Council of the European Union

Brussels, 9 March 2016
(OR. en)

6744/1/16
REV 1

Interinstitutional File:
2015/0310 (COD)

FRONT 108
SIRIS 34
MIGR 44
CODEC 239
COMIX 176

NOTE

From:	Presidency
To:	Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC - State of play

The first important benchmark in the negotiations on this proposal at Council level was the agreement in principle on a series of provisions, reached by the Permanent Representatives Committee on 24 February 2016, on the basis of the text set out in document 6359/1/16. Thereafter, the Presidency pursued its work at an accelerated pace, in close cooperation with delegations and the Commission, with a view to fulfilling the mandate given by the European Council on 18-19 February 2016, i.e. reaching an agreement on the future Regulation with the European Parliament by the end of June.

In this vein, the Presidency, based on the positive results of meetings of the Working Party on Frontiers/Mixed Committee, the Working Party on Integration, Migration and Expulsion and the JHA Counsellors, submitted to Coreper on 9 March 2016 compromise suggestions, as set out in document 6652/16 on Chapter II, Section 3 (Articles 13-25), Chapter II, Section 4 (Articles 26-32) and Chapter III, Sections 1 and 2 (Articles 33-49), aiming at obtaining an agreement in principle on them, with a view to an overall position of the Council on the draft Regulation.

These provisions include certain key issues for the establishment and the effective functioning of the European Border and Coast Guard and the future Agency, such as: i) the procedures for launching joint operations and rapid border interventions; ii) the setting up of migration management support teams (hot spots), iii) the procedures for a situation at the external borders requiring urgent action; iv) the composition of European Border and Coast Guard Teams, including the rapid reserve pool; v) the setting up of a Return Office of the future Agency including the procedures for return operations to be carried out with the assistance or coordination of the future Agency, as well as for return interventions; vi) the protection of fundamental rights, including data protection; vii) the acquisition and use of technical equipment. Reaching a common ground on these issues provides further momentum towards achieving the objective of a general approach by June and preparing the upcoming negotiations with the European Parliament.

It should be noted that among the aforementioned provisions, the Presidency has submitted compromise suggestions on two of the most politically sensitive issues as identified by the informal meeting of Ministers in Amsterdam on 25 January 2016. With regard to the procedures for a situation at the external borders requiring urgent action, (Article 18 of the proposal), the Presidency proposes what it considers to be a balanced wording aiming to avert, or mitigate risks for the Schengen Area, with the cooperation of all the stakeholders involved. Furthermore, if the relevant circumstances described in the added Article 18(8) occur, the Presidency proposed therein to make it possible to reintroduce internal border controls, in case a Member State does not comply with the decision taken by Council according to Article 18(1). With regard to the Rapid Reserve Pool, as provided for under Article 19(5)-(5d), the Presidency held a series of bilateral meetings with all delegations, receiving pledges from nearly all of them, taking into account their relevant particularities and capacities (size of border guard force, nature of borders, etc.). On this basis, the Presidency drew up a list of the compulsory contributions to the pool from each Member State, so as to ensure the minimum number of 1500 border guards and other relevant staff for that pool.

Coreper, at its meeting on 9 March 2016, concluded that there was the necessary support for the texts proposed, subject to certain minor adjustments, with a view to preparing the negotiations with the European Parliament.

In parallel to the work carried out on the above Articles, the Working Party on Frontiers has completed the first examination of the entire proposal this week.

Furthermore, the Presidency has had its first informal contacts with the recently appointed Rapporteur on this file and intends to continue exchanging views with him on the work which is being carried out by the two co-legislators and on how the future negotiations with the European Parliament could be best organised. A first exchange of views took place at the meeting of the LIBE Committee on 29 February 2016.

On the basis of the above-described work accomplished so far, the Presidency considers that the Council is on schedule for complying with the mandate by the European Council, and the Presidency confirms its intention to carry out its efforts to this effect.