



EUROPEAN COMMISSION

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*Mr Florin IORDACHE  
President of the  
Camera Deputaților  
Palace of the Parliament  
Str. Izvor nr. 2-4, sector 5  
RO – 050563 BUCHAREST*

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinion on the Communication ‘A European Border and Coast Guard and effective management of Europe’s external border’ {COM(2015) 673 final} and 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}.*

*These initiatives are essential elements of a broad Border package of ambitious and comprehensive measures designed to better manage migration and to improve the 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 rules and mechanisms we currently have at our disposal are not sufficient to deal with the challenges posed by the migratory crisis. The draft Regulation responds to the need to reinforce the way in which the EU’s external borders are managed as highlighted in the European Agenda on Migration<sup>1</sup> and confirmed by the European Council of 15 October 2015.*

*The Commission appreciates the Camera Deputaților’s support for many of the main novelties the proposal brings about, such as sharing the responsibility for the management of the external borders or strengthening the mandate of the Agency, including in the field of return, which goes hand in hand with strengthening the guarantees for fundamental rights.*

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<sup>1</sup> COM(2015) 240 final

*On 21 June 2016 the co-legislators reached a political agreement on the file, which was confirmed by the European Parliamentary plenary vote on 6 July 2016. The compromise on the European Border and Coast Guard will ensure a truly European integrated management of our borders, based on the principle that security of our common EU external borders is a responsibility shared amongst all EU Member States. There should no longer be shortages of staff or equipment for operations at the external borders. The enhanced Agency will support, monitor and, when necessary, reinforce the national border guards, focusing primarily on early detection and prevention of weaknesses in the management of the external borders.*

*Whilst Member States will remain the key actors for managing their borders, the European Border and Coast Guard will work as a safety net: in exceptional situations, when a Member State is unable to cope with the situation on its own, the European Border and Coast Guard will be able to step in, drawing on a pool of resources - both staff and technical equipment - provided by the Member States.*

*The Commission hopes that the Regulation enters into force as soon as possible.*

*In response to the more detailed clarifications requested in the Opinion the Commission would like to refer the Camera Deputaților to the attached Annex.*

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

*Yours faithfully,*

*Violeta Bulc*

*Member of the Commission*

## ANNEX

*The Commission has carefully considered the issues raised by the Camera Deputaților in its Opinion and is pleased to offer the following clarifications:*

*The Regulation has as its legal basis Article 77(2)(b) and (d) and Article 79(2)(c) of the Treaty on the Functioning of the European Union (TFEU) which provide for the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, to adopt measures concerning the checks to which persons crossing external borders are subject and any measure necessary for the gradual establishment of an integrated management system for external borders as well as measures in the area of illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation. The maintenance of law and order and the safeguarding of internal security remain a responsibility of the Member States, as provided for in Article 4 (2) of the Treaty on European Union (TEU) and in Article 72 of the TFEU.*

*The strengthened mandate of the European Border and Coast Guard Agency - its new tasks and responsibilities - remain in the remit of external border management. The Regulation does not interfere with national competencies ensuring the territorial integrity of Member States.*

*The current crisis has clearly demonstrated that events and emergency situations at the external borders can easily and rapidly develop. Therefore, the Regulation provides for a possible adoption - on the basis of a Commission proposal - of an implementing decision of the Council identifying that an urgent situation exists and defining the measures to be taken by the Agency to address it.*

*The sovereignty of the Member State concerned is safeguarded both by the Council implementing decision as well as by the procedure following the adoption of this decision, i.e. the Executive Director of the Agency and the Member State concerned have to agree on the operational plan of the activity defined in the Council implementing decision.*

*The Commission agrees that a vulnerability assessment has to be carried out on the basis of measurable and objective criteria, the elaboration of which is considered, as included in the final compromise text, as a task of the Agency given its experience and expertise in technical and operational matters. Finally, the new Regulation provides for a full involvement of the Member State concerned in the process of vulnerability assessment by giving it the possibility to comment on that assessment and to be consulted on the recommendation of the Executive Director to be possibly issued as a follow-up. It has to be pointed out that this recommendation is not final - it could be further referred to the Management Board in line with Article 13 (8) of the proposal.*