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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 **(first reading)**
- Adoption of the legislative act
= Statements

Statement by Poland

Poland strongly disfavours the removal of provisions expanding the European Border and Coast Guard Agency's (Frontex) mandate regarding the support of return operations from third countries. Keeping in mind the need to reduce irregular migration in line with the comprehensive approach, which includes increased external action, as well as our obligation to prevent the loss of life at sea and to stop migrant smuggling and trafficking in persons, we are of the opinion that denying the Agency the possibility to support returns from third countries goes against our commitments expressed among others in the Council conclusions, adopted of 28 June 2018. This also makes the regulation less suited for tackling the challenges that we face and that we might face in the future.

Furthermore, Poland is concerned about the proposed capacity of the European Border and Coast Guard Standing Corps. We believe that the rapid development of the Corps may significantly impact the Member States capabilities, which can in effect weaken the security of the external borders, still being primarily the responsibility of those Member States. In Poland's opinion, the proposed regulation goes beyond the notion that the Agency's role is to support the Member States. The Standing Corps capacity should be developed gradually allowing for a parallel development of national capabilities.

Statement by Hungary

Hungary is convinced that the effective control of the EU's external borders is essential for maintaining the integrity of the Schengen area and for providing safety for EU citizens. Therefore, Hungary supports a reinforced mandate of the European Border and Coast Guard Agency - Frontex in order to provide increased operational support to the Member States and relevant third countries.

Since the beginning of the negotiations, the enforcement of three key principles was of paramount importance for Hungary.

The strengthened mandate of the Frontex should respect the primary responsibility of the Member States for the protection of their external border sections. The EU solution cannot replace, but only complement the competences deriving from the sovereignty of the Member States.

The reinforcement of Frontex and the creation of the European Border and Coast Guard standing corps should not jeopardize the performance of Member States' border protection tasks, and could not have a negative impact on national capabilities to fulfil their primary duties at national level on their respected border sections.

The capacity building of the European Border and Coast Guard should be implemented via the development of Member States border management systems. National capacities shall be improved and Member States' responsiveness further strengthened, thereby ensuring the enhancement of Frontex's reaction capacity.

These should be the cornerstones of the new mandate of the European Border and Coast Guard, and the Regulation contains these main principles.

However, we are disappointed that the Regulation does not fully deliver the expected results. By omitting the competence of the Agency to assist third countries in return procedures, which would be particularly important to address the challenging migration situation in the Western Balkan region, the EU has weakened its role and possibilities in controlling illegal migration outside the EU.

Statement by Slovenia

The Republic of Slovenia has always considered the control of external borders to be a part of a comprehensive approach to managing migration in the EU. At the same time, strengthened control of external borders is one of the prerequisites to provide safety for EU citizens and proper functioning of the Schengen area.

We support a reinforced mandate of the European Border and Coast Guard Agency - Frontex in order to better complement Member States' efforts and to provide increased operational support when needed. Wider cooperation with third countries and assistance in all areas of border and migration management, including support of return operations, is considered an integral part of this process.

We regret to note that the final text of the Regulation fails to bring the desired added value in this regard.

By omitting the competence of the Agency to assist third countries in return procedures, the Agency misses the opportunity to play a prominent role in the area of migration management outside the EU. This would be of particular importance in view of the challenging migration situation in the Western Balkan region.

While recognising the need to reinforce the Agency's mandate, which will, as a result, require stronger commitments of Member States, Slovenia insists that these commitments should be based on objective criteria and on the principles of shared responsibility and proportionate burden sharing.

Statement by the Commission

Acknowledging the challenges faced by the EBCG Agency in the coming years to fulfil the exceptional needs for recruiting and retaining of qualified staff from the broadest possible geographical basis in the view of building up the Agency's Standing Corps, and considering the substantial mobility of these staff members and the need to ensure equal treatment among them, the Commission proposed concrete arrangements. These proposed arrangements were of a temporary nature and subject to a review clause, in order to assess their contribution to the objectives pursued and to take account of other ongoing processes having an impact on staff remuneration, including the continuous monitoring and improvement of the statistical methodology used to calculate correction coefficients under Annex XI to the Staff Regulations (the "Method").

In this context (while taking note of the joint statement by the European Parliament and the Council), the Commission strongly regrets that the Co-legislators decided not to retain its proposal to allow the Agency's Management Board to temporarily grant a monthly differential payment to the statutory staff members. The Commission believes that this decision may be detrimental to the attractiveness of the Agency as employer and to create optimal conditions for the timely recruitment of statutory staff as a prerequisite for the swift establishment of the standing corps in coming years.

Moreover, in response to the joint statement by the European Parliament and the Council, the Commission notes that it has neither obligation nor intention at this stage to present any proposal for the revision of the Staff Regulations.

The Commission notes that the co-legislators recently amended the rules for updating remuneration and pensions under Annex XI to the Staff Regulations and included a clear timeline for a possible subsequent review, on the basis of a report to be submitted by the Commission in 2022. The Commission believes that the latter report should provide an opportunity to assess the existing system and notably its impact on the attractiveness of EU institutions and agencies as employers. The Commission also notes that, within the existing legislative framework, Eurostat and national statistical institutes have initiated discussions on the possibility to update the statistical methodology of correction coefficient calculation in order to take into account expenditure incurred outside the place of employment.
