



Council of the  
European Union

Brussels, 1 April 2019  
(OR. en)

7929/19  
COR 1

LIMITE

FRONT 121  
SIRIS 59  
CODEC 804  
COMIX 178

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Interinstitutional File:  
2018/0330(COD)

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#### NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council - Confirmation of the final compromise text with a view to agreement

On page 10, the comment after recital 10a should be deleted.

On page 11, recital 33 should read as follows:

(33) The Agency should prepare general and tailored risk analyses based on a common integrated risk analysis model, to be applied by the Agency itself and by Member States. The Agency should, based also on information provided by Member States, provide adequate information covering all aspects relevant to European Integrated Border Management, especially border control, return, *the phenomenon of irregular-illegal* secondary movements of third-country nationals within the Union *in terms of trends, routes and volume*, prevention of cross-border crime including facilitation of unauthorised border crossings, trafficking in human beings, terrorism and threats of a hybrid nature, as well as the situation in relevant third countries, so as to allow for appropriate measures to be taken or to tackle identified threats and risks with a view to improving the integrated management of the external borders.

On page 31 recital 86 should read as follows:

(86) In order to properly implement its tasks in the area of return, including by assisting Member States in the proper implementation of return procedures and successful enforcement of return decisions, as well as to facilitate return operations, the Agency may need to transfer personal data of returnees to third countries. The third countries of return are not often subject to adequacy decisions adopted by the Commission under Article 45 of Regulation (EU) 2016/679, or under Article 36 of Directive (EU) 2016/680, 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 ~~49 69~~ of ~~[Regulation (EU) 45/2001]~~ **Regulation (EU) 2018/1725** or within the meaning of the national provisions transposing Article 37 of Directive (EU) 2016/680. However, despite the extensive efforts of the Union in cooperating with the main countries of origin of ~~illegally~~ ~~irregularly~~ **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 personal data, cover a limited number of such third countries. In the situation where such agreements do not yet exist, personal data should be transferred by the Agency for the purposes of facilitating the return operations of the Union, when the conditions laid down in Article ~~49~~**50**(1)(d) of ~~[Regulation (EU) 2018/1725~~~~45/2001]~~ are met.

On page 51, Article 2, paragraph 26 and 27 should read as follows:

(26) ‘return decision’ means ~~return~~ ***an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal irregular and imposing or stating an obligation to return that respects Directive 2008/115/EC*** as defined in point 4 of Article 3 of ~~Directive 2008/115/EC~~;

(27) ‘returnee’ means an ***illegally*** ~~irregularly~~ staying third-country national who is the subject of a return decision ~~or its equivalent in a third country~~ ***which is enforceable***;

On page 71, Article 18 should read as follows:

This Regulation establishes EUROSUR as an integrated framework for the exchange of information and for **operational** cooperation within the European Border and Coast Guard in order to improve situational awareness and to increase the reaction capability for **the purpose of** border management ~~Union for the purpose of detecting, preventing,~~ **including the detection, prevention** and combating **of** illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants.

On page 81, Article 29, paragraph 2, point ca should read as follows

**(ca) monitoring of designated areas of air borders in order to detect, identify and track aircraft and other forms of equipment being used for, or suspected of being used for irregular illegal immigration or cross-border crime**

On page 96, Article 38, paragraph 1 should read as follows

1. A Member State may request that the Agency launch joint operations to face upcoming challenges, including illegal immigration, present or future threats at its external borders or cross-border crime, or to provide increased technical and operational assistance, **and also request the profiles needed including those requiring executive powers if applicable**, when implementing its obligations with regard to the control of the external borders.

On page 112, Article 47, the title should read as follows:

Suspension or termination **or non launching** of activities

On page 122, Article 52, paragraph 2, second paragraph

Member States shall be responsible for contributing to the pool by nominating forced-return monitors corresponding to the defined profile, **without prejudice to the independence, if such is the case, of these monitors under national law. The Agency shall also contribute to the pool with its fundamental rights monitors as referred to in Article 56107a.** Forced-return monitors with specific expertise in child protection shall be included in the pool.

On page 154, Article 69, paragraph 1, point j should be deleted:

~~(j) — the Maritime Analysis and Operations Centre Narcotics (MAOC-N);~~

On page 169, Article 78, paragraph 2 and 3 should read as follows:

2. Within the framework of the external action policy of the Union, priority for the deployment of liaison officers shall be given to those third countries which, on the basis of a risk analysis, constitute a country of origin or transit regarding ***illegal immigration***~~irregular migration~~. The Agency may receive liaison officers posted by those third countries on a reciprocal basis. The management board shall, on a proposal of the executive director, adopt the list of priorities on a yearly basis. The deployment of liaison officers shall be approved by the management board upon the opinion of the Commission.

3. The tasks of the Agency's liaison officers shall include, in compliance with Union law and respecting fundamental rights, establishing and maintaining contacts with the competent authorities of the third country to which they are assigned with a view to contributing to the prevention of and fight against ***illegal immigration***~~irregular migration~~ and the return of returnees, including by providing technical assistance in identification of third-country nationals and the acquisition of travel documents. Those liaison officers shall coordinate closely with Union delegations, ***with Member States in accordance with [Regulation (EC) No 377/2004]*** and, where relevant, CSDP missions and operations as set out in Article 69. ***They shall, wherever possible, have their offices in the same premises as the Union delegations.***

On page 212, Article 107, paragraph 1a, point xi, second indent should read as follows:

***- nominate fundamental rights monitors as provided for in Article 107***~~56a~~***(2a),***

On page 232, Article 120, footnote in title deleted.