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REPORT

on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR)
(2008/2157(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Javier Moreno Sánchez

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR) (2008/2157(INI))

The European Parliament,

- having regard to the communication from the Commission of 13 February 2008 entitled ‘Report on the evaluation and future development of the FRONTEX Agency’ (COM(2008)0067),
- having regard to the communication from the Commission of 13 February 2008 entitled ‘Examining the creation of a European border surveillance system (EUROSUR)’ (COM(2008)0068),
- having regard to the communication from the Commission of 13 February 2008 entitled ‘Preparing the next steps in border management in the European Union’ (COM(2008)0069),
- having regard to Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union¹,
- having regard to the European Pact on Immigration and Asylum accepted in Paris by the 27 Member States on 7 July 2008 and endorsed at the European Council of 15 and 16 October 2008,
- having regard to the conclusions of the European Council Presidency of 15 and 16 December 2005 concerning the ‘Global approach to migration: Priority actions focussing on Africa and the Mediterranean’, published in the European Council Presidency conclusions of 14 and 15 December 2006,
- having regard to Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams²,
- having regard to its resolution of 26 September 2007 on policy priorities as part of the fight against illegal immigration of third-country nationals³,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Development (A6-0437/2008),

¹ OJ L 349, 25.11.2004, p. 1.

² OJ L 199, 31.7.2007, p. 30.

³ OJ C 219 E, 28.8.2008, p. 223.

- A. whereas the fight against illegal immigration, and more specifically the integrated management of all the EU's borders, must form part of a global and harmonised approach to migratory phenomena, including the organisation of legal migration, the integration of legal immigrants and cooperation with countries of origin and transit,
- B. whereas the challenge of illegal immigration is a common European challenge and therefore requires a common European policy,
- C. whereas these migratory phenomena will continue to exist as long as there are still development gaps between the different regions of the world, and whereas, with that in mind, the management of migratory flows should be organised in synergy with development and cooperation policies with third countries,
- D. whereas FRONTEX is not a panacea for all the problems caused by irregular migration;
- E. whereas the surveillance of the Union's external borders is a key element in the fight against illegal immigration, which must be accompanied by additional enforcement policies seeking to eradicate such immigration at source, and by measures to combat illegal work, particularly the adoption of the directive imposing sanctions against the employers of illegally staying non-EU member country nationals, and against people-trafficking networks, which are an element of organised crime,
- F. whereas there is a high mortality rate attached to illegal immigration and information campaigns need to be conducted with the countries of origin and transit on the risks and fatal consequences of this type of immigration,
- G. whereas, while border controls are the responsibility of each Member State as regards its own section of border, the migratory pressure on the Eastern and Southern borders of the Union requires a spirit of joint responsibility and compulsory solidarity to develop among the Member States, so as to facilitate the sharing of the material and human resources which can be mobilised to combat this phenomenon,
- H. whereas the long-term objective of all these instruments (FRONTEX, EUROSUR, the Electronic System for Travel Authorisation (ESTA), the entry/exit registration system, fast-tracking) is the gradual establishment of a European integrated border management system,
- I. welcoming the first quantifiable results from the FRONTEX agency since it launched operations in October 2005, and noting the need to define a medium and long-term strategy, which has become essential at this stage of its development,
- J. whereas FRONTEX is a first-pillar Community body subject to the principles of full democratic scrutiny and transparency and, as such, has an obligation to uphold and promote the fundamental values of the Union,
- K. whereas the coordinating intelligence-driven operations carried out by FRONTEX are based on risk analyses and threat assessments made under the secrecy rule,

- L. whereas the FRONTEX development strategy should be taken as an opportunity to test the viability of the principle of ‘compulsory solidarity’ between Member States (already referred to in the context of Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams (RABIT) which co-ordinates the Union’s rapid reaction capacities in case of emergency) in order to determine the appropriate way of ensuring that the material resources (listed in the Centralised Records of Available Technical Equipment (CRATE)) and human resources needed to enable the Agency to take effective action are made unconditionally available,
- M. whereas Parliament has consistently supported the Agency and has voted to increase its budget significantly in order to enable it to have sufficient financial resources to carry out its tasks,
- N. whereas the Agency has embarked upon maritime missions off the coast of the Southern Member States, the success of which has varied depending on the level of co-operation of the third countries from which the immigrants depart; whereas the Hera mission off the Canary Islands has been successful and has led to a significant reduction in the number of arrivals, however the Nautilus mission in the central Mediterranean area has not been effective since the number of arrivals has increased rather than decreased,
- O. whereas immigration hotspots in the Southern maritime regions require continuous patrolling by maritime missions that are deployed on a permanent basis,
- P. whereas any action taken by the Agency should at any event comply with the standards of international law, in particular those relating to maritime law as well as to human rights, the dignity of the human being and of refugees, particularly the right of asylum, and the principle of non-refoulement.
- Q. whereas all the Agency’s actions should take into account the need to take the necessary precautions, and use all necessary means, to respect the most vulnerable, women (and in particular pregnant women), children (especially unaccompanied minors), older people, and people with disabilities or serious illnesses,
- R. whereas the humanitarian dimension of the action of FRONTEX must be enhanced by ensuring maximum legal certainty, in the context both of rescue operations it has to carry out and of joint returns operations to which it has to contribute,
- S. whereas, in the light of their success, operations for the training of the specialist staff involved in the functioning of FRONTEX deserve to be continued, and should in particular be extended to staff from third countries who have to cooperate with FRONTEX on a daily basis in order to train them in sea rescue operations and the recovery of bodies in the event of shipwreck,
- T. whereas border controls do not just focus on unauthorised border crossings, but also on other aspects of cross-border crime, such as trafficking in human beings, drugs smuggling or illicit trade in arms, thus helping to increase internal security as a whole,
- U. whereas FRONTEX action cannot be effective without a European border management policy that incorporates the proposed new European border control systems, such as the

Electronic System for Travel Authorisation (ESTA), the entry/exit registration system, or fast-tracking,

1. Calls on the Member States to consider a global approach to the challenge of migration, seeking with equal vigour to achieve progress not only in stepping up checks at the Union's borders, in combating illegal immigration and returning illegal immigrants to their home countries, and in combating illegal work and the trafficking of human beings, but also in organising legal immigration and measures to facilitate the integration of legal immigrants, in promoting a global partnership with third countries to promote a positive relationship between migration and development, and in establishing a consistent human rights policy at EU level;
2. Considers the FRONTEX Agency as an essential instrument in the Union's global strategy on immigration and calls on the Commission to present proposals to review the mandate of the Agency in order to strengthen its role and make it more effective;
3. Stresses the importance of being aware of the absolute necessity for FRONTEX to be able to count on the availability of the resources placed at its disposal by the Member States, notably through CRATE, both for its coordination of the individual joint operations and for its permanent missions; regrets that some Member States have not so far demonstrated sufficient willingness to provide the necessary assets to FRONTEX and calls upon them to do so;
4. Welcomes the adoption of the European Immigration and Asylum Pact by the European Council and its calls for the strengthening of the Agency;
5. Stresses that FRONTEX should integrate measures to control trafficking in human beings into its work, particularly at the Union's external borders;
6. Calls on the Member States, to that end, to formalise as soon as possible a system of 'compulsory and irrevocable solidarity' subject to feasibility and the current specific needs of each participating country, to enable FRONTEX, in preparing and completing its missions, to remove the uncertainty as to the extent of the resources it can count on in real time;
7. Calls for the establishment of permanent and uninterrupted operational joint surveillance patrols all year round in all high-risk areas, particularly at sea borders where there is a serious risk of loss of life, the right to life being the first inviolable fundamental right;
8. Stresses how important it is that EC law should accord with other international law that applies in this field, so that the Union can contribute effectively to the efforts required in order to help refugees in distress;
9. Calls on the Member States to commit themselves as soon as possible to giving concrete expression to this solidarity principle, particularly by increasing the material resources it makes available to the Agency, especially in terms of surface assets, and by guaranteeing that they will be unconditionally available in practice in a timely manner;
10. Calls on FRONTEX to send a report to Parliament and the Council, detailing in particular

the actual use and real availability of the materials listed in the CRATE database, highlighting any difficulties encountered and providing full information on which Member States are providing assets and which ones are not;

11. Calls on the Member States, in the event of persistent insufficient availability of resources, to take a rapid decision on altering the scale of FRONTEX's budget to enable it to carry out its missions and, possibly, examine the legal aspects of the future renting and/or purchase of materials for that purpose;
12. Recalls that Parliament, as an arm of the budgetary authority, has already increased FRONTEX's budget since the Agency's inception and will ensure that the budget is correctly implemented and adapted to changes in the agency's functions;
13. Welcomes the major cooperation efforts that have been achieved by almost all the third countries with which FRONTEX has been called upon to cooperate on a day-to-day basis, and which have led to very positive results, for example in the Canary Islands; regrets, however, that co-operation on immigration is still lacking in other cases, such as Turkey and Libya;
14. Urges the Union to include, as part of its negotiations with third countries, the need for greater cooperation by third countries in the field of immigration and calls on those third countries whose cooperation has been insufficient – or non-existent – to make every effort to facilitate the work of the Agency, particularly by ensuring that their enforcement services cooperate more effectively;
15. Calls on the Commission and on Member States to redouble their efforts to achieve a higher level of co-operation from third countries, notably through the negotiation of readmission agreements; considers that immigration should be an intrinsic part of any negotiations of agreements with third countries which are countries of origin or countries of transit;
16. Stresses the need for FRONTEX, in cooperation with third countries, to take due account of the opinions of those Member States which have had the most experience in tackling the illegal immigration issues relating to the countries in question; participation by a third country in any joint Member State operation coordinated by FRONTEX must be subject to the approval of the Member State hosting the operation;
17. Calls for the mandate of FRONTEX to explicitly include an obligation to meet international human rights standards and a duty towards asylum seekers in rescue operations at high sea, and for cooperation with the United Nations High Commission for Refugees and other relevant non-governmental organisations to be formalised within the mandate;
18. Is concerned that third country nationals may lack adequate means to monitor whether personal information on them gathered in the planned "system of systems" of the EU is handled in accordance with the principles of data protection law applicable in the Union; calls on the Commission to clarify to what extent personal data will be made available to third country administrations;

19. Calls for FRONTEX's competences to be extended so that it can be encouraged to carry out projects and operations in third countries, inter alia in order to strengthen the effectiveness of working agreements and identify the needs for capacity building with regard to border management in third-countries;
20. Calls on FRONTEX to strengthen and take up its key role in supporting joint return operations and all the aspects involved in these procedures, and, in a spirit of solidarity, calls on Member States to involve FRONTEX when planning and organising joint return flights and identifying the need for joint returns;
21. Calls on the Member States to permit FRONTEX's mandate to be reviewed so as to eliminate legal vacuums which could hamper its action, setting out in particular the precise legal conditions for its sea rescue operations and for its contribution to return operations, and including the option for third countries to use its equipment, in particular by means of pilot projects from which they would benefit;
22. Calls on the Commission to fully evaluate FRONTEX activities with regard to their impact on fundamental freedoms and rights, including the responsibility to protect people;
23. Calls for training of FRONTEX staff regarding the various gender dimensions that arise in the context of the Agency's work;
24. Considers that such a broadening of the tasks of FRONTEX, and its contribution as part of the daily battle against illegal immigration, could justify the structural development of its logistical and administrative capacities, while complying with the proportionality principle;
25. Considers in particular that, while the rhythm of work and the resources employed do not yet justify creating a large number of decentralised agencies, consideration might be given at this stage to setting up two distinct external offices - one coordinating activities at land borders, the other for sea operations -, bearing in mind that land migratory routes on the Eastern border will increasingly represent a major challenge in the future and should deserve increased attention and means;
26. Calls on the Commission and the Member States to consider the feasibility of a European border guard system;
27. Stresses the need to carry out training for staff deployed in FRONTEX operations - particularly training in maritime law, asylum law and fundamental rights - including, once its mandate has been widened, for staff from the third countries involved; to that end, encourages FRONTEX to cooperate with other institutions such as the International Organization for Migration, the Agency for Fundamental Rights and the Office of the UNHCR, the UN body responsible for the Law of the Sea and NGOs as well as other associations with experience and know-how in these areas;
28. Calls on the Commission to organise information campaigns on best practice in the

Member States on the risks of illegal immigration;

29. Welcomes the discussion being carried on the Council aimed at setting up the EUROSUR border surveillance system with a view to optimising the exploitation of all surveillance systems, essentially by extending their existing cover, which currently reaches only part of the areas where operations need to be carried out;
30. Urges, therefore, that work begin without delay on the upgrading of the national surveillance systems and their interconnection as a network, and that, in the interest of coherence, FRONTEX be given the task of assembling the available tools, and in particular of managing the secure web-based Information and Coordination Network for Member States' Migration Management Services (ICONET) and of resuming the work of the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI);
31. Calls for the Agency to further its cooperation on risk analysis with Europol and other European agencies, as well as with other international bodies and third country border control authorities, especially in the context of breaking international trafficking rings and bringing to justice persons involved in the trafficking of illegal immigrants; also considers it essential that there be a mechanism enabling FRONTEX to transfer key intelligence to those who can make best use of it;
32. Calls on the Member States to ensure that the concrete needs of the border control services are specifically taken into account in research activities;
33. Considers the objective of truly EU integrated border management as legitimate and agrees that is important to continuously develop and strengthen the EU's common policy on border management; stresses, however, the need for an evaluation and assessment of existing systems and those under preparation before moving ahead with the new building blocks as proposed by the Commission in its Communication entitled "Preparing the next steps in border management in the European Union" (COM(2008)0069); insists furthermore on a comprehensive master plan, setting out the overall architecture of the EU's border strategy as well as the details for how all related programmes and schemes are supposed to collectively function and how the relationship among related programmes can be optimised;
34. Calls on FRONTEX to take the initiative of creating a common information-sharing environment between the competent national authorities in order to optimise the collection, analysis and dissemination of sensitive data; calls on the European Security Research and Innovation Forum (ESRIF) to make its contribution to achieving this objective, giving priority in its work to common applications for the improvement of, and innovation in, the field of surveillance tools;
35. Calls for the strengthening of the democratic control of FRONTEX by the European Parliament, and calls on the Agency to inform Parliament of negotiations to conclude agreements signed with third countries, to present tactical assessments focused on particular border regions, and to publish evaluation reports on joint operations and other coordinated missions, risk analyses, feasibility studies and statistics on migration trends;

points out that democratic oversight of FRONTEX's activities would, among other things, enhance its legitimacy; nevertheless the information published in those reports should not contain confidential data that may affect ongoing operations;

36. Calls on the Commission to clarify what range of logistical support on border surveillance is intended for neighbouring third countries as mentioned under step 3 of Phase 1 of EUROSUR;
37. Instructs its President to forward this resolution to the Council and Commission, the governments and parliaments of the Member States, the Office of the UN High Commissioner for Refugees and the International Organisation for Migration.

EXPLANATORY STATEMENT

I. Introduction

'I want to smile because I feel as though I have the strength of a giant. I have jumped over Europe. I have stridden across the seas and leapt over the mountains.

...

Massambalo. He recalled the tale he had heard the day before. Yes, it was the same name, the name of the god of emigrants, who leaps across the Dark Continent to watch over the suffering peoples....'

Laurent Gaudé, *L'Eldorado* (pub. Acte du Sud)

Neither the African god whom Laurent Gaudé evokes in his splendid novel, nor any of the other gods of the emigrants, are able to watch over the ever-growing number of human beings who 'stride across the seas and leap over the mountains' to reach the European dream. The number of people lost at sea, and the images of the makeshift vessels constantly landing on the southern shores of the European Union, remind us of this every day.

These gods cannot protect all these desperate people from the mortal perils they undergo on the route to hope, nor from the claws of the mafias and networks of people-smugglers, nor from the unscrupulous employers who will exploit them when they arrive here.

It is up to us as humans, it is up to us as Europeans, to close off this route to hell, to put an end to illegal immigration. At the same time we must ensure that only immigrants using legal channels can reach the territory of the European Union, and that effort is then made to enable them to integrate into our societies.

It is also up to us Europeans to establish adequate cooperation with their countries of origin so that immigration can become a factor in the development of these countries, of our own host countries and especially of the immigrants themselves.

In this comprehensive European response to the challenge of immigration we have to carry out a thankless but indispensable task, the management of border controls, at all the European Union's external borders.

This is but one facet of the comprehensive policy the Union needs to develop, the chief elements of which are set out in the recent European Pact on Immigration and Asylum.

It is in this context that the subject of your rapporteur's own-initiative report needs to be seen. The report outlines a proposal on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR) in response to the Commission's communication on this topic.

Your rapporteur has sought to build on the various discussions which took place at the public hearing on 30 June 2008, during the debates in the LIBE committee and in contacts with representatives of the Commission, Council and NGOs and, of course, with the heads of the Agency, in particular its director and deputy director. The amendments from the various political groups will enrich the debate and the report.

Finally, to obtain a complete overview of the integrated management of borders, this report should be taken together with Parliament's report on the Commission communication on preparing the next steps in border management in the European Union.

II. 2005/2007 EVALUATION

The FRONTEX Agency's priority activities lie in the **coordination of operational cooperation** between Member States **in the management of external borders**.

Its aim is to improve the integrated management of the Member States' external borders with a view to combating illegal immigration and networks of people-traffickers, while fully respecting the dignity and fundamental rights of immigrants, first and foremost their right to life. To that end, Parliament should call for an amendment to the Agency's mandate specifying the legal conditions for rescues at sea. The Agency should also continue to take precautions to ensure that the most vulnerable – women and children, and in particular [unaccompanied] minors and those with handicaps – are treated with dignity and with respect for their human rights.

The Agency has already carried out 28 joint operations in 2006 and 2007: nine at sea borders, 12 at land borders and seven at air borders, plus ten pilot projects to supplement these operations.

These operations generate a profitable exchange of best practice and information, and help step up routine cooperation between the national border control services: in the course of two years, more than 53 000 people have been apprehended or refused entry at borders, more than 2900 forged travel documents detected and 58 smugglers of illegal immigrants arrested.

The participation of the Member States has been patchy: on average, seven Member States took part in operations at sea borders, nine at land borders and 11 at air borders. Parliament should insist that all Member States meet their obligations and make available the material and human resources needed to enable the Agency to function effectively, on the principle of 'compulsory solidarity' as set out in the rules of the Rapid Border Intervention Teams (RABIT). In the event of a persistent shortage of available resources, the option should be considered of adjusting the Agency's budget to enable it to acquire or rent its own equipment.

Among other major initiatives the following may be noted: the creation of the European Patrols Network (May 2007) along the coastal areas of the Member States concerned, and the creation of the Centralised Records of Available Technical Equipment (CRATE) for border checks and surveillance.

At strategic level, experience shows that cooperation in operations to combat illegal immigration at Europe's southern sea border is an urgent priority. Consequently Parliament

should call for consideration to be given to creating specialised regional offices of the Agency in the Member States which are subject to constant pressure from illegal immigration, and for the systematic deployment of missions in high-risk areas.

FRONTEX can also provide **support for Member States faced with situations calling for enhanced operational and technical assistance and the deployment of rapid intervention teams at borders.**

The RABIT system, which entered into force on 20 August 2007 and has been approved by Parliament at first reading, provides for just such a ‘rapid reaction capability’ to supply additional human resources to any Member State in difficulties. The rapid border intervention pool set aside for this purpose includes 500-600 border guards, and an exercise was carried out in autumn 2007.

FRONTEX should consider, as a preventive measure, acquiring its own equipment – which would be used by the rapid intervention teams – to guarantee their availability at the shortest possible notice in the event of an emergency.

FRONTEX is also developing **assistance to Member States for the training of their national border guards**, including **setting common training standards.**

The 97 FRONTEX training events were held for a total of 1341 people, with the aim of harmonising border guards’ training everywhere in Europe.

The approach adopted has proved very fruitful and therefore deserves to be extended while respecting (and being consistent with) the Schengen *acquis*. Training should concentrate on staff from the third countries cooperating with FRONTEX. Cooperation with international organisations such as the IMO or the UNHCR should also be developed.

It should also be stressed that the Agency carries out its own **risk analyses**, which play a crucial role across the whole range of its work: for example, during the second annual assessment (February 2007) it contributed to drafting the Organized Crime Threat Assessment (OCTA) report and, in collaboration with Europol, the report on high-risk routes used for illegal immigration in the Western Balkans.

To that end, in 2007 FRONTEX linked up to the ICONet network – which has been in place since 2006 to enable the departments concerned to exchange information on illegal migratory flows – with a view to exchanging information with the Member States on risk analyses, the preparation of joint operations and returns; it also participates in meetings of CIREFI (the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration).

In order to exploit synergies and achieve economies of scale, the various instruments and bodies available should be managed by FRONTEX.

The Agency is involved in **research in areas related to external border checks and surveillance**: this surveillance has already been put into practice in the form of six projects and seven workshops/seminars devoted to R&D, which have contributed to devising and selecting the entry/exit registration system (including BIOPASS) and the European border

surveillance system; in particular, the Agency participates actively in the work of the new European Security Research and Innovation Forum (ESRIF), as part of which a separate working party on border security has been set up.

Work will be needed to ensure that the concrete requirements of the border control services are specifically taken into account in the various research activities.

Finally, downstream of the control and surveillance operations, the Agency is empowered to **supply Member States with the aid necessary to organise joint return operations**. Though it has already contributed to the organisation of nine operations of this type, its role and the legal conditions under which it operates remain vague and should therefore be clearly defined.

III. LONG-TERM VISION

The FRONTEX Agency will be an essential, if not central, feature of the long-term development of the EU's border management strategy. Thanks to a gradual approach and the progressive stepping up of its capabilities, it can provide a real added value to benefit the overall Schengen system, particularly in the context of **measures involving cooperation with third countries**, by ensuring coherence between its activities and the global framework of foreign policy.

Collaboration and cooperation arrangements have already been established with the Russian, Ukrainian and Swiss authorities and are yielding excellent results, and several others are currently being negotiated.

Regarding **measures at borders**, FRONTEX is also giving consideration to the notion of a 'one-stop shop' combining customs and border control authorities, while still assessing best practice in terms of cooperation between the competent bodies or in connection with the most successful pilot projects.

The Agency's most important contribution may be found in its participation in devising the **EUROSUR** system (adopted by the Council on 14 and 15 December 2006), focusing on the Union's southern and eastern borders, the first priority of which must be to integrate all the maritime surveillance facilities in order to fulfil as well as possible the tasks assigned to it: to reduce the number of illegal immigrants arriving on EU territory; to step up internal security as a whole by helping combat and dismantle cross-border crime; and to step up search and rescue capabilities so as to save more lives (in all three cases, the success of EUROSUR requires the full involvement of the third countries concerned, particularly those of the southern shore of the Mediterranean, from which the greatest migratory pressure on the EU comes).

The main challenge is to improve coordination of the existing surveillance infrastructures and extend their cover, which currently reaches only part of the areas where operations need to be carried out, in order to obtain a full picture of the situation in real time and increase the reaction capacity for law and order and/or emergency services. Parliament should call for the harmonisation of national surveillance systems to be initiated without delay and

interconnected in a network. On R&D, priority should be given to common applications for improvement of and innovation in surveillance tools.

Finally, it needs to be decided who should be given the task of creating a common environment for sharing information between the relevant national authorities, in order to optimise the collection, analysis and dissemination of this sensitive data.

Clearly, FRONTEX and EUROSUR will show up the essential need for **operational solidarity** between the Member States: only if this is actively implemented will it be possible for resources to be channelled towards the border areas where there is the greatest need.

The matter of establishing a **fully-fledged corps of border guards** cannot be decided until the first lessons have been learned from the operation of the Agency; for, while the questions being asked about improving the current system for allocating resources to the relevant sectors, and about optimising the profitability of existing mechanisms are quite legitimate, they must not get in the way of the fact – without even going into the highly political nature of creating such a force – that the Member States of the Union already have 450 000 border guards...

Mr Gérard Deprez
Chairman
Committee on Civil Liberties, Justice and Home Affairs

Subject: LIBE report on the evaluation and future development of the FRONTEX Agency and of the European Border Surveillance System (EUROSUR) - rapporteur: Mr. Javier Moreno Sánchez

Dear Chairman,

On behalf of the Committee on Budgets, please allow me to present some remarks concerning the above-mentioned report.

The Committee on budgets is fully aware of the importance of the activities of FRONTEX for ensuring the control of the borders of the Union and tackling illegal immigration and supports the strengthening of its capacities, as shown by its support for the substantial increase of the funds for this agency in recent years. Just recently our committee voted in favour of a further increase of the credits for FRONTEX in view of the first reading of the budgetary procedure for 2009 in terms very near to those proposed by your committee.

This increase was particularly intended to allow FRONTEX to run joint missions permanently throughout the whole year, notably at the Southern Borders of the Union (HERA, NAUTILUS, POSEIDON). A part of those additional credits has been put in the reserve, in waiting of the submission by the Executive director of the Agency of the plans to make such operations permanent.

In this context, it may prove useful that the report of your committee - which contains also a call for joint permanent mission in its paragraph 4 - recalls this increase and the need to take the necessary administrative measures to render it effective. Furthermore, it could also further stress the need to ensure that not only financial means be available, but also that all legal conditions necessary to ensure that joint missions become permanent are fulfilled - if necessary, through an addition to the legal basis.

Allow me also some considerations on the reference in paragraph 7 of the draft report to the acquisition by the Agency of "material to carry out its mission". Without entering into the merit of the question of how far can the Agency replace Member States in this domain - bearing in mind that the Agency is only entitled to acquire "technical equipment", our committee tends to consider that it is rather for the Member States to put material and human resources at the disposal of the Agency - allow me to call your attention to the fact that any

possible alteration "of the scale of FRONTEX's budget" is not a decision to be solely taken by Member States, but belongs to the exclusive competencies of the budgetary authority - thus including the European Parliament.

Finally, Mr Chairman, concerning the reference to a possible creation of "decentralised agencies" made on paragraph 13 of the draft report - although this seems a mere hypothetical consideration - allow me to recall that the Committee on Budgets has repeatedly stated in interinstitutional negotiations that no more decentralised agencies should be created before a thorough evaluation of the role of the agencies be conducted. Indeed, the Commission and the Council have subscribed to this position, as the declaration agreed on the last budgetary conciliation of the 18 July last shows, and an understanding on the principle of convening an interinstitutional group to conduct this evaluation was indeed reached.

Of course, the legal basis of FRONTEX already foresees the possibility that "specialised branches" of the Agency be set up in Member States, in agreement with these, should the Management Board of the Agency consider it necessary. Our committee considers it, nevertheless, important to stress that any future establishment of "specialised branches" takes account as much as possible of the existing capacities of Member States as well as of the specific burdens that they face, in order to avoid any useless duplication.

I hope, Mr Chairman, that your committee can take these remarks into consideration when adopting its final report.

Yours sincerely

Reimer Böge

Chairman of the Committee on Budgets

7.10.2008

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Civil Liberties, Justice and Home Affairs

on the evaluation and future development of the FRONTEX Agency and the European Border Surveillance System (EUROSUR)
(2008/2157(INI))

Rapporteur: Gabriele Zimmer

SUGGESTIONS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Stresses that FRONTEX's task is to coordinate the operational cooperation between Member States in terms of border security and that FRONTEX provides particular added value to the national border management systems of the Member States;
2. Recalls the commitments of the EU on policy coherence for development as stated in Article 178 of the EC Treaty and the conclusions of the Justice and Home Affairs Council of 5-6 June 2008 on enhancing the Global Approach to Migration, in particular that the respect of human rights and fundamental freedoms of migrants, the 1951 Geneva Convention and due access to asylum procedures lie at the basis of the EU's migration and refugee protection policies;
3. Insists that all EU agencies, including FRONTEX, must, in all their activities, fully respect the fundamental values of the EU and that FRONTEX should be subject to scrutiny by the European Parliament;
4. Stresses that EU border security is the responsibility of all Member States and that border control must be operated in a spirit of sharing responsibilities and solidarity; calls therefore on the Council to make the principle of responsibility sharing mandatory for all Member States;
5. Is convinced that upholding and promoting fundamental freedoms and rights, including the right to seek asylum and access to legal support for persons seeking protection, should be considered as a crucial part of any comprehensive integrated border management

- system, and an integral part of the mandate and activities of FRONTEX;
6. Warns that FRONTEX is not a panacea for all the problems caused by irregular migration;
 7. Welcomes the Commission's proposal to include specialised courses in asylum and human rights law in FRONTEX training activities and encourages the further development of this approach; proposes that FRONTEX strengthen its close co-operation with UNHCR, including with regard to training activities;
 8. Calls on the Commission to table without delay a proposal for a revision of FRONTEX's mandate in order to include rescue at sea;
 9. Is concerned that EU activities in developing countries to assist legal migration are being given a lower priority than the fight against irregular migration;
 10. Warns that FRONTEX operations outside the territory of the EU may deprive refugees of the right to seek asylum and access to legal support for persons seeking protection in the EU;
 11. Is deeply concerned that an expansion of maritime operations co-ordinated by FRONTEX may result in an increased death toll on even more dangerous sea routes; points out that a realistic analysis of flows must take a global approach, since limiting the analysis to single routes would give false indications of trends;
 12. Highlights the fact that rescue activities and support for persons seeking protection or asylum require special attention to be paid to persons with specific needs, such as children and women, and therefore considers that FRONTEX training courses should include content on addressing specific needs;
 13. Calls on the Commission to clarify to what extent information gathered through the so-called pre-frontier intelligence picture will be shared with African and other governments;
 14. Is concerned that third country nationals may lack adequate means to monitor whether personal information on them gathered in the planned "system of systems" of the EU is handled in accordance with the principles of data protection law applicable in the EU; calls on the Commission to clarify to what extent personal data will be made available to third country administrations;
 15. Calls on the Commission to clarify what range of logistical support on border surveillance is intended for neighbouring third countries as mentioned under step 3 of Phase 1 of EUROSUR.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	7.10.2008
Result of final vote	+: 26 -: 0 0: 0
Members present for the final vote	Alessandro Battilocchio, Thijs Berman, Josep Borrell Fontelles, Danutė Budreikaitė, Nirj Deva, Alexandra Dobolyi, Beniamino Donnici, Fernando Fernández Martín, Juan Fraile Cantón, Alain Hutchinson, Romana Jordan Cizelj, Filip Kaczmarek, Glenys Kinnock, Maria Martens, José Javier Pomés Ruiz, Toomas Savi, Frithjof Schmidt, Jürgen Schröder, Anna Záborská
Substitute(s) present for the final vote	Fiona Hall, Miguel Angel Martínez Martínez, Manolis Mavrommatis, Anne Van Lancker, Renate Weber, Gabriele Zimmer
Substitute(s) under Rule 178(2) present for the final vote	Catherine Boursier

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	5.11.2008
Result of final vote	+: 40 -: 2 0: 4
Members present for the final vote	Alexander Alvaro, Catherine Boursier, Emine Bozkurt, Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Maddalena Calia, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Gérard Deprez, Bárbara Dührkop Dührkop, Armando França, Urszula Gacek, Kinga Gál, Patrick Gaubert, Roland Gewalt, Jeanine Hennis-Plasschaert, Lívia Járóka, Ewa Klamt, Magda Kósáné Kovács, Henrik Lax, Roselyne Lefrançois, Baroness Sarah Ludford, Viktória Mohácsi, Javier Moreno Sánchez, Rareș-Lucian Niculescu, Athanasios Pafilis, Maria Grazia Pagano, Martine Roure, Sebastiano Sanzarello, Inger Segelström, Csaba Sógor, Søren Bo Søndergaard, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber, Renate Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Marco Cappato, Genowefa Grabowska, Ona Juknevičienė, Jean Lambert, Marian-Jean Marinescu, Antonio Masip Hidalgo
Substitute(s) under Rule 178(2) present for the final vote	Fernand Le Rachinel