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From:	Presidency
To:	Permanent Representatives Committee/Council
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Subject:	Evaluation of the European Border and Coast Guard (EBCG) Regulation – Exchange of views

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The Schengen area is one of the main achievements of the European Union, providing free movement and security to 400 million citizens. During the past months, significant progress has been made on the reinforcement and enlargement of the Schengen area, with agreements on important legislative files and the Council Decision on the full application of the Schengen *acquis* in Bulgaria and Romania. Nevertheless, the Schengen area is facing multiple challenges, including the continuous increase of illegal migration, the constant threat posed by various forms of cross-border crime, and an increasingly hostile and volatile environment at its external borders. These challenges underline the importance of an efficient European Border and Coast Guard (EBCG) Community and call for increased collective efforts from the European Border and Coast Guard Agency, the Commission and the Member States.

On 2 February 2024, the Commission issued its report on the evaluation of the European Border and Coast Guard Regulation<sup>1</sup> (hereinafter “the Regulation”), including the review of the Standing Corps. This first evaluation of the Regulation of 2019 is a timely exercise. It takes place against the backdrop of the COVID-19 pandemic in 2020-21, Russia’s war of aggression against Ukraine and past and ongoing situations of instrumentalisation. Furthermore, various of the elements contained in the EBCG Regulation, including the development of the Standing Corps, remain work in progress. The evaluation concludes with a positive assessment of the relevance and EU added value of the Regulation, considering it a sufficient basis to address current and future challenges at the EU’s external borders.

However, the evaluation identified a number of challenges that currently limit the effectiveness of the Regulation, though most of the identified challenges do not stem from the Regulation itself but are the result of organisational, technical or operational shortcomings.

Since its creation, the Agency has increased its operational support for Member States in various areas of its mandate. Despite this, a misalignment exists between the organisation's structure and its mandate, which the Agency is in the process of addressing. To increase the effectiveness of deployments, cooperation between the Agency and national authorities could be further enhanced. The enhancement of integrated capability development necessitates a strategic approach, enabling the optimisation of long-term planning and investment by Member States and the Agency in the protection of the external borders. A comprehensive capability roadmap and national development plans, aligned with the European Integrated Border Management (EIBM) strategy, are essential for establishing an effective European Border and Coast Guard.

Situational awareness and risk analysis are critical to EU border security; improvements are therefore required in the accuracy, completeness, and timeliness of the EU's external border situational picture.

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<sup>1</sup> 5490/24

Frontex's support in implementing return measures has been effective in all aspects of the return process, especially in organising joint return operations and providing other return-related support, including return counselling and reintegration support. However, there is room for improvement in strategic guidance and follow-up. Furthermore, cooperation with other organisations and third countries plays a crucial role in border protection and return measures; a review and update of the cooperation framework is therefore necessary.

To streamline the measures needed to address certain shortcomings identified in the evaluation, and to support the implementation of the Regulation and make it fully effective, the evaluation is accompanied by an Action Plan to be implemented by the Agency, its Management Board, the Member States and the Commission. The following actions are considered the most important:

1. Developing and regularly updating the capability roadmap and national capability development plans in line with the objectives identified within the EIBM-strategy. The process of developing this roadmap needs to be expedited to provide strategic direction for the Agency's capabilities. The Member States should align their national capability development plans with the Capability Roadmap to ensure coordinated capability development planning at the European level.
2. Proper strategic steering of return-related issues, including by the Agency's Management Board is needed, with the possibility to also consider discussions at the High-level Round Table meetings. There should be improved coordination and communication between the Agency and the Commission, and between the Agency and the responsible national authorities.
3. In order to build up the Standing Corps and to maximise its deployment effectiveness, gaps in specialised expertise need to be addressed and the national framework for their deployment on the territory of Member States needs to be further enhanced.
4. In the area of situational awareness, measures that will provide an accurate, complete and up-to-date situational picture and risk analysis need to be taken.

At the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on 20 February 2024, after the presentation of the report by the Commission, delegations gave their initial reactions.

There was broad agreement that the mandate of the EBCG is still appropriate, underlining its relevance, coherence and EU added value. The focus should be on effectively implementing the current legislation and further consolidation.

Regarding the development of the Standing Corps, its potential in supporting the protection of the external border was underlined. Overall, it is on track to reach staff goals by 2027, but gaps remain in its composition and expertise. Additionally, deployment should reflect operational needs based on updated risk analyses and vulnerability assessments, as well as the capability roadmap and national capability development plans. Delegations also stressed that the Agency should adapt its working methods to the varying realities and needs of the host States.

Within the remit of the Agency, delegations asked additional focus on return with an added demand for more strategic guidance from the Management Board. The fact that the current mandate does not allow the Agency to provide operational support to third countries in organising return operations, was identified by some Member States as a missing element.

The external dimension of the EBCG and the need for structured international cooperation, linking situational awareness with operational cooperation and returns, was also identified as a priority.

When discussing future expectations for the EBCG Community, limitations in resources in terms of staff, financing, and equipment should be taken into account. Therefore, resource prioritisation remains a prominent topic in future discussions, also considering the resource needs of the Member States.

Delegations underlined the importance of providing more political guidance in the Schengen Council and of assessing, following up and reviewing the actions contained in the Action Plan in the relevant Council Working Parties and within the Agency, under the strategic guidance of the Management Board.

Furthermore, the June 2022 (Home Affairs) Council acknowledged that the Schengen Council meetings should provide the opportunity to discuss once a year at political level issues related to the implementation of the European Integrated Border Management by the European Border and Coast Guard.

On the basis of this assessment and previous discussions at SCIFA and Ministerial level, the Presidency would like to submit the following questions to Ministers, that should help steer the discussions at technical level.

#### ***QUESTIONS FOR DISCUSSION***

- a) Based on the evaluation, how should the EBCG Community in the next four years address the current and future challenges the Schengen area is facing?***
- b) On which tasks should the Agency, in cooperation with the Member States, focus to further enhance the effectiveness of the EBCG and the protection of the Schengen area?***
- c) Do Ministers agree that the implementation of the EBCG Regulation and the Action Plan accompanying the evaluation should receive appropriate follow up in the Council, including as part of the Schengen cycle?***