<p>1. Technical equipment</p> <p>The potential of CRATE, and the commitments made by Member States, must be exploited to the full for all activities of the Agency (nl)</p> <p>2. Specialised branches</p> <p>Consideration should be given to the setting up of specialised branches in the relevant geographical areas (nl)</p> <p>3. Relation between joint operations and the EPN</p> <p>FRONTEX to analyse how semi-permanent joint operations can be merged with the European Patrol Network (nl)</p> <p>4. Risk analysis</p> <p>Joint risk analysis with Europol, international organisations and relevant third countries, and frequent geographical and/or theme oriented joint risk analysis, with relevant partners, should be encouraged (nl)</p>

Description of policy option	
	<p>5. Management of ICONet</p> <p>Task FRONTEX with the management of ICONet, under the present or another technical platform such as the FRONTEX Information System (nl)</p> <p>6. Management of CIREFI</p> <p>Task FRONTEX to centralise the exchange of operational information related to illegal immigration (nl)</p> <p>7. Own technical equipment</p> <p>To ensure the availability of equipment through FRONTEX acquiring its own equipment for border control and surveillance, for instance to be used by the RABIT teams (nl)</p> <p>8. Return</p> <p>Strengthen the role of FRONTEX regarding return operations – examine the possibility to use CRATE as a means for sharing technical equipment between member States (l)</p> <p>9. Training</p> <p>Training offered to border guards should take into account and include relevant provisions of European and international rules on asylum, the law of the sea and fundamental rights. Specialised training courses should therefore be offered by FRONTEX on these aspects, in order to increase the availability of border guards with the necessary competences and contribute to a consistent approach to situations involving search and rescue coordination (nl)</p> <p>10. Research</p> <p>Implement joint projects aiming at real life operational testing of new technologies, to assess their feasibility and impact on current procedures as border crossing points (nl)</p>
Policy Option 3	<p>All measures mentioned under Policy option 2 plus:</p> <p>1. Schengen evaluation</p> <p>The mechanism to perform Schengen evaluations is currently under review. The Commission will present a proposal to that effect in the second half of 2008. In that perspective it is clear that FRONTEX could provide added value to such an evaluation mechanism through</p>

Description of policy option	
	<p>its expertise on external border control and surveillance and on the potential links to its other activities, notably training and risk analysis (l)</p> <p>2. Cooperation with third countries</p> <p>Priority should be given to strengthened cooperation with those third countries that have been identified as problem areas through the joint operations coordinated by FRONTEX. Evaluate a possible extension of the current FRONTEX mandate allowing the Agency to implement pilot projects with third countries as beneficiaries. (l)</p> <p>3. Future operational coordination</p> <p>Initiate an in-depth reflection on the long-term strategy, including issues related to an EU border guard. (l)</p> <p>4. Border surveillance</p> <p>Frontex to take on the role as a hub for information exchange in a future European border surveillance system and take on the development of a pre-frontier intelligence picture. (l)</p> <p>5. Customs and horizontal integration</p> <p>Pilot projects at European level could support the coordination between the activities of national border guard authorities and national customs authorities. FRONTEX, the Commission and Member States should explore the possibility of conducting FRONTEX-led joint operations in coordination with cooperation projects of national customs authorities (nl)</p>

5. COMPARISON OF THE POLICY OPTIONS

The process of defining policy options involved grouping the proposals for recommendations into three policy options.

Assessment and weighing of the pro's and cons of the policy options has involved systematically considering each of the individual recommendations described within the policy option. Many of the recommendations are complementary, but in a small number of cases they could themselves be alternative means of achieving the objectives.

5.1. Policy option 1

As a starting point, maintaining the status quo would mean that the Commission ignores the numerous requests made by the European Council to look at possible ways to improve the functioning and the operations of FRONTEX. The findings of the evaluation would not

result in any suggestions for how the shortcomings could be remedied, shortcomings which are directly linked to how the policy objectives can be reached. It would equally mean that no debate is launched on the long term directions on how FRONTEX should further develop in the context of the European Integrated Border Management concept, including to what extent the scope of the current mandate should be revisited.

5.2. Policy option 2

The evaluation identifies shortcomings and gaps in the current mandate and proposes recommendations to address these in the short/medium term. Addressing the identified shortcomings and meeting the objectives is necessary to work towards an integrated European border management policy.

Such an approach is consistent with the aim of the Commission to render border controls at the European level more effective. For that reason the evaluation is taking stock of the different issues surrounding the functioning of the FRONTEX Agency, it is looking at the possibilities to optimise the activities within the current mandate and it recommends a series of possibilities that can be implemented within short delays to optimise the work of the Agency and to further enhance a uniform European approach on the various aspect of border controls.

The option therefore provides a substantial improvement of the current situation. However, it has a major drawback as it is not providing a longer term vision.

5.3. Policy option 3

The added value of the short-term recommendations remains the same as under option 5.2.

To address the evaluation of the FRONTEX Agency in a comprehensive manner, a strategy to develop a longer term policy is needed. The longer term recommendations form the basis for engaging into a deeper reflection which will enable the relevant actors to take into account the full picture of the numerous evolving policies (Schengen area, Customs, border surveillance, horizontal integration, relations with third countries, enhanced operational coordination) that have an important impact on all three policy objectives.

A longer term strategy is necessary to avoid that the tasks of the Agency become dispersed or lose focus over time based on ad hoc priorities focussing on the short term only. On the other hand it is clear that the further definition of concrete actions in this regard will need to take into account, in most cases, further experiences from the activities of the Agency as well as discussions on related policy initiatives.

6. THE PREFERRED OPTION

Options 1 and 2 have major shortcomings to deliver on all of the policy objectives.

The Commission considers that the only possible way forward to work in a constructive manner towards an integrated EU policy on border management consists of choosing policy option 3 i.e. to implement short/medium term recommendations and to engage into a dialogue with EU Institutions, the Agency and relevant European and international partners

to explore how the policy objectives can be met in the longer term based on a gradual development whilst keeping up with the available resources and the administrative capacity of the Agency.

Policy option 3 addresses in a comprehensive manner:

- the identified shortcomings of the Agency;
- the general and specific policy objectives;
- a priority setting mechanism for the short term, covering all aspects of the activities in the current mandate;
- an overall mapping of requests for enhancing existing actions or to develop new ones, without overloading the Agency with new and unforeseen tasks;
- opening the discussion on policy orientations enabling FRONTEX to remain efficient for the long term.

7. MONITORING AND EVALUATION

Monitoring and evaluation of the implementation of the future actions and measures set out in the preferred policy option will be an important element to ensure their effectiveness. All activities of FRONTEX are included in its work programme accompanied by indicators for each action, which allows for monitoring based on the annual activity report of the Agency. This will apply to the recommendations put forward here also.

A continuous monitoring of the activities of the Agency also takes place through the Management Board which meets, normally, six times per year, and through direct reporting by the Agency at meetings of the Council and the EP.
