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Committee on Civil Liberties, Justice and Home Affairs

2011/0368(COD)

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management

(COM(2011)0753 – C7-0445/2011 – 2011/0368(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Salvatore Iacolino

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (COM(2011)0753 – C7-0445/2011 – 2011/0368(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0753),
 - having regard to Article 294(2) and Articles 82(1), 84 and 87(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0445/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The Union's objective of ensuring a high level of security within an area of Freedom, Security and Justice (Article 67(3) of the Treaty on the Functioning of the Union) should be achieved, inter alia, through measures to prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities of Member States and with relevant third-countries.

Amendment

(1) The Union's objective of ensuring a high level of security within an area of Freedom, Security and Justice (Article 67(3) of the Treaty on the Functioning of the Union) should be achieved, inter alia, through measures to prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities of Member States, ***other national authorities and relevant Union bodies***, and with relevant third-countries ***and international organisations***.

Or. it

Justification

Crime poses a transnational threat, for which reason there should be greater cooperation not just between the relevant authorities in the Member States, but also with relevant European Union bodies, non-EU countries and international organisations.

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and the rule of law as well as a strong focus on the global perspective and the ***inextricable*** link with external security should be key principles guiding the implementation of the Internal Security Strategy.

Amendment

(4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and the rule of law as well as a strong focus on the global perspective and ***on*** the link ***and the necessary coherence*** with external security should be key principles guiding the implementation of the Internal Security Strategy.

Justification

Parliament has already called for coherence in EU actions in regard to internal and external security, in the Report on the Internal Security Strategy.

Amendment 3

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Cross-border crimes such as human trafficking and exploitation of illegal immigration by criminal organisations may be tackled effectively through judicial and police cooperation.

Justification

Crime's infiltration into the legitimate economy is one of the factors distorting the internal market.

Amendment 4

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Tackling organised crime effectively is fundamental to protecting the legitimate economy from typical criminal activities such as laundering of the proceeds of crime.

Justification

Crime's infiltration into the legitimate economy is one of the factors distorting the internal

market.

Amendment 5

Proposal for a regulation Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) In times of austerity for Union policies, overcoming economic problems calls for renewed flexibility, innovative organisational measures, better use of existing structures, and coordination between the Union's institutions, agencies and national authorities and with third countries.

Or. it

Justification

The economic crisis calls for flexible and innovative responses in order to be just as effective as before in fighting organised crime.

Amendment 6

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) The resources allocated to Member States for implementation through their national programmes should be distributed on the basis of clear and objective criteria relating to the public goods to be protected by Member States and the degree of their financial capacity to ensure a high level of internal security, such as the size of their population, their territorial size, the number of passengers and cargo processed through international air and seaports, ***the number of European critical infrastructure*** and their gross domestic product.

(14) The resources allocated to Member States for implementation through their national programmes should be distributed on the basis of clear and objective criteria relating to the public goods to be protected by Member States and the degree of their financial capacity to ensure a high level of internal security, such as the size of their population, their territorial size, ***the extent of their external borders***, the number of passengers and cargo processed through international air and seaports, and their gross domestic product.

Justification

The changes are in line with changes proposed by the rapporteur for Article 10.

Amendment 7**Proposal for a regulation****Recital 16***Text proposed by the Commission*

(16) The ceiling for resources ***which remain at the disposal of the Union should be equal to the resources*** allocated to Member States for the implementation of their national programmes. ***This will ensure that*** the Union is able, in a given budget year, to support actions which are of particular interest to the Union, such as studies, testing and validation of new technologies, transnational projects, networking and exchange of best practices, monitoring of the implementation of relevant Union law and Union policies and actions in relation to and in third-countries. The actions supported should be in line with the priorities identified in relevant Union strategies, programmes, action plans and risk and threat assessments.

Amendment

(16) The ceiling for resources allocated to Member States for the implementation of their national programmes ***should be higher than the resources at the disposal of the European Union for its actions. To this end, Member States' capacity to use the funds available needs to be enhanced through better training for their authorities concerned. However*** the Union ***should be guaranteed adequate resources at its disposal to ensure that it*** is able, in a given budget year, to support actions which are of particular interest to the Union, such as studies, testing and validation of new technologies, transnational projects, networking and exchange of best practices, monitoring of the implementation of relevant Union law and Union policies and actions in relation to and in third-countries. The actions supported should be in line with the priorities identified in relevant Union strategies, programmes, action plans and risk and threat assessments.

Justification

The changes are in line with changes proposed by the rapporteur for Article 5.

Amendment 8

Proposal for a regulation Recital 23

Text proposed by the Commission

Amendment

(23) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis which falls within the areas referred to in Article 1, Point H of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union 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 acquis.

deleted

Or. it

Justification

This Regulation does not constitute a development of the Schengen acquis.

Amendment 9

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision

deleted

2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement.

Or. it

Justification

This Regulation does not constitute a development of the Schengen acquis.

Amendment 10

**Proposal for a regulation
Recital 25**

Text proposed by the Commission

Amendment

(25) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis 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 on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU on the conclusion, on behalf of the Union, of the Protocol.

deleted

Or. it

Justification

This Regulation does not constitute a development of the Schengen acquis.

Amendment 11

Proposal for a regulation Article 2 – point d

Text proposed by the Commission

d) 'organised crime' means a punishable conduct committed by a structured group **of three or more persons**, existing for a period of time and acting in concert in order to obtain, directly or indirectly, a financial or other material benefit.

Amendment

d) 'organised crime' means a punishable conduct by a structured group existing for a period of time and **composed of more than two persons** acting in concert in order to obtain **by means of intimidation**, directly or indirectly, a financial or other material benefit;

Or. it

Justification

The new formulation proposed by the rapporteur takes account of definitions drawn up previously within the EU (Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime) and internationally (United Nations Convention against Transnational Organised Crime, Resolution 55/2000).

Amendment 12

Proposal for a regulation Article 2 – point h

Text proposed by the Commission

h) 'consequence management' means the effective coordination of **measures** taken in order to react to and to reduce the impact of the effects of a terrorist attack or any other security related incident **in order to ensure an effective coordination of actions at national and/or EU level**.

Amendment

h) 'consequence management' means the effective coordination of **actions** taken **at national and/or EU level** in order to react to and to reduce the impact of the effects of a terrorist attack or any other security related incident.

Or. it

Justification

The proposed reformulation makes the text a great deal clearer.

Amendment 13

Proposal for a regulation Article 2 – point i

Text proposed by the Commission

i) 'critical infrastructure' means **any physical resources, services, information technology facilities, networks and infrastructure assets** which, **if disrupted or destroyed**, would have a **serious** impact on **critical societal functions, including the supply chain, health, safety, security, economic or social well-being of people or of the functioning of the Union or its Member States**.

Amendment

i) 'critical infrastructure' means **an asset, system or part thereof located in Member States** which **is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which** would have a **significant** impact **in a Member State or in the Union as a result of the failure to maintain those functions**;

Or. it

Justification

The proposed reformulation takes account of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European Critical infrastructures and the assessment of the need to improve their protection.

Amendment 14

Proposal for a regulation Article 3 – paragraph 2 – point a – paragraph 1

Text proposed by the Commission

a) preventing and combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities of Member States and with relevant third-countries.

Amendment

a) preventing **crime** and combating cross-border, serious and organised crime including terrorism **and laundering of the proceeds of crime**, and reinforcing coordination and cooperation between law enforcement authorities of Member States **and relevant Union bodies** and with relevant third-countries **and international organisations**.

Or. it

Justification

These situations are already covered by Article 1 of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, Greater coordination is needed not just between the relevant authorities in the Member States, but also with the relevant Union's bodies, non-EU countries and international organisations.

Amendment 15

Proposal for a regulation

Article 3 – paragraph 2 – point a – paragraph 2

Text proposed by the Commission

Amendment

The achievement of this objective shall be measured against indicators such as, inter alia, the number of cross-border-joint operations and the number of best practice documents and events organised. **deleted**

Or. it

Justification

The rapporteur has proposed a specific amendment describing indicators to measure achievement of the objectives.

Amendment 16

Proposal for a regulation

Article 3 – paragraph 2 – point b – paragraph 2

Text proposed by the Commission

Amendment

The achievement of this objective shall be measured against indicators such as, inter alia, the number of tools put in place and/or further upgraded to facilitate the protection of critical infrastructure by Member States in all sectors of the economy and the number of threat and risk assessments produced at the level of the Union. **deleted**

Justification

The rapporteur has proposed a specific amendment describing indicators to measure achievement of the objectives.

Amendment 17**Proposal for a regulation****Article 3 – paragraph 3 – introductory part***Text proposed by the Commission*

3. To achieve these objectives, the Instrument shall contribute to the following operational objectives ***by promoting and developing***:

Amendment

3. To achieve these objectives, the instrument shall contribute to the following operational objectives:

Justification

The change is in line with other amendments by the rapporteur to Article 3(3).

Amendment 18**Proposal for a regulation****Article 3 – paragraph 3 – point a***Text proposed by the Commission*

a) measures (methodologies, tools, structures) strengthening Member States' capability to prevent and combat cross-border, serious and organised crime including terrorism, in particular through public-private partnerships, the exchange of information and best practices, access to data, interoperable technologies, comparable statistics, applied criminology, public communication and awareness raising.

Amendment

a) ***promote and develop*** measures (methodologies, tools, structures) strengthening Member States' capability to prevent ***crime*** and combat cross-border, serious and organised crime including terrorism, in particular through public-private partnerships, the exchange of information and best practices, access to data, interoperable technologies, comparable statistics, applied criminology, public communication and awareness raising.

Justification

The proposed reformulation makes the text a great deal clearer.

Amendment 19

Proposal for a regulation
Article 3 – paragraph 3 – point b

Text proposed by the Commission

b) administrative and operational coordination, cooperation, mutual understanding and the exchange of information among Member States' law enforcement authorities, other national authorities, relevant Union bodies and, where appropriate, with third-countries.

Amendment

b) ***promote and develop*** administrative and operational coordination, cooperation, mutual understanding and the exchange of information among Member States' law enforcement authorities, other national authorities, relevant Union bodies and, where appropriate, with third-countries ***and international organisations***.

Justification

The change is in line with the rapporteur's amendment to Recital 1.

Amendment 20

Proposal for a regulation
Article 3 – paragraph 3 – point c

Text proposed by the Commission

c) training schemes in implementation of European training policies, including through specific Union law enforcement exchange programmes, in order to foster a genuine European judicial and law enforcement culture.

Amendment

c) ***promote and develop*** training schemes in implementation of European training policies, including through specific Union law enforcement exchange programmes, in order to foster a genuine European judicial and law enforcement culture.

(This amendment also applied to points (d) to (g); adoption of the amendment entails technical adjustments to said points)

Justification

The proposed reformulation makes the text a great deal clearer.

Amendment 21

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Indicators

The achievement of the specific objectives referred to in Article 3 shall be assessed on the basis of clearly pre-defined, transparent and measurable performance indicators, in particular such as:

- a) the number of joint cross-border operations;***
- b) the number and percentage of members of staff of the competent authorities referred to in Article 87 of the Treaty on the Functioning of the European Union (TFEU) who have taken part in training activities, staff exchanges, study visits, meetings and seminars funded by the programme;***
- c) the number of codes of good practice drawn up and events organised;***
- d) the number of tools put in place and/or upgraded to facilitate the protection of critical infrastructure by Member States in all sectors of the economy, and the number of threat and risk assessments produced at Union level.***

Justification

The rapporteur has proposed a specific amendment describing indicators to measure

achievement of the objectives.

Amendment 22

Proposal for a regulation

Article 5 – paragraph 5

Text proposed by the Commission

Amendment

5. The global resources shall be used ***indicatively*** as follows:

5. The global resources shall be used as follows:

- a) ***EUR 564 million*** for the national programmes of Member States;
- b) ***EUR 564 million*** for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

- a) **60 %** for the national programmes of Member States;
- b) **40 %** for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

Or. it

Justification

The rapporteur has changed how resources are distributed: from 50% to 60% for national programmes and from 50% to 40% for Union actions. His hope is that all Member States will be involved to a greater extent but, for this to happen, their capacity to use the resources available needs to be improved.

Amendment 23

Proposal for a regulation

Article 5 – paragraph 7

Text proposed by the Commission

Amendment

7. The countries associated with the implementation, application and development of the Schengen acquis shall participate in the Instrument, in accordance with this Regulation.

deleted

Or. it

Justification

This Regulation does not constitute a development of the Schengen acquis.

Amendment 24

Proposal for a regulation Article 5 – paragraph 8

Text proposed by the Commission

Amendment

**8. Arrangements shall be concluded on the financial contributions by these countries to the Instrument and the supplementary rules necessary for such participation, including provisions ensuring the protection of the Union's financial interests and the power of audit of the Court of Auditors.
The financial contributions from these countries shall be added to the global resources available from the Union budget referred to in paragraph 1.** **deleted**

Or. it

Justification

This Regulation does not constitute a development of the Schengen acquis.

Amendment 25

Proposal for a regulation Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. EUR 564 million shall be allocated to the Member States indicatively as follows:

1. The resources for national programmes shall be distributed as follows:

Or. it

Justification

Having changed the percentages for national programmes (Article 5(5)), the rapporteur has now changed introductory part of Article 10 to reflect the new figures.

Amendment 26

Proposal for a regulation

Article 10 – paragraph 1 – point a

Text proposed by the Commission

a) **30%** in proportion of the size of their total population;

Amendment

a) **35%** in proportion of the size of their total population;

Or. it

Justification

The rapporteur has changed the criteria for allocating resources for national programmes because he considers the demographic factor to be a pertinent one.

Amendment 27

Proposal for a regulation

Article 10 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

ba) 5% in proportion to the Member State's external (land and sea) borders;

Or. it

Justification

The rapporteur has changed the criteria for allocating resources for national programmes because he considers the external borders managed by the Member State to be a pertinent factor.

Amendment 28

Proposal for a regulation

Article 10 – paragraph 1 – point c

Text proposed by the Commission

c) **10%** in proportion to the number of passengers and the tons of cargo processed through their international air and sea

Amendment

c) **20%** in proportion to the number of passengers and the tons of cargo processed through their international air and sea

ports;

ports;

Or. it

Justification

The rapporteur has changed the criteria for allocating resources for national programmes because he considers that the volume of air and sea traffic (both passengers and cargo) ought to have a major bearing on said allocation.

Amendment 29

Proposal for a regulation

Article 10 – paragraph 1 – point d

Text proposed by the Commission

Amendment

d) 10% in proportion to the number of European Critical Infrastructure designated in accordance with Directive 2008/114/EC;

deleted

Or. it

Justification

The rapporteur has changed the criteria for allocating resources for national programmes because he does not consider the critical infrastructure criterion to have a bearing on this.

Amendment 30

Proposal for a regulation

Article 10 – paragraph 1 – point e

Text proposed by the Commission

Amendment

e) 40% in inverse proportion to their Gross Domestic Product (purchasing power standard per inhabitant).

e) 30% in inverse proportion to their Gross Domestic Product (purchasing power standard per inhabitant).

Or. it

Justification

The rapporteur has changed the criteria for allocating resources for national programmes

because he considers the Commission's figure to be too high.

Amendment 31

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

2. The reference figures for the data referred to in paragraph 1 shall be the latest statistics produced by the Commission (Eurostat), on the basis of data provided by Member States in accordance with Union law, *as well as data provided to the Commission by the Member States in accordance with Directive 2008/114/EC*.
The reference date is 30 June 2013.

Amendment

2. The reference figures for the data referred to in paragraph 1 shall be the latest statistics produced by the Commission (Eurostat) on the basis of data provided by Member States in accordance with Union law. The reference date is 30 June 2013.

Or. it

Justification

The changes to Article 10(2) are in line with the proposed changes to Article 10(1).

Amendment 32

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Amendment

deleted

Or. it

Justification

No reference is made to Article 12(2) anywhere else in the text in question.

EXPLANATORY STATEMENT

Crime, and organised crime in particular, poses a serious threat to the safety and security of people in the EU and to the development of the internal market. Crime has become predominately transnational nowadays, making cooperation between police forces throughout the Member States and with non-EU countries fundamental to tackling the problem effectively. The fight against typical organised crime offences, including laundering the proceeds of crime, safeguards the legitimate economy and prevents possible market distortion.

The instrument for financial support for police cooperation, preventing and combating crime, and crisis management forms, with the asylum instrument, one of the two pillars of the Internal Security Fund under the EU's multiannual financial framework 2014-2020.

This instrument supplements two funds generally underused by the Member States: ISEC (Prevention of and fight against crime) and CIPS (Prevention, Preparedness and Consequence Management of Terrorism) both of which are provided for in the 2007-2013 programme.

The specific objectives identified by the Commission (preventing and combating organised crime, strengthening cooperation between authorities in the Member States and with third countries, security and crisis management, protecting people and critical infrastructure) have been converted into operational objectives by promoting and developing methodologies, tools and structures to strengthen and coordinate administration and operations.

The Commission has therefore identified actions (such as information exchange, training, acquisition of technical equipment, acquisition of new technologies) that are eligible under joint management of resources by the EU and the Member States.

As regards the allocation of resources, the rapporteur has changed the Commission's original proposals in order to favour national programmes (up from 50 % to 60 % of the total figure) over Union actions, in the hope that all Member States will become more involved. However, for this to happen, national authorities' capacity to use the resources at their disposal also needs to improve.

The rapporteur felt that it was important to adjust the definitions proposed by the Commission needed some adjustment, referring back to EU and international laws on organised crime.

With reference to indicators to measure achievement of the objectives, a specific article has been drawn up listing in greater detail useful evaluation factors.

The Commission's legislative proposal does not develop the Schengen acquis, in the rapporteur's opinion, and he therefore proposes that references thereto be removed.

The rapporteur has altered the criteria for allocating resources for national programmes as demographic and territorial criteria, and the volume of air and sea traffic (passengers and cargo), should be given a higher profile. Inverse proportion of GDP and critical infrastructure, on the other hand, should not have the impact envisaged in the Commission's document.