



**CONSIGLIO
DELL'UNIONE EUROPEA**

**Bruxelles, 11 marzo 2011 (16.03)
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2009/0089 (COD)**

**JAI 167
SIRIS 20
VISA 45
EURODAC 7
ENFOPOL 57
EUROJUST 31
COMIX 157
CODEC 396**

NOTA

della: Presidenza

al: Comitato misto a livello di alti funzionari

n. docc. prec.: 16658/10 JAI 984 SIRIS 168 VISA 283 COMIX 770 + COR 1
14469/10 JAI 873 SIRIS 143 VISA 231 EURODAC 42 SCHENGEN 57
EUROPOL 34 EUROJUST 117 COMIX 630 CODEC 953
DS 1121/11
DS 1890/1/10 REV 1

Oggetto: Proposta di regolamento del Parlamento europeo e del Consiglio che istituisce un'agenzia per la gestione operativa dei sistemi di tecnologia dell'informazione su larga scala del settore della libertà, della sicurezza e della giustizia
- Preparazione del trilogio ad alto livello

1. Il 26 giugno 2009, la Commissione ha trasmesso al Consiglio delle proposte relative ad un pacchetto legislativo che istituisce un'agenzia per la gestione operativa dei sistemi di tecnologia dell'informazione su larga scala del settore della libertà, della sicurezza e della giustizia. Il pacchetto si componeva di una proposta di regolamento del Parlamento europeo e del Consiglio che istituisce l'agenzia (ex primo pilastro) e di una proposta di decisione del Consiglio che conferisce all'agenzia i compiti di gestione operativa del SIS II e del VIS, in applicazione del titolo VI del trattato UE (ex terzo pilastro).

2. Successivamente all'entrata in vigore del trattato di Lisbona, la Commissione ha trasmesso al Parlamento europeo e al Consiglio un'unica proposta modificata di regolamento che istituisce un'agenzia per la gestione operativa dei sistemi di tecnologia dell'informazione su larga scala del settore della libertà, della sicurezza e della giustizia.
3. Durante le presidenze svedese e spagnola, nonché nel corso della presidenza belga il 6 settembre e l'11 ottobre 2010, il Gruppo per le questioni Schengen (Acquis) ha discusso la proposta di regolamento summenzionata. In seguito a tali discussioni la presidenza ha apportato al testo una serie di modifiche di ampia portata.
4. Parallelamente, la presidenza ha stabilito contatti informali regolari con il Parlamento europeo, informando il relatore dei progetti di compromesso risultanti dalle discussioni in sede di gruppo e prendendo atto delle principali preoccupazioni espresse dal Parlamento stesso. Rappresentanti della Commissione sono stati anch'essi coinvolti in tali contatti preliminari informali.
5. L'11 ottobre 2010, la votazione di orientamento sul progetto di relazione sulla proposta di regolamento ha avuto luogo in sede di commissione LIBE del Parlamento europeo ed al relatore è stato conferito il mandato di avviare i negoziati in sede di trilogio.
6. Il 3 novembre 2010, il comitato misto a livello di alti funzionari ha dato mandato alla presidenza¹ di avviare i negoziati in sede di trilogio in vista di un accordo con il Parlamento europeo in prima lettura.
7. Su tale base, il 16 e 30 novembre 2010 e il 3 e l'11 febbraio 2011 si sono tenuti triloghi informali a livello di esperti.

¹ Doc. 14469/10.

8. Gli Stati membri sono stati informati delle proposte di compromesso risultanti dai suddetti triloghi informali durante le riunioni dei Consiglieri GAI del 10 dicembre 2010 e 22 febbraio 2011, nel corso delle quali sono state altresì discusse alcune questioni rimaste in sospeso. Il comitato misto a livello di alti funzionari, nella riunione dell'8 dicembre 2010, e i ministri, nella riunione informale del 2 dicembre 2010, hanno parimenti trattato alcune delle questioni in sospeso. Benché alcuni Stati membri mantengano ancora delle riserve, si potrebbe giungere ad un eventuale compromesso sulla totalità delle questioni rimaste in sospeso per gli Stati membri, ad eccezione della formulazione dell'accordo politico raggiunto dai ministri riguardo alla sede e alla struttura dell'agenzia (articolo 7).
 9. Si allega per le delegazioni una tabella su quattro colonne contenente il testo di compromesso che servirà da base per i lavori della presidenza in occasione del triloquio ad alto livello previsto per la settimana del 21 marzo 2011.
 10. DE ha formulato una riserva generale sulla proposta. AT, CY, EL, FR, IT, LT, NL e UK hanno espresso una riserva generale d'esame. Riserve specifiche su disposizioni particolari sono riportate nelle note in calce all'allegato.
 11. **Si invitano pertanto le delegazioni a sciogliere le riserve formulate e ad approvare il testo di compromesso riportato in allegato**, quale base per i lavori della presidenza in occasione del triloquio ad alto livello, ad eccezione delle disposizioni relative alla sede e alla struttura dell'agenzia. Quest'ultimo aspetto sarà trattato a tempo debito in un documento a parte.
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Il testo in *corsivo* si riferisce a emendamenti o proposte del Parlamento europeo. Il testo in **grassetto** corrisponde alle modifiche apportate alla proposta iniziale della Commissione. Il testo in grigio si riferisce a testo modificato / e concordato durante i "triloghi" informali a livello di esperti.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union and in particular Articles 77(2)(a) and (b), 78(2)(e), 79(2)(c), 74, 82(1)(d) and 87(2)(a) thereof, Having regard to the proposal from the <u>European Commission</u> , After transmission of the proposal to the national parliaments, Having consulted the European Data Protection Supervisor, Acting in accordance with the ordinary legislative procedure,	<i>Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹ (Financial Regulation), and in particular Article 185 thereof,</i>	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union and in particular Articles 77(2)(a) and (b), 78(2)(e), 79(2)(c), 74, 82(1)(d) and 87(2)(a) thereof, Having regard to the proposal from the <u>European Commission</u> , After transmission of the proposal to the national parliaments, (...)	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union and in particular Articles 77(2)(a) and (b), 78(2)(e), 79(2)(c), 74, 82(1)(d), 87(2)(a) and thereof, Having regard to the proposal from the <u>European Commission</u> , After transmission of the proposal to the national parliaments, Acting in accordance with the ordinary legislative procedure,

² Suggested by the CLS, in order to integrate the legal basis of the ex-third pillar instrument.

³ Suggested by the CLS, in order to integrate the legal basis of the ex-third pillar instrument.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned Whereas:
Whereas:	<i>Having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline¹ (IIA of 17 May 2006), and in particular Point 47 thereof,</i> ¹ OJ L 248, 16.9.2002, p. 1. ² OJ C 139, 14.6.2006, p. 1.	Whereas:	Whereas:
(1) The second-generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second-generation Schengen Information System (SIS II) and by Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second-generation Schengen Information System (SIS II). In accordance with Regulation (EC) No 1987/2006 and Decision 2007/533/JHA the Commission is to be responsible, during a transitional period, for the operational management of Central SIS II. After that transitional period, a Management Authority is to be responsible for the operational management of Central SIS II and certain aspects of the communication infrastructure.		(1) The second-generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second-generation Schengen Information System (SIS II) and by Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second-generation Schengen Information System (SIS II). In accordance with Regulation (EC) No 1987/2006 and Decision 2007/533/JHA the Commission is to be responsible, during a transitional period, for the operational management of Central SIS II. After that transitional period, a Management Authority is to be responsible for the operational management of Central SIS II and certain aspects of the communication infrastructure.	(1) The second-generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second-generation Schengen Information System (SIS II) and by Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second-generation Schengen Information System (SIS II). In accordance with Regulation (EC) No 1987/2006 and Decision 2007/533/JHA the Commission is to be responsible, during a transitional period, for the operational management of Central SIS II. After that transitional period, a Management Authority is to be responsible for the operational management of Central SIS II and certain aspects of the communication infrastructure.

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(2) The Visa Information System (VIS) was established by Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS). In accordance with Regulation (EC) No 767/2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) the Commission is to be responsible, during a transitional period, for the operational management of VIS. After that transitional period a Management Authority is to be responsible for the operational management of the Central VIS, the national interfaces and certain aspects of the communication infrastructure.		(2) The Visa Information System (VIS) was established by Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS). In accordance with Regulation (EC) No 767/2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) the Commission is to be responsible, during a transitional period, for the operational management of VIS. After that transitional period a Management Authority is to be responsible for the operational management of the Central VIS, the national interfaces and certain aspects of the communication infrastructure.	(2) The Visa Information System (VIS) was established by Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS). In accordance with Regulation (EC) No 767/2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) the Commission is to be responsible, during a transitional period, for the operational management of VIS. After that transitional period a Management Authority is to be responsible for the operational management of the Central VIS, the national interfaces and certain aspects of the communication infrastructure.

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(3) EUODAC was established by Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention. In accordance with Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] the Commission is to be responsible, during a transitional period, for the operational management of EUODAC. After that transitional period a Management Authority is to be responsible for the operational management of the Central System and certain aspects of the communication infrastructure. (4) In order to ensure the operational management of SIS II, VIS and EUODAC after the transitional period and potentially of other information technology ("IT") systems in the area of freedom, security and justice, it is necessary to establish a Management Authority.		(3) EUODAC was established by Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention. In accordance with Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] the Commission is to be responsible, during a transitional period, for the operational management of EUODAC. After that transitional period a Management Authority is to be responsible for the operational management of the Central System and certain aspects of the communication infrastructure. (4) In order to ensure the operational management of SIS II, VIS and EUODAC after the transitional periods and potentially of other large-scale information technology (...) systems in the area of freedom, security and justice, it is necessary to establish a Management Authority.	(3) EUODAC was established by Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention. In accordance with Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] the Commission is to be responsible, during a transitional period, for the operational management of EUODAC. After that transitional period a Management Authority is to be responsible for the operational management of the Central System and certain aspects of the communication infrastructure. (4) In order to ensure the operational management of SIS II, VIS and EUODAC <i>and parts of the communication infrastructure</i> after the transitional period and potentially of other information technology ("IT") systems in the area of freedom, security and justice, <i>subject to the adoption of separate legal instruments</i>, it is necessary to establish a Management Authority.
(4) In order to ensure the operational management of SIS II, VIS and EUODAC after the transitional period and potentially of other information technology ("IT") systems in the area of freedom, security and justice, it is necessary to establish a Management Authority.	(4) In order to ensure the operational management of SIS II, VIS and EUODAC <i>and parts of the communication infrastructure</i> after the transitional period and potentially of other information technology ("IT") systems in the area of freedom, security and justice, <i>subject to the adoption of separate legal instruments</i>, it is necessary to establish a Management Authority.		

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(5) With a view to achieving synergies, it is necessary to provide for the operational management of these systems in one entity, benefiting from economies of scale, creating critical mass and ensuring the highest possible utilisation rate of capital and human resources.		(5) With a view to achieving synergies, it is necessary to provide for the operational management of these large-scale systems in one entity, benefiting from economies of scale, creating critical mass and ensuring the highest possible utilisation rate of capital and human resources.	(5) With a view to achieving synergies, it is necessary to provide for the operational management of these large-scale systems in one entity, benefiting from economies of scale, creating critical mass and ensuring the highest possible utilisation rate of capital and human resources.
	<i>(5a) In the joint statements accompanying the SIS II and VIS legal instruments, the European Parliament and the Council invited the Commission to present, following an impact assessment, the necessary legislative proposals entrusting an Agency with the long term operational management of the Central SIS II and parts of the communication infrastructure as well as the VIS.</i>	(5a) In joint statements of the European Parliament, the Council and the Commission accompanying the SIS II and VIS legal instruments, the Commission was invited to present, following an impact assessment, the necessary legislative proposals entrusting an Agency with the long term operational management of the Central SIS II and parts of its Communication Infrastructure as well as the VIS.	<i>(5a) In the joint statements accompanying the SIS II and VIS legal instruments, the European Parliament and the Council invited the Commission to present, following an impact assessment, the necessary legislative proposals entrusting an Agency with the long term operational management of the Central SIS II and parts of the communication infrastructure as well as the VIS.</i>
(6) Since the Management Authority should have legal, administrative and financial autonomy it should be established in the form of a regulatory agency having legal personality.		(6) Since the Management Authority should have legal, administrative and financial autonomy it should be established in the form of a regulatory agency having legal personality.	(6) Since the Management Authority should have legal, administrative and financial autonomy it should be established in the form of a regulatory agency having legal personality.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned (7) Consequently, the tasks of the Management Authority set out in Regulation (EC) No 1987/2006, in Regulation (EC) No 767/2008 and in Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] should be exercised by the Agency. These tasks comprise further technical development.
(7) Consequently, the tasks of the Management Authority set out in Regulation (EC) No 1987/2006, in Regulation (EC) No 767/2008 and in Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] should be exercised by the Agency. These tasks comprise further technical development.		(7) Consequently, the tasks of the Management Authority set out in Regulation (EC) No 1987/2006, in Regulation (EC) No 767/2008 and in Regulation (EC) XX/2010 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] should be exercised by the Agency. These tasks comprise further technical development. (7a) The core mission of the Agency is to fulfil the operational management tasks for SIS II, VIS and EURODAC and, if so decided, other large-scale IT-systems in the area of freedom, security and justice. The Agency should also be responsible for technical measures required by the tasks entrusted to it, which are not of a normative nature. These responsibilities should be without prejudice to the tasks reserved to the Commission alone or assisted by a Committee in the respective legal instruments governing the systems operationally managed by the Agency.	(7) Consequently, the tasks of the Management Authority set out in Regulation (EC) No 1987/2006, in Regulation (EC) No 767/2008 and in Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [...] should be exercised by the Agency. These tasks comprise further technical development. (7a) The core mission of the Agency is to fulfil the operational management tasks for SIS II, VIS and EURODAC and, if so decided, other large-scale IT-systems in the area of freedom, security and justice. The Agency should also be responsible for technical measures required by the tasks entrusted to it, which are not of a normative nature. These responsibilities should be without prejudice to the tasks reserved to the Commission alone or assisted by a Committee in the respective legal instruments governing the systems operationally managed by the Agency.

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(8) In addition, the Agency should organize specific VIS and SIS II related training.	8. In addition, the Agency should <i>perform tasks related to training on the technical use of VIS, SIS II and EURODAC</i> .	(8) In addition, the Agency should perform tasks related to training on the technical use of SIS II, VIS and EURODAC and other large-scale IT systems which might be entrusted to it in the future.	(8) In addition, the Agency should perform tasks related to training on the technical use of SIS II, VIS and EURODAC and other large-scale IT systems which might be entrusted to it in the future.
	(8a) <i>Furthermore, the Agency should be responsible for the operation, management and supervision of a communication infrastructure providing networking and security services for the exchange of data within the framework of each IT system concerned, according to their respective legal instruments.</i>		(8a) <i>Furthermore, the Agency should be responsible for the operation, management and supervision of a communication infrastructure providing networking and security services for the exchange of data within the framework of each IT system concerned, according to their respective legal instruments.</i> ⁴
(9) Furthermore, the Agency may also be made responsible for the preparation, development and operational management of additional large-scale IT systems on the basis of a relevant legislative instrument in application of Title V of the Treaty on the Functioning of the European Union. In addition, the Agency should be responsible for monitoring of research and for pilot schemes for large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union, upon specific request of the Commission.	(9) Furthermore, the Agency may also be made responsible for the preparation, development and operational management of additional large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union. <i>The Agency should be entrusted with such tasks only by means of subsequent and separate legal instruments, preceded by an impact assessment and a proper evaluation of the Agency's work.</i>	(9) Furthermore, the Agency might also be made responsible for the preparation, development and operational management of additional large-scale IT systems (...) in application of Title V of the TFEU on the basis of a relevant legislative instrument. In addition, the Agency should be responsible for monitoring of research and for pilot schemes for large-scale IT systems (...), upon specific and precise request of the Commission. When tasked with a pilot scheme, special attention should be given to the European Union Information Management Strategy.	(9) Furthermore, the Agency might also be made responsible for the preparation, development and operational management of additional large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union. <i>The Agency should be entrusted with such tasks only by means of subsequent and separate legal instruments, preceded by an impact assessment.</i>

⁴ *On stand-by by EP pending the outcome of the meeting between EP, COM and EDPS scheduled for 16 March 2011. COM would prefer not to have this provision.*

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	(9a) <i>The Agency should be responsible for monitoring of research and for pilot schemes, in accordance with the provisions of Article 49 (6) (a) of Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, for large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union, at the specific and precise request of the Commission, or the budgetary authority, and in accordance with Article 6 of this Regulation.</i>		(9a) <i>The Agency should be responsible for monitoring of research and for pilot schemes, in accordance with the provisions of Article 49 (6) (a) of Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, for large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union, at the specific and precise request of the Commission. When tasked with a pilot scheme, special attention should be given to the European Union Information Management Strategy.</i> ⁵ <i>[Moved from Recital (9).]</i>
(10) Entrusting an Agency with the operational management of large-scale IT systems in the area of freedom, security and justice does not affect the specific rules applicable to those systems. In particular, the specific rules governing the purpose, access rights, security measures and further data protection requirements for each of the systems the operational management of which the Agency is entrusted with, are fully applicable.		(10) Entrusting an Agency with the operational management of large-scale IT systems in the area of freedom, security and justice does not affect the specific rules applicable to those systems. In particular, the specific rules governing the purpose, access rights, security measures and further data protection requirements for each of the large-scale IT systems the operational management of which the Agency is entrusted with, are fully applicable.	(10) Entrusting an Agency with the operational management of large-scale IT systems in the area of freedom, security and justice does not affect the specific rules applicable to those systems. In particular, the specific rules governing the purpose, access rights, security measures and further data protection requirements for each of the large-scale IT systems the operational management of which the Agency is entrusted with, are fully applicable.

⁵ *On stand-by by EP.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(11) The Member States and the Commission should be represented within a Management Board, in order to effectively control the functions of the Agency. The Management Board should be entrusted with the necessary powers, in particular to adopt the annual work programme, carry out its functions related to the Agency's budget, adopt the financial rules applicable to the Agency, appoint the Executive Director and establish procedures for taking decisions related to the operational tasks of the Agency by the Executive Director.		(11) The Member States and the Commission should be represented within a Management Board, in order to effectively control the functions of the Agency. The Management Board should be entrusted with the necessary powers, in particular to adopt the annual work programme, carry out its functions related to the Agency's budget, adopt the financial rules applicable to the Agency, appoint the Executive Director and establish procedures for taking decisions related to the operational tasks of the Agency by the Executive Director.	(11) The Member States and the Commission should be represented within a Management Board, in order to effectively control the functions of the Agency. The Management Board should be entrusted with the necessary powers, in particular to adopt the annual work programme, carry out its functions related to the Agency's budget, adopt the financial rules applicable to the Agency, appoint the Executive Director and establish procedures for taking decisions related to the operational tasks of the Agency by the Executive Director.
		(11a) As regards SIS II, the European Police Office (Europol) and Eurojust, both having the right to access and search directly data entered into SIS II in application of Decision 2007/533/JHA, should have observer status at the Management Board when a question in relation to the application of Decision 2007/533/JHA is on the agenda. Europol and Eurojust should each be able to appoint a representative to the SIS II Advisory Group established under Article 16(1)(a).	(11a) As regards SIS II, the European Police Office (Europol) and Eurojust, both having the right to access and search directly data entered into SIS II in application of Decision 2007/533/JHA, should have observer status at the meetings of the Management Board when a question in relation to the application of Decision 2007/533/JHA is on the agenda. Europol and Eurojust should each be able to appoint a representative to the SIS II Advisory Group established under Article 16(1)(a).

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		(11b) As regards VIS, Europol should be granted observer status at the meetings of the Management Board, when a question in relation to the application of Decision 2008/633/JHA, is on the agenda. Europol should be able to appoint a representative to the VIS Advisory Group established under Article 16(1)(b).	(11b) As regards VIS, Europol should be granted observer status at the meetings of the Management Board, when a question in relation to the application of Decision 2008/633/JHA, is on the agenda. Europol should be able to appoint a representative to the VIS Advisory Group established under Article 16(1)(b).
		(11c) Member States not participating fully in the provisions of Schengen acquis concerning the IT systems should have voting rights in the Management Board of the Agency if they are bound by at least one legislative instrument setting up the IT system, notably Council Decision 2007/533/JHA for SIS II, and Council Decision 2004/512/EC and Regulation 767/2008 for VIS. As regards Eurodac and other future IT systems to be set up in application of the provisions of Title V TFEU, Member States should have voting rights concerning those systems if they are bound by the legislative instrument setting up that system.	(11c) Member States should have voting rights in the Management Board of the Agency concerning a large-scale IT system provided they are bound under Union law by any legislative instrument governing the development, establishment, operation and use of that particular system. Denmark should also have voting rights concerning a large-scale IT system, if it decides under Article 4 of the Protocol on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of that particular large-scale IT system in its national law.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
			[(11d) Member States should appoint a Member to the Advisory Group concerning a large-scale IT system, if they are bound under Union law by any legislative instrument governing the development, establishment, operation and use of that particular system. Denmark should in addition, appoint a Member to the Advisory Group concerning a large-scale IT system, if it decides under Article 4 of the Protocol on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of that particular system in its national law.]

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(12) In order to guarantee its full autonomy and independence, the Agency should be granted an autonomous budget with revenue from the general budget of the European Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.	(12) In order to guarantee its full autonomy and independence, the Agency should be granted an autonomous budget with revenue from the general budget of the European Union. <i>The financing of the Agency is subject to an agreement by the budgetary authority as set out in Point 47 of the IIA of 17 May 2006.</i> The Union budgetary <i>and discharge procedures</i> should be applicable (...). The auditing of accounts <i>and of the legality and regularity of the underlying transactions</i> should be undertaken by the Court of Auditors.	(12) In order to guarantee its full autonomy and independence, the Agency should be granted an autonomous budget with revenue from the general budget of the European Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors of the European Union .	(12) In order to guarantee its full autonomy and independence, the Agency should be granted an autonomous budget with revenue from the general budget of the European Union. <i>The financing of the Agency is subject to an agreement by the budgetary authority as set out in Point 47 of the I I A of 17 May 2006</i> The Union budgetary <i>and discharge procedures</i> should be applicable (...). The auditing of accounts <i>and of the legality and regularity of the underlying transactions</i> should be undertaken by the Court of Auditors.
(13) Within the framework of their respective competences, the Agency should cooperate with other agencies of the European Union, especially agencies established in the area of freedom, security and justice.	(13) Within the framework of their respective competences, the Agency should cooperate with other agencies of the European Union, especially agencies established in the area of freedom, security and justice <i>and, in particular, those concerned with the defence of fundamental rights</i> .	(13) Within the framework of their respective competences, the Agency should cooperate with other agencies of the (...) Union, especially agencies established in the area of freedom, security and justice.	(13) Within the framework of their respective competences, the Agency should cooperate with other agencies of the European Union, especially agencies established in the area of freedom, security and justice. It should also consult and follow-up the recommendations of ENISA regarding network security, where appropriate. ⁶

⁶ Suggested by COM.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT
	<i>(13a) With regard to cooperation among the agencies operational in the area of freedom, security and justice, synergies should be created for better policy implementation in the area, ensuring sound management and avoiding duplication of procedures and structures and thereby of costs.</i>		resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned <i>(13a) With regard to cooperation among the agencies operational in the area of freedom, security and justice, synergies should be created for better policy implementation in the area, ensuring sound management and avoiding duplication of procedures and structures and thereby of costs.</i> ⁷
(14) When ensuring the operational management of IT systems, the Agency should follow European and international standards taking into account the highest professional requirements.		(14) When ensuring development and the operational management of large-scale IT systems, the Agency should follow European and international standards taking into account the highest professional requirements, in particular the European Union Information Management Strategy.	(14) When ensuring development and the operational management of large-scale IT systems, the Agency should follow European and international standards taking into account the highest professional requirements, in particular the European Union Information Management Strategy.

⁷ *On stand-by by EP. COM would prefer not to have this recital.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(15) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the processing of personal data by the Agency. This Regulation provides, <i>inter alia</i>, that the European Data Protection Supervisor shall have the power to obtain from the Agency access to all information necessary for his or her enquiries.	(15) <i>Without prejudice to future Union legislation relating to the protection of personal data and implementing Article 16 of the Treaty on the Functioning of the European Union and Article 8 of the Charter of Fundamental Rights of the European Union</i>, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the processing of personal data by the Agency. This Regulation provides, <i>inter alia</i>, that the European Data Protection Supervisor shall have the power to obtain from the Agency access to all information necessary for his or her enquiries. In accordance with Article 28 of that Regulation, the Commission consulted the European Data Protection Supervisor, who delivered its opinion on 7 December 2009.	(15) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the processing of personal data by the Agency. This Regulation provides, <i>inter alia</i>, that the European Data Protection Supervisor shall have the power to obtain from the Agency access to all information necessary for his or her enquiries. In accordance with Article 28 of that Regulation, the Commission consulted the European Data Protection Supervisor, who delivered its opinion on 7 December 2009.	(15) <i>Without prejudice to future Union legislation relating to the protection of personal data and implementing Article 16 of the Treaty on the Functioning of the European Union and Article 8 of the Charter of Fundamental Rights of the European Union</i>,⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the processing of personal data by the Agency. This Regulation provides, <i>inter alia</i>, that the European Data Protection Supervisor shall have the power to obtain from the Agency access to all information necessary for his or her enquiries. In accordance with Article 28 of that Regulation, the Commission consulted the European Data Protection Supervisor, who delivered its opinion on 7 December 2009.

⁸ *On stand-by by EP. COM opposed to this amendment.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(16) In order to ensure the transparent operation of the Agency, Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents should apply to the Agency.		(16) In order to ensure the transparent operation of the Agency, Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents should apply to the Agency.	(16) In order to ensure the transparent operation of the Agency, Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents should apply to the Agency. <i>The activities of the Agency shall be subject to the scrutiny of the European Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union. [It comes from EP amendment for a new Article 23A.] [COM considered this provision as superfluous, since it quotes the Treaty.]</i>
(17) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) should apply to the Agency, which should accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF).		(17) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) should apply to the Agency, which should accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF).	(17) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) should apply to the Agency, which should accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF).

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
		(17a) The Agency's host Member States should provide the best possible conditions to ensure proper functioning of the Agency, e. g. including multilingual, European-oriented schooling and appropriate transport connections.	(17a) The Agency's host Member States should provide the best possible conditions to ensure proper functioning of the Agency, e. g. including multilingual, European-oriented schooling and appropriate transport connections.
(18) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities ("the Staff Regulations") should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.		(18) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities ("the Staff Regulations") should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.	(18) In order to ensure open and transparent employment conditions and equal treatment of staff, the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities ("the Staff Regulations") should apply to the staff and to the Executive Director of the Agency, including the rules of professional secrecy or other equivalent duties of confidentiality.
(19) The Agency is a body set up by the Union in the sense of Article 185(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities and should adopt its financial rules accordingly.		(19) The Agency is a body set up by the Union in the sense of Article 185(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities and should adopt its financial rules accordingly.	(19) The Agency is a body set up by the Union in the sense of Article 185(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities and should adopt its financial rules accordingly.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(20) Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities should apply to the Agency. (21) Since the objectives of the proposed action, namely the creation of an Agency at the level of the European Union, responsible for the operational management of large-scale IT systems in the area of freedom, security and justice cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.		(20) Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities should apply to the Agency. (21) Since the objectives of this Regulation, namely the establishment of an Agency at Union level, responsible for the operational management and where appropriate the development of large-scale IT systems in the area of freedom, security and justice cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.	(20) Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities should apply to the Agency. (21) Since the objectives of this Regulation, namely the establishment of an Agency at Union level, responsible for the operational management and where appropriate the development of large-scale IT systems in the area of freedom, security and justice cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(22) This Regulation respects fundamental rights and observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union. (23) Insofar as it relates to SIS II and VIS, in accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title V of Part Three of the Treaty on the Functioning of the European Union Denmark should, in accordance with Article 4 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law or not.		(22) This Regulation respects fundamental rights and observes the principles recognised by Article 6(2) of the TEU and reflected in the Charter of Fundamental Rights of the European Union. (23) (...) In accordance with Articles 1 and 2 of (...) Protocol No 22 on the Position of Denmark, annexed to the TEU and (...) the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation, insofar as it relates to SIS II and VIS, builds upon the Schengen <i>acquis</i> (...) Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law (...).	(22) This Regulation respects fundamental rights and observes the principles recognised by Article 6(2) of the TEU and reflected in the Charter of Fundamental Rights of the European Union. (23) (...) In accordance with Articles 1 and 2 of (...) Protocol No 22 on the Position of Denmark, annexed to the TEU and (...) the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation, insofar as it relates to SIS II and VIS, builds upon the Schengen <i>acquis</i> (...) Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law (...).

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
In accordance with Article 5 of the former Protocol on the Treaty on European Union and to the Treaty establishing the European Community, Denmark decided to implement Regulation (EC) No 1987/2006 and Regulation (EC) No 767/2008 in national law. On the basis of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, Denmark shall notify the Commission whether it will implement the contents of this (...) Regulation (...), insofar as it relates to Eurodac.		In accordance with Article 3 of the (...) Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, Denmark shall notify the Commission whether it will implement the contents of this (...) Regulation (...), insofar as it relates to Eurodac.	In accordance with Article 3 of the (...) Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, Denmark shall notify the Commission whether it will implement the contents of this (...) Regulation (...), insofar as it relates to Eurodac.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(24) Insofar as it relates to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application to the extent that its measures develop provisions of the Schengen <i>acquis</i> insofar as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the said Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application to the extent that its measures do not develop provisions of		(24) Insofar as its provisions relate to SIS II as governed by Council Decision 2007/533/JHA, the United Kingdom is taking part in this Regulation in accordance with Article 5(1) of the Protocol No 19 on the Schengen acquis integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000, concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>. Insofar as its provisions relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, which constitute developments of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>, the United Kingdom requested, by letter of 5 October 2010 to the President of the Council, to be authorised to take part in	(24) Insofar as its provisions relate to SIS II as governed by Council Decision 2007/533/JHA, the United Kingdom is taking part in this Regulation in accordance with Article 5(1) of the Protocol No 19 on the Schengen acquis integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000, concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>. Insofar as its provisions relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, which constitute developments of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>, the United Kingdom requested, by letter of 5 October 2010 to the President of the Council, to be authorised to take part in

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
the Schengen <i>acquis</i> insofar as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. However, the United Kingdom is taking part in this Regulation insofar as its provisions relate to SIS II as governed by Council Decision 2007/533/JHA, in accordance with Article 8(2) of Council Decision 2000/365/EC of 29 May 2000, concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>. Furthermore, by letter of 23 September 2009 to the President of the Council, the United Kingdom notified its intention to take part in the adoption of this Regulation, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty Establishing the European Community. Insofar as this Regulation does not relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, the United Kingdom therefore takes part in its adoption, is bound by it and subject to its application.		the adoption of this Regulation, in accordance with Article 4 of the Protocol on the Schengen <i>acquis</i> integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. By virtue of Article 1 of Council Decision XXX, concerning that request of the United Kingdom of Great Britain and Northern Ireland, the United Kingdom has been authorised to take part in this Regulation. Furthermore, insofar as its provisions relate to the provisions of Eurodac, by letter of 23 September 2009 to the President of the Council, the United Kingdom has notified its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. (...) The United Kingdom therefore takes part in the adoption of this Regulation, is bound by it and subject to its application.	the adoption of this Regulation, in accordance with Article 4 of the Protocol on the Schengen <i>acquis</i> integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. By virtue of Article 1 of Council Decision , concerning that request of the United Kingdom of Great Britain and Northern Ireland, the United Kingdom has been authorised to take part in this Regulation. Furthermore, insofar as its provisions relate to the provisions of Eurodac, by letter of 23 September 2009 to the President of the Council, the United Kingdom has notified its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. (...) The United Kingdom therefore takes part in the adoption of this Regulation, is bound by it and subject to its application.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(25) Insofar as it relates to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application to the extent that its measures develop provisions of the Schengen <i>acquis</i> insofar as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the said Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its measures application to the extent that its measures do not develop provisions of the Schengen <i>acquis</i> insofar as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. However, Ireland is taking part in this Regulation insofar as its provisions relate to SIS II as governed by Council Decision 2007/533/JHA, in accordance with Article 6(2) of Council		(25) Insofar as it relates to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>. Ireland has not requested to take part in the adoption of this Regulation, in accordance with Article 4 of the Protocol on the Schengen <i>acquis</i> integrated into the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application to the extent that its measures develop provisions of the Schengen <i>acquis</i> as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. As far as it relates to the provisions of Eurodac, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the TEU and to the TFEU (...) Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application (...). Since it is not possible, under these circumstances,	(25) Insofar as it relates to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>. Ireland has not requested to take part in the adoption of this Regulation, in accordance with Article 4 of the Protocol on the Schengen <i>acquis</i> integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application to the extent that its measures develop provisions of the Schengen <i>acquis</i> as they relate to SIS II as governed by Regulation (EC) No 1987/2006 and to VIS. As far as it relates to the provisions of Eurodac, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the TEU and to the TFEU (...) Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application (...). Since it is not possible, under these circumstances,

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> .		to ensure the applicability of the Regulation to Ireland in its entirety as required by Article 288 TFEU, Ireland is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application, without prejudice to its rights under the aforementioned Protocols. (26) As regards Iceland and Norway, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the EU and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i>, which falls within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement. As regards EUODAC, this Regulation constitutes a new measure related to EUODAC within the meaning of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a	to ensure the applicability of the Regulation to Ireland in its entirety as required by Article 288 TFEU, Ireland is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application, without prejudice to its rights under the aforementioned Protocols. (26) As regards Iceland and Norway, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the EU and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i>, which falls within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement. As regards EUODAC, this Regulation constitutes a new measure related to EUODAC within the meaning of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
Member State or in Iceland or Norway. Consequently, subject to their decision to implement it in their internal legal order, delegations of the Republic of Iceland and the Kingdom of Norway should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities allowing for the participation of the Republic of Iceland and the Kingdom of Norway in the Agency's activities, a further arrangement should be concluded between the Union and these States. (27) As regards Switzerland, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement. As regards EUODAC, this		Member State or in Iceland or Norway. Consequently, subject to their decision to implement it in their internal legal order, delegations of the Republic of Iceland and the Kingdom of Norway should participate in the Management Board of the Agency (...). In order to determine the further modalities, e.g. voting rights, allowing for the participation of the Republic of Iceland and the Kingdom of Norway in the Agency's activities, a further arrangement should be concluded between the Union and these States. (27) As regards Switzerland, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement. As regards EUODAC, this	Member State or in Iceland or Norway. Consequently, subject to their decision to implement it in their internal legal order, delegations of the Republic of Iceland and the Kingdom of Norway should participate in the Management Board of the Agency (...). In order to determine the further modalities, e.g. voting rights, allowing for the participation of the Republic of Iceland and the Kingdom of Norway in the Agency's activities, a further arrangement should be concluded between the Union and these States. (27) As regards Switzerland, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>, which fall within the area referred to in Article 1, points A, B and G of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement. As regards EUODAC, this

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
Regulation constitutes a new measure related to EUODAC within the meaning of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, subject to its decision to implement it in their internal legal order, the delegation of the Swiss Confederation should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities allowing for the participation of the Swiss Confederation in the Agency's activities, a further arrangement should be concluded between the Union and the Swiss Confederation.		Regulation constitutes a new measure related to EUODAC within the meaning of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, subject to its decision to implement it in their internal legal order, the delegation of the Swiss Confederation should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities, e.g. voting rights, allowing for the participation of the Swiss Confederation in the Agency's activities, a further arrangement should be concluded between the Union and the Swiss Confederation.	Regulation constitutes a new measure related to EUODAC within the meaning of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, subject to its decision to implement it in their internal legal order, the delegation of the Swiss Confederation should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities, e.g. voting rights, allowing for the participation of the Swiss Confederation in the Agency's activities, a further arrangement should be concluded between the Union and the Swiss Confederation.
(28) As regards Liechtenstein, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation		(28) As regards Liechtenstein, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation	(28) As regards Liechtenstein, this Regulation constitutes, insofar as it relates to SIS II and VIS, a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation

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on the Swiss Confederation’s association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 read in conjunction with Article 3 of Council Decision 2008/261/EC. As regards EUODAC, this Regulation constitutes a new measure related to EUODAC within the meaning of the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, the delegation of the Principality of Liechtenstein should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities allowing for the participation of the Principality of Liechtenstein in the Agency’s activities, a further arrangement should be concluded between the Union and the Principality of Liechtenstein.		on the Swiss Confederation’s association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, points A, B and G of Council Decision 1999/437/EC of 17 May 1999 read in conjunction with Article 3 of Council Decision 2008/261/EC. As regards EUODAC, this Regulation constitutes a new measure related to EUODAC within the meaning of the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, the delegation of the Principality of Liechtenstein should participate in the Management Board of the Agency, albeit without voting rights. In order to determine the further modalities, e.g. voting rights , allowing for the participation of the Principality of Liechtenstein in the Agency’s activities, a further arrangement should be concluded between the Union and the Principality of Liechtenstein.	resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned

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CHAPTER I SUBJECT MATTER		CHAPTER I SUBJECT MATTER	
Establishment of the Agency <i>Article 1</i> A European Agency ("the Agency") for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC and for developing and managing other large-scale information technology ("IT") systems, in application of Title V of the Treaty on the Functioning of the European Union is hereby established.	Establishment of the Agency <i>Article 1</i> I. A European Agency ("the Agency") for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC (...) is hereby established. A European Agency ("the Agency") for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS), EURODAC and for developing and managing other large-scale information technology ("IT") systems, in application of Title V of the Treaty on the Functioning of the European Union is hereby established, in accordance with Article 185 of the Financial Regulation.	Establishment of the Agency <i>Article 1</i> 1. A European Agency ("the Agency") for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS), EURODAC and for developing and managing other large-scale information technology (...) systems (hereinafter referred to as "large-scale IT systems"), in application of Title V of the TFEU (hereinafter referred to as "large-scale IT systems") is hereby established.	Establishment of the Agency <i>Article 1</i> A European Agency ("the Agency") for the operational management of the second-generation Schengen Information System (SIS II), the Visa Information System (VIS) EURODAC (hereinafter referred to as "large-scale IT systems") is hereby established. <i>44J.</i> <i>[Moved from Article</i>

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	<i>1b. Operational management shall consist of all the tasks necessary to keep the large-scale IT systems referred to in paragraph 1 functioning in accordance with the specific provisions applicable to each of those systems, including responsibility for the communication infrastructure used by the IT systems. There shall be no possibility of interoperability between those large-scale IT Systems.</i> See also Article 4A	1a. Operational management shall consist of all the tasks necessary to keep large-scale IT systems as provided for in paragraph 1 functioning in accordance with the legal instruments governing each of these systems respectively.	<i>0c. Operational management shall consist of all the tasks necessary to keep the large-scale IT systems referred to in paragraph 1 functioning in accordance with the specific provisions applicable to each of those IT systems, including responsibility for the communication infrastructure used by the IT systems.</i> <i>[Suggested by COM at informal dialogue on 2011-02-03.]</i>

COMMISSION 8151/10	PARLIAMENT <i>Article 1a Objectives of the Agency</i>	COUNCIL 14469/10 <i>Article 1A Objectives</i>	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
	<i>Without prejudice to the respective responsibilities of the Commission and of the Member States under the instruments governing the IT systems referred to in Article 1, the Agency shall ensure:</i> – <i>the implementation of effective and secure operation, and the continuous, efficient and financially accountable management, of the IT systems referred to in Article 1;</i> – <i>a high-level quality of service quality for users of those IT systems;</i> – <i>continuity and uninterrupted service;</i> – <i>a high level of data protection, in accordance with the applicable rules, including specific provisions for each IT system referred to in Article 1;</i>	Without prejudice to the respective responsibilities of the Commission and of the Member States under the instruments governing the development, establishment, use and operation of the IT-systems referred to in Article 1, the Agency shall ensure: (a) the implementation of a continuous, efficient and financially accountable management of the large-scale IT systems referred to in Article 1; (b) an adequately high quality of service for users of these systems; (c) continuity and uninterrupted service; (d) appropriate level of data protection, in accordance with applicable rules, including specific provisions for each of the IT-systems, referred to in Article 1;	<i>Without prejudice to the respective responsibilities of the Commission and of the Member States under the instruments governing the IT systems referred to in Article 1, the Agency shall ensure:</i> (a) <i>the implementation of effective, secure and continuous of the IT systems referred to in Article 1;</i> () <i>an adequately high quality of service for users of these systems;</i> () <i>continuity and uninterrupted service;</i> () <i>a high level of data protection, in accordance with the applicable rules, including specific provisions for each IT system referred to in Article 1;</i>

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	– <i>a high level of physical security and data integrity and security, in accordance with the applicable rules, including specific provisions for each IT system, as referred to in Article 1;</i>	(e) an appropriate level of data- and physical security, in accordance with applicable rules, including specific provisions for each of the large-scale IT systems, referred to in Article 1;	() an appropriate level of data– and physical security, in accordance with applicable rules, including specific provisions for each of the large-scale IT systems, referred to in Article 1;
	– <i>the use of a professional project management structure for the efficient development of large-scale IT systems.</i>	(f) the use of an adequate project management structure for efficiently developing large-scale IT systems.	() the use of an adequate project management structure for efficiently developing large-scale IT systems.

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CHAPTER II TASKS		CHAPTER II TASKS	
<i>Article 2</i> Tasks related to SIS II		<i>Article 2</i> Tasks related to SIS II	
The Agency shall perform the tasks conferred on the Management Authority by Regulation (EC) No. 1987/2006 and Council Decision 2007/533/JHA, organize common training for staff involved in the exchange of supplementary information, in accordance with the SIRENE Manual and perform tasks related to the training of experts on SIS II as provided for in Council Regulation No. XXX on the establishment of an evaluation mechanism to verify the application of the Schengen acquis.	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA; - <i>perform tasks relating to training in the use of SIS II, in particular to organize common training for staff involved in the exchange of supplementary information, in accordance with the SIRENE Manual and perform tasks related to the training of experts on the technical aspects of SIS II as provided for in Council Regulation No XXX on the establishment of an evaluation mechanism to verify the application of the Schengen acquis.</i>	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 1987/2006 and Decision 2007/533/JHA (...); - perform tasks related to training on the technical use of SIS II, in particular for SIRENE-staff and training of experts on the technical aspects of SIS II in the framework of Schengen evaluation.	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 1987/2006 and Decision 2007/533/JHA (...); - perform tasks related to training on the technical use of SIS II, in particular for SIRENE-staff and training of experts on the technical aspects of SIS II in the framework of Schengen evaluation.

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<i>Article 3</i> Tasks related to VIS		<i>Article 3</i> Tasks related to VIS	
The Agency shall perform the tasks conferred on the Management Authority by Regulation (EC) No 767/2008 and Council Decision 2008/633/JHA, and perform tasks related to training on the use of VIS.	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 767/2008 and Decision 2008/633/JHA; - perform tasks related to training on the use of VIS, <i>in particular to the training of experts in the technical aspects of VIS.</i>	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 767/2008 and Decision 2008/633/JHA; - perform tasks related to training on the technical use of VIS.	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) No 767/2008 and Decision 2008/633/JHA; - perform tasks related to training on the technical use of VIS.
<i>Article 4</i> Tasks related to EURODAC		<i>Article 4</i> Tasks related to EURODAC	
The Agency shall perform the tasks conferred on the Management Authority by Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...].	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] - <i>perform tasks related to training in the use of EURODAC, in particular to the training of experts in the technical aspects of EURODAC.</i>	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...]; - perform tasks related to training on the technical use of EURODAC.	The Agency shall: - perform the tasks conferred on the Management Authority by Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...]; - perform tasks related to training on the technical use of EURODAC.

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	Article 4a Tasks related to the communication infrastructure	Article 4A Tasks related to the development and operational management of other large-scale IT systems	
	[1a. The Agency may also be entrusted with the preparation, development and operational management of other large-scale information technology ("IT") systems, in application of Title V of the Treaty on the Functioning of the European Union. The Agency shall be entrusted with such tasks only by means of separate legal instruments based on Title V of the Treaty on the Functioning of the European Union, following an impact assessment and taking into account the developments in research referred to in Article 5 and the results of pilot schemes referred to in Article 6. [Moved to Article 1(0b)]	The Agency may be made responsible for the preparation, development and operational management of other large-scale IT systems in the area of freedom, security and justice, on the basis of a relevant legislative instrument, based on Title V of the TFEU. <i>[Moved to Article 1(0b).]</i> In such a case, the Agency shall perform tasks related to training on the technical use of those systems, as appropriate	the Agency shall perform tasks related to training on the technical use of those systems, as appropriate.

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	<i>Article 4B</i> <i>Tasks related to the communication infrastructure</i>		<i>Article 4B</i> <i>Tasks related to the communication infrastructure⁹</i>
	1. The Agency shall be responsible for the operational management and control of a communication infrastructure providing networking and security services for the exchange of data within the framework of each IT system concerned, in accordance with their respective legal instruments. 2. The communication infrastructure shall be adequately managed and controlled in order to protect it from threats and to ensure the security of the communication infrastructure and of the IT systems, including data exchanged through it. 3. The tasks concerning the operational management and control of the communication infrastructure may be entrusted to external private-sector entities or bodies in accordance with Article 36(2) of Commission Regulation (EC, Euratom) No 2343/2002.		

⁹ *This Article is under negotiation between the EP and COM.*

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	4. The entity or body referred to in paragraph 3 shall comply with the following criteria in particular: (a) it shall demonstrate extensive experience of operating the communication infrastructure of a large-scale IT system; (b) it shall have considerable expertise in the service and security requirements of an IT system with such functionalities; (c) it shall have sufficient and experienced staff with the appropriate professional expertise and language skills to work in an international cooperation environment such as that required by SIS II, VIS or EURODAC; (d) it shall have a secure and custom-built facility infrastructure, in particular a single building dedicated exclusively to the tasks conferred on it under paragraph 3, situated on Union territory and be able to back up and guarantee the continuous functioning of large-scale IT systems; (e) it shall undertake to refrain from any act which may give rise to a conflict of interests;		

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	<i>(f) it shall ensure that the infrastructure provided serves exclusively the needs of information exchange regarding European and national public administrations.</i>		
<i>Article 5</i> Monitoring of research			
1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, EURODAC and other large-scale IT systems in application of Title V of the Treaty on the Functioning of the European Union.	1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, EURODAC in application of Title V of the Treaty on the Functioning of the European Union.	1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, EURODAC and other large-scale IT systems (...).	1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, EURODAC and other large-scale IT systems (...).
2. The Agency shall on a regular basis keep the Commission informed on the developments referred to in paragraph 1.	2. The Agency shall on a regular basis keep <i>the European Parliament, the Council, the Commission, and the European Data Protection Supervisor</i> informed of the developments referred to in paragraph 1.	2. The Agency shall on a regular basis keep the European Parliament, the Council and the Commission (...) informed on the developments referred to in paragraph 1.	2. The Agency shall on a regular basis keep <i>the European Parliament, the Council, the Commission, and the European Data Protection Supervisor</i> informed of the developments referred to in paragraph 1.

COMMISSION 8151/10 <i>Article 6</i> Pilot Schemes	PARLIAMENT	COUNCIL 14469/10 <i>Article 6</i> Pilot Schemes	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
1. Upon specific and precise request of the Commission, the Agency shall implement pilot schemes for the development and/or the operational management of large-scale IT systems, in application of Title V of the Treaty on the Functioning of the European Union.	1. <u>Only at specific and precise request of the Commission or of the budgetary authority, and only after having informed the European Parliament and the Council, at least three months in advance</u>, the Agency may implement pilot schemes <u>as referred to in Article 49 (6) (a) of Council Regulation (EC, Euratom) N° 1605/2002</u>, for the development and/or the operational management of large-scale IT systems, in application of Title V of the Treaty on the Functioning of the European Union. <i>The European Parliament, the Council and the European Data Protection Supervisor shall be regularly kept informed of the evolution of these pilot schemes.</i>	1. Only upon specific and precise request of the Commission, which will have informed the European Parliament and Council <i>at least three months in advance, and after a decision by Management Board,</i> ¹⁰ the Agency may, in accordance with Article 9(1)(k), carry out pilot schemes as referred to in Article 49(6)(a) of the Council Regulation (EC, Euratom) No 1605/2002, for the development and/or the operational management of large-scale IT systems, in application of Title V of the Treaty on the Functioning of the European Union.	1. Only upon specific and precise request of the Commission, which will have informed the European Parliament and Council <i>at least three months in advance, and after a decision by Management Board,</i> ¹⁰ the Agency may, in accordance with Article 9(1)(k), carry out pilot schemes as referred to in Article 49(6)(a) of the Council Regulation (EC, Euratom) No 1605/2002, for the development and/or the operational management of large-scale IT systems, in application of Title V of the Treaty on the Functioning of the European Union.
2. Financial appropriations for pilot schemes as requested by the Commission shall be entered in the budget for no more than two successive financial years.		2. Financial appropriations for pilot schemes as requested by the Commission shall be entered in the budget for no more than two successive financial years.	2. Financial appropriations for pilot schemes as requested by the Commission shall be entered in the budget for no more than two successive financial years.

¹⁰

Underline wording was agreed by the ministers informally in the margins of the JHA Council on 2 Dec 2010.

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CHAPTER III STRUCTURE AND ORGANISATION <i>Article 7</i> Legal status		CHAPTER III STRUCTURE AND ORGANISATION <i>Article 7</i> Legal status	
1. The Agency shall be a Union body and shall have legal personality.		1. The Agency shall be a Union body and shall have legal personality.	1. The Agency shall be a Union body and shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under national legislation. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. It shall also be empowered to conclude a Headquarters Agreement with its host Member State.		2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws . It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. It shall also be empowered to conclude (...) Headquarters Agreements with the host Member States.	2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws . It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. It shall also be empowered to conclude (...) Headquarters Agreements with the host Member States.
3. The Agency shall be represented by its Executive Director.		3. The Agency shall be represented by its Executive Director.	3. The Agency shall be represented by its Executive Director.
4. The seat of the Agency shall be [...]	4. The seat of the Agency shall be [...].	4. The seat of the Agency shall be [...].	4. ¹¹

¹¹ *These provisions are pending ongoing discussions.*

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	4a. <i>The seat of the Agency shall respect the following requirements:</i> (a) <i>it shall be a <u>centralised location</u>. A Second location shall be maintained only for running a backup IT centre hosting backup continuity units of the IT systems managed by the Agency;</i> (b) <i>it shall be situated in a single building dedicated exclusively to the Agency, which should be owned or rented by the Agency itself;</i> (c) <i>it shall ensure the highest standards of physical and data security;</i> (d) <i>it shall provide for the most cost-effective solution.</i>	4a. option 0: [paragraph 4a was not included in the original COM's proposal and would not be inserted in the text.] option 1: [The Agency may establish data centers for hosting IT systems managed by the Agency.] option 2: [The Agency shall maintain one backup IT centre for hosting backup continuity units of the systems managed by the Agency.]	4a.¹²

¹² *These provisions are pending ongoing discussions.*

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	4b. <u>The host Member State shall ensure that the Agency benefits from attractive conditions in respect of the accommodation to be provided to the Agency and the rules applicable to staff and members of the Agency's governing bodies, to be set out in a Headquarters Agreement. In order to ensure the best possible long-term functioning of the Agency, a cost-benefit assessment shall precede the conclusion of the Headquarters Agreement. Particular account shall be taken of a Member State's willingness and ability to provide its own resources to host the Agency in such a way as to ensure its smooth establishment and operation.</u>		4b. ¹³
<i>Article 8</i> Structure		<i>Article 8</i> Structure	
The Agency's administrative and management structure shall comprise: (a) a Management Board; (b) an Executive Director; (c) Advisory Groups.		0a. The Agency's administrative and management structure shall comprise: (a) a Management Board; (b) an Executive Director; (c) Advisory Groups.	0a. The Agency's administrative and management structure shall comprise: (a) a Management Board; (b) an Executive Director; (c) Advisory Groups.

¹³ *These provisions are pending ongoing discussions.*

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	<i>(1a) The structure of the Agency shall also comprise:</i> <i>(a) a Data Protection Officer;</i> <i>(b) a Security Officer;</i> <i>(c) an Accounting Officer.</i>	0b. The Agency's structure shall also include: (a) a Data Protection Officer; (b) a Security Officer; (c) an Accounting Officer.	0b. The Agency's structure shall also include: (a) a Data Protection Officer; (b) a Security Officer; (c) an Accounting Officer.
<i>Article 9</i> Powers of the Management Board		<i>Article 9</i> Powers of the Management Board	
1. In order to ensure that the Agency carries out its tasks, the Management Board shall in particular: (a) appoint, and if relevant, dismiss the Executive Director, in accordance with Article 15; (b) exercise disciplinary authority over the Executive Director; (c) establish the Agency's organisational structure after consultation of the Commission; (d) establish the rules of procedure of the Agency after consultation of the Commission; (e) establish the rules governing the use of languages by the Agency in accordance with Article 22 of this Regulation;	(b) exercise disciplinary authority over the Executive Director <i>and oversee his/her performance including the implementation of Management Board decisions;</i> From CONT PE440.188v01-00	1. In order to ensure that the Agency carries out its tasks, the Management Board shall (...): (a) appoint, and if relevant, dismiss the Executive Director, in accordance with Article 15; (b) exercise disciplinary authority over the Executive Director and oversee his/her performance including the implementation of Management Board decisions; (c) establish the Agency's organisational structure after consultation of the Commission; (d) establish the rules of procedure of the Agency after consultation of the Commission; (e) (...)	1. In order to ensure that the Agency carries out its tasks, the Management Board shall (...): (a) appoint, and if relevant, dismiss the Executive Director, in accordance with Article 15; (b) exercise disciplinary authority over the Executive Director and oversee his/her performance including the implementation of Management Board decisions; (c) establish the Agency's organisational structure after consultation of the Commission; (d) establish the rules of procedure of the Agency after consultation of the Commission; (e) (...)

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(f) approve the Headquarters Agreement to be signed by the Executive Director with the host Member State following a proposal by the Executive Director; (g) in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations;	(ga) adopt a multi-annual work-programme based on the tasks referred to Chapter II- Tasks, using as its basis a draft submitted by the Executive Director referred to in Article 14, after consulting the Advisory Groups referred to in Article 16, and receiving the Commission's opinion. The multi-annual work-programme shall, without prejudice to the annual Union budgetary procedure, include a multi-annual budget estimate and ex ante evaluations in order to structure the objectives and the different stages of the multi-annual planning; <i>[moved to Art. 9(1)(gb)]</i>	(f) approve the Headquarters Agreements to be signed by the Executive Director with the host Member States following a proposal by the Executive Director; (g) in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations; (ga) adopt the necessary implementing measures on secondment of national experts to the Agency;	(f) approve the Headquarters Agreement to be signed by the Executive Director with the host Member State following a proposal by the Executive Director; (g) in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations (ga) adopt the necessary implementing measures on secondment of national experts to the Agency;

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			(g) <i>adopt a multi-annual work-programme based on the tasks referred to Chapter II- Tasks, using as its basis a draft submitted by the Executive Director referred to in Article 14, after consulting the Advisory Groups referred to in Article 16, and receiving the Commission's opinion. The multi-annual work-programme shall, without prejudice to the annual Union budgetary procedure, include a multi-annual budget estimate and ex ante evaluations in order to structure the objectives and the different stages of the multi-annual planning;</i> <i>[Moved from EP amendment to Art. 9(I)(ga)]</i>
(h) adopt the multi-annual staff policy plan and submit it by 31 March each year at the latest to the Commission and the budgetary authority;	(h) adopt the multi-annual staff policy plan, and a draft annual work programme and submit them by 31 March each year at the latest to the Commission and the budgetary authority;	(h) adopt the multi-annual staff policy plan and submit it by 31 March each year at the latest to the European Parliament and the Council (the budgetary authority) and the Commission ;	(h) adopt the multi-annual staff policy plan and submit it by 31 March each year at the latest to the Commission and the budgetary authority; ¹⁴

¹⁴ Agreed at the informal dialogue on 2011-02-03.

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(i) before 30 September each year, and after receiving the opinion of the Commission, adopt by a two-thirds majority of its members with the right to vote, and in accordance with the annual Union budgetary procedure and the Union legislative programme in areas of Title V of the Treaty on the Functioning of the European Union, the Agency's annual work programme for the coming year; and ensure that the adopted work programme is forwarded to the European Parliament, the Council and the Commission and published;	(i) <i>under the multi-annual programme</i> , before 30 September each year, and after receiving the opinion of the Commission, adopt by a two-thirds majority of its members with the right to vote, and in accordance with the annual Union budgetary procedure and the Union legislative programme in areas of Title V of the Treaty on the Functioning of the European Union, the Agency's annual work programme for the coming year; ensure that the adopted work programme is forwarded to the European Parliament, the Council, the Commission <i>and the European Data Protection Supervisor</i> and <i>that it is</i> published;	(i) before 30 September each year, and after receiving the opinion of the Commission, adopt by a three-quarters majority of its members with the right to vote, and in accordance with the annual Union budgetary procedure and the Union legislative programme in areas of Title V of the TFEU , the Agency's annual work programme for the coming year; and ensure that the adopted work programme is forwarded to the European Parliament, the Council and the Commission and published;	(i) before 30 September each year, and after receiving the opinion of the Commission, adopt by a two-thirds majority of its members with the right to vote, and in accordance with the annual Union budgetary procedure and the Union legislative programme in areas of Title V of the Treaty on the Functioning of the European Union, the Agency's annual work programme for the coming year; and ensure that the adopted work programme is forwarded to the European Parliament, the Council and the Commission and published;
(i) before 31 March each year, adopt the Agency's annual activity report for the previous year and transmit it by 15 June at the latest to the European Parliament, the Council, the European Economic Committee and the Court of Auditors; the annual activity report shall be published;	(i) before 31 March each year, adopt the Agency's annual activity report for the previous year <i>comparing, in particular, the results achieved with the objectives of the annual work programme</i> and transmit it by 15 June at the latest to the European Parliament, the Council, the Commission, the European Economic and Social Committee, the Court of Auditors <i>and the European Data Protection Supervisor</i> ; the annual activity report shall be published;	(i) before 31 March each year, adopt the Agency's annual activity report for the previous year and transmit it by 15 June at the latest to the European Parliament, the Council, the Commission (...) and the Court of Auditors; the annual activity report shall be published;	(i) before 31 March each year, adopt the Agency's annual activity report for the previous year <i>comparing, in particular, the results achieved with the objectives of the annual work programme</i> and transmit it by 15 June at the latest to the European Parliament, the Council, the Commission, the annual activity report shall be published;

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(k) carry out its functions relating to the Agency's budget, pursuant to the provisions of Articles 28, 29(6) and 30 of this Regulation; (l) adopt the financial rules applicable to the Agency in accordance with Article 30 of this Regulation; (m) appoint an Agency staff member as accounting officer who shall be functionally independent in the performance of his/her duties;	(ma) monitor and give adequate follow-up to the findings and recommendations stemming from various audit reports and evaluations, whether internal or external;	(k) carry out its functions relating to the Agency's budget, including the implementation of pilot schemes as referred to in Article 6, pursuant to the provisions of Articles 28, 29(6) and 30 of this Regulation; (l) adopt the financial rules applicable to the Agency in accordance with Article 30 of this Regulation; (m) appoint an (...) accounting officer who shall be functionally independent in the performance of his/her duties;	(k) carry out its functions relating to the Agency's budget, including the implementation of pilot schemes as referred to in Article 6, pursuant to the provisions of Articles 28, 29(6) and 30 of this Regulation; (l) adopt the financial rules applicable to the Agency in accordance with Article 30 of this Regulation; (m) appoint an (...) accounting officer who shall be functionally independent in the performance of his/her duties; <i>(ma) give adequate follow-up to the findings and recommendations stemming from various audit reports and evaluations, whether internal or external;</i>

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(n) adopt the necessary security measures, including a security plan; (o) appoint an Agency staff member as a Data Protection Officer in accordance with Regulation (EC) No 45/2001; (p) adopt, within 6 months after the date of application of this Regulation, the practical arrangements for implementing Regulation (EC) No 1049/2001;	(n) adopt the necessary security measures, including a security plan <u>and a business continuity and disaster recovery plan, taking into account the possible recommendations of the security experts present in the Advisory Groups and other relevant authorities (e.g. the European Network and Information Security Agency ("ENISA")) regarding, in particular, network security; and the appointment of a security officer;</u>	(n) adopt the necessary security measures, including a security plan taking into account the advice from security experts in the Advisory Groups and the appointment of a security officer; (o) appoint (...) a Data Protection Officer in accordance with Regulation (EC) No 45/2001; (p) adopt, within 6 months after the date of application of this Regulation, the practical arrangements for implementing Regulation (EC) No 1049/2001;	(n) adopt the necessary security measures, including a security plan and a business continuity and disaster recovery plan, taking into account the possible recommendations of the security experts present in the Advisory Groups. [Agreed at the informal dialogue on 2011-02-03.] (na) appoint a security officer; (o) appoint (...) a Data Protection Officer in accordance with Regulation (EC) No 45/2001; (p) adopt, within 6 months after the date of application of this Regulation, the practical arrangements for implementing Regulation (EC) No 1049/2001;

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(q) adopt the reports on the technical functioning of SIS II pursuant to Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and 17(3) of Regulation (EC) No 767/2008 and 17(3) of Decision 2008/633/JHA and of EURODAC pursuant to Article [28] of Regulation (EC) XX/2009 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...];		(q) adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and 17(3) of Decision 2008/633/JHA and of EURODAC pursuant to Article 30(4) of Regulation (EC) No [.../...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [EURODAC recast Regulation]; (qa)adopt the annual report on the activities of the Central System of EURODAC pursuant to Article [30(1)] of Regulation (EC) No [.../...] [EURODAC recast Regulation];	(q) adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and 17(3) of Decision 2008/633/JHA and of EURODAC pursuant to Article 30(4) of Regulation (EC) No [.../...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [EURODAC recast Regulation]; (qa)adopt the annual report on the activities of the Central System of EURODAC pursuant to Article [30(1)] of Regulation (EC) No [.../...] [EURODAC recast Regulation];

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(r) ensure the annual publication of the list of competent authorities authorised to directly search the data contained in SIS II pursuant to Article 31(8) of Regulation (EC) No 1987/2006 and Article 46(8) of Decision 2007/533/JHA, together with the list of N.SIS II Offices and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively; (s) perform any other tasks conferred on it in accordance with this Regulation.	(r) make comments on the European Data Protection Supervisor's report about the audit pursuant to Article 45 of Regulation (EC) No 1987/2006 and Article 42(2) of Regulation (EC) No 767/2008 and decide on <i>how to implement the recommendations in the most appropriate way</i>;	(r) make comments on the European Data Protection Supervisor's report about the audit pursuant to Article 45 of Regulation (EC) No 1987/2006, Article 42(2) of Regulation (EC) No 767/2008 and (...) Article 27(2) of Regulation XX/2010 [EURODAC recast Regulation] and ensure the appropriate follow-up of the audit; (s) publish statistics related to SIS II pursuant to Article 50(3) of Regulation (EC) No 1987/2006 and Article 66(3) of Decision 2007/533/JHA respectively; (sa) compile statistics on the work of the Central System pursuant to Article [6] of Regulation (EC) No [...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [...] [EURODAC recast Regulation];	(r) make comments on the European Data Protection Supervisor's report about the audit pursuant to Article 45 of Regulation (EC) No 1987/2006, Article 42(2) of Regulation (EC) No 767/2008 and (...) Article 27(2) of Regulation XX/2010 [EURODAC recast Regulation] and ensure the appropriate follow-up of the audit; (s) publish statistics related to SIS II pursuant to Article 50(3) of Regulation (EC) No 1987/2006 and Article 66(3) of Decision 2007/533/JHA respectively; (sa) compile statistics on the work of the Central System pursuant to Article [6] of Regulation (EC) No [...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [...] [EURODAC recast Regulation];

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			(t) ensure the annual publication of the list of competent authorities authorised to directly search the data contained in SIS II pursuant to Article 31(8) of Regulation (EC) No 1987/2006 and Article 46(8) of Decision 2007/533/JHA, together with the list of N.SIS II Offices and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively; (ta) ensure the annual publication of the list of authorities designated pursuant to Article [22(3)] of Regulation (EC) No [.../...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [EURODAC recast Regulation]; (u) perform any other tasks conferred on it in accordance with this Regulation.	(t) ensure the annual publication of the list of competent authorities authorised to directly search the data contained in SIS II pursuant to Article 31(8) of Regulation (EC) No 1987/2006 and Article 46(8) of Decision 2007/533/JHA, together with the list of N.SIS II Offices and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively; (ta) ensure the annual publication of the list of authorities designated pursuant to Article [22(3)] of Regulation (EC) No [.../...] concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [EURODAC recast Regulation]; (u) perform any other tasks conferred on it in accordance with this Regulation.

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2. The Management Board may advise the Executive Director on any matter strictly related to the development or operational management of the IT systems.		2. The Management Board may advise the Executive Director on any matter strictly related to the development or operational management of the large-scale IT systems.	2. The Management Board may advise the Executive Director on any matter strictly related to the development or operational management of the large-scale IT systems.
Composition of the Management Board <i>Article 10</i>	Composition of the Management Board <i>Article 10</i>	Composition of the Management Board <i>Article 10</i>	Composition of the Management Board <i>Article 10</i>
1. The Management Board shall be composed of one representative of each Member State and two representatives of the Commission.	1. The Management Board shall be composed of one representative of each Member State and (...) the Commission.	1. Without prejudice to Article 11(2), the Management Board shall be composed of one representative of each Member State and (...) the Commission.	1. ¹⁵ The Management Board shall be composed of one representative of each Member State and the Commission.
2. Each Member State shall appoint a member of the Management Board as well as an alternate. The Commission shall appoint two members and their alternates. The alternates shall represent the members in their absence. They shall be members with voting rights.	2. Each Member State and the Commission shall appoint a member of the Management Board as well as an alternate. (...) The alternates shall represent the members in their absence. They shall be members with voting rights.	2. Each Member State and the Commission shall appoint a member of the Management Board as well as a deputy, within two months after the entry into force of this Regulation. After the expiry of this period, the Commission shall convene the Management Board. (...) The deputies shall represent the members in their absence. (...)	2. ¹⁶ Each Member State and the Commission shall appoint a member of the Management Board as well as a deputy, within two months after the entry into force of this Regulation. After the expiry of this period, the Commission shall convene the Management Board. The deputies shall represent the members in their absence.

¹⁵ **RESERVATION FROM COM.**

¹⁶ **RESERVATION FROM COM.**

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. The members of the Management Board shall be appointed on the basis of their high level relevant experience and expertise in the field of large-scale IT systems in the area of freedom, security and justice.	3. The members of the Management Board shall be appointed on the basis of their high level relevant experience and expertise in the field of large-scale IT systems in the area of freedom, security and justice, <i>and in the field of data protection. They shall also have the necessary administrative and management skills to fulfil the tasks listed in Article 9.</i>	3. (...)	3. The members of the Management Board shall be appointed on the basis of their high level relevant experience and expertise in the field of large-scale IT systems in the area of freedom, security and justice, <i>and</i> . <i>[Agreed at the informal dialogue on 2011-02-03.]</i>
4. The term of office of the members shall be four years. It may be renewed once. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.		4. The term of office of the members shall be four years. It may be renewed (...).	4. The term of office of the members shall be four years. It may be renewed once. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.
5. Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall participate in the Agency. They shall each appoint one representative and an alternate to the Management Board who shall be members without voting rights.	5. Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall participate in the Agency. They shall each appoint one representative and an alternate to the Management Board. (...).	5. Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall participate in the Agency. They shall each appoint one representative and a deputy to the Management Board (...).	5. Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall participate in the Agency. They shall each appoint one representative and a deputy to the Management Board.

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<i>Article 11</i> Chairmanship of the Management Board		<i>Article 11</i> Chairmanship of the Management Board	
1. The Management Board shall elect a Chairperson from among its members.		1. The Management Board shall elect a Chairperson and a deputy Chairperson from among its members.	1. The Management Board shall elect a Chairperson and a deputy Chairperson from among its members.
2. The term of office of the Chairperson shall be four years and may be renewed once. His/her term of office shall expire earlier if his/her membership of the Management Board ceases.		2. The term of office of the Chairperson shall be two years and may be renewed once. His/her term of office shall expire earlier if his/her membership of the Management Board ceases. During that period the Chairperson shall no longer act as a representative of his or her respective Member State in the Management Board. The Chairperson shall have no voting right. This Member State shall appoint an other representative.	2. The term of office of the Chairperson shall be two years and may be renewed once. His/her term of office shall expire earlier if his/her membership of the Management Board ceases.
3. The Chairperson may only be appointed from among those members who are appointed by Member States that participate fully in the adoption of the legal instruments governing all the systems managed by the Agency.	3. The Chairperson may only be appointed from among those members who are appointed by Member States which are fully bound by the legal instruments governing the establishment, development, operation and use of all the IT systems managed by the Agency.	3. The Chairperson may only be appointed from among those members who are appointed by Member States which are fully bound by the legislative instruments governing the development, establishment, operation and use of all the large-scale systems managed by the Agency.	3. The Chairperson may only be appointed from among those members who are appointed by Member States which are fully bound by the legislative instruments governing the development, establishment, operation and use of all the large-scale systems managed by the Agency.

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<i>Article 12</i> Meetings of the Management Board		<i>Article 12</i> Meetings of the Management Board	
1. The meetings of the Management Board shall be convened at the initiative of its Chairperson or at the request of at least a third of its members or at the request of the Commission. The Management Board shall hold at least two ordinary meetings a year.		1. The meetings of the Management Board shall be convened: - at the initiative of its Chairperson, - at the request of at least a third of its members, - at the request of the Commission or - at the request of the Executive Director. The Management Board shall hold at least one ordinary meeting every half year.	1. The meetings of the Management Board shall be convened: - at the initiative of its Chairperson, - at the request of at least a third of its members, - at the request of the Commission or - at the request of the Executive Director. The Management Board shall hold at least one ordinary meeting every half year.
2. The Executive Director of the Agency shall take part in the meetings.		2. The Executive Director of the Agency shall take part in the meetings.	2. The Executive Director of the Agency shall take part in the meetings.
3. The members of the Management Board may be assisted by experts who are members of the Advisory Groups.		3. The members of the Management Board may be assisted by experts who are members of the Advisory Groups.	3. The members of the Management Board may be assisted by experts who are members of the Advisory Groups.
4. Europol and Eurojust shall be granted observer status at the meetings of the Management Board when a question concerning SIS II, in relation to the application of Council Decision 2007/533/JHA, is on the agenda. Europol shall also be granted observer status at the meetings of the Management Board when a question concerning VIS, in relation to the application of Council Decision 2008/633/JHA, is on the agenda.		4. Europol and Eurojust shall be granted observer status at the meetings of the Management Board when a question concerning SIS II, in relation to the application of Council Decision 2007/533/JHA, is on the agenda. Europol shall also be granted observer status at the meetings of the Management Board when a question concerning VIS, in relation to the application of Council Decision 2008/633/JHA, is on the agenda.	4. Europol and Eurojust shall be granted observer status at the meetings of the Management Board when a question concerning SIS II, in relation to the application of Council Decision 2007/533/JHA, is on the agenda. Europol shall also be granted observer status at the meetings of the Management Board when a question concerning VIS, in relation to the application of Council Decision 2008/633/JHA, is on the agenda.

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5. The Management Board may invite any other person, whose opinion may be of interest, to attend its meetings as an observer.		5. The Management Board may invite any other person, whose opinion may be of interest, to attend its meetings as an observer.	5. The Management Board may invite any other person, whose opinion may be of interest, to attend its meetings as an observer.
6. The secretariat for the Management Board shall be provided by the Agency.		6. The secretariat for the Management Board shall be provided by the Agency.	6. The secretariat for the Management Board shall be provided by the Agency.
		6a. The Management Board may decide to have meetings, or parts of meetings, only open to the members appointed in accordance with Article 10(2) and (5) and the Executive Director.	
<i>Article 13</i> Voting		<i>Article 13</i> Voting	
1. Without prejudice to paragraph 4 of this Article as well as Article 9(1) (i), decisions of the Management Board shall be taken by its members with a right to vote.		1. Without prejudice to paragraph 4 of this Article as well as Article 9(1)(i) and Article 15(1) , decisions of the Management Board shall be taken by an absolute majority of its members with a right to vote.	1. Without prejudice to paragraph 4 of this Article as well as Article 9(1)(i) and Article 15(1) , decisions of the Management Board shall be taken by a majority of <i>[Agreed at the informal trialogue on 2011-02-03.]</i> its members with a right to vote.
2. Without prejudice to paragraph 3 of this Article, each member in the Management Board shall have one vote.		2. Without prejudice to paragraph 3 of this Article, each member in the Management Board shall have one vote.	2. Without prejudice to paragraph 3 of this Article, each member in the Management Board shall have one vote.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. Each member appointed by a Member State which participates in the adoption of any legal instrument governing an IT system managed by the Agency may vote on a question which concerns that IT system.	3. Each member appointed by a Member State which <i>is bound by</i> any legal instrument governing <i>the establishment, development, operation and use of a large-scale</i> IT system managed by the Agency may vote on a question which concerns that IT system. <i>If a Member State takes part only in parts of a large-scale IT system, the member appointed by that Member State may vote only on matters concerning that part of the IT system.</i>	3. Option A: <i>Each member appointed by a Member State which is bound, under Union law, by any legislative instrument governing the development, establishment, operation and use of a large-scale IT system managed by the Agency, may vote on a question which concerns that large-scale IT system.</i>	3. Each member appointed by a Member State which is bound, under Union law, by any legislative instrument governing the development, establishment, operation and use of a large-scale IT system managed by the Agency, may vote on a question which concerns that large-scale IT system. In addition, as regards Denmark, it may vote on a question which concerns a large-scale IT system, if it decides under Article 4 of the Protocol on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of such a large-scale IT system in its national law.

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		Option B: <i>Each member appointed by a Member State which is bound by any legislative instrument governing the development, establishment, operation and use of a large-scale IT system managed by the Agency, or which is bound by it as an obligation under international law, may vote on a question which concerns that large-scale IT system.</i> Option C: <i>Each member appointed by a Member State which is bound, under Union law, by any legislative instrument governing the development, establishment, operation or use of a large-scale IT system managed by the Agency, may vote on a question which concerns that large-scale IT system.</i>	

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	<i>3a. Regarding countries associated with the implementation, application and development of the Schengen acquis and the EURODAC-related measures Article 33 shall apply.</i>	3a. Regarding countries associated with the implementation, application and development of the Schengen acquis and the EURODAC related measures, Article 33 shall apply.	3a. Regarding countries associated with the implementation, application and development of the Schengen acquis and the EURODAC-related measures, Article 33 shall apply.
4. In case of disagreement among members over whether or not a specific IT system is affected by a two-vote, members shall decide by a two-thirds majority, that it is not affected.		4. In case of disagreement among members over whether or not a specific large-scale IT system is affected by a vote, members shall decide by a two-thirds majority, that it is not affected.	4. In case of disagreement among members over whether or not a specific large-scale IT system is affected by a vote, members shall decide by a two-thirds majority, that it is not affected.
5. The Executive Director of the Agency shall not vote.		5. The Executive Director of the Agency shall not vote.	5. The Executive Director of the Agency shall not vote.
6. More detailed voting arrangements shall be established in the rules of procedure of the Agency, in particular, the conditions under which a member may act on behalf of another member as well as any quorum requirements, where appropriate.		6. More detailed voting arrangements shall be established in the rules of procedure of the Agency, in particular, the conditions under which a member may act on behalf of another member as well as any quorum requirements, where appropriate.	6. More detailed voting arrangements shall be established in the rules of procedure of the Agency, in particular, the conditions under which a member may act on behalf of another member as well as any quorum requirements, where appropriate.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
	Article 13a (New) <i>Participation in meetings and access to documents of the Management Board</i> <i>Without prejudice to the more detailed provisions to be laid down in the rules of procedure of the Agency in this respect, the member of the Management Board appointed by a Member State which is not bound by a legal instrument governing that particular large-scale IT system may neither participate in the respective meetings nor have access to documents which relate only to that IT system and scale IT systems in which that Member State takes part.</i>		
Functions and powers of the Executive Director <i>Article 14</i>		Functions and powers of the Executive Director <i>Article 14</i>	
1. The Agency shall be managed and represented by its Executive Director. 2. The Executive Director shall be independent in the performance of his/her duties. Without prejudice to the respective competences of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.		1. The Agency shall be managed and represented by its Executive Director. 2. The Executive Director shall be independent in the performance of his/her duties. Without prejudice to the respective competences of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.	1. The Agency shall be managed and represented by its Executive Director. 2. The Executive Director shall be independent in the performance of his/her duties. Without prejudice to the respective competences of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. Without prejudice to Article 9, the Executive Director shall assume full responsibility for the tasks entrusted to the Agency and shall be subject to the procedure for annual discharge by the European Parliament for the implementation of the budget.		3. Without prejudice to Article 9, the Executive Director shall assume full responsibility for the tasks entrusted to the Agency and shall be subject to the procedure for annual discharge by the European Parliament for the implementation of the budget.	3. Without prejudice to Article 9, the Executive Director shall assume full responsibility for the tasks entrusted to the Agency and shall be subject to the procedure for annual discharge by the European Parliament for the implementation of the budget.
4. The European Parliament or the Council may invite the Executive Director of the Agency to report on the implementation of his/her tasks.	4. <u>The Executive Director shall report regularly to the European Parliament on the implementation of his tasks. The Council and the European Parliament may invite the Executive Director to report on the performance of his/her tasks.</u>	4. The European Parliament or the Council may invite the Executive Director of the Agency to report on the implementation of his/her tasks.	4. The European Parliament or the Council may invite the Executive Director of the Agency to report on the implementation of his/her tasks.
5. The Executive Director shall in particular: (a) ensure the Agency's day-to-day administration; (b) take any action necessary to ensure the Agency's operation in accordance with this Regulation; (c) prepare and implement the procedures, decisions, strategies, programmes and activities adopted by the Management Board, within the limits specified by this Regulation, its implementing rules and any applicable law;		5. The Executive Director shall (...): (a) ensure the Agency's day-to-day administration; (b) take any action necessary to ensure the Agency's operation in accordance with this Regulation; (c) prepare and implement the procedures, decisions, strategies, programmes and activities adopted by the Management Board, within the limits specified by this Regulation, its implementing rules and any applicable law;	5. The Executive Director shall (...): (a) ensure the Agency's day-to-day administration; (b) take any action necessary to ensure the Agency's operation in accordance with this Regulation; (c) prepare and implement the procedures, decisions, strategies, programmes and activities adopted by the Management Board, within the limits specified by this Regulation, its implementing rules and any applicable law;

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(d) establish and implement an effective system enabling regular monitoring and evaluations of the IT systems, including statistics, and of the Agency; (e) participate, without the right to vote, in the meetings of the Management Board; (f) exercise in respect to the Agency's staff the powers laid down in Article 17 (2) and manage staff matters;	(d) establish and implement an effective system enabling regular monitoring, <i>auditing</i> and evaluations of the IT systems, including statistics, and of the Agency, <i>also in terms of effective and efficient achievement of Agency's objectives</i>;	(d) establish and implement an effective system enabling regular monitoring and evaluations of the large-scale IT systems, including statistics, and of the Agency; (e) participate, without the right to vote, in the meetings of the Management Board; (f) exercise in respect to the Agency's staff the powers laid down in Article 17(2) and manage staff matters;	(d) establish and implement an effective system enabling regular monitoring-and evaluations of the scale IT systems, including statistics, and of the Agency, <i>also in terms of effective and efficient achievement of Agency's objectives</i>; (e) participate, without the right to vote, in the meetings of the Management Board; (f) exercise in respect to the Agency's staff the powers laid down in Article 17 (2) and manage staff matters;

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(g) without prejudice to Article 17 of the Staff Regulations, establish confidentiality requirements to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA and Article 26(9) of Regulation (EC) No 767/2008 respectively and Article [4(6)] of Regulation (EC) XX/2009 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...]; (h) negotiate and, after approval by the Management Board, sign a Headquarters Agreement with the Government of the host Member State.	(h) negotiate and, after approval by the Management Board, sign a Headquarters Agreement with the Government of the host Member State, <i>having taken into account the cost/benefit assessment as specified in the second subparagraph of Article 7(4).</i>	(g) without prejudice to Article 17 of the Staff Regulations, establish confidentiality requirements to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA and Article 26(9) of Regulation (EC) No 767/2008 respectively and Article [4(6)] of Regulation (EC) XX/2009 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...]; (h) negotiate and, after approval by the Management Board, sign (...) Headquarters Agreements with the Government of the host Member States.	(g) without prejudice to Article 17 of the Staff Regulations, establish confidentiality requirements to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA and Article 26(9) of Regulation (EC) No 767/2008 respectively and Article [4(6)] of Regulation (EC) XX/2009 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...]; (h)¹⁷

¹⁷ Pending the outcome of the discussions on Art. 7(4). EP would suggest to insert a provision (in Article 7?) to reflect its amendment.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
6. The Executive Director shall submit to the Management Board for adoption the drafts for: (a) the Agency's annual work programme and its annual activity report, after prior consultation of the Advisory Groups ; (b) the financial rules applicable to the Agency; (c) the budget for the coming year; (d) the multi-annual Staff Policy Plan; (e) the terms of reference for the evaluation referred to in Article 27; (f) the practical arrangements for implementing Regulation (EC) No 1049/2001; (g) the necessary security measures including a security plan;	(a) the Agency's annual work programme and its annual activity report, <i>with an indication of the resources allocated to each activity</i> , after prior consultation of the Advisory Groups; (ba) the multi-annual work programme (c) the budget for the coming year, <i>established on the basis of activity-based budgeting</i> ; (g) the necessary security measures including a security plan, (...) <i>and a business continuity and disaster recovery plan</i> ;	6. The Executive Director shall submit to the Management Board for adoption in particular the drafts for: (a) the Agency's annual work programme and its annual activity report, after prior consultation of the Advisory Groups ; (b) the financial rules applicable to the Agency; (c) the budget for the coming year; (d) the multi-annual Staff Policy Plan; (e) the terms of reference for the evaluation referred to in Article 27; (f) the practical arrangements for implementing Regulation (EC) No 1049/2001; (g) the necessary security measures including a security plan;	6. The Executive Director shall submit to the Management Board for adoption in particular the drafts for: (a) the Agency's annual work programme and its annual activity report, <i>with an indication of the resources allocated to each activity</i> , after prior consultation of the Advisory Groups; (b) the financial rules applicable to the Agency; (ba) the multi-annual work programme (c) the budget for the coming year, <i>established on the basis of activity-based budgeting</i> ; (d) the multi-annual Staff Policy Plan; (e) the terms of reference for the evaluation referred to in Article 27; (f) the practical arrangements for implementing Regulation (EC) No 1049/2001; (g) the necessary security measures including a security plan, <i>and a business continuity and disaster recovery plan</i> ;

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
(h) reports on the technical functioning of each IT system referred to in Article 9(1)(q) of this Regulation, on the basis of the results from the monitoring and evaluation; (i) annual publication of the list of competent authorities authorised to directly search the data contained in SIS II, including the list of N.SIS II Offices and SIRENE Bureaux, referred to in Article 9(1)(t) of this Regulation.		(h) reports on the technical functioning of each large-scale IT system referred to in Article 9(1)(q) of this Regulation, on the basis of the results from the monitoring and evaluation; (i) annual publication of the list of competent authorities authorised to directly search the data contained in SIS II, including the list of N.SIS II Offices and SIRENE Bureaux, referred to in Article 9(1)(t) of this Regulation.	(h) reports on the technical functioning of each large-scale IT system referred to in Article 9(1)(q) of this Regulation, on the basis of the results from the monitoring and evaluation; (i) annual publication of the list of competent authorities authorised to directly search the data contained in SIS II, including the list of N.SIS II Offices and SIRENE Bureaux, referred to in Article 9(1)(t) of this Regulation.
7. The Executive Director shall perform any other tasks conferred on him/her in accordance with this Regulation. <i>Article 15</i>		7. The Executive Director shall perform any other tasks conferred on him/her in accordance with this Regulation. <i>Article 15</i>	7. The Executive Director shall perform any other tasks conferred on him/her in accordance with this Regulation. <i>Article 15¹⁸</i>
Appointment of the Executive Director	Appointment of the Executive Director <i>Article 15</i>	Appointment of the Executive Director <i>Article 15</i>	Appointment of the Executive Director <i>[Discussed at the JHA Counsellors on 22 Feb 2011 (see DS 1121/11)].</i>

¹⁸ *RESERVATIONS FROM AT, FR, PL, RO AND COM.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
1. The Executive Director of the Agency shall be appointed by the Management Board from a list of candidates proposed by the Commission, for a period of five years.	1. The Executive Director of the Agency shall be appointed (...) by the Management Board for a period of five years <i>from among the suitable candidates identified in an open competition organised by the Commission. That selection procedure shall provide for publication in the Official Journal of the European Union and elsewhere of a call for expressions of interest. The Management Board may require a new procedure to be initiated if it is not satisfied with the suitability of any of the candidates retained in the first list. The Executive Director shall be appointed on the basis of his or her personal merits, experience in the field of large-scale IT systems, experience in the field of data protection, and administrative and management skills.</i> <i>The candidates shall have the qualities and skills required to effectively perform the duties of Executive Director of the Agency, particularly with regard to the financial rules applicable to the Agency.</i>	1. The Executive Director of the Agency shall be appointed for a period of five years by the Management Board among the suitable candidates identified in an open competition organised by the Commission. This selection procedure will provide for publication in the Official Journal of the European Union and elsewhere of a call for expressions of interest. The Management Board could require a repeated procedure if it is not satisfied with the suitability of any of the candidates retained in the first list. The Executive Director shall be appointed on the basis of his or her personal merits, experience in the field of large scale IT systems and administrative, and management . The Management Board shall take the decision by a two thirds majority of all members with a right to vote.	1. The Executive Director of the Agency shall be appointed for a period of five years by the Management Board among the suitable candidates identified in an open competition organised by the Commission. This selection procedure will provide for publication in the Official Journal of the European Union and elsewhere of a call for expressions of interest. The Management Board could require a repeated procedure if it is not satisfied with the suitability of any of the candidates retained in the first list. The Executive Director shall be appointed on the basis of his or her personal merits, experience in the field of large scale IT systems and administrative, and management . The Management Board shall take the decision by a two thirds majority of all members with a right to vote.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
2. Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee(s) of the European Parliament and answer questions from its/their members.	(...)Before appointment, the candidate selected by the Management Board <i>shall</i> be invited to make a statement before the competent committee(s) of the European Parliament and answer questions from its/their members. <i>If the European Parliament has adopted an opinion setting out its view of the selected candidate, the Management Board shall inform the European Parliament of the manner in which this opinion has been taken into account. The opinion shall be treated as personal and confidential until the appointment of the candidate concerned.</i>	2. Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee(s) of the European Parliament and answer questions from its/their members. After this statement, the European Parliament may adopt an opinion setting out its view of the selected candidate. The Management Board shall inform the European Parliament of the manner in which this opinion has been taken into account. The opinion shall be treated as personal and confidential until the appointment of the candidate.	2. Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee(s) of the European Parliament and answer questions from its/their members. After this statement, the European Parliament may adopt an opinion setting out its view of the selected candidate. The Management Board shall inform the European Parliament of the manner in which this opinion has been taken into account. The opinion shall be treated as personal and confidential until the appointment of the candidate.
3. In the course of the nine months preceding the end of the five-year period, the Commission shall undertake an evaluation. In the evaluation, the Commission shall assess in particular: (a) the results achieved in the first term of office and the way they were achieved; (b) the Agency's duties and requirements in the coming years.		3. In the course of the nine months preceding the end of the five year period, the Management Board, after having consulted the Commission, shall undertake an evaluation. In the evaluation, the Management Board shall assess in particular the results achieved in the first term of office and the way they were achieved (...).	3. In the course of the nine months preceding the end of the five year period, the Management Board, after having consulted the Commission, shall undertake an evaluation. In the evaluation, the Management Board shall assess in particular the results achieved in the first term of office and the way they were achieved (...).

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
4. The Management Board, acting on a proposal from the Commission, taking into account the evaluation report, and only in those cases where it can be justified by the duties and requirement of the Agency, may extend the term of office of the Executive Director once for not more than three years.	4. The Management Board, acting on a proposal from the Commission, taking into account the evaluation report, and only in those cases where it can be justified by the duties and requirement of the Agency, may extend the term of office of the Executive Director once for not more than three years. <i>The Executive Director shall hold office for a period of not exceeding eight years.</i>	4. The Management Board, (...) taking into account the evaluation report, and only in those cases where it can be justified by the duties and requirement of the Agency, may extend the term of office of the Executive Director once for up to five years.	4. The Management Board, (...) taking into account the evaluation report, and only in those cases where it can be justified by the duties and requirement of the Agency, may extend the term of office of the Executive Director once for up to years.
5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director may be invited to make a statement before the competent committee(s) of the Parliament and answer questions from its/their members.	5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director <i>shall</i> be invited to make a statement before the competent committee(s) of (...) Parliament and answer questions from its/their members.	5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director may be invited to make a statement before the competent committee(s) of the Parliament and answer questions from its/their members.	5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director may be invited to make a statement before the competent committee(s) of the Parliament and answer questions from its/their members.
6. The Executive Director shall be accountable to the Management Board for his/her activities.		6. The Executive Director shall be accountable to the Management Board for his/her activities.	6. The Executive Director shall be accountable to the Management Board for his/her activities.
7. The Executive Director may be dismissed by the Management Board.		7. The Executive Director may be dismissed by the Management Board. The Management Board shall take the decision by a two-thirds majority of all members with a right to vote.	7. The Executive Director may be dismissed by the Management Board. The Management Board shall take the decision by a two-thirds majority of all members with a right to vote.

COMMISSION 8151/10 <i>Article 16</i> Advisory Groups	PARLIAMENT	COUNCIL 14469/10 <i>Article 16</i> Advisory Groups	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
1. The following Advisory Groups shall provide the Management Board with the expertise related to the respective IT systems and, in particular, in the context of the preparation of the annual work program and the annual activity report: (a) SIS II Advisory Group; (b) VIS Advisory Group; (c) EURODAC Advisory Group; (d) any other Advisory Group related to a large-scale IT system developed or managed by the Agency.	1. The following Advisory Groups shall provide the Management Board with the expertise related to the respective IT systems and, in particular, in the context of the preparation of the annual work programme and the annual activity report: (a) SIS II Advisory Group; (b) VIS Advisory Group; (c) EURODAC Advisory Group; (d) deleted	1. The following Advisory Groups shall provide the Management Board with the expertise related to the respective large-scale IT systems and, in particular, in the context of the preparation of the annual work program and the annual activity report: (a) SIS II Advisory Group; (b) VIS Advisory Group; (c) EURODAC Advisory Group; (d) any other Advisory Group related to a large-scale IT system developed or managed by the Agency.	1. The following Advisory Groups shall provide the Management Board with the expertise related to the respective large-scale IT systems and, in particular, in the context of the preparation of the annual work program and the annual activity report: (a) SIS II Advisory Group; (b) VIS Advisory Group; (c) EURODAC Advisory Group; (d) any other Advisory Group related to a large-scale IT system

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
2. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures as well as the Commission shall appoint one member to each of the Advisory Groups for a three-year term, which may be renewed.	2. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures <i>as long as that country is bound by a legal instrument governing the respective large-scale IT system</i>, as well as the Commission shall appoint one member to each of the Advisory Groups, for a three-year term, which may be renewed.	2. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures as well as the Commission shall appoint one member, as well as a deputy, to each of the Advisory Groups for a three-year term, which may be renewed. The deputies shall represent the members in their absence.	2. Each Member State which is bound under Union law by any legislative instrument governing the development, establishment, operation and use of a particular large-scale IT system, as well as the Commission, shall appoint one member to the Advisory Group which concerns that system, for a three-year term, which may be renewed. As regards Denmark, it shall also appoint a member to an Advisory Group concerning a system, if it decides under Article 4 of the Protocol on the position of Denmark to implement the legislative instrument governing the development, establishment, operation and use of that particular system in its national law. Each country associated with the implementation, application and development of the Schengen <i>acquis</i>, the EURODAC-related measures [and the measures related to other large scale IT systems] which participates in a particular system shall appoint a member to the Advisory Group which concerns that system.

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3. Europol and Eurojust may each appoint a representative to the SIS II Advisory Group. Europol may appoint a representative to the VIS Advisory Group.		3. Europol and Eurojust may each appoint a representative to the SIS II Advisory Group. Europol may appoint a representative to the VIS Advisory Group.	3. Europol and Eurojust may each appoint a representative to the SIS II Advisory Group. Europol may appoint a representative to the VIS Advisory Group.
4. Members of the Management Board shall not be members of the Advisory Groups. The Agency's Executive Director or his/her representative shall be entitled to attend all the meetings of the Advisory Groups as observers.		4. Members of the Management Board shall not be members of the Advisory Groups. The Agency's Executive Director or his/her representative shall be entitled to attend all the meetings of the Advisory Groups as observers.	4. Members of the Management Board shall not be members of the Advisory Groups. The Agency's Executive Director or his/her representative shall be entitled to attend all the meetings of the Advisory Groups as observers.
5. The procedures for the operation and cooperation of the Advisory Groups shall be laid down in the Agency's rules of procedure.		5. The procedures for the operation and cooperation of the Advisory Groups shall be laid down in the Agency's rules of procedure.	5. The procedures for the operation and cooperation of the Advisory Groups shall be laid down in the Agency's rules of procedure.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
6. When preparing an opinion, each Advisory Group shall do its best to reach a consensus. If such a consensus cannot be reached, the opinion shall consist of the position of the majority of members, including its grounds. The minority position(s), including their grounds, shall also be recorded. Article 13(3) shall apply accordingly. The members representing the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall be allowed to express opinions which are not taken into account in the calculation of the majority required.		6. When preparing an opinion, each Advisory Group shall do its best to reach a consensus. If such a consensus cannot be reached, the opinion shall consist of the position of the majority of members, including its grounds. The minority position(s), including their grounds, shall also be recorded. Article 13(3) and Article 13(3a) shall apply accordingly. (...).	6. When preparing an opinion, each Advisory Group shall do its best to reach a consensus. If such a consensus cannot be reached, the opinion shall consist of the position of the majority of members, including its grounds. The minority position(s), including their grounds, shall also be recorded. Article 13(3) and Article 13(3a) shall apply accordingly.
7. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall facilitate the activities of the Advisory Groups.		7. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall facilitate the activities of the Advisory Groups.	7. Each Member State, each country associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures shall facilitate the activities of the Advisory Groups.
8. For the chairmanship, Article 11 shall apply <i>mutatis mutandis</i> .		8. For the chairmanship, Article 11 shall apply <i>mutatis mutandis</i> .	8. For the chairmanship, Article 11 shall apply <i>mutatis mutandis</i> .
	8a. Article 13a shall apply <i>mutatis mutandis</i> to the participation in meetings and access to documents of the Advisory Groups.		

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
CHAPTER IV OPERATION <i>Article 17 Staff</i>		CHAPTER IV GENERAL PROVISIONS <i>Article 17 Staff</i>	
1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Union institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the Staff of the Agency, including the Executive Director.		1. The Staff Regulations of Officials of the European Communities ("Staff Regulations of Officials") and the Conditions of Employment of Other Servants of the European Communities ("the Conditions of Employment") pursuant to Council Regulation (EEC, Euratom, ECSC) 259/68 ("the Staff Regulations"), and the rules adopted jointly by the (...) Union institutions for the purpose of applying these Staff Regulations (...) shall apply to the staff of the Agency and to the Executive Director.	1. The Staff Regulations of Officials of the European Communities ("Staff Regulations of Officials") and the Conditions of Employment of Other Servants of the European Communities ("the Conditions of Employment") pursuant to Council Regulation (EEC, Euratom, ECSC) 259/68 ("the Staff Regulations"), and the rules adopted jointly by the (...) Union institutions for the purpose of applying these Staff Regulations (...) shall apply to the staff of the Agency and to the Executive Director.
	1a. The Agency shall not recruit interim staff to perform what are deemed to be sensitive financial duties.	1a. For the purpose of implementing the Staff Regulations, the Agency shall be considered an agency within the meaning of Article 1a(2) of the Staff Regulations of Officials.	1a. For the purpose of implementing the Staff Regulations, the Agency shall be considered an agency within the meaning of Article 1a(2) of the Staff Regulations of Officials.

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2. The powers conferred on the Appointing Authority by the Staff Regulations and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants shall be exercised by the Agency in respect of its own staff.		2. The powers conferred on the Appointing Authority by the Staff Regulations of Officials and on the authority entitled to conclude contracts by the Conditions of Employment (...) shall be exercised by the Agency in respect of its own staff.	2. The powers conferred on the Appointing Authority by the Staff Regulations of Officials and on the authority entitled to conclude contracts by the Conditions of Employment (...) shall be exercised by the Agency in respect of its own staff.
		2a. The staff of the Agency shall consist of officials, temporary staff and/or contract staff. The Management Board shall give its consent on a yearly basis in so far as the contracts that the Executive Director plans to renew would become indefinite pursuant to the Conditions of Employment.	2a. The staff of the Agency shall consist of officials, temporary staff and/or contract staff. The Management Board shall give its consent on a yearly basis in so far as the contracts that the Executive Director plans to renew would become indefinite pursuant to the Conditions of Employment.
	a. <i>The Agency shall not recruit interim staff to perform what are deemed to be sensitive financial duties. [Moved from EP amendment to Art. 17(1a)]</i>		a. <i>The Agency shall not recruit interim staff to perform what are deemed to be sensitive financial duties. [Moved from EP amendment to Art. 17(1a)]</i>
		2b. The Commission and the Member States may second officials or national experts to the Agency on a temporary basis. The Management Board shall, taking into account the multi-annual staff policy plan, adopt the necessary implementing measures for that purpose.	2b. The Commission and the Member States may second officials or national experts to the Agency on a temporary basis. The Management Board shall, taking into account the multi-annual staff policy plan, adopt the necessary implementing measures for that purpose.

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3. Without prejudice to Article 17 of the Staff Regulations, the Agency shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality.		3. Without prejudice to Article 17 of the Staff Regulations of Officials , the Agency shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality.	3. Without prejudice to Article 17 of the Staff Regulations of Officials , the Agency shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality.
4. The Management Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations.		4. The Management Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations of Officials .	4. The Management Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations of Officials .
	Article 17a Privileges and immunities		
	The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency. (from Art. 20)		
	CHAPTER IV/a GENERAL PROVISIONS		

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<i>Article 18</i> Public interest The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For this purpose, they shall make, annually and in writing, a statement of commitment.		<i>Article 18</i> Public interest The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For this purpose, they shall make, annually and in writing, a statement of commitment which shall be made public.	
<i>Article 19</i> Headquarters Agreement The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For this purpose, they shall make, annually and in writing, a statement of commitment. <i>The list of members of the Management Board shall be published on the Agency's internet site.</i>	<i>Article 19</i> Headquarters Agreement and Operating Conditions	<i>Article 19</i> Headquarters Agreements	<i>Article 19¹⁹</i> The members of the Management Board, the Executive Director and the members of the Advisory Groups shall undertake to act in the public interest. For this purpose, they shall make, annually and in writing, a statement of commitment which shall be made public.

¹⁹ *The final drafting of this Article depends on the outcome of the negotiations regarding Article 7(4).*

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The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State and the facilities to be made available by that State, as well as the specific rules applicable in the Agency's host Member State to the Executive Director, the members of the Management Board, staff of the Agency and members of their families shall be laid down in a Headquarters Agreement between the Agency and the host Member State concluded after obtaining the approval of the Management Board. The Agency's host Member State should provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.	The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State and the facilities to be made available by that State, as well as specific rules <i>aimed at ensuring good conditions for staff</i>, applicable in the Agency's host Member State to the Executive Director, the members of the Management Board, staff of the Agency and members of their families shall be laid down in a Headquarters Agreement between the Agency and the host Member State concluded after obtaining the approval of the Management Board. The Agency's host Member State should provide the best possible conditions to ensure proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections. <i>Those conditions shall be examined in the cost/benefit assessment prior to the signing of the Headquarters Agreement and in accordance with the second subparagraph of Article 7(4) and taking into account the Member State's willingness to and capability of providing its own resources to host the Agency.</i>	The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member States and the facilities to be made available by those States, as well as the specific rules applicable in the Agency's host Member States to the Executive Director, the members of the Management Board, staff of the Agency and members of their families shall be laid down in Headquarters Agreements between the Agency and the host Member States concluded after obtaining the approval of the Management Board. (...)	

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<i>Article 20</i> Privileges and immunities	moved to Article 17A	<i>Article 20</i> Privileges and immunities	
The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency.		The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency.	The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency.
<i>Article 21</i> Liability		<i>Article 21</i> Liability	
1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.		1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.	1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.		2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.	2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its servants in the performance of their duties.		3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.	3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.		4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.	4. The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
5. The personal liability of the Agency's servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations.		5. The personal liability of the Agency's servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations.	5. The personal liability of the Agency's servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations.
<i>Article 22</i> Linguistic regime		<i>Article 22</i> Linguistic regime	
1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the language to be used in the European Economic Community, shall apply to the Agency.		1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the language to be used in the European Economic Community, shall apply to the Agency.	1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the language to be used in the European Economic Community, shall apply to the Agency.
2. Without prejudice to decisions taken pursuant to Article 342 of the Treaty on the Functioning of the European Union, the annual work programme and the annual activity report referred to in Article 9 (1)(i) and (j), shall be produced in all official languages of the Union.		2. Without prejudice to decisions taken pursuant to Article 342 of the TFEU, the annual work programme and the annual activity report referred to in Article 9(1)(i) and (j), shall be produced in all official languages of the institutions of the Union .	2. Without prejudice to decisions taken pursuant to Article 342 of the TFEU, the annual work programme and the annual activity report referred to in Article 9(1)(i) and (j), shall be produced in all official languages of the institutions of the Union .
3. The translation services necessary for the activities of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.		3. The translation services necessary for the activities of the Agency shall be provided by the Translation Centre for the Bodies of the (...) Union	3. The translation services necessary for the activities of the Agency shall be provided by the Translation Centre for the Bodies of the (...) Union
4. The Management Board shall establish the practical arrangements for the implementation of the language regime.		4. (...)	4. (...)

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 23</i> Access to documents		<i>Article 23</i> Access to document	
1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall apply to documents held by the Agency.		1. On the basis of a proposal by the Executive Director, and not later than six months after the date of application of this Regulation, the Management Board shall adopt rules concerning access to the Agency's documents, in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.	1. On the basis of a proposal by the Executive Director, and not later than six months after the date referred to in Article 34(2), the Management Board shall adopt rules concerning access to the Agency's documents, in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.
2. The Management Board shall, within 6 months after the date of applicability of this Regulation, adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.		2. (...)	2. (...)

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the European Ombudsman or form the subject of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty on the Functioning of the European Union respectively.		3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the European Ombudsman or form the subject of an action before the Court of Justice (...), under the conditions laid down in Articles 228 and 263 of the TFEU respectively.	3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the European Ombudsman or form the subject of an action before the Court of Justice (...), under the conditions laid down in Articles 228 and 263 of the TFEU respectively.
	Article 23a Administrative controls		
	The activities of the Agency shall be subject to the scrutiny of the European Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union.		

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<i>Article 24</i> Information and communication		<i>Article 24</i> Information and communication	
1. The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that, in addition to the publication specified in Article 9(1) (i),(j),(s),(t), Article 27(3) and Article 29(8), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.		1. The Agency shall communicate in accordance with the instruments governing the development, establishment, use and operation of the large-scale IT-systems referred to in Article 1 and on its own initiative in the fields within its tasks. It shall ensure in particular that, in addition to the publication specified in Article 9(1)(i),(j),(s),(t), Article 27(3) and Article 29(8), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.	1. The Agency shall communicate in accordance with the instruments governing the development, establishment, use and operation of the large-scale IT-systems referred to in Article 1 and on its own initiative in the fields within its tasks. It shall ensure in particular that, in addition to the publication specified in Article 9(1)(i),(j),(s),(t), Article 27(3) and Article 29(8), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.
2. The Management Board shall lay down the practical arrangements for the application of paragraph 1.		2. The Management Board shall lay down the practical arrangements for the application of paragraph 1.	2. The Management Board shall lay down the practical arrangements for the application of paragraph 1.

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<i>Article 25</i> Data protection		<i>Article 25</i> Data protection	
1. The information processed by the Agency in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.		1. Without prejudice to the provisions on data protection which apply as laid down in the instruments governing the development, establishment, use and operation of the large-scale IT-systems, the information processed by the Agency in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 (...).	1. Without prejudice to the provisions on data protection which apply as laid down in the instruments governing the development, establishment, use and operation of the large-scale IT-systems, the information processed by the Agency in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001.
2. The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the Data Protection Officer of the Agency.		2. The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, and in particular Section 8 concerning the Data Protection Officer.	2. The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, and in particular Section 8 concerning the Data Protection Officer.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 26</i> Security rules on the protection of classified information and non-classified sensitive information		<i>Article 26</i> Security rules on the protection of classified information and non-classified sensitive information	
1. The Agency shall apply the security principles contained in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure. This shall cover, inter alia, provisions for the exchange, processing and storage of classified information.		1. The Agency shall apply the security principles contained in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure. This shall cover, inter alia, provisions for the exchange, processing and storage of classified information including measures on physical security .	1. The Agency shall apply the security principles contained in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure. This shall cover, inter alia, provisions for the exchange, processing and storage of classified information including measures on physical security .
2. The Agency shall also apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the European Commission.	2. The Agency shall also apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the European Commission. <i>In addition, the Agency shall apply the security principles and relevant provisions of the legal instruments concerning the three large-scale IT systems SIS II, VIS and EURODAC [Moved to Article 26A].</i>	2. The Agency shall also apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the (...) Commission.	2. The Agency shall also apply the security principles relating to the processing of non-classified sensitive information as adopted and implemented by the Commission.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal trialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
		2a. The Management Board shall, pursuant to Articles 1A and 9(1)(n), decide on the Agency's internal structure necessary to fulfil the appropriate security principles.	2a. The Management Board shall, pursuant to Articles 1A and 9(1)(n), decide on the Agency's internal structure necessary to fulfil the appropriate security principles.
		<i>Article 26A</i> Security of the Agency	
		1. The Agency shall be responsible for the security and the preservation of order within the buildings, premises and land used by it.	1. The Agency shall be responsible for the security and the preservation of order within the buildings, premises and land used by it. <i>[It comes from EP amendment to Article 26(2).]</i>

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
		2. The host Member States shall take all effective and adequate measures to preserve order and security in the immediate vicinity of the buildings, premises and land used by the Agency and shall provide to the Agency the appropriate protection, in accordance with the relevant Headquarters Agreements, whilst guaranteeing free access to these buildings, premises and land to persons authorised by the Agency.	2. The host Member States shall take all effective and adequate measures to preserve order and security in the immediate vicinity of the buildings, premises and land used by the Agency and shall provide to the Agency the appropriate protection, in accordance with the relevant Headquarters Agreements, whilst guaranteeing free access to these buildings, premises and land to persons authorised by the Agency.
<i>Article 27</i> Evaluation	<i>Article 27</i> Evaluation and review	<i>Article 27</i> Evaluation	<i>Article 27</i> Evaluation <i>[Subsequent to the discussions held at the JHA Counsellors on 22 Feb 2011]</i>

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
1. Within three years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Management Board shall commission an independent external evaluation of the implementation of this Regulation on the basis of terms of reference issued by the Management Board after consultation with the Commission.	1. Within three years from the date of the Agency having taken up its responsibilities, and every three years thereafter, the Management Board shall commission an independent external evaluation of the implementation of this Regulation on the basis of terms of reference issued by the Management Board after consultation with the Commission.	1. Within three years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Management Board shall commission an independent external evaluation of the implementation of this Regulation on the basis of terms of reference issued by the Management Board (...).	1. Within three years from the date of the Agency having taken up its responsibilities, and every four years thereafter, the Commission, in close consultation with the Management Board, shall perform an evaluation of the action of the Agency. This evaluation shall examine the way and extent to which the Agency effectively contributes to the operational management of large-scale IT systems in the area of freedom, security and justice and fulfils its tasks described in this regulation. The evaluation should also evaluate the role of the Agency in the context of an EU strategy aimed at a coordinated, cost-effective and coherent IT environment at EU level that is to be established in the coming years.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned 2. On the basis of this evaluation, the Commission, after consultation of the Management Board, shall issue recommendations regarding changes to this Regulation, also in order to bring it further in line with the above mentioned EU strategy. The Commission shall forward them, together with the opinion of the Management Board, as well as appropriate proposals, to the Council, the European Parliament and the European Data Protection Supervisor.
2. The evaluation shall assess the utility, relevance and effectiveness of the Agency and its working practices. The evaluation shall take into account the views of stakeholders, at both European and national level.	2. The evaluation shall assess the utility, relevance and effectiveness of the Agency and its working practices, including compliance with data protection standards and the respect of fundamental rights. The evaluation shall take into account the views of stakeholders, including Parliaments and data protection authorities , at both European and national level.	2. The evaluation shall examine how effectively the Agency fulfils its tasks. It shall also assess the impact of the Agency and its working practices. (...)	
3. The Management Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission, which shall forward them, together with its own opinion as well as appropriate proposals, to the Council and the European Parliament. An action plan with a timetable shall be included, if appropriate. Both the evaluation and the recommendations shall be made public.	3. The Management Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission, which shall forward them, together with its own opinion as well as appropriate proposals, to <i>the European Parliament, the Council and the European Data Protection Supervisor</i> . An action plan with a timetable shall be included, if appropriate. Both the evaluation and the recommendations shall be made public.	3. The Management Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission. The Commission shall forward them, together with its own opinion as well as appropriate proposals, to the Council, the European Parliament and the European Data Protection Supervisor . An action plan with a timetable shall be included, if appropriate. Both the evaluation and the recommendations shall be made public.	

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CHAPTER V FINANCIAL PROVISIONS <i>Article 28</i> Budget		CHAPTER V FINANCIAL PROVISIONS <i>Article 28</i> Budget	
<i>Article 28</i> Budget 1. The revenue of the Agency shall consist, without prejudice to other types of income, of: (a) a subsidy from the Union entered in the general budget of the European Union (Commission section); (b) a contribution from the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures; (c) any financial contribution from the Member States.	<i>Article 28</i> Budget	<i>Article 28</i> Budget 1. The revenue of the Agency shall consist, without prejudice to other types of income, of: (a) a subsidy from the Union entered in the general budget of the European Union (Commission section); (b) a contribution from the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures; (c) any voluntary financial contribution from the Member States.	<i>Article 28</i> Budget ²⁰ 1. The revenue of the Agency shall consist, without prejudice to other types of income, of: (a) a subsidy from the Union entered in the general budget of the European Union (Commission section); (b) a contribution from the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures; (c) any voluntary financial contribution from the Member States.

²⁰ *Pending final agreement between EP and COM.*

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2. The expenditure of the Agency shall include, inter alia, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts or agreements concluded by the Agency. Each year the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, together with the establishment plan, and shall transmit it to the Management Board.	2. The expenditure of the Agency shall include, inter alia, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts or agreements concluded by the Agency. Each year the Executive Director shall draw up, <i>on the basis of the activities carried out by the Agency</i> , a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, together with the establishment plan, and shall transmit it to the Management Board.	2. The expenditure of the Agency shall include, inter alia, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts or agreements concluded by the Agency. Each year the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, together with the establishment plan, and shall transmit it to the Management Board.	2. The expenditure of the Agency shall include, inter alia, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts or agreements concluded by the Agency. Each year the Executive Director shall draw up, taking into account <i>the activities carried out by the Agency</i> , a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, together with the establishment plan, and shall transmit it to the Management Board.
3. Revenue and expenditure of the Agency shall be in balance.		3. Revenue and expenditure of the Agency shall be in balance.	3. Revenue and expenditure of the Agency shall be in balance.
4. The Management Board, on the basis of a draft drawn up by the Executive Director, shall adopt a draft statement of estimates of the revenue and expenditure of the Agency for the following financial year.		4. The Management Board, on the basis of a draft drawn up by the Executive Director, shall adopt a draft statement of estimates of the revenue and expenditure of the Agency for the following financial year.	4. The Management Board, on the basis of a draft drawn up by the Executive Director, shall adopt a draft statement of estimates of the revenue and expenditure of the Agency for the following financial year.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
5. The draft statement of estimates of the Agency's revenue and expenditure and the general guidelines underlying that estimate, shall be transmitted by the Management Board to the Commission and to the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures by 10 February each year and the final statement of estimates by 31 March.		5. The draft statement of estimates of the Agency's revenue and expenditure and the general guidelines underlying that estimate, shall be transmitted by the Management Board to the Commission and to the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures by 10 February each year and the final statement of estimates by 31 March.	5. The draft statement of estimates of the Agency's revenue and expenditure and the general guidelines underlying that estimate, shall be transmitted by the Management Board to the Commission and to the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EUODAC related measures by 10 February each year and the final statement of estimates by 31 March.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
6. By 31 March each year at the latest, the Management Board shall submit to the Commission and to the budgetary authority : (a) its draft work programme; (b) its updated multi-annual Staff Policy Plan, established in line with the guidelines set by the Commission; (c) information on the number of officials, temporary and contract staff as defined in the Staff Regulation for the years n-1 and n as well as an estimate for the year n+1; (d) information on contributions in kind granted by the host Member State to the Agency; (e) an estimate of the balance of the outturn account for the year n-1.	(a) its draft <i>annual</i> work programme, <i>together with the anticipated human and financial resources associated with each programmed activity</i>; (ba) its updated multi-annual work programme	6. By 31 March each year at the latest, the Management Board shall submit to the Commission and to the budgetary authority: (a) its draft work programme; (b) its updated multi-annual Staff Policy Plan, established in line with the guidelines set by the Commission; (c) information on the number of officials, temporary and contract staff as defined in the Staff Regulation for the years n-1 and n as well as an estimate for the year n+1; (d) information on contributions in kind granted by the host Member State to the Agency; (e) an estimate of the balance of the outturn account for the year n-1.	6. By 31 March each year at the latest, the Management Board shall submit to the Commission and to the budgetary authority: (a) its draft <i>annual</i> work programme; (b) its updated multi-annual Staff Policy Plan, established in line with the guidelines set by the Commission; (c) information on the number of officials, temporary and contract staff as defined in the Staff Regulation for the years n-1 and n as well as an estimate for the year n+1; (d) information on contributions in kind granted by the host Member State to the Agency; (e) an estimate of the balance of the outturn account for the year n-1.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
7. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (referred to as the budgetary authority) together with the preliminary draft general budget of the European Union.	7. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (referred to as the budgetary authority) together with the (...) draft general budget of the European Union.	7. The statement of estimates shall be forwarded by the Commission to the (...) budgetary authority together with the preliminary draft general budget of the (...) Union.	7. The statement of estimates shall be forwarded by the Commission to the budgetary authority together with the draft general budget of the (...) Union.
8. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the Treaty on the Functioning of the European Union.	8. On the basis of the statement of estimates, the Commission shall enter in the (...) draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the Treaty on the Functioning of the European Union, <i>together with a description of and justification for any difference between the Agency's statement of estimates and the subsidy to be charged to the general budget.</i>	8. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the TFEU.	8. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the TFEU.
9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.		9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.	9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
10. The Agency's budget shall be adopted by the Management Board. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.	10. The Agency's budget shall be adopted by the Management Board. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly, <i>together with the annual work programme</i> .	10. The Agency's budget shall be adopted by the Management Board. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.	10. The Agency's budget shall be adopted by the Management Board. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
11. Any modification to the budget, including the establishment plan, shall follow the same procedure.		11. Any modification to the budget, including the establishment plan, shall follow the same procedure.	11. Any modification to the budget, including the establishment plan, shall follow the same procedure.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
12. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures. If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the project, notify the Management Board of its intention to issue such an opinion. Failing a reply, the Agency may proceed with the planned operation.		12. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures. If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the project, notify the Management Board of its intention to issue such an opinion. Failing a reply, the Agency may proceed with the planned operation.	12. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures. If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the project, notify the Management Board of its intention to issue such an opinion. Failing a reply, the Agency may proceed with the planned operation.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 29</i> Implementation of the budget	<i>Article 29</i> Implementation of the budget	<i>Article 29</i> Implementation of the budget	<i>Article 29</i> Implementation of the budget ²¹
1. The Agency's budget shall be implemented by its Executive Director.		1. The Agency's budget shall be implemented by its Executive Director	1. The Agency's budget shall be implemented by its Executive Director.
2. The Executive Director shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.	2. The Executive Director shall forward annually to the budgetary authority <i>a report summarising the number and type of internal audits conducted by the internal auditor, the recommendations made and the action taken on those recommendations, in accordance with Article 72(5) of Regulation (EC, Euratom) No 2343/2002.</i> ¹ <i>¹ OJ L 357, 31.12.2002, p. 72.</i>	2. The Executive Director shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.	2. <i>[Final drafting on stand-by by EP and COM]</i>

²¹ *Pending final agreement between EP and COM.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. The Agency's Accounting Officer shall send to the Commission's Accounting Officer and the Court of Auditors by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Regulation (EC, Euratom) No 1605/2002. 4. The Agency's accounting officer shall also send to the European Parliament and the Council, by 31 March of the following year at the latest, the report on budgetary and financial management.		3. The Agency's Accounting Officer shall send to the Commission's Accounting Officer and the Court of Auditors by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Regulation (EC, Euratom) No 1605/2002. 4. The Agency's accounting officer shall also send to the budgetary authority (...), by 31 March of the following year at the latest, the report on budgetary and financial management.	3. The Agency's Accounting Officer shall send to the Commission's Accounting Officer and the Court of Auditors by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Regulation (EC, Euratom) No 1605/2002. 4. The Agency's accounting officer shall also send to the budgetary authority, by 31 March of the following year at the latest, the report on budgetary and financial management.
	4a. <i>The European Court of Auditors shall audit the accounts of the Agency and the legality and regularity of the underlying transactions. [Already in recital (12).] It shall also provide, when available, any finding regarding the Agency's performance in achieving its objectives in an efficient and effective manner.</i>		

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
5. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of Regulation (EC, Euratom) No 1605/2002, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and forward them to the Management Board for an opinion.		5. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of Regulation (EC, Euratom) No 1605/2002, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and forward them to the Management Board for an opinion.	5. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of Regulation (EC, Euratom) No 1605/2002, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and forward them to the Management Board for an opinion.
6. The Management Board shall deliver an opinion on the Agency's final accounts.		6. The Management Board shall examine and deliver an opinion on the Agency's final accounts.	6. The Management Board shall deliver an opinion on the Agency's final accounts.
7. By 1 July of the following year at the latest, the Executive Director shall send the final accounts, together with the opinion of the Management Board, to the Commission's Accounting Officer, the Court of Auditors, the Council as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures.		7. By 1 July of the following year at the latest, the Executive Director shall send the final accounts, together with the opinion of the Management Board, to the budgetary authority , the Commission's Accounting Officer, the Court of Auditors (...) as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures.	7. By 1 July of the following year at the latest, the Executive Director shall send the final accounts, together with the opinion of the Management Board, to the budgetary authority , the Commission's Accounting Officer, the Court of Auditors as well as the countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures.
8. The final accounts shall be published.		8. The final accounts shall be published.	8. The final accounts shall be published.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Management Board.		9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Management Board.	9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Management Board.
10. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of Regulation (EC, Euratom) No 1605/2002.		10. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of Regulation (EC, Euratom) No 1605/2002.	10. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of Regulation (EC, Euratom) No 1605/2002.
11. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year n + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year n.		11. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year n + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year n.	11. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year n + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year n.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 30</i> Financial rules		<i>Article 30</i> Financial rules	
The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.		The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.	The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.
<i>Article 31</i> Combating fraud		<i>Article 31</i> Combating fraud	
1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 shall apply.		1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 shall apply.	1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 shall apply.
2. The Agency shall accede to the Inter-institutional Agreement concerning internal investigations by the European Anti-fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.		2. The Agency shall accede to the Inter-institutional Agreement concerning internal investigations by the European Anti-fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.	2. The Agency shall accede to the Inter-institutional Agreement concerning internal investigations by the European Anti-fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.		3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.	3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.
CHAPTER VI FINAL PROVISIONS <i>Article 32</i>		CHAPTER VI FINAL PROVISIONS <i>Article 32</i>	<i>Article 32</i> ²² Preparatory actions <i>Discussed at the JHA Counsellors on 22 Feb 2011 (see DS 1121/11)</i> ²³
Preparatory actions	Preparatory actions <i>Article 32</i>	Preparatory actions	Preparatory actions <i>Article 32</i> ²² <i>Discussed at the JHA Counsellors on 22 Feb 2011 (see DS 1121/11)</i> ²³
1. The Commission shall be responsible for the establishment and initial operation of the Agency until the latter has the operational capacity to implement its own budget.	1. The Commission shall be responsible for the establishment and initial operation of the Agency (...)	1. The Commission shall be responsible for the establishment and initial operation of the Agency until the latter has the operational capacity to implement its own budget.	1. The Commission shall be responsible for the establishment and initial operation of the Agency until the latter has the operational capacity to implement its own budget.

²² The Commission agreed to make a statement declaring that *the Executive Director shall be appointed as soon as possible following the selection procedure foreseen under Article 15*. (i.e. even before the entry into force of this Regulation).

²³ *RESERVATIONS FROM AT, DE, FR, NL, RO AND COM.*

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
2. For that purpose, until such time as the Executive Director takes up his/her duties following his/her appointment by the Management Board in accordance with article 15 of this Regulation, the Commission may assign a limited number of officials including one to fulfil the functions of the Executive Director, on an interim basis.	2. For that purpose, until such time as the Executive Director takes up his/ her duties following his/ her appointment by the Management Board in accordance with Article 15 of this Regulation, the Commission may assign a limited number of officials (...) on an interim basis.	2. For that purpose, until such time as the Executive Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article 15 of this Regulation, the Commission may assign a limited number of officials including one to fulfil the functions of the Executive Director, on an interim basis. The interim Executive Director may be assigned once the Management Board is convened, in accordance with Article 10(2). If the interim Executive Director does not comply with the obligations laid down in this Regulation, the Management Board may ask the Commission to assign a new interim Executive Director.	2. For that purpose, until such time as the Executive Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article 15 of this Regulation, the Commission may assign a limited number of officials including one to fulfil the functions of the Executive Director, on an interim basis. The interim Executive Director may be assigned once the Management Board is convened, in accordance with Article 10(2). If the interim Executive Director does not comply with the obligations laid down in this Regulation, the Management Board may ask the Commission to assign a new interim Executive Director.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
3. The interim Executive Director may authorise all payments covered by credits provided in the Budget of the Agency, once approved by the Management Board and may conclude contracts, including staff contracts following the adoption of the Agency's establishment plan.	3. <i>Once the Management Board has been appointed, the Commission shall immediately launch the selection procedure for the Executive Director of the Agency.</i>	3. The interim Executive Director may authorise all payments covered by credits provided in the Budget of the Agency, once approved by the Management Board and may conclude contracts, including staff contracts following the adoption of the Agency's establishment plan. If justified, the Management Board may impose restrictions on the interim Executive Director's powers.	3. The interim Executive Director may authorise all payments covered by credits provided in the Budget of the Agency, once approved by the Management Board and may conclude contracts, including staff contracts following the adoption of the Agency's establishment plan. If justified, the Management Board may impose restrictions on the interim Executive Director's powers.

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 33</i> Participation by Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures Under the relevant provisions of their association agreements, arrangements shall be made in order to specify, <i>inter alia</i>, the nature and extent of, and the detailed rules for, the participation by countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures in the work of the Agency, including provisions on financial contributions and staff.	<i>Article 33</i> Participation by Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures Under the relevant provisions of their association agreements, arrangements shall be made in order to specify, <i>inter alia</i>, the nature and extent of, and the detailed rules for, the participation by countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures in the work of the Agency, including provisions on financial contributions, staff and voting rights.	<i>Article 33</i> Participation by Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures Under the relevant provisions of their association agreements, arrangements shall be made in order to specify, <i>inter alia</i>, the nature and extent of, and the detailed rules for, the participation by countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures in the work of the Agency, including provisions on financial contributions, staff and voting rights.	<i>Article 33²⁴</i> Participation by Countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures Under the relevant provisions of their association agreements, arrangements shall be made in order to specify, <i>inter alia</i>, the nature and extent of, and the detailed rules for, the participation by countries associated with the implementation, application and development of the Schengen <i>acquis</i> and the EURODAC related measures in the work of the Agency, including provisions on financial contributions, staff and voting rights.

²⁴ **RESERVATION FROM COM.**

COMMISSION 8151/10	PARLIAMENT	COUNCIL 14469/10	COMPROMISE TEXT resulting from the informal dialogues and the JHA Counsellors' meeting on 22 February 2011 as well as subsequent informal talks between Presidency, Commission and delegations concerned
<i>Article 34</i> Entry into force and applicability		<i>Article 34</i> Entry into force and applicability	
1. This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.	1.	1. This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.	1. This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.
2. The Agency shall take up its responsibilities set out in Articles 2 to 6 from 1 January 2012.	2. The Agency shall take up its responsibilities set out in Articles 2 to 6 from 1 January 2012, <i>provided that the Member States have agreed on the location of its seat sufficiently in advance to allow its basic infrastructure and procedures to become operational at that seat.</i>	2. The Agency shall take up its responsibilities set out in Articles 2 to 6 from [1 January 2012].	2. The Agency shall take up its responsibilities set out in Articles 2 to 6 from 1 January July 2012, <i>provided that the Member States and the European Parliament have agreed on the location of its seat sufficiently in advance to allow its basic infrastructure and procedures to become operational at that seat</i> ²⁵ .

²⁵ To be redrafted once a decision on the seat of the agency is taken.