



*Brussels, 9.9.2016
C(2016) 5589 final*

*Ms Laura BOLDRINI
President of the
Camera dei Deputati
Piazza Montecitorio
IT – 00100 ROME*

Dear President,

The Commission would like to thank the Camera dei Deputati for its Opinion on the 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 {COM(2015) 671 final}.

This proposal forms part of a package of ambitious and comprehensive measures designed to better manage migration and to improve internal security of the European Union while safeguarding the free movement of persons in the Schengen area in the context of the ongoing migratory crisis.

The unprecedented scale of the massive influx of migrants followed by the secondary movements within the EU that it has triggered have clearly demonstrated that the existing rules and mechanisms are not sufficient to deal with the challenges posed by the migratory crisis. The draft Regulation responds to the necessity to reinforce the way in which the EU's external borders are managed as highlighted in the European Agenda on Migration¹ and confirmed by the European Council of 15 October 2015.

The Commission welcomes the Camera dei Deputati's favourable opinion on this proposal. The European Parliament and the Council reached a political agreement on its final text in the second half of June. This text was subsequently endorsed by the European Parliament in its plenary session in July 2016. Following a linguistic revision of the final text, the Regulation is expected to be formally adopted in September and to enter into force in October at the latest.

The intensive and constructive work over the past few months has led to achieving a balanced compromise that accommodates the co-legislators' concerns while remaining close to the initial Commission proposal, its objectives and tools for achieving them – a significant success for such a complex proposal.

¹ COM(2015) 240 final

The final compromise text significantly strengthens the mandate of the European Border and Coast Guard Agency by providing it with the necessary legal framework and resources to perform effectively its new tasks. At the same time, it ensures that the Member States retain the primary responsibility for managing their external borders. Finally, the enhanced responsibilities of the Agency are balanced against stronger mechanisms to guarantee that fundamental rights are duly respected.

The text agreed by the co-legislators responds to most of the remarks made by the Camera dei Deputati in its Opinion.

As regards the vulnerability assessments, the Commission would like to stress that a Member State concerned is involved in the process by receiving the results of the vulnerability assessment and having the possibility to comment on them. Moreover, if the executive director of the Agency decides to recommend to this Member State to implement measures aiming at addressing any weaknesses identified following the vulnerability assessment, he/she should do so in consultation with that Member State and taking into account its comments. This procedure provides for the full involvement of the Member State concerned in the vulnerability assessment.

As regards the individual contributions of the Member States to the rapid reaction pool², the Commission would like to point out that the final text of the Regulation changed the approach which was initially proposed by the Commission, that is to say the contribution of the Member States to be based on 2% or 3% of their staff dealing with border control. Instead, the concrete figures agreed upon with each Member State during the negotiation process are included in an annex to the Regulation. Additionally, the new legal basis provides for a certain degree of flexibility allowing a Member State to derogate from the agreed number under specific conditions, for example when a risk analysis or a vulnerability assessment (if available) shows that the contribution to the rapid reaction pool would substantially affect the discharge of national tasks.

As regards the name of the Agency, the Commission has insisted on its initial proposal stressing that the inclusion of 'coast guards' is politically important and objectively reflects the context of the current migratory crisis where the majority of the irregular arrivals in the EU are detected at the maritime borders. Keeping the original Commission proposal on this point has been supported as part of the political agreement between the co-legislators. The Commission would like to ensure that any misunderstandings and uncertainties regarding the broad spectrum of coast guard functions and the variety of national authorities that carry them out are duly addressed in the new Regulation by the clarification that coast guards are included only to the extent that they perform border control tasks. It is also important to note that this Regulation keeps the name Frontex as a short name for the Agency.

Finally, the Regulation provides for improved coordination on coastguard functions at EU level to be taken up by the Agency together with the European Maritime Safety Agency and the European Fisheries Control Agency whose mandates are amended accordingly in parallel. The development of this cross-sectorial approach aims to improve synergies between the three agencies and to improve their cooperation.

² At the request of the European Parliament, the rapid reserve pool was renamed the rapid reaction pool.

As regards the necessary guarantees for the availability of sufficient financial resources, the Commission wishes to clarify that the new Regulation envisages a significant increase in the budget of the Agency reaching a subsidy of EUR 322 million in 2020, thus corresponding to the Agency's increased tasks and adequately reflecting its needs. The staff of the Agency will also be gradually increased to reach a figure of 1000 experts by 2020.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera dei Deputati and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Frans Timmermans

First Vicepresident

Dimitris Avramopoulos

Member of the Commission