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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	9036/18
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) - Mandate for negotiations with the European Parliament

Delegations will find attached a compromise proposal with a view to granting the Presidency a mandate to start negotiations with the European Parliament.

Delegations should note that:

- new text compared to the Commission proposal is indicated as follows: ➞addition underlined☺
- changes to the last Presidency compromise proposal, as set out in 12964/18 is indicated as follows: ➞**addition in bold and underlined**☺
- text deleted from the Commission proposal is indicated as follows ➞[...]☹.

↓ 377/2004 (adapted)

⇒ new

⇒ Council

2018/0153 (COD)

Proposal for a

REGULATION 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 ☒ establishing the ~~European Community~~, and in particular Article ~~63(3)(b)~~ ☒ 74 ☒ and Article ~~66~~ ☒ 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 procedure,

Whereas:

↓ new

(1) Council Regulation (EC) No 377/2004¹ has been substantially amended². Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

↓ 377/2004 recital 1 (adapted)

~~The plan for the management of the external borders of the Member States of the European Union, agreed by the Council at its meeting of 13 June 2002 envisages the setting up of networks of immigration liaison officers posted in third countries.~~

↓ 377/2004 recital 2 (adapted)

~~In the conclusions of its meeting of 21 and 22 June 2002 the Seville European Council called for the creation of a network of immigration liaison officers of the Member States before the end of 2002.~~

↓ 377/2004 recital 3 (adapted)

~~At its meeting of 28 and 29 November 2002 the Council adopted conclusions on the improvement of the Immigration Liaison Officers Network, taking note of the report of the Presidency, showing that a network of liaison officers is in place in most of the countries surveyed in the report, but noting also that there was a need to further strengthen this network.~~

¹ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 064, 2.3.2004, p. 1).

² See Annex I.

↓ 377/2004 recital 4 (adapted)

~~The Thessaloniki European Council of 19 and 20 June 2003 emphasised the need for acceleration of work on adopting the appropriate legal instrument formally establishing the Immigration Liaison Officers (ILO's) network in third countries, at the earliest possible date and before the end of 2003. The European Council also referred to the importance of the information to be provided by the ILO's network in developing an evaluation mechanism to monitor relations with third countries which do not cooperate with the European Union in combating illegal immigration.~~

↓ 377/2004 recital 5 (adapted)

~~Following the Thessaloniki European Council, it is necessary to formalise the existence and functioning of such a network — drawing on experiences gained in the operation of running projects, including the Belgian-led Western Balkans ILO network — through a legally binding act, setting out the obligation to establish forms of cooperation among immigration liaison officers of the Member States, the objectives of such cooperation, the functions and appropriate qualifications of such liaison officers, as well as their responsibilities vis-à-vis the host country and the sending Member State.~~

↓ 377/2004 recital 6 (adapted)

~~It is also desirable to formalise the way in which the relevant institutions of the Community are informed of the activities of the immigration officers liaison network so as to allow them to take or propose such measures as may be necessary to improve further the overall management of the controls on persons at the external borders of the Member States~~

↓ 377/2004 recital 7 (adapted)

~~Taking into account Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States³,~~

³ OJ L 67, 12.3.2003, p. 27

↓ new

→ Council

- (2) The sharp increase of mixed migratory flows in 2015 and 2016 has put under pressure migration, asylum and border management systems and called for a coordinated and effective European response.
- (3) The objective of Union policy in the field of migration is to replace irregular and uncontrolled flows with safe and well-managed pathways through a comprehensive approach addressing all aspects of immigration.
- (4) Respecting human rights standards remains a fundamental principle of the Union → [...] →. The Union is committed to protect the human rights and fundamental freedoms of all migrants, regardless of their migratory status, in full compliance with international law.
- (5) To ensure the effective implementation of the Union policies on immigration in all their aspects, consistent dialogue and cooperation should be pursued with key third countries of origin and transit of migrants and → applicants for international protection → [...] →. Such cooperation should provide for better management of immigration, including departures and returns, contribute to the stabilisation of migrants' flows, support capacity to gather and share information → including on applicants' access to international protection →, and prevent and counter → illegal immigration, → migrant smuggling and trafficking in human beings, → [...] →.

- (6) In light of the increasing demand for intelligence 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.
- (7) The deployment of the current European Migration Liaison Officers to the key countries of origin and transit, as called upon by the conclusions of the special meeting of the Heads of States and Governments 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 are to be foreseen to support development, implementation and to maximise the impact of Union action on migration.
- (8) The objective of this Regulation is to ensure better coordination and optimise utilisation of the network of liaison officers deployed to third countries by 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 EU priorities of preventing and combatting illegal immigration and related cross-border criminality such as smuggling of migrants and trafficking in human beings, facilitating return, readmission and reintegration activities, contributing to integrated management of 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 Union. Such coordination should be in full respect of 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.
- (9) Building on Council 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 tasks and roles of their liaison officers.

- (10) Taking into account that liaison officers dealing with migration-related issues are deployed by different competent authorities and that their mandates and tasks may overlap, due efforts should be made to to enhance the 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 the Union Agencies, they should facilitate and support 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.
- (11) The establishment of a robust mechanism that ensures better coordination among and cooperation of all liaison officers dealing with immigration issues as a 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 external relations – and should be given the necessary powers, in particular to adopt biennial work programmes of 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. Both the tasks of the Steering Board and the facilitators of the immigration liaison officer networks are without prejudice to the competence of deploying authorities with regard to tasking of 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 most concerned Member States regarding the respective third countries.

- (12) A list of immigration liaison officers deployed to third countries should therefore be established and updated regularly by the Steering Board. The list should include information related to the location, composition and activities of different networks, and including the contact details and the summary of duties of the deployed immigration liaison officers.
- (13) 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 the needs at Union level, as defined by the Steering Board. Joint deployment, by at least two Member States, should be supported by the Union funds encouraging engagement and providing added value to all Member States ➡ [...] ⬅.
- (14) Special provisions should be made for a wider Union capacity building action for immigration liaison officers, through a development, in cooperation with relevant Union Agencies, of common core curricula and pre-deployment training courses, and for supporting 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. ⬅
- (15) 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 an 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. They 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 shall at all times be aware that their actions may have operational or reputational consequences for local and regional networks of immigration liaison officers and they should act accordingly when carrying out their tasks. ⬅

- (16) Member States authorities should ensure that ➔, where appropriate and in accordance with Union and national law, information obtained by liaison officers deployed to other Member States as well as ➔ strategic and operational analytical products of the Union Agencies in relation to illegal immigration, return, 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, Europol and ➔[➔ the European Union Asylum Agency➔]➔ within the scope of their respective legal frameworks.
- (17) 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.
- (18) Information collected by immigration liaison officers should support the implementation of the technical and operational European integrated border management referred to in Article 4 of the Regulation (EU) No 2016/1624 of the European Parliament and of the Council⁴ and contribute to the development and maintenance of the national border surveillance systems in line with Regulation (EU) No 1052/2013 of the European Parliament and of the Council⁵.

⁴ Regulation (EU) No 2016/1624 of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/299 of the European Parliament and of the Council and repealing Regulation (EC) No 836/2007 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. 1-76).

⁵ Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosir) (OJ L 295, 6.11.2013, p. 11-26).

- (19) It should be possible to use the available resources of the Regulation (EU) No 515/2014 of the European Parliament and of the Council⁶ to support the activities of a European network of immigration liaison officers as well as to pursue with the deployment of joint immigration liaison officers by Member States.
- (20) Any processing ➡ [...] ⚡ ➡ including transfer ⚡ of personal data by Member States within the framework of this Regulation should be conducted in accordance with Regulation (EU) No 2016/679 of the European Parliament and of the Council⁷ ➡ [...] ⚡. The Commission and Union Agencies should apply Regulation (EC) No 45/2001 of the European Parliament and of the Council⁸ when processing personal data.
- (21) The processing of personal data within the framework of this Regulation should be for the purposes of rendering assistance to returning third-country nationals and facilitating the resettlement of persons in need of international protection and implementing Union ➡ and national ⚡ measures in respect of the admission ➡ for the purpose of legal migration ⚡ ➡ [...] ⚡ ➡ and for the prevention and combatting 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.

⁶ 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).

⁷ Regulation (EU) No 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).

⁸ 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 (OJ L 008, 12.1.2001, p.1).

- (22) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in accordance with Directive 2008/115/EC of the European Parliament and of the Council⁹, is an essential component of the comprehensive efforts to tackle illegal immigration and represents an important reason of substantial public interest.
- (23) Immigration liaison officers need to process personal data to facilitate return operations. 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 such third countries systematically fulfil the obligation established by international law to readmit their own nationals. Readmission agreements, concluded or being negotiated by the Union or the Member States and providing for appropriate safeguards for 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 line with the conditions laid down in Article 49(1)(d) of Regulation (EU) 2016/679 ➡ [...] Ⓒ.

⁹ 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).

- (24) In the interest of the persons concerned, immigration liaison officers should be able to process personal data of persons in need of international protection subject to resettlement and of persons wishing to migrate legally in the Union in order to confirm their identity and nationality. ➞ Immigration liaison officers operate in a context in which it is likely that they may gain important insights on the activities of criminal organisations involved in smuggling and trafficking of human beings. Therefore, they should also be able to share personal data processed in the course of their duties with the law enforcement authorities and within networks of immigration liaison officers provided that the personal data in question is necessary for the prevention, investigation, detection and prosecution of irregular migration and for the disruption of smuggling of migrants and trafficking of human beings. Ⓒ
- (25) Since the objectives of this Regulation, which are to optimise utilisation of ➞ the network of Ⓒ immigration liaison officers deployed by Member States, Commission and EU Agencies to third countries in order to more effectively implement Union priorities regarding preventing and combatting illegal immigration, facilitating return, readmission and reintegration, contributing to integrated management of Union's external borders, as well as supporting management of legal immigration or international protection schemes, cannot be sufficiently achieved by the Member States alone but are 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 of the Treaty on European Union. 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 those objectives.

- (26) 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 ~~of those States~~ with the implementation, application and development of the Schengen *acquis*¹⁰ which fall within the area referred to in Article 1, points A and E_a of Council Decision 1999/437/EC ~~of 17 May 1999 on certain arrangements for the application of that Agreement~~¹¹.
-

- (27) 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*¹² which fall within the area referred to in Article 1, points A and E, of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹³.

¹⁰ OJ L 176, 10.7.1999, p. 36.

¹¹ 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).

¹² OJ L 53, 27.2.2008, p. 52.

¹³ Council Decision 2008/146/EC 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. 1).

- (28) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol ~~signed~~ 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*¹⁴ which fall within the area referred to in Article 1, points A and E, of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision ~~2008/261/EC~~ 2011/350/EU¹⁵.

¹⁴ OJ L 160, 18.6.2011, p. 21.

¹⁵ 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).

↓ 377/2004 recital 9 (adapted)

- (29) In accordance with Articles 1 and 2 of ~~the~~ Protocol ~~☒~~ No 22 ~~☒~~ on the position of Denmark, annexed to the Treaty on European Union and to the Treaty ~~☒~~ on the Functioning of the European Union ~~☒~~ ~~establishing the European Community~~, 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* ~~under the provisions of Title IV of Part Three of the Treaty establishing the European Community~~, Denmark shall, in accordance with Article ~~5~~ ~~☒~~ 4 ~~☒~~ of ~~the said~~ ~~☒~~ that ~~☒~~ Protocol, decide within a period of six months after the Council has ~~adopted~~ ~~☒~~ decided on ~~☒~~ this Regulation whether it will implement it in its national law.
-

↓ 377/2004 recital 10 (adapted)

- (30) The United Kingdom is taking part in this Regulation, in accordance with Article 5(1) of ~~the~~ Protocol ~~☒~~ No 19 on ~~☒~~ ~~integrating~~ the Schengen *acquis* ~~☒~~ integrated ~~☒~~ into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty ~~☒~~ on the Functioning of the European Union ~~☒~~ ~~establishing the European Community~~, and Article 8(2) of 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*~~¹⁶.

¹⁶ 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).

↓ 377/2004 recital 11 (adapted)

- (31) Ireland is taking part in this Regulation, in accordance with Article 5(1) of ~~the~~ Protocol ☒ No 19 on ☒ ~~integrating~~ the Schengen *acquis* ☒ integrated ☒ into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty ☒ on the Functioning of the European Union ☒ ~~establishing the European Community~~, and Article 6(2) of Council Decision 2002/192/EC ~~of 28 February 2002 concerning the request of Ireland to take part in some of the provisions of the Schengen *acquis*~~¹⁷.
-

↓ 377/2004 recital 12 (adapted)

- (32) The participation of the United Kingdom and Ireland in this Regulation in accordance with Article 8(2) of Council Decision 2000/365/EC ~~of 29 May 2000~~ and Article 6(2) of Council Decision 2002/192/EC ~~of 28 February 2002~~ relates to the responsibilities of the ~~Community~~ ☒ Union ☒ for taking measures developing the provisions of the Schengen *acquis* against the organisation of illegal immigration in which the United Kingdom and Ireland participate.
-

↓ 377/2004 recital 13 (adapted)

☉ Council

- (33) This Regulation constitutes an act building ~~on~~ ☒ upon, or otherwise relating to, ☒ the Schengen *acquis* ~~or otherwise related to it~~ within ☒ , respectively, ☒ the meaning of Article 3(2~~1~~) of the 2003 Act of Accession, ☒ Article 4(☉1☉☉ [...])☉ of the 2005 Act of Accession and Article 4(☉1☉☉ [...])☉ of the 2011 Act of Accession, ☒

¹⁷ 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).

↓ 377/2004 (adapted)

HAVE ADOPTED THIS REGULATION:

Article 1

⊠ Scope ⊠

↓ new

→ Council

1. This Regulation lays down rules to improve the coordination → and cooperation among → [...] → immigration liaison officers deployed to third countries by Member States, the Commission and the Union Agencies through the creation of a European network of immigration liaison officers.
-

↓ 377/2004 (adapted)

→ Council

24. This Regulation is without prejudice 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.
- This Regulation is without prejudice to the responsibility of Member State authorities, the Commission and the Union Agencies for defining the scope and assignment of tasks and reporting of their respective immigration liaison officers. →

Article 24

⊠ Definitions ⊠

⊠ For the purposes of this Regulation ➡ [...] Ⓢ : ⊠

➡ [...] Ⓢ ~~In this Regulation~~ ‘immigration liaison officer’ means ➡ [...] Ⓢ ➡ a liaison officer
designated and deployed abroad by competent authorities of one of the Member States or the
Commission or the Union Agencies, as referred to in their respective legal basis, and dealing
with immigration-related issues, also when only a part of their duties. Ⓢ

➡ [...] Ⓢ

↓ new

➡ [...] Ⓢ

↓ 377/2004

➡ [...] Ⓢ

↓ new

➡ Council

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) the ➡ [...] Ⓢ ➡ diplomatic missions Ⓢ of a Member State ➡ [...] Ⓢ ;
- (b) the competent authorities of a third country;
- (c) an international organisation;
- (d) a Union's diplomatic mission.

↓ 377/2004

~~3. The immigration liaison officers could be posted to the national consular authorities of Member States in third countries or to the relevant authorities of other Member States, but also to the competent authorities of the third countries, as well as to international organisations for a reasonable time period to be determined by the posting Member State.~~

↕ new

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;

↓ 377/2004 (adapted)

⇒ new

⇒ Council

Article 32

⊠ Tasks of immigration liaison officers ⊠

⇒-1. Immigration liaison officers shall carry out their tasks as applicable within the framework of their responsibilities determined by the deploying authorities and in compliance 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. Ⓒ

1. ~~Each Member State shall ensure that its~~ ➔ Each deploying authority shall ensure that ➔ i ➔
 ➔ [...] ➔ immigration liaison officers ➔ [...] ➔ establish and maintain direct contacts with
 the competent authorities in ➔ of ➔ the ~~host country~~ ➔ third country ➔ and any
 appropriate organisations ➔ operating ➔ within ~~the host~~ ➔ the third ➔ country, ➔ notably ➔
 with a view to ~~facilitating and expediting the collection and exchange of information~~
 ➔ implementing this Regulation ➔.

2. Immigration liaison officers shall collect information for use either at the operational level, or
 at a strategic level, or both. ➔ Such information shall ➔ **be collected in accordance with**
Article 1(2) and shall ➔ not contain personal data ➔ without prejudice to Article
 10(2) ➔. ➔ Such information shall in particular concern ➔ the following ➔ issues ~~such as~~:
 ➔(-a) the European integrated border management at the external borders with a view to
managing migration effectively and ensuring a high level of internal security within the
Union, while safeguarding the free movement of persons therein; ➔
 (a) ➔ migratory ➔ flows of illegal immigrants originating from or transiting through the
host country;
 (b) routes followed ➔ used ➔ by these ➔ these migratory ➔ flows of illegal
immigrants in order to reach the territories of the Member States;
 (c) ➔ [...] ➔ ➔ criminal activities related to smuggling of migrants and trafficking in
human beings; ➔

– ~~their modus operandi, including the means of transport used, the involvement of intermediaries, etc.,~~

– ~~the existence and activities of criminal organisations involved in the smuggling of immigrants,~~

(d) incidents and events that may be or become the cause for new developments with respect to ☒ migratory ☒ flows of illegal immigrants;

(e) methods used for counterfeiting or falsifying identity documents and travel documents;

(f) ways and means to assist the authorities in ~~host~~ ☐ third ☒ countries in preventing illegal immigration flows originating from or transiting through their territories;

(g) ways and means to facilitate ~~the return, and repatriation~~ ☒ readmission ☒ ☐ and reintegration ☒ ~~of illegal immigrants to their countries of origin;~~

(h) ☒ [...] ☒ access to ☒ international ☒ protection in the third country;

(i) possible legal immigration strategies and channels between the Union and third countries, ☒ taking into account skills and labour market needs in Member States, ☒ including resettlement and other protection tools ☒ [...] ☒.

(j) pre-departure measures available to immigrants in countries of origin or host third countries that support successful integration upon legal arrival in Member States;

↓ 377/2004 (adapted)

⇒ new

⇒ Council

⇒ (k) capacity, capability, political strategies, ⇐ legislation and legal practices ⇒ of third countries ⇐ and stakeholders relevant to the issues referred to ☒ in points (a) to (j) ☒, including international organisations above.

~~information transmitted via the early warning system.~~

↓ new

3. Immigration liaison officers shall coordinate among themselves and with relevant stakeholders the provision of their capacity building activities to authorities and other stakeholders in third countries.

↓ 377/2004 (adapted)

⇒ Council

~~43.~~ Immigration liaison officers ~~shall also be entitled to~~ ☒ may ☒ render assistance in:

(a) establishing the identity and nationality of [...] third-country nationals and in facilitating their return ☒ in accordance with the Directive 2008/115/EC ☒ to their country of origin.

↓ new

⇒ Council

(b) confirming identity and facilitating the resettlement of persons in need of international protection in the Union;

(c) confirming identity and facilitating implementation of Union ⇒ and national ⇐ measures in respect of the admission of legal immigrants.

⇒ (d) preventing and detecting illegal immigration as well as fighting smuggling of migrants and trafficking in human beings by 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. ⇐

↓ 377/2004 (adapted)

⇒ new

⇒ Council

54. ⇒ [...] ⇐

Article 43

⊗ **Notification of the deployment of immigration liaison officers** ⊗

1. Member States ⇒ , the Commission and the Union Agencies ⇐ shall ~~systematically and without delay~~ inform ~~one another, the Council and the Commission~~ ⇒ the Steering Board ⇐ of their ~~secondments~~ ⇒ plans for ⇒ and actual ⇐ deployment ⇐ of immigration liaison officers, including a description of their duties ⇒ and the duration of their deployment ⇐ .

~~2. Each Member State shall also inform the others of its intentions as regards the secondment of immigration liaison officers to third countries, so as to allow the other Member States to express an interest in concluding a cooperative agreement with the Member State concerned on such secondment, as referred to in Article 5.~~

↓ 493/2011 Art. 1.1(b)

⇒ new

~~23. The information referred to in paragraphs 1 and 2 shall be made available on the secure web-based ⇒ information exchange platform provided for in Article 9 ⇐ Information and Coordination Network for Member States' Migration Management Services established by Council Decision 2005/267/EC¹⁸ (ICONet) under the section dedicated to immigration liaison officers networks. The Commission shall also provide that information to the Council.~~

↓ 377/2004 (adapted)

⇒ Council

Article 54

⊗ Creation of local or regional networks of immigration liaison officers ⊗

1. ~~Member States shall ensure that their~~ Immigration liaison officers ~~posted~~ ⊗ deployed ⊗ to the same ⇐ [...] ⇐ countries or regions ⊗ shall ⊗ constitute local or regional cooperation networks ~~among each other~~ ⇐ 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; ³³

¹⁸ ~~OJ L 83, 1.4.2005, p. 48.~~

↓ 493/2011 Art. 1.2(a)

⇒ new

⇒ Council

- (b) exchange information and practical experience, in particular at meetings and via ⇒ the secure web-based information exchange platform provided for in Article 9 ⇐ ~~ICONet~~₂₂

⇒ [...] ⇐

↓ 377/2004 (adapted)

⇒ new

- (d) coordinate positions to be adopted in contacts with commercial carriers, when appropriate;₂₂
- (e) attend joint specialised training courses, when appropriate;₂₂
- (f) organise information sessions and training courses for members of the diplomatic and consular staff of the missions of the Member States in the ~~host~~ ⇒ third ⇐ country, when appropriate;₂₂
- (g) adopt common approaches as to methods of collecting and reporting strategically relevant information, including risk analyses, ~~to the competent authorities of the sending Member States~~₂₂
- ~~contribute to the biannual reports of their common activities, which are drafted in accordance with Article 6(1),~~
- (h) set up regular contacts with similar networks in the ~~host~~ ⇒ third ⇐ country and in neighbouring third countries, as appropriate.

↓ new

☞ Council

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 the Union Agencies shall facilitate and support the networks provided for in paragraph 1. In locations where neither the Commission nor the 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 of the appointment of the ☞ designated ☞ network ☞ [...] ☞ ☞ facilitator ☞ ☞ [...] ☞ ☞ or in case when no facilitator is designated. ☞
-

↓ 493/2011 Art. 1.2(b)

- ~~2. Representatives of the Commission and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) established by Council Regulation (EC) No 2007/2004¹⁹ may participate in the meetings organised within the framework of the immigration liaison officers network, although, if operational considerations so require, meetings may be held in the absence of those representatives. Other bodies and authorities may also be invited, as appropriate.~~

¹⁹ ~~OJ L 349, 25.11.2004, p. 1.~~

↓ 493/2011 Art. 1.2(c)

~~3. The Member State holding the Presidency of the Council of the European Union shall take the initiative to hold such meetings. If the Member State holding the Presidency is not represented in the country or region concerned, it is up to the Member State serving as acting Presidency to take the initiative to hold the meeting. Such meetings may also be held at the initiative of other Member States.~~

↓ 377/2004 (adapted)

Article ~~65~~

⊠ Joint deployment of immigration liaison officers ⊠

1. Member States may bilaterally or multilaterally agree that immigration liaison officers who are ~~posted~~ ⊠ 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.
-

↓ new

➡ Council

3. Where two or more Member States jointly deploy an immigration liaison officer, those Member States may receive Union financial support pursuant to the Regulation (EU) No 515/2014.

Article 7

Steering Board

1. A Steering Board for a European network of immigration liaison officers ("the Steering Board") 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 ☞[☞European Union Asylum Agency ☞]. To this effect, 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 officers 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 right ☞ ☞ [...] ☞. ☞ They shall be allowed to express views on all issues discussed and decisions taken by the Steering Board. ☞

When taking decisions in matters that directly concern immigration liaison officers deployed by countries associated with the implementation, application and development of the Schengen *acquis*, the 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. Joint meetings with other networks or organisations may also be organised.

5. The Commission 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.

6. The Steering Board shall meet at least twice a year.

7. The Steering Board shall take its decisions by an absolute majority of its members with a right to vote.

8. 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 procedures on the basis of a proposal by the Chair within three months of its first meeting.

The rules of procedures shall set out voting arrangements in greater detail. Those rules 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 analyses provided by the relevant Union Agencies~~:
- (a) establish priorities and activities by adopting a biennial work programme and indicating resources needed to support that work;
 - (b) ~~regularly~~ review implementation of activities ~~with a view to suggest amendments to~~ ~~[...]~~ the biennial work programme ~~as appropriate~~, 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 ~~prepared by the Chair of the Steering Board~~;
 - (d) update the list of deployment of immigration liaison officers ahead of each Steering Board meeting;
 - (e) identify deployment gaps and ~~outline possibilities for~~ ~~[...]~~ deployment of immigration liaison officers;
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~~ of 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 capability of immigration liaison officers, including through developing ~~supplementary and non-compulsory~~ common core curricula, pre-deployment training and the organisation of joint seminars on subjects as referred to in Article 3(2);

(d) ensure that information is exchanged through the web-based information exchange platform provided for in Article 9.

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

Article 9

Information exchange platform

1. Immigration liaison officers and members of the Steering Board shall ensure that all relevant information and statistics are uploaded and exchanged via the secure web-based information exchange platform set up [...] by the Commission in agreement with the Steering Board. The platform shall be maintained by the Commission.

The facilitator of the network as referred to in Article 5(2) shall ensure that all relevant information and statistics are uploaded and exchanged via the secure web-based information exchange platform. This shall exclude exchange of operational law enforcement information of a strictly confidential nature.

1a [...] Information exchanged via the secure 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 outcomes of activities and ad-hoc tasks of networks of immigration liaison officers as referred to in Article 8 (2) and (3);

(c) an updated list of Steering Board members;

(d) an updated list ~~containing contact details~~ of immigration liaison officers deployed to third countries, including their names, locations ~~of deployment, regional responsibility~~, telephone numbers and email addresses;

(e) other relevant documents related to the activities and decisions of the Steering Board.

2. With the exception of data referred to in points (c) and (d) of paragraph 1 ~~a~~, the information exchanged through the 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 1 ~~a~~ shall be restricted to immigration liaison officers ~~and [...]~~ members of the Steering Board ~~and duly authorised staff~~ for the purpose of implementation of this Regulation.

Article 10

Processing personal data

1. Immigration liaison officers shall carry out their tasks in compliance with legal provisions on the protection of personal data, as set out in Union and national laws and 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(4). That personal data shall be erased ~~when they are no longer necessary in relation to the purposes for which they were collected or otherwise processed~~ ~~[...]~~.

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 identity and nationality of third-country nationals for the purposes of legal migration admission and resettlement of third-country nationals in need of international protection.
-  (d) biometric or biographic data as well as other data necessary for establishing the identity of the individual and necessary for preventing and countering 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. Such data may be processed for the sole purpose of execution of task referred to under Article 3(4)(d). 

 [...] 

~~Article 6~~

- ~~1. The Member State holding the Presidency of the Council of the European Union or, where that Member State is not represented in the country or region concerned, the Member State serving as acting Presidency shall draw up, by the end of each semester, a report to the European Parliament, the Council and the Commission on the activities of immigration liaison officers networks in specific countries and/or regions of particular interest to the Union, as well as on the situation in those countries and/or regions, in matters relating to illegal immigration, taking into consideration all the relevant aspects, including human rights. The selection, following a consultation with the Member States and the Commission, of the specific countries and/or regions of particular interest to the Union shall be based on objective migratory indicators, such as statistics on illegal immigration, and risk analyses and other relevant information or reports prepared by Frontex and the European Asylum Support Office, and shall take into consideration the overall Union external relations policy.~~
- ~~2. The Member State's reports referred to in paragraph 1 shall be drawn up in accordance with the model established by Commission Decision 2005/687/EC of 29 September 2005 on the format for the report on the activities of immigration liaison officers networks and on the situation in the host country in matters relating to illegal immigration²⁰ and shall indicate the relevant selection criteria.~~
- ~~3. The Commission shall, on the basis of the Member State's reports referred to in paragraph 1, taking into consideration human rights aspects where relevant, provide a factual summary and, where appropriate, recommendations to the European Parliament and to the Council, on an annual basis, on the development of immigration liaison officers networks.~~

²⁰ ~~OJ L 264, 8.10.2005, p. 8.~~

↓ 377/2004 (adapted)

Article 11

⊗ **Consular cooperation** ⊗

This Regulation is without prejudice to the provisions on consular cooperation at a local level contained in ⊗ Regulation (EC) N° 810/2009 establishing a Community Code on Visas ⊗.

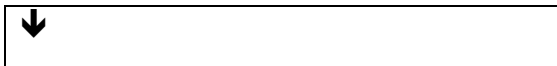
↓ new

➡ Council

Article 12

Report

1. Five years after the date of adoption of this Regulation, the Commission shall report to the European Parliament and the European Council on the application of the 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 the Regulation.

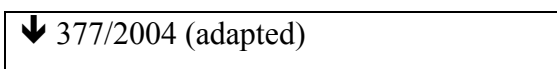


Article 13

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 ~~5 January 2004~~ ☒ 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 ~~Treaty establishing the European Community~~ ☒ Treaties. ☒

Done at Brussels,

For the European Parliament

The President

For the Council

The President
