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NOTE

From: Presidency

To: Permanent Representatives Committee/Council / Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

Subject: European Border and Coast Guard: 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
- Progress report, next steps

I. INTRODUCTORY REMARKS - REVIEW OF THE STEPS TAKEN

The aforementioned draft Regulation is envisaged to be the legal framework for the implementation of the European Integrated Border Management through the setting up of the European Border Guard and the enhanced mandate of the European Border Guard Agency. In this sense, the future Regulation will be an important tool in the efforts to preserve the integrity of the Schengen Acquis and will contribute to providing effective answers in the related common policy areas of asylum and migration.

Bearing in mind the above crucial challenges and in compliance to the strong pleas given by the European Council of 17-18 December 2015 and 18-19 February 2016, the Presidency has treated this file as an absolute priority and has been working on it, in close cooperation with all delegations and the Commission, with a view to reaching an agreement with the European Parliament before the end of its term.

With a view to keeping track of the gradual advancement at Council level, as well as to confirming the agreement in principle on parts of the proposal, the Presidency submitted compromise proposals regularly to Coreper ¹ and presented progress reports to the Council meetings of 25 February 2016 ² and of 10-11 March 2016 ³.

II. MANDATE FOR THE PRESIDENCY TO OPEN NEGOTIATIONS WITH THE EUROPEAN PARLIAMENT ON THE BASIS OF THE OVERALL COMPROMISE

Coreper at its meeting of 6 April 2016, confirmed agreement on an overall Presidency compromise, including the Preamble of the proposal, as well as several points taken on board from the Opinion of the European Data Protection Supervisor set out in Opinion 02/2016 ⁴, which was issued on 18 March 2016. At the same meeting Coreper granted a mandate to the Presidency to start negotiations with the European Parliament as soon as possible, on the basis of the aforementioned general compromise as set out in document 7649/16. Coreper also gave mandates to the Presidency to start negotiations on the two related proposals amending the Regulations establishing the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA), on 24 February 2016, on the basis of the relevant compromises (agreed by Coreper on 24 February 2016), which are set out in documents 7645/16 and 7648/16 respectively.

The Presidency has already been in regular contact with the Rapporteur and the Shadow Rapporteurs, who are in the process of preparing the position of the European Parliament on the draft Regulation about the European Border Guard, with a view to paving the way for a speedy agreement within the deadline provided by the European Council and intends to do the same with regard to the EMSA and EFCA proposals.

¹ At the Coreper meetings of 24 February, 9 March and 23 March 2016

² doc. 6309/16 + COR1

³ doc. 6744/1/16 REV1

⁴ doc. 7459/16

III. STARTING PREPARATION FOR THE IMPLEMENTATION OF THE FUTURE EUROPEAN BORDER GUARD AND GIVING THE NECESSARY GUIDANCE TO FRONTEX

As it was also acknowledged in the Commission Communication titled "Back to Schengen - A Roadmap" ⁵, the Presidency is of the opinion that it is necessary to start preparing for the implementation of the future Regulation before its formal adoption, given the urgency of the situation and based on what could be reasonably taken on board by the two co-legislators.

In this spirit, the Presidency invites all the stakeholders involved to reflect on the matter with a view to an effective and timely implementation of the future legal instrument.

The Presidency further believes that the following issues should be prioritised in the preparations for implementation: i) the preparation by Member States for setting up the mandatory pooling of human and equipment resources, including the rapid reserve pool, the technical equipment pool and the pools of forced return monitors, forced return escorts and return specialists; ii) the preparation for conducting as soon as possible the first vulnerability tests by virtue of the relevant provisions once the future Regulation is applicable; iii) the preparation of Frontex to cover its new enhanced tasks regarding return once the future Regulation is applicable.

IV. CONCLUSION

In light of the above, the Presidency invites the Council to take note of the overall agreement in principle reached on the draft Regulation for a European Border Guard at Coreper on 6 April 2016 and of the mandates given to start negotiations with the European Parliament. The Presidency further invites the Council to provide guidance on the issues enumerated under point III as priority elements for starting preparing for the implementation of the future Regulation and to possibly suggest further issues that could be added in that list.

⁵ doc. 6798/16