

ITALIAN SENATE

**COMMENTS AND RECOMMENDATIONS OF THE
14TH STANDING COMMITTEE**

(European Union Policies)

Under Senate Rule 144(1)

(Rapporteur: CONTINI)

Rome, 14 April 2010

Comments on:

Proposal for a regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) (COM(2010) 61 final)

Following consideration of the aforementioned proposal,

considering that FRONTEX aims at improving integrated external border management, ensuring cooperation among member states and enforcing European sectoral regulations correctly, in the wider framework of European migration policy;

considering that proper management of external borders contributes to combat illegal immigration and related problems;

considering that South European countries have repeatedly requested a strengthening of external borders;

considering the need to clarify the role of FRONTEX in a number of contexts and to enhance its operational capabilities through a revision of its legal framework, as often advocated by the European Council and, lastly, by the Multiannual Programme for an Area of Freedom, Security and Justice (the so-called Stockholm Programme) on 11 December 2009;

in view of the challenges that FRONTEX activities are faced with, including the inadequate contributions of equipment and human resources from Member States, the lack of accurate rules on the management of joint operations, inefficient cooperation with third countries, processing of personal data in the framework of risk analyses conducted by FRONTEX, the need to award FRONTEX a more incisive role in return operations;

welcoming the initiative of the European Community to fill the gaps of the present legal framework and to include provisions relating to fundamental human rights in the new regulatory framework;

recalling paragraph 6 of the opinion issued by this Committee on 18 November 2009 on the Stockholm Programme, requesting that "*operational cooperation [be] strengthened between the Member States, above all by upgrading the FRONTEX*

Agency, which should be given more staff, more facilities and ultimately more funding for its work" and that "secondary or special FRONTEX offices [be] instituted in the territories requiring specific operational capabilities to manage illegal immigration, particularly around the Mediterranean Sea", while reaffirming "the need for a European Immigration Office, to deploy the joint efforts of all the European countries to address and equitably distribute responsibilities, costs, the political effects and decisions relating to immigration, which at the present time mainly fall to the countries around Europe's external borders";

the 14th Standing Committee expresses a favourable opinion, in so far as its remit is concerned, with the following qualifications:

the proposal appears to be compliant with the subsidiarity principle, in that the goal of developing an integrated management of operational cooperation cannot be sufficiently achieved by Member States; furthermore, the proposal complies with the definition of powers established by the Treaty on the Functioning of the European Union, whereby the Union and Member States are vested with concurrent jurisdiction in the Area of Freedom, Security and Justice;

the proposal complies with the principle of proportionality, in that its provisions are limited to what is necessary to achieve its objectives;

as far as the legal basis of the proposal is concerned, because the proposal is based on Articles 74 and 77(1)(b) and (c) of the Treaty on the Functioning of the European Union, which envisage the agreement of the European Parliament and the European Council on the same text, paragraph (2)(d) of Article 77 should also be mentioned in the legal basis, in that it explicitly envisages that any measure necessary for the gradual establishment of an integrated management system for external borders is subject to the ordinary legislative procedure. Under Article 74, the European Parliament would be relegated to a merely advisory role;

with regard to the administrative structure of FRONTEX, it is to be hoped that Italy will be granted a key role, proportionate to the importance of the country, its operational contributions and the relevance of the challenges that FRONTEX is faced with, through the deployment of personnel which should be technically competent and adequately trained in the sensitive issues to be dealt with, including the protection of human rights.

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