



Council of the
European Union

Brussels, 19 September 2016
(OR. en)

12310/16

Interinstitutional File:
2015/0310 (COD)

VOTE 52
INF 161
PUBLIC 57
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NOTE

- Subject:
- Voting result
 - Regulation of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC
 - Adoption of the legislative act (LA + S)
 - Outcome of the written procedure completed on 14 September 2016

The outcome of voting on the above mentioned legislative act can be found in Annex 1 to this note.

Reference document:

PE-CONS 29/16

approved by Coreper, Part 2, on 20.07.2016

The statements and/or explanations of vote are in Annex 2 to this note.



General Secretariat of the Council

Institution: Council of the European Union
 Session:
 Configuration:
 Item: 2015/0310 (COD) (Document: 29/16)
 Voting Rule: qualified majority
 Subject: Regulation of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC

Vote	Members	Population (%)
Yes	25	100%
No	0	0%
Abstain	0	0%
Not participating	3	
Total	25	

Sitting date: 14/09/2016

Final result



Member State	Weighting	Vote	Member State	Weighting	Vote
BELGIQUE/BELGIË	2,59		LIETUVA	0,67	
БЪЛГАРИЯ	1,08		LUXEMBOURG	0,13	
ČESKÁ REPUBLIKA	2,40		MAGYARORSZÁG	2,27	
DANMARK			MALTA	0,10	
DEUTSCHLAND	18,69		NEDERLAND	3,95	
EESTI	0,30		ÖSTERREICH	1,08	
ÉIRE/IRELAND			POLSKA	8,76	
ΕΛΛΑΔΑ	2,50		PORTUGAL	2,39	
ESPAÑA	10,70		ROMÂNIA	4,58	
FRANCE	15,29		SLOVENIJA	0,48	
HRVATSKA	0,97		SLOVENSKO	1,25	
ITALIA	14,16		SUOMI/FINLAND	1,26	
ΚΥΠΡΟΣ	0,20		SVERIGE	2,28	
LATVIJA	0,46		UNITED KINGDOM		

* When acting on a proposal from the Commission or the High Representative, qualified majority is reached if at least 55 % of members vote in favour (14 MS) accounting for at least 65% of the population

For information: <http://www.consilium.europa.eu/public-vote>

Statement by Romania

Concerning recital (60), Romania emphasizes that any interpretation of the concept of "*external borders*" should cover the borders of the Member States listed in Article 52 TEU and in Article 1 of Protocol 19 on the Schengen acquis integrated into the framework of the European Union, with third countries.

The same applies for the definition included in article 2 para.1 of the proposal, in reference to article 2 point 2 of *Regulation no. 399/2016 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)*.

Statement by Greece

With reference to Article 19 par.1(b), taking into account that there may be various justifiable reasons of why a request for support may not be sufficient, Greece would wish that a consultation of the Agency with the Member State concerned – including on the kind of support that would render the request sufficient – takes place before the adoption of an implementing act by the Council. Regarding the implementation of Article 42 par.4, Greece considers that Home Member States will remain fully committed in applying Article 273 TFEU in good faith and that the special agreement foreseen in Article 273 TFEU is already provided.

As far as Article 72 par.2 is concerned, Greece understands that any representation provided, as mentioned in this paragraph, should be in accordance with its national law.

As far as Article 72 par. 5 is concerned, Greece considers that the procedure foreseen in this paragraph is taking into account all considerations without the need of further options.

Statement by Croatia

Regarding Recital 60, following discussions within the Council and based on the opinion of the Council Legal Service, Croatia considers the references to Title II of Regulation (EU) No 2016/399 as well as to the Protocol 19 on the Schengen acquis integrated into the framework of the European Union apply to Croatia.

Statements by Germany

1. With regard to Article 56(3) of the proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EU) No 2007/2004, Regulation (EU) No 863/2007 and Council Decision 2005/267/EU, Germany recalls paragraph 8 of the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies according to which the host State should commit itself to [continue to] respond to the agency's needs and provide the necessary conditions for the smooth operation of the agency[, also after the latter has been set up]. Germany considers itself bound by this, so its agreement to the current wording should therefore not be seen as a precedent for the future foundation of (new) agencies, and it would ask the Commission to take this into account in the future when preparing comparable proposals.

2. The Federal Government continues not to share the Commission's view that Article 8(6) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (the 'Return Directive') requires (explicit) transposition into German law. Germany already has an effective forced-return monitoring system. Administrative and technical monitoring of forced returns may also be carried out by the immigration authorities, the federal and state police forces, as well as through judicial review by independent courts.

The wording of Article 8(6) of the Return Directive was intentionally broad, and nothing within those provisions obliges Member States to establish an independent monitoring body. Had that been the intention when drafting the Directive, the text could have included such an additional provision.

As the Commission itself stated in its letter of 16 October 2014, the essential feature of forced-return monitoring arrangements is examination by third parties that are not directly involved in the return process. This applies at least to judicial review of forced returns. Moreover, Article 8(6) refers to 'forced-return monitoring', not forced-return 'observation'. Therefore, monitoring may also take place by the courts after the event, for example following an appeal.

In addition to judicial and administrative review, various non-governmental and church organisations keep a watch on removals and forced returns at key German airports on a voluntary basis. While Germany's authorities basically welcome these organisations' committed involvement in this area, there is no obligation to facilitate such activities, nor is it necessary given the existing monitoring options described above.
