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REGULATORY SCRUTINY BOARD OPINION

Impact assessment / Revision of the European Border and Coast Guard Regulation

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EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the European Border and Coast Guard Regulation

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The European Border and Coast Guard (EBCG) Regulation tasks "the European Border and Coast Guard Agency or "Frontex" to implement the European Integrated Border Management (EIBM) as a shared responsibility of Frontex and the Member States. Frontex assists Member States with implementing the operational aspects of border management through joint operations and rapid border interventions, risk analysis, information exchange, cooperation with third countries and the return of persons with no right to stay in the EU.

The EBCG regulation provides for the EBCG standing corps, a dedicated uniformed force composed mostly of border and coast guard officers as well as return-related profiles. Frontex has been explicitly mentioned in the President's political guidelines (2024-2029) as a key component of the EU's border management and migration priorities, highlighting the need to strengthen the Agency.

(B) Key issues

The Board notes the additional information provided and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the lead Service to rectify the following aspects:

(1) The report does not sufficiently define policy measures, which leads to feasibility, impacts and unintended consequences not being adequately assessed.

(2) The current problems related to the application of the Staff Regulations to the standing corps are not sufficiently described; the proposed policy measures regarding the deployment scheme, their coherence with the Staff Regulations and related cost (savings) are not assessed.

This opinion concerns a draft impact assessment which may differ from the final version.

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(3) The analysis of impacts on fundamental rights lacks in depth and breadth to fully inform about the possible social cost, for example in areas such as data protection. The report does not sufficiently present the mitigation measures to counterbalance the risks.

(4) The report does not offer a sufficiently detailed assessment of costs and benefits per stakeholder group, backed by well-supported assumptions, granular assessments and evidence.

(C) What to improve

1) The report should better describe the policy measures in order to allow for a clear assessment of feasibility, impacts, potential to achieve the objectives and unintended consequences.
2) The impact analysis related to fundamental rights should include and better explain all relevant aspects of the policy measures potentially negatively impacting fundamental rights, such new types of personal data and social media monitoring against the role, governance and functioning of the Agency. This analysis should allow identification of the key risks to fundamental rights and the necessary safeguards, e.g. with regard to data protection given the Agency's expanded role in handling more and more sensitive data, social media monitoring, in particular in relation to the tasks and responsibilities of the Agency in relation to returns.
3) Regarding the measures related to the standing corps, the interplay of the proposal with the Staff Regulations should be assessed in depth. At the level of problems, the analysis should identify the areas where, given the specificities of the functioning of the standing corps, the application of the Staff Regulations creates issues and excessive costs, including the current long-term mission regime. The report should then analyse what changes or derogations to the Staff Regulations would be needed for each of the related measures, including potential spillover effects on other decentralised agencies and problems emanating from a fragmented application of the Staff Regulations.
4) The report should analyse more extensively the magnitude or range of costs, cost-savings and other concrete benefits of the measures to the various stakeholders, supporting the analysis with justified assumptions, enough granularity in the assessment and better evidence. Benefits should be more clearly analysed with regards to the gaps identified in the problem analysis. Costs and benefits should be diligently summarised in Annex 3. In particular, the cost-effectiveness of the new deployment allowance regime should be described and assessed, taking into account the attractiveness of the standing corps vis-à-vis national border guard conditions.
5) The readability of the report should be improved by providing all key information in the most succinct way possible in the main body of the report, in particular regarding presentation and assessment of the policy measures. It should also include more visual aids in the form of tables and graphs.

Some more technical comments have been sent directly to the author Service.

(D) Conclusion **The lead Service may proceed with the initiative.** **The lead Service must revise the report and its executive summary in accordance with the Board's findings before launching the interservice consultation.**	
Full title	**Revision of the European Border and Coast Guard Regulation**
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