



Council of the
European Union

Brussels, 15 March 2023
(OR. en)

7426/23

JAI 316
FRONT 86
MIGR 97
IXIM 54
SCH-EVAL 59
FREMP 75
COMIX 130

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 14 March 2023

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2023) 146 final

Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL establishing the multiannual strategic policy for European integrated border management

Delegations will find attached document COM(2023) 146 final.

Encl.: COM(2023) 146 final



Strasbourg, 14.3.2023
COM(2023) 146 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**establishing the multiannual strategic policy for European integrated border
management**

The European Council at its extraordinary meeting on 9 February 2023 reiterated the importance of ensuring the effective control of the EU's external land and sea borders as part of a comprehensive approach to migration. In this context, it invited the European Commission to quickly finalise the European Integrated Border Management Strategy (EIBM).

This Communication responds to this call, establishing the first multiannual strategic policy ('EIBM strategic policy'), to provide a shared policy framework and guidance for the implementation of an effective European integrated border management¹ for the period 2023 to 2027.

The policy priorities and strategic guidelines for the 15 components of EIBM set out in Annex I build on the policy document of 24 May 2022² that launched the first five-year EIBM strategic policy cycle, incorporating the input received from stakeholders in the consultation process. In particular, the interinstitutional discussions resulted in valuable input from the Committee on Civil Liberties, Justice and Home Affairs (LIBE)³ and Council conclusions⁴ that have been taken into account in this Communication and its annexes which, therefore, set out the common European vision for European integrated border management over the next five years.

Based on the Regulation establishing the European Border and Coast Guard ('EBCG Regulation')⁵, this EIBM strategy will steer the work of the national authorities of Member States responsible for border management⁶ and of the European Border and Coast Guard Agency ('the Agency' or 'Frontex'), forming together the European Border and Coast Guard. At operational level, this strategy is the common framework that guides the daily work of more than 120 000 European Border and Coast Guard officers of the national authorities of Member States and of Frontex with a view to achieving effective and efficient European integrated border management.

¹ Article 8(4) of Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (EBCG Regulation), 14.11.2019, OJ L295, p. 1.

² Policy document developing a multiannual strategic policy for European integrated border management in accordance with Article 8(4) of Regulation (EU) 2019/1896, COM(2022) 303 final.

³ Letter from the Chairman of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, 17 January 2023, IPOL-COM-LIBE D(2023) 1361.

⁴ Multiannual strategic policy cycle for European integrated border management (EIBM) - Council conclusions (14 October 2022) 13585/22.

⁵ See footnote 1.

⁶ Including coast guards to the extent that they carry out border control tasks as well as the national authorities responsible for return (Article 4 of the EBCG Regulation).

STRATEGIC CONTEXT

The Strategic Risk Analysis (SRA)⁷ developed by Frontex identifies a number of trends that affect the context in which the EIBM operates. These include both megatrends, such as wider global inequalities, climate change, demographic growth and possible future pandemics, but also shorter term geopolitical and operational realities. These challenges are expected to have a significant impact on migration management and returns, and the way in which the EU's external borders must be protected, also taking into account that different types of borders (land, sea and air) require different measures and that the different border sections will be affected in different ways, depending not only on the size but also on the direction of the migratory flows.

Recent geopolitical events have profoundly impacted the EU's external borders and will continue to do so. The Russian war of aggression against Ukraine has reconfirmed the reality of a hostile geopolitical context at Europe's Eastern borders. Next to their traditional role in border control and border surveillance, EBCG border guards have played a crucial role in facilitating border crossings by those fleeing the Russian war of aggression, while at the same time protecting the integrity and security of the EU's external borders.

The EU has also faced the new reality of instrumentalisation of migration for political purposes, a novel trend that challenges traditional approaches to the management of external borders and that risks posing further challenges in the future. Beyond deliberate instrumentalisation by state actors, the situation at the external sea and land borders is also characterised by the continued operation of well-organised criminal networks that have grown in their ability and sophistication, creating additional challenges for the effective management of external borders.

The EU's return policy will also require continued action, in both its internal and external dimension. Its effectiveness and efficiency are hampered by the lack of coordination between authorities inside the European Union as well as limited cooperation of third countries. According to Eurostat, out of the 340 515 return decisions issued in 2021, only 21% were effectively carried out. Moreover, only five Member States are responsible for 80% of the returns facilitated by Frontex. This limited effectiveness erodes the long-term support and trust of European citizens in the integrity of the European migration and border management system.

At global level, respect for human rights and international obligations are put into question by state and non-state actors on a regular basis, creating long term pressures on the global protection system. In this context, the EU must reaffirm its commitment to pursuing efficient and safe management of our external borders, in full compliance with Union and international law, including fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.

⁷ <https://prd.frontex.europa.eu/document/strategic-risk-analysis-2022/> .

The European Union will need to remain attractive for talent, businesses and tourists contributing to our long-lasting growth and prosperity. In the context of increased economic competition, the role of external borders and the corresponding IT infrastructure in facilitating the journeys of millions of bona-fide travellers, while identifying possible security risks, will have to be developed further, to contribute to Europe's long term economic growth and security.

Lastly - on a more operational level - the growth in complexity and sophistication of integrated border management also risks leading to a fragmented and uncoordinated approach with too many actors duplicating efforts and loopholes that can be exploited by criminal networks. Coordination between all players in the framework of the EIBM will be required to prevent this from happening, and harness the opportunities offered by an increased number of systems and players operating in this space.

EUROPEAN INTEGRATED BORDER MANAGEMENT – A MULTIANNUAL STRATEGIC POLICY

These strategic challenges require a strategic response from the EU. The EIBM constitutes the tool to address such challenges by making sure that the Union's external borders are managed efficiently, creating synergies between the EU and the national levels.

To this end, EIBM pursues different **goals** in parallel: to facilitate legitimate border crossings and increase the efficiency of the Union's return policy; to ensure the effective prevention of unauthorised crossings of the external borders; to prevent and detect serious crime with a cross-border dimension, such as migrant smuggling, terrorism, trafficking in human beings, arms trafficking and drugs trafficking; to achieve effective cooperation with third countries; and to ensure the swift registration and provision of care to persons in need of, or applying for, international protection. In sum, European integrated border management must contribute to a high level of internal security within the Union, in a manner that fully respects fundamental rights and safeguards the free movement of persons within the Union.

EIBM principles

These goals are reflected in a number of key **principles** which stem directly from the EBCG Regulation and that support the *policy guidelines and strategic priorities* for European integrated border management set out in Annex I of this Communication:

Firstly, implementing EIBM is a *shared responsibility* of Member State authorities responsible for border management and return, and of Frontex, together forming the European Board and Coast Guard. While national border management authorities retain primary responsibility for managing their sections of the external borders, Members of the European Board and Coast Guard have a *duty to cooperate in good faith and exchange information* within the EBCG community.

Secondly, EIBM is based on the *four-tier access control model*⁸, which comprises measures in third countries, measures with neighbouring third countries, border control measures at the external borders, and measures within the Schengen area and return. Frontex and the Member States should take and adjust measures in all tiers based on risk analysis.

Thirdly, *comprehensive and near-to-real-time situational awareness* is indispensable for the correct and timely response of the European Border and Coast Guard to emerging threats. This requires a comprehensive European situational picture that is developed and constantly updated by Frontex at EU level and by Member States at national level. As the main base for the illustration of the situation at the EU external borders, EUROSUR should be effectively implemented and further developed new business applications should be developed together with common standards for information management developed jointly by Frontex, Member States and the Commission⁹.

Fourthly, the implementation of EIBM is based on *constant readiness to respond to emerging threats* and provide the necessary tools to respond to and manage any such threats at the external borders. In order to ensure the successful functioning of the European Border and Coast Guard, this requires a *well-established coordination, communication and integrated planning system* between Frontex and the national authorities responsible for integrated border management. Therefore, the *inter-agency approach* in this Communication includes strategic guidelines to ensure efficient national coordination between border management authorities and other competent authorities at the external borders, among which customs authorities, to be able to manage the flow of persons and goods at the external borders.

Finally, European integrated border management requires a high degree of specialisation and professionalism. The European Border and Coast Guard should develop a *common border guards culture and high level of professionalism* with high ethical values and integrity. Training courses should also be designed to ensure the full respect for fundamental rights in all border management activities via all basic training programmes and targeted courses as well.

From principles to practice: the components of EIBM

Based on the Conclusions of the European Council, on the Conclusions of the Council and the valuable input from the European Parliament as a follow-up to the Commission's policy document, this Communication identifies the following components of European integrated border management that are of particular importance:

⁸ Recital (11) of the EBCG Regulation.

⁹ The technical standards for information exchange will facilitate connecting different communication networks and developing interfaces between information exchange systems of the Agency and the Member States. This will enhance the possibilities to broadcast respective situational pictures within the EBCG and to third countries, in case of such operational cooperation, and to report the position of the Agency's own assets in the European situational picture by making use of the satellite navigation system established under the Galileo programme. As a result, Member States and the Agency will have at their disposal near real-time data and better possibilities to forecast migration flows.

Border control

Controlling the external borders by way of surveillance of the green and sea borders and checks at border crossing points is the fundamental component of EIBM, requiring policy and organisational measures to enhance migration governance, crisis preparedness and contribute to ensuring the internal security in the EU. The European Border and Coast Guard, in which the competent Member States' authorities cooperate with Frontex, is the central tool to achieve this goal. In order to be effective, this requires close and seamless cooperation between all actors concerned.

Border surveillance requires effective operational measures of the Member States' national authorities responsible with border management and enhanced presence of the European Border and Coast Guard Standing Corps in pre-frontier areas, as well as reinforced border protection capabilities and infrastructure, means of surveillance, including aerial surveillance, and equipment. Border surveillance must be supported by coherent and comprehensive national and European situational pictures, an efficient implementation of EUROSUR and sound risk analysis. Where migrants are being instrumentalised, securing the affected border sections requires increased attention and efforts by the Member States concerned, in line with the applicable rules in the Schengen Borders Code¹⁰.

In the context of border checks, the recent proposal for an amendment of the Schengen Borders Code has the objective to introduce a definition of the instrumentalisation of migrants and clear rules that should be complied with when responding to the instances of instrumentalisation. The proposal for a screening Regulation¹¹ aims to ensure a better overview of who is entering the national territory and to better link the border controls with return and asylum procedures. At the same time, the smooth flow of *bona-fide* travellers should be a priority concern both for security and contingency planning.

In this regard, the EU Information Systems to manage the external borders (SIS, EES, Visa Information System (VIS), and European Travel Information and Authorisation System (ETIAS)) and their interoperability will ensure smooth and safe flows at border crossing points, leading not only to more information, but also to adequate design and equipment of border crossing points, harmonisation of border operating procedures, and increased effectiveness.

¹⁰ See Article 13(2) of the Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.

¹¹ Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM(2020)612 final.

A common EU system for returns

Similarly to external border management, the EU return policy relies on close cooperation between the EU and the Member States. Frontex has the mandate and the necessary tools for being the operational arm of such a system.

With the overall aim to increase effective returns, Member States need to request and make full use of the support available from the Agency for all phases of the return process and in particular: of the possibility to organise Frontex support return operations; of Frontex support for the digitalisation of national return case management systems based on the system developed by Frontex; of support for training and deployment of Frontex return specialists; and of the participation in the Frontex Joint Reintegration Services.

To this end, Member States should ensure that their national strategies for EIBM set out in detail how to implement this cooperation in practice. Also, Member States should make use of the new tools available to them, such as the new feature of the Schengen Information System requiring the creation of alerts on persons subject to return decisions.

The policy document **towards an operational strategy for more effective returns**, adopted by the Commission on 24 January 2023¹², identifies concrete areas and actions to facilitate a seamless and interlinked return process, with the overall objective to increase effective returns from the EU. The operational strategy must be finalised swiftly by the High-Level Network for Returns and its implementation will be coordinated by the Return Coordinator and the High-Level Network.

The Commission Recommendation on mutual recognition of return decisions and expediting returns adopted in parallel to this Communication¹³ is an important step towards a common EU system for returns. It aims to increase convergence between Member States on managing migration, with a view to facilitating and speeding up returns.

Cooperation with third countries

The European integrated border management requires that Member States and the Agency intensify cooperation with third countries, to contribute to building third countries' operational and cooperation capacities in the areas of border control, risk analysis, return and readmission.

In this context, the conclusion of status agreements and working arrangements that enable cooperation of Frontex with third countries, in line with Union law, provide a crucial contribution to an effective European integrated border management. Status agreements allow the deployment of Frontex border guards to work hand in hand with border guards from third countries, contributing to preventing irregular migration and fighting smuggling and criminal activities.

¹² Policy document towards an operational strategy for more effective returns of 24 January 2023, COM(2023) 45 final.

¹³ Commission Recommendation on mutual recognition of return decisions and expediting returns when implementing Directive 2008/115/EC of the European Parliament and of the Council, C(2023) 1763.

The European Commission has negotiated four status agreements¹⁴ in the span of less than 12 months, allowing for the operational deployment of border management teams by Frontex to the recipient third countries. It has a Council mandate to negotiate similar agreements with four more countries.

Furthermore, since the adoption of the Commission's model for Frontex working arrangements with the border management authorities of third countries¹⁵, the Agency has launched negotiations of ten such working arrangements¹⁶, all of which are expected to be concluded still this year.

Frontex has also expanded its network of liaison officers in third countries, including – most recently – a liaison to the Eastern Partnership Region. It has also proposed the deployment of a liaison covering three countries in West Africa, which was positively assessed by the Commission.

Overall, the development of concrete measures in third countries, such as the European migration and return liaison officers and operational financial support on border management, including in neighbouring third countries could become an effective tool contributing to tackling irregular migration flows towards the EU, in line with the EU's comprehensive approach on migration. In this respect, the Eastern and Southern neighbourhood deserves special attention, as do the third countries from and through which the main migratory routes run to the EU.

Inter-agency cooperation

Increasing cooperation and better information exchange among all relevant authorities at national and at EU level to better understand, detect and respond to the threats to EU external borders is a crucial component of an effective EIBM.

In this regard, the main agencies at EU level include Frontex, the European Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Asylum (EUAA), and the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA).

In addition, there should be clear channels of communication and strengthened cooperation between border management authorities and other competent authorities at national level, such as customs authorities, in the Member States, involving a well-defined division of work and functional cooperation structures.

¹⁴ Moldova, North Macedonia, Albania and Montenegro.

¹⁵ Communication from the Commission to the European Parliament and the Council: Model status agreement as referred to in Article 54(5) of Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard, COM(2021)747final.

¹⁶ Albania, Bosnia and Herzegovina, Kosovo [this designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ opinion on the Kosovo declaration of independence], Moldova, Montenegro, North Macedonia, Serbia, Mauritania, Niger and Senegal.

Use of state-of-the-art technology including large-scale information systems

Across the EU, measures to monitor accurately and consistently the movement of passengers and goods into or through the EU need to be strengthened, including through intelligence-led activities (i.e. based on risk assessment).

Furthermore, Member States must ensure the successful implementation of renewed and new EU Information Systems for borders and security (SIS, VIS, EES and ETIAS) and their interoperability, in line with the agreed timelines. The start of operation of the new and revised EU information systems will lead to reinforcing border management and enhancing the EU's ability to monitor its external borders. Furthermore, new features provided by the Common Repository for Reporting and Statistics, to be established by eu-LISA in 2024, should be used to support situational awareness and identify trends in movements.

Respect, protection and promotion of fundamental rights

The European Border and Coast Guard is required to guarantee the protection of fundamental rights in the performance of border management tasks as an overarching component. The actions of EU and national actors within the European Border and Coast Guard should be carried out, including in third countries, in full compliance with relevant EU law, including the Charter of Fundamental Rights of the European Union and with international law.

Frontex and the Member States should foster an EIBM culture characterised by its compliance with EU and international law, including the principle of *non-refoulement*, by the full respect for fundamental rights, and they should integrate fundamental rights safeguards throughout all their activities.

Fundamental rights monitors are to protect and promote the respect for fundamental rights as a core element of all activities of the European Border and Coast Guard, under every component of EIBM. In addition, national fundamental rights monitoring mechanisms, as proposed by the Commission for the screening of third country nationals¹⁷, can make an important contribution to enhance the transparency and accountability on what happens at the EU external borders.

A coherent and comprehensive quality control mechanism

Assessing the implementation of the Schengen acquis at the national and EU levels will contribute to strengthening the management of the external borders and to implementing the measures that are to compensate for the absence of border controls within the Schengen area and that are covered under the EIBM in an efficient way.

The quality control mechanism is composed in particular of the Schengen Evaluation and Monitoring Mechanism and Frontex's vulnerability assessment. Quality control is an essential basis for the Schengen Governance Cycle to provide for comprehensive situational awareness at the national and EU level and to serve as a basis for a dialogue on the functioning of the Schengen area.

¹⁷ Commission Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM(2020)612 final.

EU funding instruments

The EU funding instruments have a crucial role to play in the effective implementation of the EIBM strategy, especially the Border Management and Visa Policy Instrument (BMVI) and the Asylum, Migration and Integration Fund (AMIF). EU funds will support EIBM actions at EU and at national level.

When making use of EU funding instruments, it is key that Member States aim to set their priorities in line with the goals of EIBM, with a view to delivering maximum EU added value. In addition, the activities of Frontex are supported by the Agency's dedicated budget stemming from the EU's overall budget.

Support to third countries will be delivered through the Neighbourhood, Development and International Cooperation instrument – Global Europe (NDICI-GE) and the Instrument of Pre-accession Assistance (IPA III), in complementarity with relevant actions under the BMVI and the AMIF.

Moreover, certain key external borders need to be strengthened through targeted Union measures, including mobilisation of EU funds to support Member States in reinforcing border control capabilities and infrastructure, means of surveillance and equipment and bilateral funding.

Finally, the Technical Support Instrument¹⁸, enables Member States to request support for the implementation of relevant components of the national strategies for EIBM.

NEXT STEPS

This Communication provides a policy steer for the implementation of EIBM by the European Border and Coast Guard over the next five years. As a next step, it has to be effectively translated into operational objectives and activities by the Agency and by Member States, as required by the EBCG Regulation.

The Agency, in close cooperation with Member States and with the Commission, has to establish a new technical and operational strategy for EIBM¹⁹. The technical and operational strategy should be adopted by the Management Board of Frontex within six months after the adoption of this Communication. The strategy should be in line with and should implement the political direction provided by the EU institutions and, more specifically, the requirements set out in Annex II of this Communication.

Secondly, the implementation of EIBM also requires that the strategy established at EU level is effectively translated into the national strategies for EIBM drawn up by Member States²⁰. Member States should align their national strategies for EIBM to the EIBM multiannual

¹⁸ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument, OJ L 57, 18.2.2021, p. 1.

¹⁹ Article 8(5) of the EBCG Regulation.

²⁰ Article 8(6) of the EBCG Regulation.

strategic policy within 12 months after the adoption of this Communication. In order to achieve the best results within the European Border and Coast Guard, Member States should aim to respect the requirements laid down in Annex II of this Communication.

At the same time, despite the need for long-term strategic planning for EIBM, the dynamic and sensitive operational environment requires a constant monitoring of developments, and a flexible adaptation to the changing needs. The Schengen cycle will enable this monitoring and will ensure that emerging challenges in the EIBM implementation can appropriately be taken into account, and that priorities can, where necessary, be adapted to the changing needs, so that the EIBM cycle can be successfully implemented across the Union.

Alongside the Schengen cycle, the European Parliament and the Council may also provide Frontex annually with strategic guidance and outlook through the consultation of the Agency's programming document. The interparliamentary cooperation provided for in Article 112 of the EBCG Regulation, and the meetings that take place as part of such cooperation, are an important tool to ensure that the scrutiny functions of the European Parliament over the Agency and of the national parliaments over their respective national authorities in the implementation of European integrated border management are effectively exercised.

The Commission will launch the evaluation of the EIBM strategic policy four years after the adoption of this Communication²¹. The results of this evaluation will be taken into account in the preparation of the following multiannual policy cycle. Before that, the currently ongoing evaluation of the EBCG Regulation which will be completed before the end of the year²², will provide a first opportunity to take stock of this process.

Moving forward, the Commission will continue to make sure that the voice of all relevant stakeholders is taken into account in defining a common European approach to the management of external borders. For a strong area without internal border controls, managing the external borders is a collective responsibility, one that requires the commitment and support of us all.

²¹ Article 8(7) of the EBCG Regulation.

²² Article 121 of the EBCG Regulation.