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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the creation of a European network of immigration liaison officers (recast) - Outcome of the European Parliament's first reading (Strasbourg, 15 to 18 April 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the rapporteur, Cecile KYENGE (S&D, IT), presented a compromise amendment (amendment number 69) to the proposal for a Regulation on behalf of the Committee on Civil Liberties, Justice and Home Affairs. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 16 April 2019, the plenary adopted the compromise amendment (amendment number 69) to the proposal for a Regulation with 414 votes in favour, 191 against and 44 abstentions. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

European network of immigration liaison officers *I**

European Parliament legislative resolution of 16 April 2019 on the proposal for a regulation of the European Parliament and of the Council on the creation of a European network of immigration liaison officers (recast) (COM(2018)0303 – C8-0184/2018 – 2018/0153(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0303),
 - having regard to Article 294(2) and Articles 74 and 79(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0184/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 28 November 2018 sent by the Committee on Legal Affairs to the Committee on Civil Liberties Justice and Home Affairs in accordance with Rule 104(3) of its Rules of Procedure,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 27 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 104 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0040/2019),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

¹ OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 16 April 2019 with a view to the adoption of Regulation (EU) 2019/... of the European Parliament and of the Council on the creation of a European network of immigration liaison officers (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74 and Article 79(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 16 April 2019.

Whereas:

- (1) Council Regulation (EC) No 377/2004¹ has been substantially amended. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) The sharp increase of mixed migratory flows in 2015 and 2016 has put migration, asylum and border management systems under pressure. ***This has posed a challenge for the Union and Member States, showing the need to strengthen Union policy in the field of migration with a view to achieving*** a coordinated and effective European response.
- (3) The objective of Union policy in the field of migration is to replace irregular and uncontrolled migratory flows with safe and well-managed pathways, through a comprehensive approach ***aimed at ensuring, at all stages, the efficient management of migration flows in accordance with Chapter 2 of Title V of the Treaty on the Functioning of the European Union (TFEU).***

¹ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p. 1).

- (4) Respect for human rights *is* a fundamental principle of the Union ■ . The Union is committed to protecting the human rights and fundamental freedoms of all migrants, regardless of their migratory status, in full compliance with international law. *As such, measures taken by immigration liaison officers when implementing this Regulation, in particular in cases involving vulnerable people, should respect fundamental rights in accordance with relevant international and Union law, including Articles 2 and 6 of the Treaty on European Union (TEU) and the Charter of Fundamental Rights of the European Union.*
- (5) To ensure the effective implementation of all aspects of Union policies on immigration , consistent dialogue and cooperation should be pursued with key third countries of origin and transit of migrants and of *applicants for international protection*. Such cooperation, *in line with the comprehensive approach set out in the European Agenda on Migration*, should provide for better management of immigration, including departures and returns, ■ support capacity to gather and share information, *including on applicants' access to international protection and, where possible and relevant, on reintegration*, and prevent and counter *illegal immigration*, smuggling of migrants and trafficking in human beings ■ .

- (6) *Protection tools include measures contained in the Global Approach to Migration and Mobility (GAMM). Legal immigration strategies and channels between the Union and third countries should also include labour migration, visas for students and family reunification, without prejudice to the national competences of Member States.*
- (7) In light of the increasing demand for **analysis** and information to support evidence-based policy making and operational responses, there is a need for immigration liaison officers to ensure that their insight and knowledge contribute fully to the establishment of a comprehensive situational picture on third countries.
- (8) *Information on the composition of migratory flows should, where possible and relevant, include information on declared migrants' age, gender profile and family and on unaccompanied minors.*

- (9) The deployment of the current European Migration Liaison Officers to the key *third* countries of origin and transit, as called for in the conclusions of the special meeting of the heads of state and government on 23 April 2015, was a first step towards enhancing the engagement with third countries on migration-related issues and stepping up *cooperation* with immigration liaison officers deployed by Member States. Building on this experience, longer-term deployments of immigration liaison officers by the Commission to third countries should be foreseen to support development, implementation and maximise the impact of Union action on migration.

- (10) The objective of this Regulation is to ensure better coordination and optimise utilisation of *the network of* liaison officers deployed to third countries by the *competent authorities of* Member States, *including, where appropriate, by law enforcement authorities, as well as by* the Commission and Union agencies, in order to respond more effectively to the Union priorities of preventing and combating illegal immigration and related cross-border criminality such as smuggling of migrants and trafficking in human beings, facilitating *dignified and effective* return, readmission and reintegration activities, contributing to integrated management of the Union's external borders, as well as supporting management of legal immigration, including in the area of international protection, resettlement and pre-departure integration measures undertaken by Member States and *the* Union. *Such coordination should fully respect the existing chain of command and reporting lines between immigration liaison officers and their respective deploying authorities as well as among immigration liaison officers themselves.*

- (11) Building on Regulation (EC) No 377/2004, this Regulation aims to ensure that immigration liaison officers better contribute to the functioning of a European network of immigration liaison officers primarily by establishing a mechanism through which Member States, the Commission and Union agencies can more systematically coordinate the tasks and roles of their liaison officers *deployed in third countries*.
- (12) Given that *liaison officers dealing with migration-related issues are deployed by different competent authorities and that their* mandates and tasks may overlap, efforts should be made to *enhance cooperation among* officers operating within the same third country or region. Where immigration liaison officers are deployed **■** to the Union's diplomatic missions in a third country by the Commission *or Union agencies*, they should *facilitate and support* the immigration liaison officers' network in that third country. *Where appropriate, such networks may be extended to liaison officers deployed by countries other than Member States.*

- (13) The establishment of a robust **■** mechanism that ensures better coordination *and cooperation among* all liaison officers dealing with immigration issues as part of their duties is essential in order to minimise information gaps and duplication of work and maximise operational capabilities and effectiveness. A Steering Board should provide guidance in line with Union policy priorities, taking into account the Union's external relations, and should be given the necessary powers, in particular to adopt biennial work programmes for the activities of networks of immigration liaison officers, *agree on* tailored ad-hoc *actions* for immigration liaison officers addressing priorities and emerging needs not already covered by the biennial work programme, allocate resources for agreed activities and be accountable for their execution. *Neither the tasks of the Steering Board nor those of the facilitators of immigration liaison officer networks should affect the competence of deploying authorities with regard to tasking their respective immigration liaison officers. When carrying out its tasks, the Steering Board should take into account the diversity of networks of immigration liaison officers as well as the views of the Member States most concerned as regards relations with particular third countries.*

- (14) A list of immigration liaison officers deployed to third countries should be established and updated regularly by the Steering Board. The list should include information related to the location, composition and activities of different networks, including the contact details and a summary of the duties of the deployed immigration liaison officers.
- (15) Joint deployment of liaison officers should be promoted with the aim of enhancing operational cooperation and information sharing between Member States, as well as to respond to needs at Union level, as defined by the Steering Board. Joint deployment by at least two Member States should be supported by Union funds encouraging engagement and providing added value to all Member States ■ .
- (16) Special provision should be made for a wider Union capacity-building action for immigration liaison officers. Such capacity-building should comprise the development of common core curricula and pre-deployment training courses, ***including on fundamental rights***, in cooperation with relevant Union agencies, and the reinforcement of the operational capacity of networks of immigration liaison officers. ***Such curricula should be non-compulsory and supplementary to national curricula established by deploying authorities.***

- (17) Networks of immigration liaison officers should avoid duplicating the work of Union agencies and other Union instruments or structures, ***including the work of local Schengen cooperation groups***, and should bring added value to what they already achieve in terms of collecting and exchanging information in the area of immigration, in particular by focusing on operational aspects. Those networks should act as facilitators and providers of information from third countries to support Union agencies in their functions and tasks, in particular where Union agencies have not yet established cooperative relations with third countries. Closer cooperation between networks of immigration liaison officers and relevant Union agencies should be established to that effect. ***Immigration liaison officers should at all times be aware that their actions might have operational or reputational consequences for local and regional networks of immigration liaison officers. They should act accordingly when carrying out their tasks.***

- (18) Member State authorities should ensure that, *where appropriate and in accordance with Union and national law, information obtained by liaison officers deployed to other Member States and* strategic and operational analytical products of Union agencies in relation to illegal immigration, *dignified and effective return and reintegration*, cross-border criminality or international protection and resettlement effectively reach immigration liaison officers in third countries and that the information provided by immigration liaison officers is shared with the relevant Union agencies; in particular the European Border and Coast Guard Agency, European Union Agency for Law Enforcement Cooperation (Europol) and the European Asylum Support Office (EASO) within the scope of their respective legal frameworks.
- (19) In order to ensure the most effective use of information collected by the networks of immigration liaison officers, such information should be available through a secure web-based information exchange platform *in accordance with applicable data protection legislation*.

- (20) Information collected by immigration liaison officers should support the implementation of the technical and operational European integrated border management referred to in Regulation (EU) 2016/1624 of the European Parliament and of the Council¹ and contribute to the development and maintenance of national border surveillance systems in accordance with Regulation (EU) No 1052/2013 of the European Parliament and of the Council².
- (21) It should be possible to use the available resources of the Regulation (EU) No 515/2014 of the European Parliament and of the Council³ to support the activities of a European network of immigration liaison officers as well as to pursue the joint deployment of immigration liaison officers by Member States.

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

² Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

³ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

- (22) Any processing, ***including the transfer***, of personal data by Member States within the framework of this Regulation should be conducted in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council¹ . The Commission and Union agencies should apply Regulation ***(EU) 2018/1725*** of the European Parliament and of the Council² when processing personal data.
- (23) The processing of personal data within the framework of this Regulation should be for the purposes of assisting the return of third-country nationals, facilitating the resettlement of persons in need of international protection and implementing Union ***and national measures in respect of admission for the purpose of legal migration and for the prevention and combating of illegal immigration, smuggling of migrants and trafficking in human beings***. A legal framework that recognises the role of immigration liaison officers in this context is therefore necessary.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

² ***Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).***

(24) Immigration liaison officers need to process personal data to facilitate *the proper implementation of return procedures, the successful enforcement of return decisions, and reintegration where relevant and possible*. The third countries of return are not often subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679, and have often not concluded or do not intend to conclude a readmission agreement with the Union or otherwise provide for appropriate safeguards within the meaning of Article 46 of Regulation (EU) 2016/679 ■ . Despite the extensive efforts of the Union in cooperating with the main countries of origin of illegally staying third-country nationals subject to an obligation to return, it is not always possible to ensure that such third countries systematically fulfil the obligation established by international law to readmit their own nationals. Therefore, readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for the transfer of data to third countries pursuant to Article 46 of Regulation (EU) 2016/679 ■ , cover a limited number of such third countries. In the situation where such agreements do not exist, personal data should be transferred by immigration liaison officers for the purposes of implementing the return operations of the Union in accordance with the conditions laid down in Article 49 ■ of Regulation (EU) 2016/679 ■ .

(25) *As an exception from the requirement for an adequacy decision or appropriate safeguards, the transfer of personal data to third-country authorities under this Regulation should be allowed for implementing the return policy of the Union. It should therefore be possible for immigration liaison officers to use the derogation provided for in Article 49(1)(d) of Regulation (EU) 2016/679 subject to the conditions set out in that Article for the purposes of this Regulation, namely for the dignified and effective return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States in accordance with Directive 2008/115/EC of the European Parliament and of the Council¹.*

¹ *Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).*

- (26) In the interests of the persons concerned, immigration liaison officers should be able to process the personal data of persons in need of international protection subject to resettlement and of persons wishing to migrate legally to the Union, in order to confirm their identity and nationality. *Immigration liaison officers operate in a context in which it is likely that they gain important insights into the activities of criminal organisations involved in smuggling of migrants and trafficking in human beings. Therefore, they should also be able to share personal data processed in the course of their duties with law enforcement authorities and within networks of immigration liaison officers, provided that the personal data in question is necessary either for the prevention and tackling of irregular migration or for the prevention, investigation, detection and prosecution of smuggling of migrants or trafficking in human beings.*

(27) ■ The objective of this Regulation ■ is to optimise utilisation of *the network of* immigration liaison officers deployed by Member States, Commission and Union agencies to third countries in order to implement Union priorities more effectively *while respecting the national competences of Member States. Such Union priorities include ensuring a better management of migration, with a view to replacing irregular flows with safe and well-managed pathways through a comprehensive approach addressing all aspects of immigration, including* preventing and combating *smuggling of migrants and trafficking in human beings and* illegal immigration. Further Union priorities are to facilitate *dignified and effective* return, readmission and reintegration, contributing to integrated management of the Union's external borders and to support management of legal immigration or international protection schemes. *Since the objective of this Regulation* cannot be sufficiently achieved by the Member States alone but can rather, by reason of their large scale and their effects throughout the Union, be better achieved through coordination at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

- (28) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*¹ which fall within the area referred to in Article 1, points A and E, of Council Decision 1999/437/EC².
- (29) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*³ which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA⁴.

¹ OJ L 176, 10.7.1999, p. 36.

² Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

³ OJ L 53, 27.2.2008, p. 52.

⁴ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

- (30) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹ which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU².
- (31) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

¹ OJ L 160, 18.6.2011, p. 21.

² Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

- (32) *On 1 October 2018, in accordance with Article 5(2) of Protocol No 19 on the Schengen acquis integrated into the framework of the European Union, annexed to the TEU and to the TFEU, the United Kingdom notified the Council of its wish not to take part in the adoption of this Regulation. In accordance with Article 5(3) of the said Protocol, the Commission presented on 31 January 2019 a proposal for a Council Decision concerning the notification by the United Kingdom of its wish no longer to take part in some of the provisions of the Schengen acquis which are contained in Regulation (EC) No 377/2004. On this basis, the Council decided on 18 February 2019¹ that as from the day of entry into force of this Regulation, Council Decision 2000/365/EC² and point 6 of Annex I to Council Decision 2004/926/EC³ shall cease to apply to the United Kingdom as regards Regulation (EC) No 377/2004 and any further amendments thereto.*

¹ *Council Decision (EU) 2019/304 of 18 February 2019 concerning the notification by the United Kingdom of Great Britain and Northern Ireland of its wish no longer to take part in some of the provisions of the Schengen acquis which are contained in Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network (OJ L 51, 22.2.2019, p. 7).*

² *Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (OJ L 131, 1.6.2000, p. 43).*

³ *Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland (OJ L 395, 31.12.2004, p. 70).*

- (33) Ireland is taking part in this Regulation, in accordance with Article 5(1) of Protocol No 19, and Article 6(2) of Council Decision 2002/192/EC¹.
- (34) The participation of ■ Ireland in this Regulation in accordance with ■ Article 6(2) of Decision 2002/192/EC relates to the responsibilities of the Union for taking measures developing the provisions of the Schengen *acquis* against the organisation of illegal immigration in which ■ Ireland *participates*.
- (35) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(*I*) of the 2005 Act of Accession and Article 4(*I*) of the 2011 Act of Accession,

HAVE ADOPTED THIS REGULATION:

¹ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

Article 1

Scope

1. This Regulation lays down rules to ***enhance cooperation and*** coordination ***among*** immigration liaison officers deployed to third countries by Member States, the Commission and Union agencies, through the creation of a European network of immigration liaison officers.
2. This Regulation is without prejudice to the ***responsibility of Member State authorities, the Commission and Union agencies for defining the scope and assignment of tasks and reporting lines of their respective immigration liaison officers, and*** to the tasks of immigration liaison officers within the framework of their responsibilities under Union and national law, policies or procedures, or under special agreements concluded with the host country or international organisations.

Article 2
Definitions

For the purposes of this Regulation the following definitions apply ■ :

- (1) ‘immigration liaison officer’ means ***a liaison officer designated and deployed abroad, by the competent authorities of a Member State, or by the Commission or by a Union agency, in accordance with the respective legal basis, to deal with immigration-related issues, also when that is only a part of their duties;***
- (2) ‘deployed abroad’ means deployed ***to a third country***, for a reasonable time period to be determined by the responsible authority, to one of the following:
 - (a) a ***diplomatic mission*** of a Member ***State***;
 - (b) the competent authorities of a third country;

- (c) an international organisation;
- (d) a diplomatic mission of the Union;
- (3) ‘personal data’ means personal data as defined in point (1) of Article 4 of the Regulation (EU) 2016/679;
- (4) ‘return’ means return as defined in point (3) of Article 3 of Directive 2008/115/EC.

Article 3

Tasks of immigration liaison officers

1. ***Immigration liaison officers shall carry out their tasks within the framework of their responsibilities determined by the deploying authorities and in accordance with the provisions, including those on the protection of personal data, laid down in Union and national laws and in any agreements or arrangements concluded with third countries or international organisations.***

2. ***Immigration liaison officers shall carry out their tasks in accordance with fundamental rights as general principles of Union law as well as international law, including human rights obligations. They shall have particular consideration for vulnerable persons and take into account the gender dimension of migration flows.***
3. ***Each deploying authority shall ensure that immigration liaison officers establish and maintain direct contacts with the competent authorities of third countries, including, when appropriate, with local authorities, and any relevant organisations operating within the third country, including international organisations, notably with a view to implementing this Regulation.***
4. Immigration liaison officers shall collect information, for use either at operational level, strategic level, or both. Information collected under this paragraph shall ***be collected in accordance with Article 1(2) and shall*** not contain personal data, ***without prejudice to Article 10(2).*** Such information shall cover the following issues in particular:
 - (a) ***European integrated border management at the external borders, with a view to managing migration effectively;***

- (b) migratory flows originating from or transiting through the third country, *including where possible and relevant, the composition of migratory flows and migrants' intended destination*;
- (c) routes used by migratory flows originating from or transiting through the third country in order to reach the territories of the Member States;
- (d) the existence, activities and modi operandi of criminal organisations involved in smuggling of migrants and trafficking in human beings along the migratory routes;
- (e) incidents and events that have the potential to be or to cause new developments with respect to migratory flows;
- (f) methods used for counterfeiting or falsifying identity documents and travel documents;
- (g) ways and means to assist the authorities in third countries in preventing illegal immigration flows originating from or transiting through their territories;

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- (h) pre-departure measures available to immigrants in the country of origin or in host third countries that support successful integration upon legal arrival in Member States;
- (i) ways and means to facilitate return, readmission and reintegration;
- (j) *effective* access to protection *that the third country has put in place, including in favour of vulnerable persons;*
- (k) *existing and* possible *future* legal immigration strategies and channels between the Union and third countries, *taking into account skills and labour market needs in Member States, as well as resettlement and other protection tools;*
- (l) capacity, capability, political strategies, legislation and legal practices of third countries *and stakeholders, including, where possible and relevant, regarding reception and detention centres and the conditions therein,* as relevant to the issues referred to in points (a) to (k).

5. Immigration liaison officers shall coordinate among themselves and with relevant stakeholders regarding the provision of their capacity-building activities to authorities and other stakeholders in third countries.
6. Immigration liaison officers may render assistance, ***taking into account their expertise and training***, in:
 - (a) establishing the identity ***and nationality of*** third-country nationals and facilitating their return in accordance with Directive 2008/115/EC, ***as well as assisting their reintegration, where relevant and possible***;
 - (b) confirming the identity of persons in need of international protection for the purposes of facilitating their resettlement in the Union, ***including by providing them, where possible, with adequate pre-departure information and support***;

- (c) confirming identity and facilitating implementation of Union *and national* measures in respect of the admission of legal immigrants;
- (d) *sharing information obtained in the course of their duties within networks of immigration liaison officers and with competent authorities of the Member States, including law enforcement authorities, in order to prevent and detect illegal immigration as well as combat smuggling of migrants and trafficking in human beings.*

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Article 4

Notification of the deployment of immigration liaison officers

1. Member States, the Commission and the Union agencies shall inform the Steering Board established in Article 7 of their plans for ***and actual*** deployment of immigration liaison officers, including a description of their duties and the duration of their deployment.

The activity reports referred to in point (c) of Article 8(2) shall include an overview of the deployments of immigration liaison officers.

2. The information referred to in paragraph 1 shall be made available on the secure web-based information exchange platform provided for in Article 9.

Article 5

Creation of local or regional networks of immigration liaison officers

1. Immigration liaison officers deployed to the same ■ countries or regions shall constitute local or regional cooperation networks *and cooperate, where and when appropriate, with liaison officers deployed by countries other than Member States*. Within the framework of such networks, immigration liaison officers shall *in accordance with Article 1(2)*, in particular:
 - (a) meet regularly and whenever necessary;
 - (b) exchange information and practical experience, in particular at meetings and via the secure web-based information exchange platform provided for in Article 9;
 - (c) exchange information, where appropriate, on experience regarding ■ access to *international* protection;

- (d) coordinate positions to be adopted in contacts with commercial carriers, where appropriate;
- (e) attend joint specialised training courses, when appropriate, ***including on fundamental rights, trafficking in human beings, smuggling of migrants, document fraud or access to international protection in third countries***;
- (f) organise information sessions and training courses for members of the diplomatic and consular staff of the missions of the Member States in the third country, when appropriate;
- (g) adopt common approaches on methods for the collection and reporting of strategically relevant information, including risk analyses;
- (h) set up regular contacts with similar networks in the third country and in neighbouring third countries, as appropriate.

2. Immigration liaison officers deployed by the Commission shall *facilitate and support* the networks provided for in paragraph 1. In locations where the Commission does not deploy immigration liaison officers, *immigration liaison officers deployed by Union agencies shall facilitate and support the networks provided for in paragraph 1. In locations where neither the Commission nor Union agencies deploy immigration liaison officers* the network shall be *facilitated* by an immigration liaison officer, as agreed by members of the network.
3. The Steering Board shall be notified *without undue delay* of the appointment of the *designated* network *facilitator or where no facilitator is designated*.

Article 6

Joint deployment of immigration liaison officers

1. Member States may bilaterally or multilaterally agree that immigration liaison officers who are deployed to a third country or international organisation by a Member State shall also look after the interests of one or more other Member States.
2. Member States may also agree that their immigration liaison officers shall share certain tasks among each other, *on the basis of their competence and training*.
3. Where two or more Member States jointly deploy an immigration liaison officer, those Member States may receive Union financial support pursuant to Regulation (EU) No 515/2014.

Article 7
Steering Board

1. A Steering Board for a European network of immigration liaison officers is established.
2. The Steering Board shall be composed of one representative of each Member State, two representatives of the Commission, one representative of the European Border and Coast Guard Agency, one representative of Europol and one representative of EASO. ***To that end, each Member State shall appoint a member of the Steering Board as well as an alternate who will represent the member in his or her absence.*** The Steering Board members shall be appointed ***in particular*** on the basis of their relevant experience and expertise in managing liaison officer networks.
3. **■** Countries associated with the implementation, application and development of the Schengen acquis shall participate in the Steering Board ***and shall appoint one representative each as members without voting rights. They shall be allowed to express views on all issues discussed and decisions taken by the Steering Board.***

When taking decisions on matters that are relevant for immigration liaison officers deployed by countries associated with the implementation, application and development of the Schengen acquis, the Steering Board shall take due account of the views expressed by the representatives of those countries.

4. Experts, representatives of national authorities, international organisations and relevant Union institutions, bodies, offices and agencies who are not members of the Steering Board may be invited *by the Steering Board* to attend *its* meetings ■ as observers.
5. The Steering Board may organise joint meetings with other networks or organisations.
6. A Commission representative shall act as the Chair of the Steering Board. The Chair shall:
 - (a) ensure continuity and organise the work of the Steering Board, including supporting the preparation of the biennial work programme and biennial report on the activities;

- (b) ***advise the Steering Board in ensuring*** that the collective activities agreed **■** are consistent and coordinated with relevant Union instruments and structures and reflect the priorities of the Union in the area of migration;
- (c) convene meetings of the Steering Board.

To achieve the objectives of the Steering Board, the Chair shall be assisted by a Secretariat.

- 7. The Steering Board shall meet at least twice a year.
- 8. ***The Steering Board shall adopt decisions by an absolute majority of its members with voting rights.***
- 9. ***Decisions adopted by the Steering Board shall be communicated to the relevant immigration liaison officers by the respective deploying authorities.***

Article 8

Tasks of the Steering Board

1. The Steering Board shall establish its own rules of procedure on the basis of a proposal by the Chair within three months of its first meeting. The rules of procedure shall set out the details of the voting arrangements. ***The rules of procedure shall include, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements.***
2. Considering the priorities of the Union in the area of immigration and within the scope of the tasks of immigration liaison officers as defined in this Regulation ***and in accordance with Article 1(2)***, the Steering Board shall carry out the following activities ***based on a comprehensive situational picture and on analyses provided by the relevant Union agencies:***
 - (a) establish priorities and plan activities by adopting a biennial work programme indicating the resources needed to support that work;

- (b) *regularly* review the implementation of its activities *with a view to proposing amendments to* the biennial work programme *as appropriate*, and as regards the appointment of network *facilitators* and progress made by networks of immigration liaison officers in their cooperation with competent authorities in third countries;
- (c) adopt the biennial activity report, including the overview referred to in the second subparagraph of Article 4(1), *to be prepared by the Chair of the Steering Board*,
- (d) update the list of deployments of immigration liaison officers ahead of each Steering Board meeting;
- (e) identify deployment gaps and *outline possibilities for the* deployment of immigration liaison officers.

The Steering Board shall transmit the documents referred to in points (a) and (c) of the first subparagraph of this paragraph to the European Parliament.

3. Considering the operational needs of the Union in the area of immigration and within the scope of the tasks of immigration liaison officers as defined in this Regulation ***and in accordance with Article 1(2)***, the Steering Board shall carry out the following activities:
- (a) agree on ad-hoc ***actions*** by networks of immigration liaison officers;
 - (b) monitor the availability of information between immigration liaison officers and Union agencies, and make recommendations for necessary actions where required;
 - (c) support the development of the capabilities of immigration liaison officers, including through developing ***supplementary and non-compulsory*** common core curricula, pre-deployment training, ***guidelines on observing fundamental rights in their activities with a particular focus on vulnerable persons***, and the organisation of joint seminars on subjects as referred to in Article 3(4), ***taking into account training tools developed by the relevant Union agencies or other international organisations***;
 - (d) ensure that information is exchanged through the secure web-based information exchange platform as provided for in Article 9.

4. For the execution of the activities referred to *in* paragraphs 2 and 3, Member States may receive Union financial support in accordance with Regulation (EU) No 515/2014.

Article 9

Information exchange platform

1. *For the purposes of their respective tasks*, immigration liaison officers, members of the Steering Board and *facilitators of the network referred to in Article 5(2)* shall ensure that all relevant information and statistics are uploaded to and exchanged via a secure web-based information exchange platform. *That platform shall be set up by the Commission in agreement with the Steering Board and* maintained by the Commission.

No operational law enforcement information of a strictly confidential nature shall be exchanged via the secure web-based information exchange platform.

2. ■ The information to be *exchanged via the secure web-based information exchange platform* shall include at least the following elements:
- (a) relevant documents, reports and analytical products *as agreed by the Steering Board in accordance with Article 8(2) and (3)*;
 - (b) biennial work programmes, biennial activity reports and the outcome of activities and ad-hoc tasks of networks of immigration liaison officers as referred to in Article 8(2) and (3);
 - (c) an up-to-date list of Steering Board members;
 - (d) an up-to-date list *of contact details* of immigration liaison officers deployed to third countries, including their names, locations *of deployment and region of responsibility*, telephone numbers and email addresses;
 - (e) other relevant documents related to the activities and decisions of the Steering Board.

3. With the exception of data as referred to in points (c) and (d) of paragraph 2, the information exchanged through the secure web-based information exchange platform shall not contain personal data or any links through which such personal data is directly or indirectly available. Access to data referred to in points (c) and (d) of paragraph 2 shall be restricted to immigration liaison officers, members of the Steering Board ***and duly authorised staff*** for the purpose of implementation of this Regulation.
4. ***The European Parliament shall be given access to certain parts of the secure web-based information exchange platform, as determined by the Steering Board in its rules of procedure and in accordance with the applicable Union and national rules and legislation.***

Article 10

Processing personal data

1. Immigration liaison officers shall carry out their tasks in accordance with Union and national personal data protection rules, as well as such rules contained in international agreements concluded with third countries or international organisations.
2. Immigration liaison officers may process personal data for the purpose of the tasks referred to in Article 3(6). Those personal data shall be erased *when they are no longer necessary in relation to the purposes for which they were collected or otherwise processed in accordance with Regulation (EU) 2016/679*.
3. Personal data processed pursuant to paragraph 2 may include:
 - (a) biometric or biographic data, where necessary, to confirm the identity and nationality of third-country nationals for the purposes of return, including all types of documents which can be considered as proof or prima facie evidence of nationality;
 - (b) passenger lists for return flights *and other means of transport* to third countries;

- (c) biometric or biographic data to confirm the identity and nationality of third-country nationals for the *purpose* of legal migration admission ■ ;
- (d) *biometric or biographic data to confirm the identity and nationality of third-country nationals in need of international protection for the purpose of resettlement;*
- (e) *biometric, biographic data as well as other personal data necessary for establishing the identity of an individual and necessary for preventing and combating smuggling of migrants and trafficking in human beings, as well as personal data related to criminal networks' modi operandi, means of transports used, involvement of intermediaries and financial flows.*

Data under point (e) of the first subparagraph of this paragraph shall be processed for the sole purpose of executing the tasks referred to under point (d) of Article 3(6).

4. *Any exchange of personal data shall be strictly limited to what is necessary for the purposes of this Regulation.*
5. Transfers of personal data by immigration liaison officers to third countries and international organisations pursuant to this Article shall be carried out in accordance with Chapter V of Regulation (EU) 2016/679 **■** .

Article 11

Consular cooperation

This Regulation is without prejudice to the provisions on consular cooperation at a local level contained in **■** Regulation (EC) No 810/2009 of the European Parliament and of the Council¹.

¹ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

Article 12

Report

1. Five years after the date of adoption of this Regulation, the Commission shall report to the European Parliament and the Council on the application of this Regulation.
2. Member States *and the relevant Union agencies* shall provide the Commission with the necessary information for the preparation of the report on the application of this Regulation.

Article 13

Repeal

Regulation (EC) No 377/2004 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex *II*.

Article 14

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX I

Repealed Regulation with the amendment thereto

Council Regulation (EC) No 377/2004	(OJ L 64, 2.3.2004, p. 1)
Regulation (EU) No 493/2011 of the European Parliament and of the Council	(OJ L 141, 27.5.2011, p. 13)

ANNEX II

CORRELATION TABLE

Regulation (EC) No 377/2004	This Regulation
—	Article 1(1)
—	Article 2, introductory wording
Article 1(1)	Article 2, point (1)
—	
Article 1(2)	Article 2, point (1) final wording
—	
Article 1(3)	Article 2 point (2)
Article 1(4)	Article 1(2)
Article 2(1)	Article 3(3)
Article 2(2), introductory wording	Article 3(4), introductory wording
Article 2(2), first indent	Article 3(4)(b)
Article 2(2), second indent	Article 3(4)(c)
Article 3(1)	Article 4(1) first subparagraph
Article 4(1)	Article 5(1)
Article 5(1) and (2)	Article 6 (1) and (2)
Article 7	Article 11

—	Annex I
—	Annex II
