



**2016/0207(COD)**

31.3.2017

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## **DRAFT REPORT**

on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace  
(COM(2016)0447 – C8-0264/2016 – 2016/0207(COD))

Committee on Foreign Affairs

Rapporteur: Arnaud Danjean

### ***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 amending Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (COM(2016)0447 – C8-0264/2016 – 2016/0207(COD))**

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

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0447),
  - having regard to Article 294(2), Article 209(1) and Article 212(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0264/2016),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rules 59 and 39 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

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

##### **Recital 1**

*Text proposed by the Commission*

(1) The 2005 European Consensus on Development recognised the link between security and development<sup>16</sup>.

*Amendment*

(1) The 2005 European Consensus on Development recognised the link between security and development<sup>16</sup>. ***The new***

***European Consensus on Development<sup>16a</sup>  
proposed by the Commission in November  
2016 fully supports the Global Strategy  
for the European Union's Foreign and  
Security Policy and its aim to increase the  
resilience of states and societies at all  
levels, starting with Africa and the  
Union's neighbourhood.***

<sup>16</sup> Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus', OJ C 46, 24.2.2006.

<sup>16</sup> Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus', OJ C 46, 24.2.2006.

<sup>16a</sup> COM(2016)0740.

Or. fr

### *Justification*

*La révision du consensus européen pour le développement est opportune et nécessaire en raison de l'évolution du cadre extérieur. Le nouveau consensus sera pleinement conforme à la Stratégie globale pour la politique étrangère et de sécurité de l'Union européenne soumise en juin 2016 par la haute représentante de l'Union pour les affaires étrangères et la politique de sécurité. L'initiative proposée dans le présent Règlement ayant vocation à consolider les outils de l'approche globale en permettant à l'Union européenne de financer le renforcement des capacités des États tiers, s'intègre donc pleinement dans la mise en œuvre les objectifs de la Stratégie globale.*

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 3**

#### *Text proposed by the Commission*

(3) Supporting security sector actors, including the military ***under exceptional circumstances***, in third countries in a conflict prevention, crisis management or stabilisation context is essential to ensure appropriate conditions for poverty eradication and development. Those

#### *Amendment*

(3) Supporting security sector actors, including the military ***if necessary***, in third countries in a conflict prevention, crisis management or stabilisation context is essential to ensure appropriate conditions for poverty eradication and development. Those actions are particularly necessary to

actions are particularly necessary to ensure the protection of civilian populations in the areas affected by conflict, crises or fragility. Good governance and effective democratic control and civilian oversight of the security system, including the military, as well as compliance with human rights and the rule of law principles are essential attributes of a *well-functioning* State *in any context*, and should be promoted *through a wider* security sector reform support *to third countries*.

ensure the protection of civilian populations in the areas affected by conflict, crises or fragility. Good governance and effective democratic control and civilian oversight of the security system, including the military, as well as compliance with human rights and the rule of law principles are essential attributes of a *stable* State, and should be promoted *as part of broader support for* security sector reform *of third countries*.

Or. fr

### *Justification*

*L'Union européenne doit être en mesure de soutenir directement les acteurs de la sécurité nationale lorsque cela est nécessaire, dans les circonstances spécifiques prévues à l'article 3 bis. L'assistance peut ainsi être apportée en cas de menace au fonctionnement des institutions publiques et à la protection des droits de l'homme et des libertés fondamentales, ou lorsque les institutions publiques ne sont plus en mesure de faire face à cette menace en faisant uniquement appel à des acteurs non militaires, et enfin, lorsqu'il existe un consensus entre l'État concerné et l'UE.*

Cette proposition s'inscrit dans le prolongement de la communication conjointe d'avril 2015<sup>1</sup>, qui a recensé les lacunes de l'UE dans le renforcement des capacités de ses pays partenaires ainsi que dans la réforme du secteur de la sécurité (RSS). L'Union procède actuellement à une évaluation des besoins dans les pays fragiles, notamment en Afrique, et l'instrument IcSP finance déjà des actions dans le cadre de la RSS.

### **Amendment 3**

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

#### **Article 1 – paragraph 1 – point 1**

Regulation (EU) No 230/2014

Article 1 – paragraph 2 – subparagraph 1a

#### *Text proposed by the Commission*

Where Union assistance is provided to the security sector actors, this may also include military actors under *exceptional* circumstances as provided for in Article 3a, in particular in the context of a wider security sector reform process and/or

#### *Amendment*

Where Union assistance is provided to the security sector actors, this may also include military actors under *specific* circumstances as provided for in Article 3a, in particular in the context of a wider security sector reform process and/or

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<sup>1</sup> Communication conjointe de la Commission européenne et de la haute représentante, intitulée «Renforcer les capacités pour favoriser la sécurité et le développement»

capacity building in support of security and development in third countries, in line with the overarching objective of achieving sustainable development.

capacity building in support of security and development in third countries, in line with the overarching objective of achieving sustainable development **and with the strategic objectives of the Union's common foreign and security policy.**

Or. fr

#### *Justification*

*Les circonstances spécifiques sont telles que définies par le présent Règlement à l'article 3 bis, dont l'objectif est de permettre à l'Union européenne de garder une flexibilité dans sa réponse aux crises dans les pays fragiles.*

Le règlement devrait prendre en compte les priorités et les objectifs énoncés dans la nouvelle Stratégie globale pour la politique étrangère et de sécurité de l'Union européenne, qui mentionne, dans sa priorité numéro 4 « De la vision à l'action », la nécessité de renforcer les capacités de ses partenaires pour faire face aux crises extérieures : « Le renforcement des capacités en matière de sécurité et de développement peut jouer un rôle majeur pour donner à nos partenaires la capacité et la possibilité d'éviter les crises et d'y réagir, et il devra bénéficier du soutien financier de l'UE ».

#### **Amendment 4**

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

##### **Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 1

#### *Text proposed by the Commission*

1. In order to contribute to sustainable development and in particular the achievement of stable, peaceful and inclusive societies, Union assistance under this Regulation may be used to build the capacity of military actors in partner countries, under the **exceptional** circumstances as set out in paragraph 3 of this Article.

#### *Amendment*

1. In order to contribute to sustainable development and in particular the achievement of stable, peaceful and inclusive societies, Union assistance under this Regulation may be used to build the capacity of military actors in partner countries, under the circumstances as set out in paragraph 3 of this Article.

Or. fr



### *Justification*

*Same justification as for amendments 2 and 3.*

## **Amendment 5**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 2

#### *Text proposed by the Commission*

2. Assistance may cover in particular the provision of capacity building programmes in support of security **and development**, including training, mentoring and advice, as well as the provision of equipment, infrastructure improvements and provision of other services.

#### *Amendment*

2. Assistance may cover in particular the provision of capacity building programmes in support of security, including training, mentoring and advice, as well as the provision of **Union** equipment, infrastructure improvements and provision of other services. ***This assistance shall help establish the conditions for sustainable development of the third countries supported.***

Or. fr

### *Justification*

*L'aide accordée au titre du présent règlement doit permettre d'accroître la crédibilité de l'Union européenne en matière de sécurité et également à valoriser l'expertise et le savoir-faire européens.*

*La sécurité étant une condition essentielle au développement, l'Union doit pouvoir dans les États fragiles ou en crise, soutenir les acteurs de la sécurité nationale, civils ou militaires, afin de garantir des conditions appropriées en vue du développement durable, de l'instauration de l'État de droit et de l'éradication de la pauvreté. L'incapacité aujourd'hui à financer le renforcement des capacités dans le domaine de la sécurité (tant les équipements que les actions de formation) entrave la capacité des partenaires à satisfaire leurs besoins en matière de développement. Sans réponse aux besoins opérationnels urgents des partenaires, la réalisation des objectifs de développement essentiels, c'est-à-dire l'amélioration de la paix et la sécurité humaine n'est pas possible.*

## Amendment 6

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 2

Regulation (EU) No 230/2014

Article 3a – paragraph 2a (new)

*Text proposed by the Commission*

*Amendment*

**2a. This assistance shall be based on Union expertise and shall take account of the Union’s strategic and industrial interests.**

Or. fr

*Justification*

*Same as for amendment 5.*

## Amendment 7

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 2

Regulation (EU) No 230/2014

Article 3a – paragraph 3 – point a

*Text proposed by the Commission*

*Amendment*

(a) **where requirements cannot be met by recourse to non-military actors to adequately reach Union objectives under this Regulation and the premise of the achievement of stable, peaceful and inclusive societies is denied by a serious** threat to the existence of functioning State institutions, as well as to the protection of human rights and fundamental freedoms, or State institutions can no longer cope with this **serious** threat;

(a) **where there is a** threat to the existence of functioning State institutions, as well as to the protection of human rights and fundamental freedoms, or State institutions can no longer cope with this threat **by relying solely on non-military actors; or**

Or. fr

### *Justification*

*The European Union must be able to support military actors where their action is essential to meet the threat to the rule of law or to the protection of human rights. In order to guarantee the instrument's flexibility, these conditions should not be cumulative. Here it is a question of making the text easier to read by clarifying these key points.*

### **Amendment 8**

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

#### **Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 3 – point b

#### *Text proposed by the Commission*

(b) where a consensus exists between the country concerned and *the international community and/or* the European Union that the security sector, and in particular the military, are key for stability, peace and development, particularly in crises and fragile contexts and situations.

#### *Amendment*

(b) where a consensus exists between the country concerned and the European Union that the security sector, and in particular the military, are key for stability, peace and development, particularly in crises and fragile contexts and situations.

Or. fr

### *Justification*

*One of the conditions for triggering assistance is the establishment of a consensus between the country concerned and the European Union since the proposed assistance is of European origin and funded by the budget of the European Union. It is expressly laid down in the Treaties as well as in the Global Strategy for the European Union's Foreign and Security Policy that the Union's security and defence commitments in third countries are always entered into under an international agreement ratified by the UN.*

### **Amendment 9**

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

#### **Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 4 – point c

*Text proposed by the Commission*

(c) training which is solely designed to contribute to the fighting capacity of the armed forces.

*Amendment*

(c) training which is solely designed to contribute **directly** to the fighting capacity of the armed forces.

Or. fr

*Justification*

*The assistance is already subject to clearly defined restrictions. It cannot involve training specifically focused on fighting. Some of the training offered to military personnel, including that designed to teach greater respect for human rights and communication and medical skills, contributes indirectly to their fighting capacity.*

**Amendement 10**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 5

*Text proposed by the Commission*

5. When designing and implementing measures pursuant to this Article, the Commission shall promote ownership by the partner country. It shall also develop the necessary elements and the good practices required for ensuring sustainability **in the medium and long term** and promote the rule of law and established international law principles.

*Amendment*

5. When designing and implementing measures pursuant to this Article, the Commission shall promote **in the long term** ownership by the partner country. **Needs are identified jointly by the host country and the Union delegation, in coordination with other Union instruments such as Common Security and Defence Policy (CSDP) missions. The Commission shall ensure that funds are properly used;** it shall also develop the necessary elements and the good practices required for ensuring sustainability **of action** and promote the rule of law and established international law principles.

Or. fr

### *Justification*

*L'appropriation des initiatives par le pays partenaire est nécessaire et fondamentale. Néanmoins, le pays hôte ne dispose pas toujours des capacités nécessaires pour la bonne utilisation des fonds. Il revient au SEAE et à la Commission européenne, via la Délégation de l'Union européenne, de s'assurer du bon suivi des projets. L'identification des besoins devrait donc être réalisée par le pays hôte, lequel est cependant généralement appuyé par la Délégation de l'UE. L'Union européenne dispose d'un ensemble d'instruments efficaces qu'elle doit utiliser de manière coordonnée. Dans le cas présent, il conviendrait d'utiliser l'expertise des autres instruments pertinents de l'UE, et notamment des missions PSDC.*

## DRAFT EXPLANATORY STATEMENT

On 5 July 2016 the European Commission published a legislative proposal to help strengthen the security and defence capabilities of the partner countries. The aim is to enable the Union to finance out of its own budget both training activities and the supply of non-lethal equipment to the security forces of third countries. This support given by the Union to its partners should help to sustain the effectiveness of the training activities provided by the Union and the development of the rule of law.

The Commission's initiative is intended to strengthen the link between security and development established since 2003 in the European Security Strategy<sup>1</sup> ('security is a precondition of development') and expressly reiterated since then in all strategic, global or thematic documents<sup>2</sup>.

The link between development and security is understood to be a key principle underpinning the Union's integrated approach to external crises and conflicts. While the aim of development policy is to reduce and finally eliminate poverty ('without development and the eradication of poverty, there will be no lasting peace'), enhancing capacities in the security sector clearly appears to be a vital contribution to the objectives of sustainable development. The European Parliament has always agreed with this position. In its report on the Union's comprehensive approach<sup>3</sup>, it therefore welcomes the 'link between security and development, which should be a key underlying principle in applying the Union's comprehensive approach'.

Also, it should be noted that the future direction of the security-development link will be unequivocally reaffirmed in 'European Consensus on Development', which is currently being revised.

This proposal enhances the consistency of European Union action.

It makes it possible to implement the objectives of the Global Strategy for the European Union's Foreign and Security Policy, presented in June 2016 by the High Representative of the Union for Foreign Affairs and Security Policy. 'Priority 4 - 'From Vision to Action' - underlines the need to enhance the capacities of its partners to deal with external crises.

This need is also referred to in the EP resolution on peace support operations<sup>4</sup>:

*The Parliament 'welcomes the Joint Communication on capacity-building and joins the Council in calling for its urgent implementation'.*

Lastly, this text is a follow-up to the joint communication of April 2015<sup>5</sup> which identified where the European Union fell short in strengthening the capabilities of its partner countries as well as in security sector reform (SSR).

The Union is currently undertaking an assessment of the needs of fragile countries,

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<sup>1</sup> European Security Strategy (Council document 15895/03 of 8 December 2003).

<sup>2</sup> Example: EU strategy for security and development in the Sahel dating from 2011.

<sup>3</sup> European Parliament resolution of 3 April 2014 on the EU comprehensive approach and its implications for the coherence of EU external action (2013/2146(INI)). Texts adopted, P7\_TA(2014)0286.

<sup>4</sup> European Parliament resolution of 7 June 2016 on Peace Support Operations – EU engagement with the UN and the African Union European Parliament resolution of 7 June 2016 on Peace Support Operations – EU engagement with the UN and the African Union (2015/2275(INI)). Texts adopted, P8\_TA(2016)0249.

<sup>5</sup> Joint Communication of the European Commission and the High Representative to the European Parliament and the Council 'Capacity building in support of security and development - Enabling partners to prevent and manage crises', 28 April 2015, JOIN(2015) 17 final.

particularly in Africa, and the Instrument contributing to Stability and Peace (IcSP) is already funding SSR activities.

The proposal will allow the EU to abide by its international development commitments. It takes account of the OECD-DAC revised Reporting Directives on official development assistance (ODA) in the field of peace and security, which bring the security sector within the scope of ODA rules, and of the UN 2030 Agenda for Sustainable Development and its Sustainable Development Goal (SDG) 16 on 'peace and justice', which emphasises the need to support national security institutions in fragile and conflict-affected countries.

The proposal is a response to an urgent need, and to the expectations of local stakeholders. Political guidelines have been in place for over three years now, but no tangible measures have been taken to translate them into reality. Back in December 2013, the European Council made the case for a train-and-equip programme, which became the CBSD initiative (Capacity Building and Security Development). In December 2016, the European Council conclusions called for the European Commission's legislative proposal to be adopted by the end of June 2017.

That legislative text takes the form of an amendment to Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace. Revision of the Regulation merely adds some enacting terms in order to remedy existing shortcomings, to support all security sector actors (including the military) in order to allow the provision of training and equipment to meet critical needs in the short and medium term, as part of efforts to achieve sustainable development objectives.

Rapid establishment of the CBSD initiative in the partner countries would thus round off existing measures.

The European Union already has several instruments to support civilian security forces (police) and justice by financing certain equipment (vehicles, radios, etc.).

However, it is not able to support the military, although in some cases it is only the armed forces which are capable of stabilising areas, by helping to restore security and reinstate public administration and basic services.

The EU thus lacks a financial instrument that can be activated quickly and efficiently to provide direct support in the field of security for its third-country partners when needed.

Without the ability to provide back-up for the work of the relevant coordinated equipment programmes, it is extremely difficult to achieve continued positive outcomes in terms of training and advice for third-country armies in the medium and long term.

The urgently needed assistance proposed by the Commission would fill in the gaps in the existing arrangements, the gaps between programmes designed to strengthen 'civilian' security forces and other development programmes, and between the training which can be provided by European units and local forces' equipment shortages. The European Union needs to be able to equip the security forces of partner countries that it trains in the course of its missions.

For example, European aid could finance garrison medical facilities in Mali, where the European Union is already present with its military mission, EUTM Mali. The aim would be to rehabilitate the existing infirmary-type medical facilities in order to bring them up to an acceptable standard of care. These infirmaries should be able to provide basic health care, including action to promote the welfare of mothers and children, and to provide first aid. Helping to build hospitals to treat the wounded would mean real added value for the EU and contribute to the success of the European mission.

At present, this lack of funding undermines the credibility of the Union's external action at a time when other players, such as China, Russia and Turkey, are constantly increasing their activities with African countries, especially in the military field, without making their aid conditional on the principles of good governance promoted by the Union.

The Commission considered various ways of financing these initiatives. In its impact assessment<sup>1</sup>, the Commission concludes that revision of the Instrument contributing to Stability and Peace (IcSP) would be the most appropriate and effective short-term option for building capacity for security and development. This highly flexible instrument would allow a broad range of actions to be funded, without any geographical restriction.

The modest initial funding of EUR 100 million would complement action already underway, with very beneficial effects on security, development and the economy. At this stage, there is not predicted to be any impact on Member States' national budgets, although greater investment may be necessitated by global security requirements and SSR activities. The follow-up to this initiative will be considered during discussions on the post-2020 multiannual financial framework (MFF) and the mid-term review of EU external funding instruments, which is being prepared for December 2017.

The legal framework of the proposal is clear and strictly circumscribed, and will prevent any abuse.

Safeguards have been carefully defined to make sure that the Regulation is used appropriately:

- Support for third countries' armed forces would apply only to certain countries in clearly defined situations where boosting military capability serves a development goal.

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<sup>1</sup> Impact assessment, Capacity Building in support of Security and Development, accompanying document: Proposal for a Regulation amending Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (SWD(2016) 222 final).



- The conditions under which the financial aid could be triggered are precise: it will have to be justified by the situation in the country concerned and an agreement between the third country and the EU.
  - The assistance itself is subject to well defined restrictions: it will not be able to be used for recurrent military expenditure (salaries and pensions), the procurement of lethal equipment such as weapons and ammunition, or for training designed solely for combat purposes.
- Lastly, it is essential to take particular care that the funds are properly allocated.

The Regulation as amended by the European Parliament must also be fully in line with the legal requirements of the Treaties. Where necessary in the light of the EU's development cooperation objectives, it is possible for capacity building in the security sector to be financed under Articles 209 and 212 TFEU (i.e. both under development cooperation and under economic, financial and technical cooperation).

This legal basis will enable all developing countries and other fragile countries to be included in the scope if the proper conditions are met. The instrument would make it possible to aid countries such as Mali, the Central African Republic or Somalia and other fragile countries in real need (Niger, faced with the spill-over of terrorism from Mali, and Chad and Cameroon).

On the programming and implementation of the newly amended provisions, it should be pointed out that the existing provisions of the 2014 IcSP Regulation will be observed. These are exceptional assistance measures and interim response programmes (Article 7), thematic strategy papers and multiannual indicative programmes (Article 8). The aim is also to extend the obligation to implement assistance measures in accordance with international law to CBSD-related assistance measures (Article 10).

As far as the role of the Parliament is concerned, the provisions applicable to the IcSP Regulation will also apply to all the provisions amended by this Regulation. It will be informed of non-programmable measures by the Commission's regular information notes to the Political and Security Committee. In the case of programmable measures, it will scrutinise the draft implementing acts (strategy document, multiannual indicative programmes and annual action programmes) and strategic dialogues together with the Commission and the EEAS before each multiannual programming exercise.

The rapporteur believes that the Commission proposal is merely the first stage in a more ambitious European capacity-building policy for partner countries. Nearly a year after publication of the Commission proposal, the European Parliament must shoulder its responsibilities and swiftly adopt this text, which is an essential tool for the long-term support of stability in third countries, development of the rule of law and effective EU external action.