2011/0367(COD)

2.7.2012

DRAFT OPINION

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management
(COM(2011)0752 – C7-0444/2011 – 2011/0367(COD))

Rapporteur: Monika Hohlmeier

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SHORT JUSTIFICATION

The home affairs budget

In June 2011 the European Commission presented its proposals on the Multiannual Financial Framework. This includes an overall budget for the home affairs area of EUR 10,9 billion for the period 2014-2020.

The amount covers spending on financial programmes and also funding for large-scale IT systems and the EU agencies active in the home affairs area[1].

Home affairs budget 2014-2020	**EUR million (current prices)**
Asylum and Migration Fund *including Resettlement Programme and European Migration Network*	3,869
Internal Security Fund *including new large-scale IT systems*	4,648
Existing large-scale IT systems and IT Agency	822
Subtotal	***9,339***
Agencies *(Europol, Frontex EASO, Cepol and EMCDDA)*	1,572
Total	**10,911**

The legal framework of the two Funds

In order to simplify the funding structures in the home affairs area and to better align spending at EU level with the Union's strategic policy objectives, the Commission proposes to reduce the number of funds to two and establish horizontal provisions on the management of the funds. Hence, the two Funds function as much as possible with identical delivery mechanisms.

This Regulation on "general provisions on the Asylum and Migration Fund and on the instrument for financial support for police co-operation, preventing and combating crime, and crisis management " is therefore part of the framework for Union funding under two Funds:

- an Asylum and Migration Fund and
- an Internal Security Fund (consisting of an instrument for financial support for external borders and visa and an instrument for financial support for police cooperation, preventing and combating crime and crisis management).

This horizontal instrument, applicable to both the Asylum and Migration Fund and the two components of the Internal Security Fund (either directly or through cross-references), lays down the rules on programming, management and control, financial management reporting and evaluation.

This overall structure of four Regulations is necessary in the light of different voting rules in the Council stemming from variable geometry pursuant to Protocols 19 (on the Schengen

[1] source: Communication of the European Commission "Building an open and secure Europe: the home affairs budget 2014 - 2020"- COM(2011)0749

acquis) and 21 (the position of the UK and Ireland in respect of the area of Freedom, Security and Justice) in the Treaties. By means of this horizontal Regulation, the overall number of provisions is reduced considerably than if they were repeated in each act.

The general provisions

This Regulation lays down obligations only of a financial and technical nature, such as rules on programming, management and control, financial management, clearance of accounts, closure of programmes and reporting and evaluation and delivery mechanisms, while the definition of policy objectives, eligible actions, the allocation of resources and the scope of the intervention for each specific policy area are dealt with in the three Specific Regulations.

Financial implications

As this Regulation only provides for general rules on the financing of expenditure, there are no appropriations foreseen. Instead, the Commission's proposal for the Multi-Annual Financial Framework includes a proposal of EUR 3,869 million for the Asylum and Migration Fund and of EUR 4,648 million for the Internal Security Fund (see table above current prices). At this, the Home Affairs policy is implemented mainly by shared management and actual day-to-day management is vested at national level.

The amendments

The shared management method is more and more considered appropriate for all home affairs policy areas and has been extended to the area of internal security where it was not used previously.

Consequently, it has to be ensured that the implementation in shared management is in line with the provisions of the Financial regulation. Therefore your rapporteur proposes some amendments in order to strengthen control on implementation in shared management and to bring in line the wording with the revised Financial regulation.

In addition, your rapporteur proposes to put a clear emphasis on the necessity of an EU added value of the funded activities. For this purpose, also the relevant competent EU agencies should be adequately consulted in the policy dialogue with Member States in preparation for establishment the national programmes.

In order to prevent the misuse of EU funds as much as possible, your rapporteur proposes to allow for unannounced on-the-spot controls and inspections. Further, for the purpose of an efficient and target-oriented spending of funds and in the light of each Member States's own contribution, your rapporteur proposes not to include an eligibility of emergency actions up to 100% but to always request a minimum co-financing by the Member State, even at a very low level.

With regard to ensuring the continuity of funding, your rapporteur proposes to provide for annual pre-financing.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Draft legislative resolution
Paragraph 1 a (new)

Draft legislative resolution	*Amendment*
	1a. Points out that the financial envelope specified in the legislative proposal constitutes only an indication to the legislative authority and cannot be fixed until agreement is reached on the proposal for a regulation laying down the multiannual financial framework for the years 2014-2020;

Or. en

Amendment 2

Draft legislative resolution
Paragraph 1 b (new)

Draft legislative resolution	*Amendment*
	1b. Recalls its resolution of 8 June 2011 on "Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe"[1]; reiterates that sufficient additional resources are needed in the next MFF in order to enable the Union to fulfil its existing policy priorities and the new tasks provided for in the Treaty of Lisbon, as well as to respond to unforeseen events; challenges the Council, if it does not share this approach, to clearly identify which of its political priorities or projects could be dropped altogether, despite their proven European added value;

[1] Texts adopted, P7_TA(2011)0266.

Or. en

Amendment 3

Draft legislative resolution
Paragraph 1 c (new)

Draft legislative resolution	*Amendment*
	1c. Emphasises that, in view of the tasks already identified and concluded by the Union, the Commission needs to reflect those policy priorities in a foresighted and adequate manner in the proposal;

Or. en

Amendment 4

Draft legislative resolution
Paragraph 1 d (new)

Draft legislative resolution	*Amendment*
	1d. Reiterates that the Lisbon Treaty provides for delegated acts only as non-legislative acts of general application relating to non-essential elements of a legislative act; therefore upholds its criticism of the widespread use of delegated acts and insists that any essential element must be laid down in the legislative act in question;

Or. en

Amendment 5

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) Spending of funds in this area should be better coordinated in order to assure

complementarity, a better efficiency and visibility, as well as to achieve better budgetary synergies.

Or. en

Amendment 6

Proposal for a regulation
Recital 3 b (new)

Text proposed by the Commission	*Amendment*
	(3b) Improving implementation and quality of spending should constitute guiding principles for achieving the objectives of the Funds while ensuring optimal use of the financial resources.

Or. en

Amendment 7

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(13) To ensure an adequate framework for providing rapidly emergency assistance, this Regulation should allow support for actions the expenditure of which was incurred before the application for such assistance was made, in accordance with the provision in the Financial Regulation[1] which allows such flexibility in duly substantiated exceptional cases.	(13) To ensure an adequate framework for providing rapidly emergency assistance, this Regulation should allow support for actions the expenditure of which was incurred before the application for such assistance was made, in accordance with the provision in the Financial Regulation[1] which allows such flexibility in duly substantiated exceptional cases.
[1] Triennial revision of the Financial Regulation - Commission proposal COM(2010)0260.	***[1] Regulation on the financial rules applicable to the annual budget of the Union (COM(2010)815 final of 22.12.2010).***

Or. en

Justification

Wrong reference corrected

Amendment 8

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission	*Amendment*
	(16a) While the correct use of the funds is a core priority, the spending of funds in the policy areas concerned should be simplified. To this end, if the Member state's error rate within the implementation of this Regulation and the Specific Regulations related to it does not exceed 2%, the density of controls should be reduced.

Or. en

Amendment 9

Proposal for a regulation
Recital 22

Text proposed by the Commission	*Amendment*
(22) The triennial revision of the Financial Regulation[1] introduces changes in the shared management ***principles*** which have to be taken into account.	(22) The triennial revision of the Financial Regulation[1] introduces changes in the shared management ***method*** which have to be taken into account.
[1] Triennial revision of the Financial Regulation - Commission proposal COM(2010)0260.	***[1] Regulation on the financial rules applicable to the annual budget of the Union (COM(2010)815 final of 22.12.2010).***

Or. en

Justification

Shared management is not a principle of implementation, it is a method of implementation of

the EUs Budget

Amendment 10

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission	*Amendment*
	(22a)Where the Commission implements the budget under shared management, implementation tasks should be delegated to Member States. The Commission and the Member States should respect the principles of sound financial management, transparency and non-discrimination and ensure the visibility of Union action when they manage Union funds. To this end, the Commission and the Member States should fulfil their respective control and audit obligations, and assume the resulting responsibilities laid down in this Regulation. Complementary provisions should be laid down in sector-specific rules.

Or. en

Amendment 11

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The Specific Regulations shall provide support, through national programmes, Union actions and emergency assistance, which complements national, regional and local intervention, pursuing the objectives of the Union.	1. The Specific Regulations shall provide support, through national programmes, Union actions and emergency assistance, which complements national, regional and local intervention, pursuing the objectives of the Union***, and creating an EU added value***.

Or. en

Justification

The Union funding should always create and EU added value and not substitute national funding.

Amendment 12

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall take appropriate measures ensuring that, when actions financed under the Specific Regulations are implemented, the financial interests of the European Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective controls and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties.	1. The Commission shall take appropriate measures ensuring that, when actions financed under the Specific Regulations are implemented, the financial interests of the European Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective controls and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties. ***Without prejudice to paragraph 3, where the administrative requirements for the adequate implementation are not in place, the Commission shall take the appropriate measures to assist the Member State in establishing the necessary administrative structures.***

Or. en

Amendment 13

Proposal for a regulation
Article 5 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Member States shall offer effective prevention against fraud, especially as regards the areas with a higher level of	4. Member States shall offer effective prevention against fraud, especially as regards the areas with a higher level of

risk, and which shall act as a deterrent, having regard to the benefits as well as the proportionality of the measures.	risk, and which shall act as a deterrent, having regard to the benefits as well as the proportionality of the measures. ***This may include unannounced on-the-spot controls and inspections.***

Or. en

Justification

In order to prevent the misuse of EU funds as much as possible, unannounced on-the-spot controls and inspections should be possible.

Amendment 14

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Union actions, emergency assistance and technical assistance at the initiative of the Commission may be implemented	4. Union actions, emergency assistance and technical assistance at the initiative of the Commission may be implemented
- directly, by the Commission or through executive agencies;	- directly, by the Commission or through executive agencies;
- indirectly, by entities and persons other than Member States in accordance with Article [57] of the Financial Regulation.	- indirectly, by entities and persons other than Member States in accordance with Article [57] of the Financial Regulation.
	The Commission remains responsible for the implementation of the Union budget in accordance with Article 317 TFEU and shall inform the European Parliament and the Council on the operations carried out by the entities under the second indent.

Or. en

Justification

The amendment brings the wording in line with the revised Financial regulation.

Amendment 15

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Within the limits of the available resources, the emergency assistance may amount to 100% of the eligible expenditure.	2. Within the limits of the available resources ***and by way of derogation from Article 16***, the emergency assistance may amount to ***more than 90% but not constitute*** 100% of the eligible expenditure.

Or. en

Justification

In order to ensure the efficient and responsible spending and complementarity of EU funds, it is necessary that Member States always co-finance activities and thereby ensure target orientation of Union spending. In emergency cases, the eligibility of expenditure may need to exceed 90% but should not constitute 100%.

Amendment 16

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission	*Amendment*
1. To launch the programming period, the Commission and each Member State shall have a policy dialogue on the national requirements and the contribution that the Union budget could provide to achieving these requirements, bearing in mind the base line situation in the Member State concerned and the objectives of the Specific Regulations. The policy dialogue shall result in the conclusion of agreed minutes or an exchange of letters which shall identify the specific needs and priorities of the Member State concerned and serve as the framework for the preparation of the national programmes.	1. To launch the programming period, the Commission and each Member State shall have a policy dialogue on the national requirements and the contribution that the Union budget could provide to achieving these requirements, bearing in mind the base line situation in the Member State concerned and the objectives of the Specific Regulations. The policy dialogue shall result in the conclusion of agreed minutes or an exchange of letters which shall identify the specific needs and priorities of the Member State concerned and serve as the framework for the preparation of the national programmes.

	In order to ensure the necessary EU added value, the policy dialogue shall involve an adequate consultation of the competent Union agencies and serve as an opportunity for an exchange of views on Union actions.
In case of actions to be implemented in and in relation to third countries, such actions shall not be directly development oriented and the policy dialogue shall seek full coherence with the principles and general objectives of the Union external action and foreign policy as regards the country or region concerned.	In case of actions to be implemented in and in relation to third countries, such actions shall not be directly development oriented and the policy dialogue shall seek full coherence with the principles and general objectives of the Union external action and foreign policy as regards the country or region concerned.

Or. en

Justification

In order to ensure the necessary EU added value of Union spending, both Member States and the competent EU agencies need to enter into a constructive dialogue on the identification of tasks and priorities. Therefore, the relevant competent EU agencies should be consulted in the preparation of the national programmes while at the same time Member States should have the opportunity to voice their ideas about Union actions.

Amendment 17

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities laid down in the rules on shared management set out in the Financial Regulation ***and this Regulation***. In accordance with the ***principle*** of shared management, Member States shall be responsible for the management and control of national programmes.	1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities laid down in the rules on shared management set out in the Financial Regulation. In accordance with the ***method*** of shared management, Member States shall be responsible for the management and control of national programmes ***and the Commission remains responsible for the implementation of the Union budget in accordance with Article 317 TFEU***.

Or. en

Justification

The amendment brings the wording in line with the revised Financial regulation

Amendment 18

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***Each Member State shall lay down rules governing its relations with the authorities referred to in paragraph 1 and their relations with the Commission.***	***2. Bodies designated pursuant to paragraph 1 shall provide the Commission by 15 February of the following financial year with:*** ***(a) their accounts on the expenditure made, during the relevant reference period as defined in the sector-specific rules, in the execution of their tasks and presented to the Commission for reimbursement. These accounts shall include pre-financing and sums for which recovery procedures are underway or have been completed. They shall be accompanied by a management declaration confirming that, in the opinion of those in charge of the management of the funds:*** ***- the information is properly presented, complete and accurate;*** ***- the expenditure has been used for its intended purpose, as defined in the sector specific rules;*** ***- the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;*** ***(b) an annual summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and of weaknesses in systems identified, as well as corrective actions taken or planned.*** ***The accounts referred to in point (a) and the summaries referred to in point (b)***

shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. Such opinion shall establish whether the accounts give a true and fair view, whether expenditure for which reimbursement has been requested from the Commission is legal and regular, and whether the control systems put in place function properly. The opinion shall also state whether the examination puts in doubt the assertions made in the management declaration.

The deadline of 15 February may be exceptionally extended by the Commission to 1 March at the latest upon communication by the Member State concerned.

Or. en

Justification

The amendment brings the wording in line with the revised Financial regulation and reinforcing control on implementation in shared management.

Amendment 19

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Payments shall take the form of initial pre-financing, payments of the annual balance and the payment of the final balance.	2. Payments shall take the form of initial pre-financing, ***annual pre-financing,*** payments of the annual balance and the payment of the final balance.

Or. en

Justification

In order to guarantee the continuity of funding, it is necessary to also provide annual pre-financing.

Amendment 20

Proposal for a regulation
Article 33 – title

Text proposed by the Commission	*Amendment*
Initial pre-financing arrangements	Initial ***and annual*** pre-financing arrangements

Or. en

Justification

In order to guarantee the continuity of funding, it is necessary specify the timeframes of payments and to also provide for annual pre-financing.

Amendment 21

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Following the Commission decision approving the national programme, an initial pre-financing amount for the whole programming period shall be paid by the Commission. This shall represent 4% of the contribution from the Union budget to the national programme concerned. It may be split into two instalments depending on budget availability.	1. Following the Commission decision approving the national programme, an initial pre-financing amount for the whole programming period shall be paid by the Commission. This shall represent 4% of the contribution from the Union budget to the national programme concerned. It may be split into two instalments depending on budget availability ***within 6 months***.

Or. en

Justification

In order to guarantee the continuity of funding, it is necessary specify the timeframes of payments and to also provide for annual pre-financing.

Amendment 22

Proposal for a regulation
Article 33 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. An annual pre-financing amount of 5% of the total contribution from the Union budget to the national programme concerned shall be paid before February of each year of the Multi-annual Financial Framework.

Or. en

Justification

In order to guarantee the continuity of funding, it is necessary specify the timeframes of payments and to also provide for annual pre-financing.

Amendment 23

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***If a national programme is approved in 2015 or later***, the instalments shall be paid ***in the year of approval***.	2. ***Following the first year of entry into force of the Multi-annual Financial Framework,*** the instalments shall be paid ***not later than two months after the approval of the national programme depending on budget availability and provided that the necessary administrative structures are in place***.

Or. en

Justification

In order to guarantee the continuity of funding, it is necessary specify the timeframes of payments and to also provide for annual pre-financing