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**A7-0025/2014**

14.1.2014

**\*\*\*I**  
**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 external borders and visa  
(COM(2011)0750 – C7-0441/2011 – 2011/0365(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Marian-Jean Marinescu

### ***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***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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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 external borders and visa  
(COM(2011)0750 – C7-0441/2011 – 2011/0365(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0750),
- having regard to Article 294(2) and Article 77(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0441/2011),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 11 July 2012<sup>1</sup>,
- having regard to the opinion of the Committee of the Regions of 18 July 2012<sup>2</sup>,
- having regard to its decision of 17 January 2013 on the opening of, and the mandate for, interinstitutional negotiations on the proposal<sup>3</sup>,
- having regard to the undertaking given by the Council representative by letter of 4 December 2013 to approve Parliament's position, in accordance with Article 294(4) 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 opinions of the Committee on Foreign Affairs and the Committee on Budgets (A7-0025/2014),

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.

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<sup>1</sup> OJ C 299, 4.10.2012, p. 108.

<sup>2</sup> OJ C 277, 13.9.2012, p. 23.

<sup>3</sup> Texts adopted P7\_TA(2013)0019.

## Amendment 1

### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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### REGULATION (EU) NO .../2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

**establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa**

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 Article 77(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

Whereas:

- (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 common measures on the crossing of internal borders by persons and border control at external borders and the common visa policy as part of a ***convergent*** multi-layer system, ***which would allow the exchange of data and a complete situation awareness and is*** aimed at facilitating legitimate travel and tackling illegal immigration.
- (1a) ***The Union needs a more coherent approach to the internal and external aspects of migration management and internal security, and should establish a correlation between the fight against illegal immigration and the improvement of the security***

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

*of the external border, and a better cooperation and dialogue with third countries for dealing with illegal immigration and promoting legal migration.*

- (1b) It is necessary to develop an integrated approach to issues arising from the pressure of migration and asylum applications and for the management of Union external borders and provide a budget and adequate resources to cope with emergencies in the spirit of respect for human rights and solidarity between all Member States, while remaining aware of national responsibilities and ensuring a clear division of tasks.*
- (1c) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the general and specific objectives laid down in this Regulation.*
- (1d) Efficiency of measures and quality of spending constitute guiding principles in the implementation of the Fund. Furthermore, the Fund should also be implemented in the most effective and user-friendly manner possible.*
- (1e) The new two-pillar structure should contribute to the simplification, rationalisation, consolidation and transparency of home affairs funding. Synergies, consistency and complementarity shall be sought with other funds and programmes, including with a view to the allocation of funding to common objectives. Overlap between the different funding instruments should be avoided, however.*
- (2) The EU Internal Security Strategy, adopted by the Council in February 2010<sup>1</sup>, constitutes a shared agenda for tackling these common security challenges. The Commission's Communication of November 2010 "The EU Internal Security Strategy in Action"<sup>2</sup> translates the strategy's principles and guidelines into concrete actions by identifying five strategic objectives: to disrupt international crime networks, to prevent terrorism and address radicalisation and recruitment, to raise levels of security for citizens and businesses in cyberspace, to strengthen security through border management and to increase Europe's resilience to crises and disasters.
- (2a) According to the Union Internal Security Strategy, freedom, security and justice are objectives that should be pursued in parallel, and in order to achieve freedom and justice, security should always be pursued in accordance with the principles of the Treaties, the rule of law and Union's fundamental rights obligations.*
- (3) Solidarity among Member States, clarity about the division of tasks, respect for fundamental **freedoms and human** rights and the rule of law, **■** a strong focus on the global perspective and the **■** link with external security, **and consistency and coherence with Union foreign policy objectives as laid down in Article 21 of the Treaty on European Union (TEU)** should be key principles guiding the implementation of the Internal Security Strategy.

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<sup>1</sup> Council doc. 7120/10.

<sup>2</sup> COM (2010) 673 final.

- (3a) ***The Internal Security Fund should take special account of Member States which are facing disproportionate burdens from migratory flows due to their geographical location.***
- (4) To promote the implementation of the Internal Security Strategy and to ensure that it becomes an operational reality, Member States should be provided with adequate Union financial support by setting up an Internal Security Fund.
- (4a) ***In order to measure achievements of this Fund, common indicators should be established in relation to each specific objective of this Instrument. The measurement of the achievement of the specific objectives through the common indicators does not render the implementation of actions related to these indicators mandatory.***
- (5) Due to the legal particularities applicable to Title V of the Treaty on the functioning of the European Union (TFEU), it is not legally possible to establish the Internal Security Fund as a single financial instrument.
- (6) The Fund should therefore be established as a comprehensive framework for EU financial support in the field of internal security comprising the instrument established by this Regulation as well as the instrument established by Regulation (EU) No .../... [establishing as part of the Internal Security Fund, the instrument for financial support for police co-operation, preventing and combating crime, and crisis management]. This comprehensive framework should be complemented by Regulation (EU) No .../... [laying down 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]<sup>1</sup> to which this Regulation should refer as regards rules on programming, financial management, management and control, clearance of accounts, closure of programmes and reporting and evaluation.
- (7) Solidarity and responsibility sharing between Member States and the Union **is a fundamental component** of the common policy for the management of the external borders.
- (8) The Internal Security Fund should express solidarity through financial assistance to those Member States that fully apply the Schengen provisions on external borders as well as to those who are preparing for full participation in Schengen **and should be used by the Member States in the interests of the Union's common policy for the management of the external borders.**
- (8a) ***In order to contribute to the achievement of the general objective of this Fund, Member States should ensure that their national programmes address the specific objectives of this Regulation and that the allocation of resources between objectives is proportional to the challenges and needs and ensures that the objectives can be met. Where a national programme does not address one of the specific objectives or the allocation is below the minimum shares for some objectives of the national programmes, set in this Regulation, the Member State***

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<sup>1</sup> [OJ L ... to be completed]



*concerned should provide a justification within the programme.*

- (9) Participation by a Member State should not coincide with its participation in a temporary financial instrument of the Union which supports the beneficiary Member States to finance inter alia actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visa and external border control.
- (10) The part of the Fund relating to external borders and visa (hereafter "the Instrument") should build on the capacity building process developed with the assistance of the External Borders Fund established by Decision No 574/2007 of the European Parliament and the Council<sup>1</sup> and extend it to take into account new developments.
- (11) When executing tasks at external borders and consulates in accordance with the Schengen *acquis* on borders and visas, Member States carry out activities in the interest of and on behalf of all other Member States in the Schengen area and thus performing a public service for the Union. ■ The Instrument should contribute to supporting operating costs related to border control and visa policy and enable Member States to ■ maintain capabilities crucial for that service for all. Such support consists of full reimbursement of a choice of *specific* costs related to the objectives under this instrument and will form an integral part of the national programmes.
- (12) The Instrument should complement and reinforce the activities undertaken to develop operational cooperation under the aegis of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union as established by Regulation (EC) No 2007/2004 (hereinafter referred to as "the Frontex Agency")<sup>2</sup>, including the new activities resulting from the amendments introduced by Regulation [...] <sup>3</sup>, and thereby further reinforce the solidarity between those Member States controlling external borders in the interest and on behalf of the Schengen area as a whole. ***This means inter alia that, when drawing up their national programmes, Member States should take into account the analytical tools and operational and technical guidelines developed by the Frontex Agency as well as the training curricula developed, namely the common core curricula for the training of border guards including its components with regard to fundamental rights and access to international protection.***
- In order to develop complementarity between its mission and the responsibilities of the Member States for the control and surveillance of external borders as well as to ensure consistency and to avoid cost inefficiency, the Frontex Agency should be consulted by the Commission on draft national programmes, and in particular on the activities financed under the operating support, submitted by the Member States.***
- (13) This instrument should be implemented in full respect of the rights and principles enshrined in the Charter of Fundamental Rights of the European Union ***and with the***

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<sup>1</sup> OJ L 144, 6.6.2007, p. 22.

<sup>2</sup> OJ L 349, 25.11.2004, p. 1

<sup>3</sup> OJ to be completed

*Union's international obligations, and without prejudice to the application of special provisions concerning the right of asylum and to international protection.*

- (13a) *Uniform and high-quality external border control is essential for strengthening the Area of Freedom, Security and Justice. In accordance with common Union standards, this instrument should support measures relating to the management of external borders, to be implemented in accordance with the four-tier access control model which comprises measures in third countries, cooperation with neighbouring countries, border control measures and control measures within the area of free movement in order to prevent illegal immigration and cross-border crime inside the territory of the Schengen States.*
- (13b) *Pursuant to Article 3 TEU, the Instrument should support activities which ensure the protection of children at risk of harm at the external borders. In particular, wherever possible, special attention should be given by Member States when implementing actions to the identification, immediate assistance and referral to protection services of vulnerable persons, in particular children and unaccompanied minors.*
- (14) To ensure a uniform and high-quality external border control and to facilitate legitimate travel across external borders within the framework of the EU internal security strategy, the Instrument should contribute to the development of a European common integrated border management system, which includes all the measures involving policy, legislation, systematic co-operation, the distribution of the burden, *assessment of the situation and changing circumstances regarding crossing points for irregular migrants*, personnel, equipment and technology taken at different levels by the competent authorities of the Member States, acting in co-operation with the Frontex Agency, with third-countries and, where necessary, with other actors, *in particular EUROPOL and the Agency for the Operational Management of Large-Scale IT-Systems*, utilising, inter alia, the four-tier border security model and integrated risk analysis of the European Union.
- (15) In accordance with Protocol No 5 to the 2003 Act of Accession<sup>1</sup> on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, the Instrument should bear any additional cost incurred in implementing the specific provisions of the Union *acquis* covering such transit, i.e. Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual<sup>2</sup> and Council Regulation (EC) No 694/2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003<sup>3</sup>. The need for continued financial support for foregone fees, however, should be dependent upon the visa regime of the Union in force with the Russian Federation.

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<sup>1</sup> OJ L 236, 23.9.2003, p. 946.

<sup>2</sup> OJ L 99, 17.4.2003, p. 8.

<sup>3</sup> OJ L 99, 17.4.2003, p. 15.

- (16) It should include support for national measures and cooperation between Member States in the area of visa policy and other pre-frontier activities that take place prior to external border controls, ***while making full use of the Visa Information System (VIS)***. The efficient management of activities organised by the services of the Member States in third countries is in the interest of the common visa policy as part of a multi-layered system aimed at facilitating legitimate travel and tackling ***illegal*** immigration into the European Union, and constitutes an integral part of the common integrated border management system.
- (17) Moreover, it should support measures in the territory of the Schengen countries as part of the development of a common integrated border management system which strengthens the overall functioning of the Schengen area.
- (18) The Instrument should also support the development by the European Union of IT systems, ***based on current and/or new systems***, which would equip Member States with the tools to manage the movement of third-country nationals across borders more efficiently and to ensure a better identification and verification of travellers, ***thereby facilitating travel and enhancing border security***. To this end, a programme, ***in line with the Information Management Strategy for EU Internal Security<sup>1</sup>***, should be established ***with the aim*** to cover ***costs*** for the development of both the central and national components of such systems, ensuring technical consistency, ***interoperability with other Union IT systems***, cost savings and a smooth implementation in the Member States. ***The IT systems financed in accordance with this Regulation should comply with fundamental rights, including the protection of personal data.***
- (18a) Member States should devote to EUROSUR the necessary funding in order to ensure the good functioning of the system.***
- (19) To address immediately unforeseen migratory pressure and ***risks*** to border security it should be possible to provide emergency assistance in accordance with the framework set out in Regulation (EU) No .../... [laying down 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].
- (20) Moreover, in the interest of enhanced solidarity in the Schengen area as a whole, where weaknesses or possible ***risks*** are identified, notably following a Schengen evaluation, the Member State concerned should follow the matter up adequately by using resources under its programmes by priority, where applicable, complementing emergency assistance measures.
- (21) To reinforce solidarity and responsibility sharing, Member States should be encouraged to use a part of the resources available under the programmes for specific priorities defined by the Union, such as the purchase of technical equipment needed by the Frontex Agency and the development of consular co-operation for the Union.
- (22) To safeguard the application of the Schengen *acquis* throughout the Schengen area, the implementation of the Regulation on the establishment of an evaluation and

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<sup>1</sup> Council doc. 16637/09

monitoring mechanism to verify the application of the Schengen *acquis*<sup>1</sup> should also be supported under this Regulation, as an essential tool to *facilitate the implementation of Union policies in the area of Freedom, Justice and Security by ensuring a high level of external border protection and the absence of border controls within the Schengen area.*

- (23) In light of the experiences gained with the External Borders Fund and the development of the SIS **II** and VIS, it is considered appropriate to allow for *a certain degree of flexibility* regarding possible transfers of resources between the different means of implementation of the objectives pursued under the Instrument, without prejudice to the principle of ensuring from the start a critical mass and financial stability for the programmes and the operating support for Member States *and without prejudice to the scrutiny of the budget authority.*
- (24) In the same vein, the scope of the actions and the ceiling for resources which remain available to the Union ("Union actions") should be increased to enhance the capacity of the Union to carry out in a given budget year multiple activities on the management of external borders and the common visa policy in the interest of the Union as a whole, when and insofar as the needs arise. Such Union actions include studies and pilot projects to further the policy and its application, *training of border guards in the protection of human rights*, measures or arrangements in third countries addressing migratory pressures from those countries in the interest of an optimal management of migration flows into the Union and an efficient organisation of the related tasks at external borders and consulates.
- (25) Measures in and in relation to third countries supported through this Instrument should be taken in synergy and coherence with other actions outside the EU supported through Union external assistance instruments, both geographic and thematic. In particular, in implementing such actions full coherence should be sought with the principles and general objectives of the Union external action and foreign policy related to the country or region in question. They should not be intended to support actions directly development-oriented and they should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence will also be sought with the Union humanitarian policy, in particular as regards the implementation of emergency measures.
- (26) Funding from the Union budget should concentrate on activities where the Union intervention can bring additional value compared to action of Member States alone. As the Union is in a better position than Member States to provide a framework for expressing Union solidarity in border control, visa policy and the management of migration flows, and to provide a platform for the development of common IT systems underpinning these policies, financial support provided under this Regulation contributes in particular to strengthening national and European capabilities in those areas.
- (26a) *The allocation of basic amounts to Member States should be established in this Regulation. The basic amount for each Member State should be calculated based*

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<sup>1</sup> COM (2011) 559 final

*on the External Borders Fund allocations for each Member State in the years 2010-2012 and dividing the figure obtained by the total of the appropriations available for shared management for these three years. The calculations were made in accordance with the distribution criteria laid down in Articles 14 and 15 of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund.*

- (26b) *In the application of the Regulation, including the preparation of delegated acts, the Commission should consult experts from all Member States.*
- (26c) *There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources.*
- (26d) *Utmost transparency, accountability and democratic scrutiny for innovative financial instruments and mechanisms that involve the Union budget should be ensured.*
- (26e) *The Commission should monitor the implementation of the Instrument, in accordance with the relevant provisions of Regulation (EU) No .../... [Horizontal Regulation], with the aid of key indicators for evaluating results and impacts. The indicators, including relevant baselines, should provide the minimum basis for evaluating the extent to which the objectives of the Instrument have been achieved.*
- (27) In order to supplement or amend provisions in this Instrument regarding the definition of specific actions under the national programmes, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (28) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of *all* relevant documents to the European Parliament and *to the* Council.
- (29) In order to ensure a uniform, efficient and timely application of the provisions on operating support laid down in this Regulation ■, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>1</sup>.
- (30) Since the objective of this Regulation, namely to provide for solidarity and responsibility sharing between Member States and the Union in the management of external borders and visa policy, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that

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<sup>1</sup> OJ L 55, 28.2.2011, p. 13.

objective.

- (31) Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013<sup>1</sup> should be repealed.
- (32) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* which falls within the areas referred to in Article 1, Points A and B 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*<sup>2</sup>.
- (33) 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, Points A and B of Council 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<sup>3</sup>.
- (34) 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, Points A and B of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU on the conclusion, on behalf of the Union, of the Protocol<sup>4</sup>.
- (35) Under the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union, with the exception of "measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas". This proposal builds on the Schengen *acquis*, and under Article 4 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 shall decide within a period of six months after the Council has decided on

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<sup>1</sup> OJ L 144, 6.6.2007, p. 22

<sup>2</sup> OJ L 176, 10.7.1999, p. 31.

<sup>3</sup> OJ L 53, 27.2.2008, p. 1.

<sup>4</sup> OJ L 160, 18.6.2011, p. 19.

a proposal or initiative to build upon the Schengen *acquis* under the Provisions of Title V of Part Three of the Treaty on the Functioning of the European Union whether it will implement this Regulation in its national law.

- (36) This Regulation constitutes a development of the provisions of the Schengen *acquis* 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 *acquis* and the subsequent Council Decision 2004/926/EC of 22 December 2004 on the putting into effects of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (37) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2001/192/EC of 28 February 2002 concerning the request of Ireland to take part in some of the provisions of the *Schengen acquis*. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (37a) *It is appropriate to align the duration of this Instrument with the Council Regulation (EU) No .../...\*. Therefore, this Instrument should apply as from 1 January 2014,*

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### **Purpose and scope**

1. This Regulation establishes the Instrument for financial support for the management of external borders and the common visa policy (hereinafter referred to as the "Instrument") as part of the Internal Security Fund (hereinafter referred to as "the Fund").  
  
Jointly with Regulation (EU) .../... [establishing as part of the Internal Security Fund, the instrument for financial support for police co-operation, preventing and combating crime, and crisis management], this Regulation establishes for the period from 1 January 2014 to 31 December 2020 the Internal Security Fund.
2. This Regulation lays down:
  - (a) the objectives of financial support and the eligible actions;
  - (b) the general framework for the implementation of eligible actions;

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\* *Council Regulation (EU) No .../... laying down the multiannual financial framework for the years 2014-2020 (OJ L ...).*

- (c) the resources made available under this Instrument from 1 January 2014 to 31 December 2020 and their distribution;
  - (d) the scope and purpose of the different specific means through which the expenditure for the management of the external borders and the common visa policy is financed.
3. This Regulation provides for the application of the rules set out in Regulation (EU) No .../... [Horizontal Regulation].

## *Article 2*

### **Definitions**

For the purposes of this Regulation the following definitions shall apply:

- (a) 'external borders' means the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports to which the provisions of Union law on the crossing of external borders apply, whether these borders are temporary or not;
- (aa) ***'common Union standards' means the application of operational measures in a common and unfragmented manner to obtain a high and uniform level of security in the domain of border control and visa according to the Schengen Borders Code, Visa Code, VIS Regulation, Frontex Regulation, Regulation on local border traffic, Schengen catalogue for external border control, the Practical Handbook for border guards, the Handbook on visa, the EUROSUR Handbook and any other Regulations and guidelines to be adopted at the Union level on border control and visa;***
- (b) 'temporary external borders' means:
  - the common border between a Member State fully implementing the Schengen *acquis* and a Member State bound to apply the Schengen *acquis* in full, in conformity with its Act of Accession, but for which the relevant Council Decision authorising it to fully apply that *acquis* has not entered into force;
  - the common border between two Member States bound to apply the Schengen *acquis* in full, in conformity with their respective Acts of Accession, but for which the relevant Council Decision authorising them to fully apply that *acquis* has not yet entered into force;
- (c) 'border crossing point' means any crossing point authorised by the competent authorities for the crossing of external borders as notified in accordance with Article 34(2) of Regulation (EC) No 562/2006;
- (d) 'Schengen evaluation and monitoring mechanism' means the verification of the correct application of the Schengen *acquis* as laid down in Regulation (EU) No .../...<sup>1</sup>;

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<sup>1</sup> COM(2011)559 final



- (e) 'emergency situation' means a situation **resulting from an** urgent and exceptional pressure where a large or disproportionate number of third-country nationals cross or are expected to cross the external border of one or more Member States **or any other duly substantiated emergency situation requiring urgent action at external borders**;
- (f) 'external borders section' means **the whole or a part of the external land or sea border of a Member State as defined by national legislation or as determined by the national coordination centre or any other responsible national authority for the purpose of the implementation of Regulation (EU) No 1052/2013 of the European Parliament and the Council<sup>1</sup>.**

### Article 3

#### Objectives

1. The general objective of the Instrument shall be to contribute to ensuring a high level of security in the Union **while facilitating legitimate travel, through a uniform and high level of control of the external borders and the effective processing of Schengen visas, in compliance with the Union's commitment to fundamental freedoms and human rights.**
2. Within the general objective set out in paragraph 1, the Instrument shall contribute - in line with the priorities identified in relevant EU Strategies, programmes, threat **assessments** and risk assessments - to the following specific objectives:
  - (a) supporting a common visa policy to facilitate legitimate travel, **provide a high quality of service to visa applicants**, ensure equal treatment of third country nationals and tackle **illegal immigration**.
  - (b) supporting **integrated** borders management, **including promoting further harmonisation of border management-related measures in accordance with common Union standards and through sharing of information between Member States and between Member States and the Frontex Agency**, to ensure, on one hand, a **uniform and high level of control and protection of the external borders, including by the tackling of illegal immigration**, and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*, **while guaranteeing access to international protection for those needing it, in accordance with the obligations contracted by the Member States in the field of human rights, including the principle of non-refoulement.**

The achievement of **the specific objectives of this Fund** shall be **evaluated in accordance with Article 50(2) of Regulation (EU) No .../... [Horizontal**

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<sup>1</sup> **Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).**

*Regulation] using common indicators, as set out in Annex IV and programme-specific indicators included in national programmes.*

3. To achieve these objectives, the Instrument shall contribute to the following operational objectives:
- (a) promoting the development, **■** implementation *and enforcement* of policies *with a view to* ensuring the absence of any controls on persons, whatever their nationality, when crossing the internal borders, *and to carrying out* checks on persons and monitoring efficiently the crossing of external borders;
  - (b) gradually establishing an integrated management system for external borders, *based on solidarity and responsibility, in particular by means of:*
    - the reinforcement of *external border checks and surveillance systems and of* interagency co-operation between *border guards, customs, migration, asylum* and law enforcement authorities of Member States at the external borders, *including in the maritime border area;*
    - measures within the territory *relating to the management of external borders* and the necessary flanking measures *on* document security, identity management *and the interoperability of acquired technical equipment;*
    - *any measures also contributing to the prevention and fight against cross-border crime at external borders relating to the movement of persons, including trafficking of human beings and human smuggling;*
  - (c) promoting the development and implementation of the common policy on visas and other short-stay residence permits, *and of different forms of* consular co-operation *in order to ensure better consular coverage and harmonised practices on visa issuing;*
  - (d) setting up and running IT systems, their communication infrastructure and equipment *that support* the *common visa policy, border checks and border surveillance* at the external borders of the Union *and fully respect personal data protection legislation;*
  - (da) *reinforcing the situational awareness at the external borders and the reaction capabilities of Member States;*
  - (e) ensuring the efficient and uniform application of the Union's *acquis* on borders and visa, including the *effective* functioning of the Schengen evaluation and monitoring mechanism;
  - (f) reinforcing *actions by the Member States contributing to enhancing* the co-operation between Member States operating in third countries as regards the flows of third-country nationals into the territory of Member States, *including prevention and tackling of illegal immigration*, as well as the co-operation with third countries in *these regards in full coherence with the objectives and principles of Union external action and humanitarian policy.*

3a. *Actions funded under this Instrument shall be implemented in full compliance*

*with fundamental rights and human dignity. In particular, actions will have to comply with the provisions of the Charter of Fundamental Rights of the European Union, European data protection rules, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the fair treatment of third country nationals, the right of asylum and international protection, the principle of non-refoulement and the international obligations of the Union and Member States arising from the international instruments, for example the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 (“the Geneva Convention”), to which they are signatory.*

*In particular, wherever possible, special attention should be given by Member States when implementing actions to the identification, immediate assistance and referral to protection services of vulnerable persons, in particular children and unaccompanied minors.*

- 3b. *When implementing actions funded under this Instrument which are related to maritime border surveillance, Member States will have to pay special attention to their obligations under international maritime law to render assistance to persons in distress. In this regard, equipment and systems supported under the Fund may be used to address search and rescue situations which may arise during a border surveillance operation at sea thereby contributing to ensuring the protection and saving the lives of migrants.*
4. The Instrument shall also contribute to the financing of technical assistance at the initiative of the Member States and the Commission.

#### Article 4

##### Eligible actions

1. Within the objectives defined in Article 3, and in the light of the agreed conclusions of the policy dialogue as provided for in Article 13 of Regulation (EU) No .../... [Horizontal Regulation] *and in line with the objectives of the national programme defined in Article 9, this* Instrument shall support actions in or by Member States and in particular *those from* the following list:
- (a) **■** infrastructures, buildings and systems required at border crossing points *and for surveillance between border crossing points to prevent and tackle unauthorised border crossings, illegal immigration and cross-border criminality as well as to guarantee smooth travel flows;*
  - (b) operating equipment, means of transport and communication systems required for effective *and secure* border control and the detection of persons **■** ;
  - (c) IT *and communication* systems for *efficient* management of migration flows across borders, *including investments in existing and future systems;*
  - (d) infrastructures, buildings, *communication and IT systems* and operating equipment required for the processing of visa applications and consular co-

operation, as well as other actions aimed at improving the quality of service for the visa applicants;

- (da) *training regarding the use of the equipment and systems referred to in point (b), (c) and (d) and the promotion of quality management standards and training of border guards, including where appropriate in third countries, regarding the execution of their surveillance, advisory and control tasks with respect to international human rights law, including the identification of victims of human trafficking and people smuggling;*
- (e) *secondment of Immigration Liaisons Officers and document advisers in third countries and the exchange and secondment of border guards between Member States or between a Member State and a third country;*
- (f) *studies, training, pilot projects and other actions gradually establishing an integrated management system for external borders as referred to in Article 3(3) including actions aiming to foster interagency cooperation either within Member States or between Member States and actions relating to the interoperability and harmonisation of border management systems;*
- (g) *studies, pilot projects and actions aiming to implement the recommendations, operational standards and best practices resulting from the operational cooperation between Member States and Union Agencies.*

2. Within the objectives defined in Article 3, *and in the light of the agreed conclusions of the policy dialogue as provided for in Article 13 of Regulation (EU) No .../... [Horizontal Regulation] and in line with the objectives of the national programme defined in Article 9*, this Instrument shall support actions in relation to and in third countries and in particular the following:

- (a) information systems, tools or equipment for sharing information between Member States and third countries;
- (b) actions *relating to* operational co-operation between Member States and third countries, including joint operations;
- (ba) *projects in third countries aimed at improving surveillance systems to ensure cooperation with the EUROSUR;*
- (c) studies, *seminars, workshops, conferences*, training, equipment and pilot projects to provide ad hoc technical and operational expertise to third countries;
- (d) studies, *seminars, workshops, conferences*, training, equipment and pilot projects implementing specific recommendations, operational standards and best practices, resulting from the operational co-operation between Member States and Union agencies in third countries.

*Coordination as regards actions in and in relation to third countries shall be ensured by the Commission and the Member States, together with the European External Action Service, as set out in Article 3(4a) of Regulation (EU) No .../... [the Horizontal Regulation].*

3. Actions referred to in point (a) of paragraph 1 are not eligible at temporary external borders.
4. Actions related to the temporary and exceptional reintroduction of border control at internal borders as referred to in the Schengen Borders Code are not eligible.
5. *Actions of which the exclusive aim or effect is the control of goods are not eligible.*

## CHAPTER II

### FINANCIAL AND IMPLEMENTATION FRAMEWORK

#### Article 5

##### Global resources and implementation

1. The global resources for the implementation of this Regulation shall be EUR 2 760 million *in current prices*.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Framework.
3. The global resources shall be implemented through the following means:
  - (a) national programmes, in accordance with Articles 9 and 12;
  - (b) operating support, within the framework of the national programmes and under the conditions laid down in Article 10;
  - (c) the functioning of the Special Transit Scheme, in accordance with Article 11;
  - (d) Union actions, in accordance with Article 13;
  - (e) emergency assistance, in accordance with Article 14;
  - (f) the implementation of a programme for setting up IT systems supporting the management of migration flows across the external borders of the Union under the conditions laid down in Article 15;
  - (g) technical assistance in accordance with Article 16.
4. The budget allocated under the Instrument *to Union actions referred to in Article 13, to emergency assistance referred to in Article 14 and to technical assistance referred to in Article 16(1)* shall be implemented under *direct* management in accordance with Article 58(1)(a) of Regulation (EU, Euratom) No 966/2012 .

*The budget allocated to national programmes referred to in Article 9, to operating support referred to in Article 10 and to the functioning of the Special Transit Scheme referred to in Article 11, shall be implemented under shared management in accordance with Article 58(1)(b) of Regulation (EU, Euratom) No 966/2012.*

*The budget allocated to countries associated with the implementation, application and development of the Schengen acquis referred to in paragraph 7 of this Article shall be implemented under indirect management in accordance with Article 58(1)(c)(i) of Regulation (EU, Euratom) No 966/2012.*

The method(s) of implementation of the budget for the programme on the development of IT systems *based on current and/or new systems* shall be set out in the *relevant Union legislation subject to its adoption*.

5. The global resources shall be used as follows:

- (a) EUR **1 551** million for the national programmes of Member States;
- (b) EUR **791** million for *developing* IT systems *based on current and/or new systems* supporting the management of migration flows across the external borders of the Union, *subject to the adoption of the relevant Union legislation*;

*In case the amount referred to in Article 5(5)(b) is not allocated or spent, the Commission shall, by means of delegated act in accordance with Article 17 re-allocate it to one or more of the activities referred to in Article 6(1)(b) and (c) and Article 5(5)(d). This delegated act should include an assessment of the evolution of the relevant IT systems referred to in the first sentence of this paragraph including the implementation of the budget and expected unspent amounts. This re-allocation can take place following the adoption of the relevant legal bases or at the occasion of the mid-term review referred to in Article 8.*

- (c) EUR **154** million for the Special Transit Scheme;
- (d) EUR **264** million for Union actions, emergency assistance and technical assistance at the initiative of the Commission, *of which at least 30 % shall be used for Union actions*.

6. Jointly with the global resources established for Regulation (EU) No ... /... [establishing as part of the Internal Security Fund, the instrument for financial support for police co-operation, preventing and combating crime, and crisis management], the global resources available for this Regulation as established in paragraph 1, constitute the financial envelope for the Internal Security Fund and serve as the prime reference for the budgetary authority during the annual budgetary procedure within the meaning of Point 17 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management<sup>1</sup>.

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

8. Arrangements shall be concluded on the financial contributions by these countries to this 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

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<sup>1</sup> COM(2011)403 final

resources available from the Union budget referred to in paragraph 1.

#### Article 6

##### Resources for eligible actions in the Member States

1. EUR **1 551** million shall be allocated to the Member States indicatively as follows:
  - (a) EUR **1 276** million, as indicated in Annex I;
  - (b) EUR **147** million, based on the results of the mechanism described in Article 7;
  - (c) in the framework of the mid term review and for the period as of budget year 2018, EUR **128** million, the remainder of the available appropriations under this Article or another amount, as determined pursuant to paragraph 2, based on the results of the risk analysis and the mechanism laid down in Article 8.
- 1a. Each Member State shall allocate the basic amounts for national programmes indicated in Annex I as follows:*
  - (a) *at least 10% for actions relating to Article 9(2)(a);*
  - (b) *at least 25 % for actions relating to Article 9(2)(b);*
  - (c) *at least 5 % for actions relating to Article 9(2)(c), (d), (da) and (db).*

*Member States may depart from those minimum percentages provided that an explanation is included in the national programme as to why allocating resources below this level does not jeopardise the achievement of the objective. That explanation will be assessed by the Commission in the context of the approval of national programmes as referred to in Article 9(2).*
- 1b. Member States shall devote to EUROSUR the necessary funding in order to ensure the good functioning of this system.*
2. To address properly the objectives under this Regulation in case of unforeseen or new circumstances and/or to ensure effective implementation of funding available under this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 17 to adjust the indicative amount laid down in point (c) of paragraph 1.
3. Member States which accede to the Union in the period 2012-2020 shall not benefit from allocations for national programmes under this Instrument as long as they benefit from a temporary instrument of the Union which supports the beneficiary Member States to finance actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visa and external border control.

#### Article 7

##### Resources for specific actions

1. Member States may, in addition to their allocation calculated in accordance with

point (a) of Article 6(1), receive an additional amount, provided that it is earmarked as such in the *national* programme and shall be used to achieve specific actions listed in Annex II.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 17 for the revision of the specific actions listed in Annex II, if deemed appropriate, *including in the context of the mid term review*. On the basis of the new specific actions, Member States may receive an additional amount as laid down in paragraph 1, subject to available resources.
3. The additional amounts under this Article shall be allocated to the Member States concerned in the individual financing decision approving or revising their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No ..../... [Horizontal Regulation].

## *Article 8*

### **Resources in the framework of the mid term review**

1. In order to allocate the amount indicated in point (c) of Article 6(1), by 1 June 2017 the Commission shall *take into account the burden of Member States in border management, including search and rescue activities which may arise during border surveillance operations at sea and assessment reports drawn up as part of the Schengen evaluation and monitoring mechanism, as well as* threat levels at the external borders *of Member States* for the period 2017-2020 *as well as factors* that affected security at the external borders of the Member States in 2014-2016 **█**. *The abovementioned amount shall be distributed between Member States based on the weighing of the following categories of borders:*

**█**

- (a) *45 % of the amount indicated in point (c) of Article 6 and taking in account the provision of paragraph 3 of this Article, for external maritime borders;*

**█**

- (b) *38 % of the amount indicated in point (c) of Article 6 and taking in account the provision of paragraph 3 of this Article, for external land borders;*

**█**

- (c) *17 % of the amount indicated in point (c) of Article 6 and taking in account the provision of paragraph 3 of this Article, for airports.*

- █**
- 1a. *For the external maritime and land borders the calculation of the amount will be based on the length of sections of the external border multiplied by a threat level (minimum, normal, medium, high) for each border section, as follows:*

- (a) *coefficient 0,5 for minimum threat;*

- (b) *coefficient 1 for normal threat;*



- (c) *coefficient 3 for medium threat;*
  - (d) *coefficient 5 for high threat.*
- 1b.** *For the airports, the allocation will be calculated for each Member State as follows:*
- (a) *50% on the basis of the number of persons crossing the external borders;*
  - (b) *50% on the basis of the number of third-country nationals refused entry at the external border.*
- 1c.** *In accordance with the Frontex Agency's risk analysis report and in consultation with the Frontex Agency, and where relevant other Union agencies, the Commission shall set-up threat levels for each external border section of the Member States for the period 2017-2020. The threat levels will be based on the following factors:*
- (a) *burden in border management at the external borders;*
  - (b) *factors that affected security at the external borders of the Member States in the period 2014-2016;*
  - (c) *changes in Union policies, e.g. visa policies;*
  - (d) *possible future trends in migratory flows and risks of unlawful activities related to the irregular crossing of persons of the external borders, as well as;*
  - (e) *likely political, economic and social developments in third countries, and in particular, neighbouring countries.*

*Before issuing its report determining the threat levels, the Commission will have an exchange of views with the Member States.*

- 2.** For the purpose of the distribution of resources under paragraph 1:
- (a) the line between the areas referred to in Article 1 of Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession, but not the maritime border north of that line, shall be taken into account even though it does not constitute an external land border for as long as the provisions of Article 1 of Protocol 10 on Cyprus of the 2003 Act of Accession remain applicable;
  - (b) external maritime borders shall mean the outer limit of the territorial sea of the Member States as defined according to Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, in cases where long range operations on a regular basis are required in order to prevent **unauthorised border crossings**, this shall be the outer limit of high threat areas. This shall be determined by taking into account the relevant data on these operations in 2014-2016 as provided by the Member States in question.
- 3.** Moreover, following invitation from the Commission by 1 June 2017, Member States may receive an additional allocation, provided that it is earmarked as such in the

programme and shall be used to achieve specific actions to be established in the light of the priorities of the Union at that time.

4. The additional amounts under this Article shall be allocated to the Member States concerned in individual financing decision approving or revising their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No .../... [Horizontal Regulation].

## Article 9

### National programmes

1. The national programme to be prepared, ***taking into account the outcome of the policy dialogue referred to in Article 13 of Regulation (EU) No .../... [Horizontal Regulation]***, under this Instrument and ***the one*** to be prepared under Regulation (EU) No .../... [establishing as part of the Internal Security Fund, the instrument for financial support for police co-operation, preventing and combating crime, and crisis management] shall be proposed to the Commission as one single national programme for the Fund and in accordance with Article 14 of Regulation (EU) No .../... [Horizontal Regulation].
2. Under the national programmes, to be examined and approved by the Commission pursuant to Article 14 of Regulation (EU) No .../... [Horizontal Regulation], Member States shall, ***within the objectives defined in Article 3 and taking into account the outcome of the dialogue referred to in Article 13 of Regulation (EU) No .../... [Horizontal Regulation]***, pursue in particular objectives ***from the following list***:
  - (a) developing the European Border Surveillance System (EUROSUR) in accordance with Union legislation and guidelines;
  - (b) supporting and expanding the existing capacity at national level ***in visa policy and*** in the management of the external borders ***and of measures within the area of free movement relating to the management of external borders***, bearing in mind ***in particular***, new technology, developments and/or standards in relation to the management of migration flows;
  - (c) supporting the further development of the management of migration flows by consular and other services of the Member State in third countries, ***including the setting up of consular co-operation mechanisms*** with a view to facilitating legitimate travel ***in accordance with the law of the Union or the Member State concerned*** and preventing ***illegal immigration*** into the Union;
  - (d) reinforcing integrated border management by testing and introducing new tools, interoperable systems and working methods which aim to enhance information exchange within the Member State or to improve inter- agency co-operation;

***(da) developing projects with a view to ensuring a uniform and high level of***

*control of the external border in accordance with common Union standards and aiming at increased interoperability of border management systems between Member States;*

(db) *supporting actions, following, the consultation with the Frontex Agency, aimed at promoting further harmonisation of border management and in particular technological capabilities, in accordance with common Union standards;*

(e) ensuring the correct and uniform application of the Union *acquis* on border control and visa in response to weaknesses identified at European level, as evinced in results established in the framework of the Schengen evaluation mechanism;

(f) ***building*** the capacity to face upcoming challenges including present and future threats and pressures at the external borders of the Union, taking into account in particular ■ analysis *carried out by relevant Union agencies.*

3. *In pursuit of the objectives defined in paragraph 2, Member States may support under their national programmes actions in and in relation to third countries including through information sharing and operational cooperation.*

4. *The Commission shall consult the Frontex Agency on draft national programmes, in particular on the activities financed under the operating support, submitted by the Member States in order to develop complementarity between the Frontex Agency's mission and the responsibilities of the Member States for the control and surveillance of external borders as well as to ensure consistency and to avoid cost inefficiency.*

#### Article 10

##### **Operating support under the national programmes of the Member States**

1. A Member State may use up to **40** % of the amount allocated under the Instrument to its national programme to finance operating support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union. ■

2. Operating support shall be provided when the following conditions are met by the Member State concerned:

(a) compliance with the Union *acquis* on borders and visa;

(aa) ***compliance with the objectives of the national programme;***

(ab) ***compliance with common Union standards in order to enhance coordination between Member States and avoid duplication, fragmentation and cost inefficiency in the border control domain.***

■  
3. To that end, before the approval of the national programme, the Commission shall

assess the baseline situation in Member States which have indicated their intention to request operating support *taking into account, where relevant, Schengen evaluation reports*.

The findings of the Commission shall be the subject of an exchange of views with the Member State concerned.

Following the exchange of views, the acceptance by the Commission of budget support within the national programme of a Member State can be made conditional upon the programming and completion of a number of actions aiming to ensure that the conditions laid down in paragraph 2 are fully met by the time the budget support is provided.

4. Operating support shall be concentrated on specific tasks and/or services and shall be focused on the objectives as laid down in Annex III. It shall entail full reimbursement of the expenditure incurred to accomplish the tasks and/or services defined in the national programme, within the financial limits set by the programme and the ceiling laid down in paragraph 1.
5. Operating support shall be the subject of monitoring and exchange of information between the Commission and the Member State concerned in relation to the baseline situation in the Member State, the objectives and targets to be accomplished and the indicators to measure progress.
6. The Commission shall set out, by implementing acts, reporting procedures on the application of this provision and any other practical arrangements, to be made between Member States and the Commission to comply with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).

#### *Article 11*

#### **Operating support for the Special Transit Scheme**

1. The Instrument shall provide support to compensate for foregone fees from visas issued for the purpose of transit and additional costs incurred in implementing the Facilitated Transit Document (FTD) and the Facilitated Rail Transit Document (FRTD) scheme in accordance with Council Regulation (EC) No 693/2003 and Council Regulation (EC) No 694/2003.
2. The resources allocated to Lithuania pursuant to paragraph 1 shall not exceed EUR **154** million for the period 2014-2020 and shall be made available as additional specific operating support for Lithuania.
3. For the purpose of paragraph 1, additional costs means costs which result directly from the specific requirements of implementing the operation of the Special Transit Scheme and which are not generated as a result of the issuing of visas for the purpose of transit or other purposes.

The following types of additional cost shall be eligible for financing:

- (a) investment in infrastructures;
  - (b) training of staff implementing the special transit scheme;
  - (c) additional operational costs, including salaries of staff specifically implementing the special transit scheme.
4. The foregone fees referred to in paragraph 1 shall be calculated on the basis of the level of visa fees and the visa fee waivers established by the Visa Facilitation Agreement between the European Union and the Russian Federation, within the financial framework set out in paragraph 2.
  5. The Commission and Lithuania shall review the application of this Article in case of changes which have an impact on the existence and/or functioning of the Special Transit Scheme.
  6. The Commission shall set out, by implementing acts, reporting procedures on the application of this provision and any financial and other practical arrangements to be made between Lithuania and the Commission to comply with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).
  7. To ensure the smooth functioning of the Special Transit Scheme the Commission may make specific interim payment arrangements which derogate from the provisions of Regulation (EU) No ..../... [Horizontal Regulation].

#### *Article 12*

#### **Programming in line with the outcomes of the Schengen evaluation and monitoring mechanism**

Following a Schengen evaluation report, as adopted in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, the Member State concerned shall examine, together with the Commission and the Frontex Agency, how to address the findings, ***including any deficiencies***, and implement the recommendations within the framework of its national programme.

Where necessary, a Member State shall revise its national programme ***in accordance with Article 14(8) of Regulation (EC) No. .../.... [Horizontal Regulation]*** to take into account the findings and recommendations.

***The financing of corrective actions shall be a priority.*** In dialogue with the Commission and the Frontex Agency, ***the Member State concerned*** shall reallocate resources under its programme, including those programmed for operating support, and/or introduce or amend actions aiming to remedy the weaknesses in accordance with the findings and recommendations of the Schengen evaluation report.

#### *Article 13*

#### **Union Actions**

1. At the Commission's initiative, the Instrument may be used to finance transnational actions or actions of particular interest to the Union ('Union actions') concerning the general, specific and operational objectives referred to in Article 3.
2. To be eligible for funding, Union actions shall in particular pursue the following objectives:
  - (a) to support preparatory, monitoring, administrative and technical *activities*, required to implement external borders and visa policies, including to *strengthen the governance of the Schengen area by developing and implementing the evaluation mechanism* as established by the Regulation (EU) No .../2013 [on the establishment of an evaluation and monitoring mechanism] to verify the application of the Schengen *acquis* and the Schengen Borders Code *in particular mission expenditure for experts of the Commission and the Member States participating in on site visits*;
  - (b) to improve the knowledge and understanding of the situation prevailing in the Member States *and third countries* through analysis, evaluation and close monitoring of policies;
  - (c) to support the development of statistical tools, *including common statistical tools*, and methods and common indicators;
  - (d) to support and monitor the implementation of Union law and Union policy objectives in the Member States, and assess their effectiveness and impact, *including with regard to the respect of human rights and fundamental freedoms, as far as the scope of this instrument is concerned*;
  - (e) to promote networking, mutual learning, identification and dissemination of *best* practices and innovative approaches *amongst different stakeholders* at European level;
  - (ea) *to promote projects aiming at harmonisation and interoperability of border management-related measures in accordance with common Union standards with a view to developing an integrated European border management system*;
  - (f) to enhance awareness of Union policies and objectives among stakeholders and the general public, including corporate communication on the political priorities of the Union;
  - (g) to boost the capacity of European networks to *assess*, promote, support and further develop Union policies and objectives;
  - (h) to support particularly innovative projects developing new methods and/or technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating research projects;
  - (i) to support actions in relation to and in third countries as referred to in Article 4(2).
3. Union actions shall be implemented in accordance with Article 7 of Regulation (EU)

No ...../... [Horizontal Regulation].

#### Article 14

##### Emergency assistance

1. The Instrument shall provide financial assistance to address urgent and specific needs in the event of an emergency situation as defined in point (e) of Article 2.
2. Emergency assistance shall be implemented in accordance with the mechanism laid down in Article 7 **and** 8 of Regulation (EU) No ...../... [Horizontal Regulation].

#### Article 15

##### Establishing a programme on the development of IT systems

The programme *on the development of the IT systems based on current and/or new systems* shall be implemented *subject to adoption of* the Union legislation defining *these* IT systems and their communication infrastructure with the aim, in particular, to improving the management and control of travel flows at the external borders by reinforcing checks while speeding up border crossings for regular travellers. *Where appropriate, synergies with existing IT systems should be sought in order to avoid double-spending.*

*The breakdown of the amount referred to in Article 5(5)(b) shall be made either in the relevant Union legislation or, following the adoption of the relevant bases, through a delegated act in accordance with Article 17.*

*The Commission shall inform the European Parliament and the Council of progress in developing those IT systems at least once a year and whenever appropriate.*

#### Article 16

##### Technical assistance

1. At the initiative and/or on behalf of the Commission, the Instrument may contribute up to EUR 1, 7 million annually for technical assistance to the Internal Security Fund in accordance with Article 10 of Regulation (EU) No ...../... [Horizontal Regulation].
2. At the initiative of a Member State, the Instrument may **finance** technical assistance **activities** in accordance with Article 20 of Regulation (EU) No ...../... [Horizontal Regulation]. *The amount set aside for technical assistance shall not exceed, for the period 2014–2020, 5 % of the total amount allocated to a Member State plus EUR 500 000.*

CHAPTER III  
FINAL PROVISIONS

*Article 17*

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in this Regulation shall be conferred on the Commission for a period of seven years from the entry into force of this Regulation. ***The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the seven year period.*** The delegation of powers shall be tacitly extended for ***a period of three years***, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in this Regulation may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Regulation shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

*Article 18*

**Committee procedure**

1. The Commission shall be assisted by the common Committee 'Asylum, Migration and Security' established by Article 55(1) of Regulation EU No ..../... [Horizontal Regulation].
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 19*

**Applicability of Regulation (EU) No ..../... [Horizontal Regulation]**



The provisions of Regulation (EU) No .../... [Horizontal Regulation] shall apply to this Instrument.

#### *Article 20*

##### **Repeal**

Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund shall be repealed with effect from 1 January 2014.

#### *Article 21*

##### **Transitional provisions**

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of the projects and annual programmes until their closure or the financial assistance approved by the Commission on the basis of Decision No 574/2007/EC or any other legislation applying to that assistance on 31 December 2013.
2. When adopting decisions on co-financing under this Instrument, the Commission shall take account of measures adopted on the basis of Decision No 574/2007/EC before [*date of publication in the Official Journal*] which have financial repercussions during the period covered by that co-financing.
3. Sums committed for co-financing approved by the Commission between 1 January 2011 and 31 December 2013 for which the documents required for closure of the actions have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission by 31 December 2017, giving rise to the repayment of amounts unduly paid.
4. Amounts relating to actions which have been suspended due to legal proceedings or administrative appeals having suspensory effect shall be disregarded in calculating the amount to be automatically decommitted.
5. ***Member States shall submit to the Commission by 30 June 2015 the evaluation report on the results and impact of actions co-financed under the Decision No 574/2007/EC concerning the period 2011–2013.***
6. ***The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions by 31 December 2015 the ex-post evaluation report under Decision No 574/2007/EC concerning the period 2011–2013.***

#### *Article 21*

##### **Review**

On the basis of a proposal of the Commission, the European Parliament and the Council shall

review this Regulation by 30 June 2020 at the latest.

*Article 22*

**Entry into force and application**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

***It shall apply from 1 January 2014.***

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX I

## Amounts constituting the basis for the national programmes of Member States

Member State/associated state	Minimum amount (a)	Fixed part distributed on basis of 2010-2012 average (b)	% 2010-2012 with Croatia (c)	allocations
AT	5 000 000	9 162 727	0,828 %	14 162 727
BE	5 000 000	12 519 321	1,131 %	17 519 321
BG	5 000 000	35 366 130	3,196 %	40 366 130
CH	5 000 000	13 920 284	1,258 %	18 920 284
CY	15 000 000	19 507 030	1,763 %	34 507 030
CZ	5 000 000	9 381 484	0,848 %	14 381 484
DE	5 000 000	46 753 437	4,225 %	51 753 437
DK	5 000 000	5 322 133	0,481 %	10 322 133
EE	5 000 000	16 781 752	1,516 %	21 781 752
ES	5 000 000	190 366 875	17,201 %	195 366 875
FI	5 000 000	31 934 528	2,886 %	36 934 528
FR	5 000 000	79 999 342	7,229 %	84 999 342
GR	5 000 000	161 814 388	14,621 %	166 814 388
HR	4 285 714	31 324 057	2,830 %	35 609 771
HU	5 000 000	35 829 197	3,237 %	40 829 197
IE				
IS	5 000 000	326 980	0,030 %	5 326 980
IT	5 000 000	151 306 897	13,672 %	156 306 897
LI	5 000 000	0	0,000 %	5 000 000
LT	5 000 000	19 704 873	1,780 %	24 704 873
LU	5 000 000	400 129	0,036 %	5 400 129

LV	5 000 000	<i>10 521 704</i>	0,951 %	15 521 704
MT	15 000 000	<i>38 098 597</i>	3,442 %	53 098 597
NL	5 000 000	<i>25 609 543</i>	2,314 %	30 609 543
NO	5 000 000	<i>9 317 819</i>	0,842 %	14 317 819
PL	5 000 000	<i>44 113 133</i>	3,986 %	49 113 133
PT	5 000 000	<i>13 900 023</i>	1,256 %	18 900 023
RO	5 000 000	<i>56 151 568</i>	5,074 %	61 151 568
SE	5 000 000	<i>6 518 706</i>	0,589 %	11 518 706
SI	5 000 000	<i>25 669 103</i>	2,319 %	30 669 103
SK	5 000 000	<i>5 092 525</i>	0,460 %	10 092 525
UK				
TOTAL	169 285 714	<i>1 106 714 286</i>	100,00 %	1 276 000 000

## ANNEX II

### List of specific actions

1. Setting up consular cooperation mechanisms between at least two Member States resulting in economies of scale as regards the *processing* of applications and the issuing of visas at consulates in accordance with the principles on co-operation laid down in the Visa Code, including common visa application centres.
2. Purchasing means of transport and operating equipment *that are considered* necessary for the *deployment during* joint operations by the Frontex Agency *and which shall be put at the disposal of the Frontex Agency in accordance with the criteria established in Article 7(5) 2nd and 3rd paragraph of Regulation (EU) No 1168/2011<sup>1</sup>.*

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<sup>1</sup> *OJ L 304, 22.11.2011, p.1.*

## ANNEX III

Objectives for operating support within the national programmes

Objective 1: promoting the development and implementation of policies ensuring the absence of any controls on persons, whatever their nationality, when crossing the internal borders, carrying out checks on persons and monitoring efficiently the crossing of external borders

- operations
- staff *costs, including for training*
- service costs, such as maintenance and repair
- upgrading / replacement of equipment
- real estate (depreciation, refurbishment)

Objective 2: promoting the development and implementation of the common policy on visas and other short-stay residence permits, including consular co-operation

- operations
- staff *costs, including for training*
- service costs, maintenance and repair
- upgrading / replacement of equipment
- real estate (depreciation, refurbishment)

Objective 3: setting up and running *secure* IT systems, their communication infrastructure and equipment supporting the management of migration flows, *including surveillance*, across the external borders of the Union

- operational management of SIS, VIS and new systems set up in the period
- staff *costs, including for training*
- service costs, such as maintenance and repair
- communication infrastructure and security *as well as data protection* related matters
- upgrading / replacement of equipment
- rental of secure premises and/or refurbishment

## ANNEX IV

### *List of common Indicators for the measurement of the Specific Objectives*

- (a) *Supporting a common visa policy to facilitate legitimate travel, ensure equal treatment of third country nationals and tackle illegal immigration*
- (i) *Number of consular cooperation activities developed with the help of the Fund*
- For the purposes of annual implementation reports, as referred to in Article 49 of Regulation (EU) No .../... [Horizontal Regulation], this indicator shall further be broken down in subcategories such as:*
- collocations, common application centres, representations, others*
- (ii) *Number of staff trained and number of training courses in common visa policy related aspects with the help of the Fund*
- (iii) *Number of specialised posts in third countries supported by the Fund*
- For the purposes of annual implementation reports, as referred to in Article 49 of Regulation (EU) No .../... [Horizontal Regulation], this indicator shall further be broken down in subcategories such as: ILOs, others*
- (iv) *Percentage and number of consulates developed or upgraded with the help of the Fund out of the total number of consulates*
- (b) *Supporting borders management, including through sharing information between Member States and between Member States and the Frontex Agency, to ensure, on one hand, a high level of protection of the external borders, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen acquis*
- (i) *Number of staff trained and number of training courses in borders management related aspects with the help of the Fund*
- (ii) *Number of border control (checks and surveillance) infrastructure and means developed or upgraded with the help of the Fund*
- For the purposes of annual implementation reports, as referred to in Article 49 of Regulation (EU) No .../... [Horizontal Regulation], this indicator shall further be broken down in subcategories such as: infrastructure, fleet (air, land, sea borders), equipment, others)*
- (iii) *Number of border crossings of the external borders through ABC gates supported from the Fund out of the total number of border crossings*
- (iv) *Number of national border surveillance infrastructure established/further developed in the framework of EUROSUR*
- For the purposes of annual implementation reports, as referred to in Article 49 of Regulation (EU) No .../... [Horizontal Regulation], this indicator shall further be broken down in subcategories such as:*

*National Coordination Centres, Regional Coordination Centres, Local Coordination Centres, other types of coordination centres*

(v) *Number of incidents reported by MS to the European Situational Picture*

*For the purposes of annual implementation reports, as referred to in Article 49 of Regulation (EU) No .../... [Horizontal Regulation], this indicator shall further be broken down in subcategories such as:*

- illegal immigration, including on incidents relating to a risk to the lives of migrants*
  - cross-border crime*
  - crisis situations.*
-



## EXPLANATORY STATEMENT

The current practice of fixing the annual allocations which Member States will receive for the whole 7-year period at the start of the MFF ensures continuity and predictability (proper programming). However, it is essentially a static approach which does not incentivise the Member States to implement actions which respond to EU priorities and does not allow the EU to respond to changing situations and priorities.

The mechanism chosen for the distribution and implementation of resources under the future home affairs Funds should reconcile the need for continuity and stability on the one hand and the need for flexibility and adaptation to change on the other hand.

### **Current situation under the External Borders Fund (EBF):**

Resources for Member States' annual programmes under the External Borders Fund are currently distributed on the basis of 4 criteria: 1) 30 % for external land borders (length and workload); 2) 35 % for external maritime borders (length and workload); 3) 20 % for airports (number and workload) and 15 % for consular offices (number and workload). Under the EBF, Member States are not allocated a minimum amount.

### **New Commission's proposal establishing, as part of the Internal Security Fund (ISF), the instrument for financial support for external borders and visa:**

#### **Shared management:**

EUR [ **2,000** ] million for the national programmes of Member States;

EUR [ **150** ] million for the Special Transit Scheme;

EUR [ **1,100** ] million for setting up the new IT systems supporting the management of migration flows across the external borders of the Union;

#### **Centralised management:**

EUR [ **270** ] million for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

### **The allocation mechanism for the national programmes proposed by the Commission is the following:**

*a) Basic amount:* EUR **1,200 M** is available for allocation to the Member States and Associated States as basic amounts. Each Member State and Associated State will receive a minimum amount of EUR 5 M (29 countries, total of EUR 145 M) because every country, regardless of its geographic location, is expected to have at least operating costs resulting from the implementation of the Schengen acquis (IT systems, biometric equipment at airports and consulates in accordance with Schengen Borders Code and Visa Code). The allocation of the remainder of the available envelope (EUR 1,055 M) is based on the average 2010-2012

allocations for the External Borders Fund because this is the period in which all countries, including RO and BU and Associated States received allocations.

EUR 150 M is set aside for the Special Transit Scheme which will be implemented by Lithuania.

**b) Flexible amount:** At the start of the MFF, a flexible amount EUR **450 M** will be distributed among the Member States and Associated States in addition to the basic amount. The amount received by each country would depend on its willingness to finance under its national programme actions that respond to specific EU priorities, defined by the Commission. An example of such an EU priority is the setting up of consular cooperation mechanisms between at least two Member States.

**c) Mid-term review:** EUR **350 M** will be kept for allocation as of budget year 2018 to take into account important changes in the situation in Member States and Associated States. These allocations would be distributed on the basis of a risk assessment applying the principles established in the current EBF for risk analysis by the Frontex Agency. To this end, the Commission will establish, on the basis of input and in consultation with the Frontex Agency, a report which, in accordance with the Frontex risk analysis, will set up threat levels at the external borders for the period 2017-2020. Member States and Associated States with increased risks will receive an additional amount.

**The rapporteur wishes to bring the following changes to the Commission's proposal:**

Shared management without a sufficiently clear common architecture, standards for interoperability, operational requirements, concepts of operation, and coordinated purchasing policy could lead to an excessive fragmentation of the implemented solution. The relevant European Agencies could therefore play a major role in order to avoid installing incompatible systems across Member States.

The Union's objective of ensuring a uniform and high-quality external border control should be achieved through common measures, common security standards able to guarantee the Union added value, and convergent systems which would allow interoperability.

Despite the priority of the Commission's proposal stating that the Union spending should reflect better Union level priorities and strategic commitments and should support the implementation of the Union home affairs *acquis*, the rapporteur is concerned about:

- Member States pursuing their own national interests when using the amount allocated under this Instrument when using the amount allocated under the Instrument for its national programme, and especially for financing the operating support;
- The lack of coordination between Member States as regards infrastructure, equipment, means of transport, IT systems which could lead to fragmentation and duplications in the Member States resources;

Another concern addressed by the rapporteur is the impossibility to establish at this stage a definitive set of indicators that will be used to measure achievement of the objectives of this future Regulation. However, the rapporteur proposes a certain number of indicators in the area of borders and visa, including the percentage of overstayers per nationality, the number of border crossing points equipped with IT systems, communication infrastructure and equipment supporting the management of migration flows, and the number of trafficking and smuggling activities identified at the external border.

The rapporteur considers important to make sure that the objectives of this Instrument will contribute to contribute to the harmonisation at European level of the quality of the border management systems, in order to reduce the gaps that currently exist in this area among Member States. Furthermore, eligible actions under the national programs must have as objective to reach an adequate level of protection of external borders of the Member State concerned.

Another aspect underlined by the rapporteur is the importance of the operational potential of the Frontex Agency. Member States should develop programs following the recommendation of Frontex in order to ensure an equal quality of the external border control in all Member States.

Furthermore, national programmes should focus on using resources for the EUROSUR implementation at national level and for purchasing equipment that would contribute to the efficiency of the FRONTEX common joint operations.

Finally for the ANNEX 1 of the proposed Regulation, the rapporteur proposes that this annex should be amended accordingly as regards Croatia. The basic amount of EUR 5 million should be allocated for each Member State at the start of the next Multi-annual Financial Framework (MFF) and the flexible amount for each member State should be calculated according to the threat level established for the calculation of the average of the budget for the years 2011, 2012 and 2013 under Decision 574/2007/EC. Furthermore, the Commission shall set out, by implementing acts, the application of this provision.

10.9.2012

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

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 external borders and visa  
(COM(2011)0750 – C7-0441/2011 – 2011/0365(COD))

Rapporteur: H el ene Flautre

### **SHORT JUSTIFICATION**

The Commission has presented to the European Parliament and the Council a proposal for a Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, which includes provisions to support measures taken in and in relation to third countries.

The Committee on Foreign Affairs stresses the importance of ensuring coherent Union policies towards third countries, and therefore the need to clearly stipulate in the Regulation the lead role of the European External Action Service in this regard, including in any actions taken in the framework of the EU's internal security policy.

In particular, the European External Action Service needs to be given a stronger role to make sure that border management actions do not run counter to the core principles of EU external policy, as enshrined in Article 21 TEU, and to the Union's commitment to seek their advancement in the world.

Consequently, the opinion emphasises that border control measures financed from the fund must under no circumstances lead to the violation of human and fundamental rights and that due protection of the rights of asylum seekers and refugees must be guaranteed. To this purpose, this Instrument should reinforce the monitoring capacities of Member States, in close cooperation with third countries and civil society. Moreover, this Instrument needs to address the case of third countries nationals claiming for international protection at borders, in conformity with the asylum acquis and the principle of non-refoulement.

The opinion highlights the essential link between visa policy and mobility considering that visa is a substantial instrument for mobility. Consequently, this dimension needs to be reinforced in order to endorse the perspectives given by the Global Approach on Migration and Mobility, notably to develop and ensure mobility in a secure environment.

## AMENDMENTS

The Committee on Foreign Affairs 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

#### 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 common measures on the crossing of internal borders by persons and border control at external borders and the common visa policy as part of a multi-layer system ***aimed at*** facilitating ***legitimate travel*** and ***tackling illegal immigration***.

###### *Amendment*

(1) The Union's objective of ***offering its citizens*** an area of freedom, security and justice ***without internal frontiers, in which the free movement of persons is ensured*** (Article 3(2) of the Treaty on ***European Union***(TEU)), should be achieved ***following the principle of solidarity and fair sharing of responsibility between Member States***, inter alia, through common measures on the crossing of internal borders by persons and border control at external borders and the common visa policy as part of a multi-layer system, ***which is fair towards third-country nationals and aims at organising and facilitating regular migration and mobility, while fighting against organised crime and trafficking in human beings*** (Article 67(2) and (3), Article 71(1) and Article 80 of the Treaty on ***the Functioning of the European Union***(TFEU));

## Amendment 2

### Proposal for a regulation

#### Recital 3

*Text proposed by the Commission*

(3) 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*

(3) Solidarity among Member States, clarity about the division of tasks, respect for fundamental **freedoms and human** rights and the rule of law as well as a strong focus on the global perspective and **full compliance** with **Union foreign policy objectives as laid down in Article 21 TEU** should be key principles guiding the implementation of the Internal Security Strategy.

## Amendment 3

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) The Fund should therefore be established as a comprehensive framework for *EU* financial support in the field of internal security comprising the instrument established by this Regulation as well as the instrument established by Regulation .../2012/EU establishing **as part of the Internal Security Fund, the** instrument for financial support for police co-operation, preventing and combating crime, and crisis management. **This** comprehensive framework should be complemented by Regulation .../2012/EU laying down 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 to which this Regulation should refer as regards rules on programming, financial management,

*Amendment*

(6) The Fund should therefore be established as a comprehensive framework for *Union's* financial support in the field of internal security comprising the instrument established by this Regulation, **relating to external borders and visa**, as well as the instrument established by Regulation .../2012/EU establishing the instrument for financial support for police co-operation, preventing and combating crime, and crisis management. **These two instruments should function, to the extent possible, with identical delivery mechanisms, as a comprehensive framework, which** should be complemented by Regulation .../2012/EU laying down 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 to

management and control, clearance of accounts, closure of programmes and reporting and evaluation.

which this Regulation should refer as regards rules on programming, financial management, management and control, clearance of accounts, closure of programmes and reporting and evaluation.

#### **Amendment 4**

##### **Proposal for a regulation Recital 11**

*Text proposed by the Commission*

(11) When executing tasks at external borders and consulates in accordance with the Schengen acquis on borders and visas, Member States carry out activities in the interest of and on behalf of all other Member States in the Schengen area and thus performing a public service for the Union. To express solidarity, the Instrument should contribute to supporting operating costs related to border control and visa policy and enable Member States to systematically maintain capabilities crucial for that service for all. Such support consists of full reimbursement of a choice of costs related to the objectives under this instrument and will form an integral part of the national programmes.

*Amendment*

(11) When executing tasks at external borders and consulates in accordance with the Schengen acquis on borders and visas, Member States carry out activities in the interest of and on behalf of all other Member States in the Schengen area and thus performing a public service for the Union. To express solidarity ***in practice***, the Instrument should contribute to supporting operating costs related to border control and visa policy and enable Member States to systematically maintain capabilities crucial for that service for all. Such support should consist of full reimbursement of a choice of costs related to the objectives under this instrument and should form an integral part of the national programmes.

#### **Amendment 5**

##### **Proposal for a regulation Recital 13**

*Text proposed by the Commission*

(13) ***This*** instrument should be implemented in full respect of the rights and principles enshrined in the Charter of Fundamental Rights of the European

*Amendment*

(13) ***Respecting the human rights of immigrants and refugees is of key importance for the Union. The*** instrument should be implemented in full respect of

Union.

the rights and principles enshrined in the Charter of Fundamental Rights of the European Union, *the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Geneva Convention Relating to the Status of Refugees, the UN Convention on the Law of the Sea, UN human rights treaties and international humanitarian law*.

## Amendment 6

### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) To ensure a uniform and high-quality external border control and to facilitate ***legitimate travel across external borders*** within the framework of the EU internal security strategy, the Instrument should contribute to the development of a European common integrated border management system, which includes all the measures involving policy, legislation, systematic co-operation, the distribution of the burden, personnel, equipment and technology taken at different levels by the competent authorities of the Member States, acting in co-operation with the Frontex Agency, with third-countries and, where necessary, with other actors, utilising, inter alia, the four-tier border security model and integrated risk analysis of the European Union.

*Amendment*

(14) To ensure a uniform and high-quality external border control and to ***organise and facilitate regular migration and mobility*** within the framework of the EU internal security strategy, the Instrument should contribute to the development of a European common integrated border management system, which includes all the measures involving policy, legislation, systematic co-operation, the distribution of the burden, personnel, equipment and technology taken at different levels by the competent authorities of the Member States, acting in co-operation with the Frontex Agency, with third-countries and, where necessary, with other actors, utilising, inter alia, the four-tier border security model and integrated risk analysis of the European Union.

## Amendment 7

### Proposal for a regulation

#### Recital 16

*Text proposed by the Commission*

(16) It should include support for national

*Amendment*

(16) It should include support for national



measures and cooperation between Member States in the area of visa policy and other pre-frontier activities that take place prior to external border controls. The efficient management of activities organised by the services of the Member States in third countries is in the interest of the common visa policy as part of a multi-layered system aimed at facilitating *legitimate travel* and *tackling* irregular immigration into the *European Union*, and constitutes an integral part of the common integrated border management system.

measures and cooperation between Member States in the area of visa policy and other pre-frontier activities that take place prior to external border controls, *in particular those which organise and facilitate regular migration and mobility*. The efficient management of activities organised by the services of the Member States in third countries is in the interest of the common visa policy as part of a multi-layered system aimed at *offering a high-quality service to third-country nationals, organising and facilitating regular migration and mobility and preventing* irregular immigration into the Union, and constitutes an integral part of the common integrated border management system.

## Amendment 8

### Proposal for a regulation

#### Recital 18

##### *Text proposed by the Commission*

(18) The Instrument should also support the development by the *European Union* of IT systems which would equip Member States with the tools to manage the movement of third-country nationals across borders more efficiently and to ensure *a better* identification and verification of travellers ('smart borders'). To this end, a programme should be established the aim of which is to cover cost for the development of both the central and national components of such systems, ensuring technical consistency, cost savings and a smooth implementation in the Member States.

##### *Amendment*

(18) The Instrument should also support the development by the Union of IT systems which would equip Member States with the tools to manage the movement of third-country nationals across borders more efficiently and to ensure *more effective* identification and verification of travellers ('smart borders'), *thereby enhancing border security and generating positive economic impacts*. To this end, a programme should be established the aim of which is to cover cost for the development of both the central and national components of such systems, ensuring technical consistency, cost savings and a smooth implementation in the Member States.

## Amendment 9

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) To address immediately unforeseen migratory pressure and **threats** to border security it should be possible to provide emergency assistance in accordance with the framework set out in Regulation ... 2012/EU laying down 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.

#### *Amendment*

(19) To address immediately unforeseen migratory pressure and **challenges** to border security it should be possible to provide emergency assistance in accordance with the framework set out in Regulation (EU) No .../2012/EU laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police co-operation, preventing and combating **organised** crime, and crisis management.

## Amendment 10

### Proposal for a regulation Recital 20

#### *Text proposed by the Commission*

(20) Moreover, in the interest of enhanced solidarity in the Schengen area as a whole, where weaknesses or possible **threats** are identified, notably following a Schengen evaluation, the Member State concerned should follow the matter up adequately by using resources under its programmes by priority, where applicable, complementing emergency assistance measures.

#### *Amendment*

(20) Moreover, in the interest of enhanced solidarity in the Schengen area as a whole, where weaknesses or possible **challenges** are identified, notably following a Schengen evaluation, the Member State concerned should follow the matter up adequately by using resources under its programmes by priority, where applicable, complementing emergency assistance measures.

## Amendment 11

### Proposal for a regulation Recital 24

*Text proposed by the Commission*

(24) In the same vein, the scope of the actions and the ceiling for resources which remain available to the Union ('Union actions') should be increased to enhance the capacity of the Union to carry out in a given budget year multiple activities on the management of external borders and the common visa policy in the interest of the Union as a whole, when and insofar as the needs arise. Such Union actions include studies and pilot projects to further the policy and its application, measures or arrangements in third countries **addressing migratory pressures** from those countries in the interest of an optimal management of migration flows into the Union and an efficient organisation of the related tasks at external borders and consulates.

*Amendment*

(24) In the same vein, the scope of the actions and the ceiling for resources which remain available to the Union ("Union actions") should be increased to enhance the capacity of the Union to carry out in a given budget year multiple activities on the management of external borders and the common visa policy in the interest of the Union as a whole, when and insofar as the needs arise. Such Union actions include studies and pilot projects to further the policy and its application, measures or arrangements in third countries **organising and facilitating regular migration and mobility** from those countries in the interest of an optimal management of migration flows into the Union and an efficient organisation of the related tasks at external borders and consulates.

**Amendment 12**

**Proposal for a regulation**  
**Recital 25**

*Text proposed by the Commission*

(25) Measures in and in relation to third countries supported through this Instrument should be taken in synergy and coherence with other actions outside the EU supported through Union external assistance instruments, both geographic and thematic. In particular, in implementing such actions full coherence should be sought with the principles and general objectives of the Union external action and foreign policy related to the country or region in question. **They should not be intended to support actions directly development-oriented and they should complement, when appropriate, the financial assistance provided through**

*Amendment*

(25) Measures in and in relation to third countries supported through this Instrument should **comply with norms and standards at least equivalent to those set by Union legislation, including when cooperation with third countries takes place on the territory of those countries. Those measures should** be taken in synergy and coherence with other actions outside the Union supported through Union external assistance instruments, both geographic and thematic. In particular, in implementing such actions full coherence should be sought with the principles and general objectives of the Union external action and foreign policy related to the

*external aid instruments*. Coherence will also be sought with the Union humanitarian policy, in particular as regards the implementation of emergency measures.

country or region in question and the ***agreement of the relevant departments of the European External Action Service will be required***. Coherence ***and complementarity*** should also be sought with the Union humanitarian policy, in particular as regards the implementation of emergency measures.

### **Amendment 13**

#### **Proposal for a regulation Article 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) 'risk' means a factor that affects or is expected to affect the quality of control at external borders, the smooth crossing of external borders as well as the effective access to the territory of Member States for third-country nationals in need of international protection.***

### **Amendment 14**

#### **Proposal for a regulation Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The general objective of the Instrument shall be to contribute to ***ensuring a high level of security*** in the *European Union*.

1. The general objective of the Instrument shall be to contribute to ***ensuring uniform and high-quality external border control while organising and facilitating regular migration and mobility in a secure environment*** in the Union, ***making sure that the Union's commitment to fundamental freedoms and human rights is upheld***.

## Amendment 15

### Proposal for a regulation

#### Article 3 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. Within the general objective set out in paragraph 1, the Instrument shall contribute - in line with the priorities identified in relevant *EU* Strategies, programmes, *threat* and risk assessments - to the following specific objectives:

*Amendment*

2. Within the general objective set out in paragraph 1, the Instrument shall contribute - in line with the priorities identified in relevant Union's strategies, programmes and risk assessments - to the following specific objectives:

## Amendment 16

### Proposal for a regulation

#### Article 3 – paragraph 2 – point a – introductory part

*Text proposed by the Commission*

(a) supporting a common visa policy to facilitate *legitimate travel*, ensure equal treatment of third country nationals and *tackle* irregular migration

*Amendment*

(a) supporting a common visa policy to *organise and* facilitate *regular migration and mobility, provide a high quality of service to visa applicants*, ensure equal *and decent* treatment of *third-country* nationals and *prevent* irregular migration

## Amendment 17

### Proposal for a regulation

#### Article 3 – paragraph 2 – point a – paragraph 1

*Text proposed by the Commission*

The achievement of this objective shall be measured against indicators such as, inter alia, the number of consular posts equipped, secured and/or enhanced to ensure the efficient processing of visa applications and *provide quality of service* to *visa* applicants

*Amendment*

The achievement of this objective shall be measured against indicators such as, inter alia, the number of consular posts equipped, secured and/or enhanced to ensure the efficient processing of visa applications and *the number of third country nationals obtaining visas related to the number of* applicants.

## Amendment 18

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b – introductory part

*Text proposed by the Commission*

(b) supporting borders management, to ensure, on one hand, a high level of **protection** of external borders and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen acquis

*Amendment*

(b) supporting borders management, to ensure, on one hand, a high level of **control** of external borders and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen acquis

## Amendment 19

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b – paragraph 1

*Text proposed by the Commission*

The achievement of this objective shall be measured against indicators such as, inter alia, the **development of equipment for border control and the** apprehensions of irregular third-country nationals at the external border in correspondence with the risk of the relevant section of the external border.

*Amendment*

The achievement of this objective shall be measured against indicators such as, inter alia, the apprehensions of irregular third-country nationals at the external border in correspondence with the risk of the relevant section of the external border **and the number of third-country nationals regularly crossing the same section of the external border.**

## Amendment 20

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) supporting the implementation of the asylum acquis at external borders to ensure effective access to the territory of Member States and to the registration procedure for third-country nationals in need of international protection, in***

*accordance with the principle of non-refoulement*

*The achievement of this objective shall be measured against indicators such as, inter alia, the number of applications for international protection at external borders, the number of entries to the territory of Member States and the number of registrations at the external borders.*

## **Amendment 21**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3 – point b**

*Text proposed by the Commission*

(b) gradually establishing an integrated management system for external borders, including the reinforcement of interagency co-operation between migration and law enforcement authorities of Member States at the external borders and measures within the territory and the necessary flanking measures related to document security and identity management;

*Amendment*

(b) gradually establishing an integrated management system for external borders, including the reinforcement of interagency co-operation between migration, **asylum** and law enforcement authorities of Member States at the external borders and measures within the territory and the necessary flanking measures related to document security and identity management;

## **Amendment 22**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3 – point c**

*Text proposed by the Commission*

(c) promoting the development and implementation of the common policy on visas and other short-stay residence permits, including consular co-operation;

*Amendment*

(c) promoting the development and implementation of the common policy on visas and other short-stay residence permits, including consular co-operation **and consular coverage, making full use of the practical improvements and flexibility provided by the Community Code on**

*Visas established by Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 (Visa Code);*

#### **Amendment 23**

##### **Proposal for a regulation Article 3 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) setting up and running IT systems, their communication infrastructure and equipment *supporting* the *management* of *migration flows across* the external borders of the Union;

*Amendment*

(d) setting up and running IT systems, their communication infrastructure and equipment *that support* the *control* of *crossings at* the external borders of the Union *and fully respect personal data protection legislation*;

#### **Amendment 24**

##### **Proposal for a regulation Article 3 – paragraph 3 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) improving the capacity and the qualifications of all authorities and border guards operating at border-crossing points as regards the execution of their surveillance, advisory and control tasks with respect to international human rights law;*

#### **Amendment 25**

##### **Proposal for a regulation Article 3 – paragraph 3 – point e**

*Text proposed by the Commission*

(e) ensuring the efficient and uniform application of the Union's acquis on

*Amendment*

(e) ensuring the efficient and uniform application of the Union's acquis on



borders and visa, including the functioning of the Schengen evaluation and monitoring mechanism;

borders, *asylum* and visa, including the functioning of the Schengen evaluation and monitoring mechanism;

## **Amendment 26**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3 – point f**

*Text proposed by the Commission*

(f) reinforcing the co-operation between Member States operating in third countries as regards the flows of third-country nationals into the territory of Member States, as well as the co-operation with third countries in this regard.

*Amendment*

(f) reinforcing the co-operation between Member States operating in third countries as regards the flows of third-country nationals into the territory of Member States, as well as the co-operation with third countries in this regard, *in full compliance with Union foreign policy principles and subject to the agreement of the European External Action Service.*

## **Amendment 27**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) infrastructures, buildings and operating equipment required for the processing of visa applications *and* consular co-operation;

*Amendment*

(d) infrastructures, buildings and operating equipment required for the processing of visa applications, consular co-operation *and other actions aimed at improving the quality of service to visa applicants;*

## **Amendment 28**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) infrastructures and operating equipment required for the reception and registering of asylum-seekers claiming international protection when crossing an external border;***

## **Amendment 29**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) training regarding the use of the related systems and promotion of quality management standards;***

## **Amendment 30**

### **Proposal for a regulation**

#### **Article 8 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

On the basis of the report, the Commission shall determine which Member States will receive an additional amount. Those Member States which have an increased ***threat*** level in comparison to the ***threat level established*** for the calculation made for the budget year 2013 under Decision 574/2007/EC will receive pro rata additional resources.

On the basis of the report, ***and after informing the European Parliament, the*** Commission shall determine which Member States will receive an additional amount. Those Member States which have an increased level ***of risk*** in comparison to the ***risks identified*** for the calculation made for the budget year 2013 under Decision 574/2007/EC will receive pro rata additional resources.

## **Amendment 31**

### **Proposal for a regulation**

#### **Article 8 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) external maritime borders shall mean the outer limit of the territorial sea of the Member States as defined according to Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, *in cases* where long range operations on a regular basis are required *in order to prevent irregular migration/illegal entry*, this *shall* be the outer limit of *high threat areas*. This shall be determined by taking into account the relevant data on these operations in 2014-2016 as provided by the Member States in question.

**Amendment 32**

**Proposal for a regulation**

**Article 9 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) supporting and expanding the existing capacity at national level *in* the management of the external borders, *bearing in mind inter alia new technology, developments and/or standards in relation to the management of migration flows*;

**Amendment 33**

**Proposal for a regulation**

**Article 9 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) supporting the further development of the management of migration flows by consular and other services of the Member

*Amendment*

(b) external maritime borders shall mean the outer limit of the territorial sea of the Member States as defined according to Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, where long range operations on a regular basis are required *in the case of high risk*, this *can* be the outer limit of *the contiguous zone as defined according to Article 33 of the United Nations Convention on the Law of the Sea*. This shall be determined by taking into account the relevant data on these operations in 2014-2016 as provided by the Member States in question.

*Amendment*

(b) supporting and expanding the existing capacity at national level *as regards visa policy and* the management of the external borders;

*Amendment*

(c) supporting the further development of the management of migration flows by consular and other services of the Member

State in third countries, with a view to facilitating *legitimate travel to* and preventing irregular migration into the Union;

State in third countries *in full compliance with Union foreign policy*, with a view to *organising and* facilitating *regular migration* and *mobility and* preventing irregular migration into the Union;

#### **Amendment 34**

##### **Proposal for a regulation Article 9 – paragraph 2 – point e**

*Text proposed by the Commission*

(e) ensuring the correct and uniform application of the Union acquis on border control and visa in response to weaknesses identified at European level, as evinced in results established in the framework of the Schengen evaluation mechanism;

*Amendment*

(e) ensuring the correct and uniform application of the Union acquis on border control, *asylum* and visa in response to weaknesses identified at European level, as evinced in results established in the framework of the Schengen evaluation mechanism;

#### **Amendment 35**

##### **Proposal for a regulation Article 9 – paragraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) ensuring the effective monitoring of compliance with international and European obligations, including human rights obligations, in close cooperation with third countries and civil society;*

#### **Amendment 36**

##### **Proposal for a regulation Article 9 – paragraph 2 – point f**

*Text proposed by the Commission*

(f) increasing the capacity to face upcoming challenges *including present*

*Amendment*

(f) increasing the capacity to face upcoming challenges at the external

*and future threats and pressures* at the external borders *of the Union*, taking into account in particular the Frontex risk analysis.

borders, taking into account in particular the Frontex risk analysis.

### **Amendment 37**

#### **Proposal for a regulation Article 10 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) compliance with the Union acquis on borders and visa;

*Amendment*

(a) compliance with the Union acquis on borders, *asylum* and visa;

### **Amendment 38**

#### **Proposal for a regulation Article 12 – paragraph 1**

*Text proposed by the Commission*

Following a Schengen evaluation report, as adopted in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the Member State concerned shall examine, together with the Commission and the Frontex Agency, where appropriate, how to address the *findings* and implement the recommendations within the framework of its national programme.

*Amendment*

Following a Schengen evaluation report, as adopted in accordance with the Regulation on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, the Member State concerned shall examine, together with the Commission and the Frontex Agency, where appropriate, how to address the *deficiencies* and implement the recommendations within the framework of its national programme.

### **Amendment 39**

#### **Proposal for a regulation Article 12 – paragraph 3**

*Text proposed by the Commission*

In dialogue with the Commission and the Frontex Agency, where appropriate, *it* shall

*Amendment*

*Particular attention shall be paid to the financing of corrective actions.* In

reallocate resources under its programme, including, where necessary, those programmed for operating support, and/or introduce or amend actions aiming to remedy the weaknesses in accordance with the findings and recommendations of the Schengen evaluation report.

dialogue with the Commission and the Frontex Agency, where appropriate, ***the Member State concerned*** shall reallocate resources under its programme, including, where necessary, those programmed for operating support, and/or introduce or amend actions aiming to remedy the weaknesses in accordance with the findings and recommendations of the Schengen evaluation report. ***Any additional costs shall be eligible for financing under the Instrument.***

## Amendment 40

### Proposal for a regulation

#### Article 13 – paragraph 2 – point a

*Text proposed by the Commission*

(a) to support the preparatory, monitoring, administrative and technical support, development of an evaluation mechanism, required to implement external borders and visa policies, including to implement Schengen governance as determined by the Schengen evaluation and monitoring mechanism as established by the Regulation (EU) No ... on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and the Schengen Borders Code;

*Amendment*

(a) to support the preparatory, monitoring, administrative and technical support ***for the*** development of an evaluation mechanism, required to implement external borders, ***asylum*** and visa policies – ***including with regard to compliance with human rights obligations and humanitarian law*** – including to implement Schengen governance as determined by the Schengen evaluation and monitoring mechanism as established by the Regulation (EU) No ... on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and the Schengen Borders Code;

## Amendment 41

### Proposal for a regulation

#### Article 13 – paragraph 2 – point b

*Text proposed by the Commission*

(b) to improve the knowledge and understanding of the situation prevailing in the Member States through analysis, evaluation and close monitoring of policies;

*Amendment*

(b) to improve the knowledge and understanding of the situation prevailing in the Member States ***and third countries*** through analysis, evaluation and close monitoring of policies;

#### **Amendment 42**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) to support and monitor the implementation of Union law and Union policy objectives in the Member States, and assess their effectiveness and impact;

*Amendment*

(d) to support and monitor the implementation of Union law and Union policy objectives in the Member States, and assess their effectiveness and impact, ***including with regard to the respect of human rights and fundamental freedoms***;

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) to support the evaluation of external borders, asylum and visa policies by independent organisations, notably through qualitative surveys of third-country nationals and of relevant authorities implementing these policies;***

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 2 – point h**

*Text proposed by the Commission*

(h) to support particularly innovative projects developing new methods and/or technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating research projects;

#### **Amendment 45**

##### **Proposal for a regulation Annex III – Objective 1 – indent 2**

*Text proposed by the Commission*

– staff *cost*

*Amendment*

(h) to support particularly innovative projects, ***notably regarding regular migration and mobility***, developing new methods and/or technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating research projects;

*Amendment*

– staff ***costs, including for training***

#### **Amendment 46**

##### **Proposal for a regulation Annex III – Objective 2 – indent 2**

*Text proposed by the Commission*

– staff *cost*

*Amendment*

– staff ***costs, including for training***

#### **Amendment 47**

##### **Proposal for a regulation Annex III – Objective 3 – indent 2**

*Text proposed by the Commission*

– staff *cost*

*Amendment*

– staff ***costs, including for training***



## PROCEDURE

<b>Title</b>	Internal Security Fund - External borders and visas	
<b>References</b>	COM(2011)0750 – C7-0441/2011 – 2011/0365(COD)	
<b>Committee responsible</b> Date announced in plenary	LIBE 15.12.2011	
<b>Opinion by</b> Date announced in plenary	AFET 15.12.2011	
<b>Rapporteur</b> Date appointed	Hélène Flautre 6.3.2012	
<b>Discussed in committee</b>	29.5.2012	11.7.2012
<b>Date adopted</b>	6.9.2012	
<b>Result of final vote</b>	+: 36	–: 6
	0: 3	
<b>Members present for the final vote</b>	Frieda Brepoels, Elmar Brok, Mário David, Andrzej Grzyb, Anna Ibrisagic, Liisa Jaakonsaari, Anneli Jäätteenmäki, Ioannis Kasoulides, Nicole Kiil-Nielsen, Evgeni Kirilov, Maria Eleni Koppa, Andrey Kovatchev, Paweł Robert Kowal, Wolfgang Kreissl-Dörfler, Eduard Kukan, Vytautas Landsbergis, Sabine Lösing, Ulrike Lunacek, María Muñoz De Urquiza, Raimon Obiols, Ria Oomen-Ruijten, Pier Antonio Panzeri, Mirosław Piotrowski, Hans-Gert Pöttering, Cristian Dan Preda, Nikolaos Salavrakos, György Schöpflin, Werner Schulz, Adrian Severin, Marek Siwiec, Charles Tannock, Geoffrey Van Orden, Karim Zéribi	
<b>Substitute(s) present for the final vote</b>	Charalampos Angourakis, Andrew Duff, Tanja Fajon, Hélène Flautre, Emilio Menéndez del Valle, Jean Roatta, Carmen Romero López, Helmut Scholz, Indrek Tarand, Ivo Vajgl	
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Georgios Papanikolaou, Sophocles Sophocleous	

14.9.2012

## 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 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa  
(COM(2011)0750 – C7-0441/2011 – 2011/0365(COD))

Rapporteur: Monika Hohlmeier

### SHORT JUSTIFICATION

#### Funding

In June 2011, the Commission presented its proposal on the Multiannual Financial Framework and in November 2011 the sectoral regulations in the area of home affairs.

For this part (excluding Justice and Rights and Citizenship) of the present Heading 3 A, the Commission proposed an overall indicative budget of EUR 10 911 million for the period 2014-2020.

This figure covers spending on financial programmes but also funding for large-scale IT systems and the EU agencies active in the home affairs area.

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

The Commission's proposal includes an envelope of EUR 4 648 million (in current prices) for the Internal Security Fund for the period 2014-2020, of which an amount of EUR 3,520

million is foreseen for this specific instrument for external borders and visa.

	EUR million
<b>Internal Security Fund including new IT systems</b>	4,648
- Police cooperation instrument	1,128
<b>- Border instrument</b>	<b>3,520</b>

Approximately, about 61% of this amount (EUR 2,150 million) should be used for national programmes of Member States and the support to the Special Transit Scheme implemented by Lithuania. 31% (EUR 1,100 million) and the remainder should then be available to fund Union actions, emergency actions and technical assistance. The contributions expected from the Schengen associated countries would be added to the total envelope.

### Legislation

The Commission proposes to simplify the structure of the home affairs programmes by reducing the number of Funds to two, the Asylum and Migration Fund and the **present Internal Security Fund**. The Internal Security Fund will support the implementation of the Internal Security Strategy<sup>1</sup> and thus a coherent and comprehensive approach to law enforcement cooperation, including the management of the EU's external borders. In view of the different Treaty bases necessary to cover the strategic objectives of the Internal Security Fund, it is not possible to establish this Fund with a single instrument. Therefore, the Internal Security Fund is set up through two separate instruments (the present instrument for financial support for external borders and visa<sup>2</sup> and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management<sup>3</sup>) which jointly constitute the Fund.

### 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.

Further, in order to ensure an EU added value of the funds and efficient spending, also eligible actions in relation to third countries should be considered in the light of the conclusions of the policy dialogue (as established in Article 13 of the General Provisions).

## AMENDMENTS

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<sup>1</sup> COM(2010)673 final of 22 November 2010

<sup>2</sup> COM(2011)750 of 15 November 2011

<sup>3</sup> COM(2011)753 of 15 November 2011

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;***

## **Amendment 2**

### **Draft legislative resolution**

#### **Paragraph 1b (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"<sup>1</sup>; reiterates that sufficient additional resources are needed in the next MFF in order to enable the Union to fulfil the existing policy priorities and the new tasks provided for in the Treaty of Lisbon, as well as to respond to unforeseen events; points out that even with an increase in the level of resources for the next MFF of at least 5% compared to the 2013 level only a limited contribution can be made to the achievement of the Union's agreed objectives and commitments and the principle of Union solidarity; 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;*

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*1 Texts adopted, P7\_TA(2011)0266.*

### **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;*

### **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;*

### **Amendment 5**

#### **Proposal for a regulation Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) In its resolution of 8 June 2011 "Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe"<sup>1</sup>, the European Parliament stressed the need for an integrated approach towards pressing immigration, asylum questions as well as towards the management of the external borders of the Union, with sufficient funding and support tools to handle emergency situations made available in a spirit of respect for human rights and solidarity amongst all Member States, respecting national responsibilities and a clear definition of tasks. It further noted that, in this regard, the increased challenges of FRONTEX, the European Asylum Support Office and the Funds on Solidarity and Management of Migration Flows need to be duly taken into consideration.***

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<sup>1</sup> *Texts adopted, P7\_TA(2011)0266.*

*Justification*

*Paragraph 107 of the resolution of 8 June 2011 "Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe"*

## **Amendment 6**

### **Proposal for a regulation Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) In its resolution of 8 June 2011<sup>1</sup>, the European Parliament, further emphasised the need of developing better synergies between different funds and programs***

*and points to the fact that the simplification of management of funds and allowing cross-financing enable the allocation of more funds to common objectives, welcomed the Commission's intention to reduce the total number of budgetary instruments in Home Affairs in a two-pillar structure and, where possible, under shared management and expressed its belief that this approach should contribute significantly to an increased simplification, rationalisation, consolidation and transparency of the current funds and programmes. It stressed, however, the need to ensure that the different objectives of home affairs policies will not be mixed up.*

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<sup>1</sup> *Texts adopted, P7\_TA(2011)0266.*

#### *Justification*

*Paragraph 109 of the resolution of 8 June 2011 "Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe"*

#### **Amendment 7**

##### **Proposal for a regulation Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

*(6a) The global resources for this Regulation and for Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime and crisis management should jointly establish the financial envelope for the entire duration of the Fund, which should constitute the prime reference for the budgetary authority during the annual budgetary procedure in accordance with*

***Point 17 of the Interinstitutional Agreement.***

*Justification*

*To mirror recital 8 of the proposal for a regulation 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)368).*

**Amendment 8**

**Proposal for a regulation  
Recital 26 a (new)**

*Text proposed by the Commission*

*Amendment*

***(26a) 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.***

**Amendment 9**

**Proposal for a regulation  
Recital 26 b (new)**

*Text proposed by the Commission*

*Amendment*

***(26b) There is a need to maximise the impact of EU funding by mobilising, pooling and leveraging public and private financial resources.***

**Amendment 10**

**Proposal for a regulation  
Recital 26 c (new)**

*Text proposed by the Commission*

*Amendment*

***(26c) Utmost transparency, accountability and democratic scrutiny for innovative***



*financial instruments and mechanisms that involve the Union budget should be ensured.*

## **Amendment 11**

### **Proposal for a regulation Recital 26 d (new)**

*Text proposed by the Commission*

*Amendment*

*(26d) Improving implementation and quality of spending should constitute guiding principles for achieving the objectives of the Instrument while ensuring optimal use of the financial resources.*

## **Amendment 12**

### **Proposal for a regulation Recital 26 e (new)**

*Text proposed by the Commission*

*Amendment*

*(26e) It is important to ensure the sound financial management of the Instrument and its implementation in the most effective and user-friendly manner possible, while also ensuring legal certainty and the accessibility of the Instrument to all participants.*

## **Amendment 13**

### **Proposal for a regulation Recital 26 f (new)**

*Text proposed by the Commission*

*Amendment*

*(26f) The Commission should annually monitor the implementation of the Instrument with the aid of key indicators*

*for assessing results and impacts. The indicators, including relevant baselines, should provide the minimum basis for assessing the extent to which the objectives of the Instrument have been achieved.*

## **Amendment 14**

### **Proposal for a regulation Recital 26 g (new)**

*Text proposed by the Commission*

*Amendment*

*(26g) 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.*

## **Amendment 15**

### **Proposal for a regulation Recital 28**

*Text proposed by the Commission*

*Amendment*

(28) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the

(28) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of **all** relevant documents to the European Parliament and to the

European Parliament and Council.

Council."

## **Amendment 16**

### **Proposal for a regulation**

#### **Article 3 – paragraph 3 – point b**

##### *Text proposed by the Commission*

(b) gradually establishing an integrated management system for external borders, including the reinforcement of interagency co-operation between migration and law enforcement authorities of Member States at the external borders and measures within the territory and the necessary flanking measures related to document security and identity management;

##### *Amendment*

(b) gradually establishing an integrated management system for external borders, including the reinforcement of interagency co-operation between migration and law enforcement authorities of Member States at the external borders and measures within the territory and the necessary flanking measures related to document security and identity management ***as well as the interoperability of acquired technical equipment;***

##### *Justification*

*In order to guarantee an efficient spending of EU funds, it is necessary to ensure that acquired technical equipment for the fulfilment of tasks within the objectives of this Regulation is interoperable and does not lead to parallel developments without EU added value.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Article 4 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. Within the objectives defined in Article 3, this instrument shall support actions in relation to and in third countries and in particular the following:

##### *Amendment*

2. Within the objectives defined in Article 3, ***and in the light of the agreed conclusions of the policy dialogue as provided for in Article 13 of Regulation (EU) No .../2012 [Horizontal Regulation]***, this instrument shall support actions in relation to and in third countries and in particular the following:

## Amendment 18

### Proposal for a regulation

#### Article 5 – paragraph 1

*Text proposed by the Commission*

1. The global resources for the implementation of this Regulation shall be 3,520 EUR million.

*Amendment*

1. The ***indicative*** global resources for the implementation of this Regulation shall be 3,520 EUR million.

## Amendment 19

### Proposal for a regulation

#### Article 5 – paragraph 2

*Text proposed by the Commission*

2. The annual appropriations shall be authorised by the budgetary authority ***within*** the ***limits*** of the ***Financial Framework***.

*Amendment*

2. The annual appropriations ***for the Fund*** shall be authorised by the budgetary authority ***without prejudice to the provisions*** of the ***Regulation laying down the multiannual financial framework for the years 2014-2020 and the Interinstitutional Agreement of xxx/201z between the European Parliament, the Council and the Commission on cooperation in budgetary matters and sound financial management***.

## Amendment 20

### Proposal for a regulation

#### Article 5 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. The budget allocated under the Instrument shall be implemented under shared management in accordance with Article 55(1)(b) of Regulation (EU) N° .../2012 [New Financial Regulation], ***with the exception of Union actions referred to in Article 13, the emergency assistance***

*Amendment*

4. The budget allocated under the Instrument shall be implemented under ***direct management (in particular the Union actions referred to in Article 13, the emergency assistance referred to in Article 14 and the technical assistance referred to in Article 16(1)) or under***

*referred to in Article 14 and the technical assistance referred to in Article 16(1).*

shared management in accordance with Article 55(1)(b) of Regulation (EU) N° .../2012 [New Financial Regulation].

*Justification*

*Implementation of the EU's budget under shared management should be the exception, not the rule.*

**Amendment 21**

**Proposal for a regulation**

**Article 5 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. 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 entities other than Member States.***

*Justification*

*Bringing the wording into line with the revised Financial Regulation.*

**Amendment 22**

**Proposal for a regulation**

**Article 5 – paragraph 5 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

***5. Without prejudice to the prerogatives of the budgetary authority, the*** global resources shall be used indicatively as follows:

**Amendment 23**

**Proposal for a regulation**  
**Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. EUR 2,000 million shall be allocated to the Member States indicatively as follows:

*Amendment*

1. ***Without prejudice to the prerogatives of the budgetary authority***, EUR 2,000 million shall be allocated to the Member States indicatively as follows:

## PROCEDURE

<b>Title</b>	Internal Security Fund - External borders and visas
<b>References</b>	COM(2011)0750 – C7-0441/2011 – 2011/0365(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 15.12.2011
<b>Opinion by</b> Date announced in plenary	BUDG 15.12.2011
<b>Rapporteur</b> Date appointed	Monika Hohlmeier 15.2.2012
<b>Date adopted</b>	6.9.2012
<b>Result of final vote</b>	+: 30 –: 2 0: 2
<b>Members present for the final vote</b>	Marta Andreasen, Richard Ashworth, Reimer Böge, Zuzana Brzobohatá, Jean-Luc Dehaene, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Jens Geier, Lucas Hartong, Jutta Haug, Monika Hohlmeier, Sidonia Elżbieta Jędrzejewska, Anne E. Jensen, Ivailo Kalfin, Sergej Kozlík, Jan Kozłowski, Alain Lamassoure, Giovanni La Via, George Lyon, Claudio Morganti, Jan Mulder, Juan Andrés Naranjo Escobar, Dominique Riquet, Derek Vaughan, Angelika Werthmann
<b>Substitute(s) present for the final vote</b>	Burkhard Balz, Maria Da Graça Carvalho, Edit Herczog, Jürgen Klute, Constanze Angela Krehl, Peter Šťastný, Georgios Stavrakakis
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Luigi Berlinguer

## PROCEDURE

<b>Title</b>	Internal Security Fund - External borders and visas			
<b>References</b>	COM(2011)0750 – C7-0441/2011 – 2011/0365(COD)			
<b>Date submitted to Parliament</b>	15.11.2011			
<b>Committee responsible</b> Date announced in plenary	LIBE 15.12.2011			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 15.12.2011	DEVE 15.12.2011	BUDG 15.12.2011	EMPL 15.12.2011
<b>Not delivering opinions</b> Date of decision	DEVE 5.12.2011	EMPL 15.12.2011		
<b>Rapporteur(s)</b> Date appointed	Marian-Jean Marinescu 5.12.2011			
<b>Discussed in committee</b>	20.3.2012	9.7.2012	6.11.2012	10.12.2012
	9.1.2014			
<b>Date adopted</b>	9.1.2014			
<b>Result of final vote</b>	+ : 36 - : 8 0 : 4			
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Roberta Angelilli, Edit Bauer, Emine Bozkurt, Salvatore Caronna, Philip Claeys, Carlos Coelho, Ioan Enciu, Frank Engel, Cornelia Ernst, Tanja Fajon, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Salvatore Iacolino, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Baroness Sarah Ludford, Svetoslav Hristov Malinov, Véronique Mathieu Houillon, Anthea McIntyre, Claude Moraes, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Wim van de Camp, Axel Voss, Renate Weber, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra			
<b>Substitute(s) present for the final vote</b>	Alexander Alvaro, Mariya Gabriel, Stanimir Ilchev, Ulrike Lunacek, Hubert Pirker, Zuzana Roithová, Joanna Senyszyn, Marie-Christine Vergiat, Janusz Wojciechowski			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Leonardo Domenici, Christian Engström, Enrique Guerrero Salom, Nadja Hirsch, Olle Ludvigsson			
<b>Date tabled</b>	14.1.2014			