



5.7.2017

## **OPINION**

of the Committee on Development

for the Committee on Foreign Affairs

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))

Rapporteur: Linda McAvan

PA\_Legam

## SHORT JUSTIFICATION

This legislative proposal aims at amending the 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, in order to insert a new article allowing the EU to extend its assistance, under exceptional circumstances, to the capacity building of military actors in partner countries, with sustainable development and achievement of peaceful and inclusive societies as the main declared objectives.

The Rapporteur supports the general line of the Commission proposal, but calls for a close monitoring of the activities to be financed under the new instrument and stresses the need for a full, transparent and interdisciplinary evaluation of the CBSD activities (Capacity Building in support of Security and Development)..

The Rapporteur also recalls that the primary objective of the Union's development cooperation policy is the reduction and, in the long term, eradication of poverty (Article 208 (1) of the TFEU), and, therefore, that the DCI (Development Cooperation Instrument) or EDF (European Development Fund) funding should not contribute to the CBSD activities.

## AMENDMENTS

The Committee on Development calls on the Committee on Foreign Affairs as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation Citation 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Having regard to the Treaty on European Union, in particular Articles 24, 40 and 41(2),***

*Justification*

*References to relevant CFSP articles in the treaty*

### Amendment 2

#### Proposal for a regulation Recital 1

*Text proposed by the Commission*

*Amendment*

(1) The 2005 European Consensus on

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Development recognised the link between security and development<sup>16</sup>.

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<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.

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***<sup>16 a</sup> Communication from the Commission: ‘Increasing the impact of EU Development Policy: an Agenda for Change’, 13 October 2011 (COM(2011) 637 final).***

### **Amendment 3**

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

#### **Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) The Union development policy should have as its primary objective the reduction and, in the long term, the eradication of poverty, as clearly stated by Article 208(1) of the Treaty on the Functioning of the European Union (TFEU) and should be based on development effectiveness principles; the funding for the current activities on capacity building in support of security and development (CBSD) established by this Regulation should therefore come from instruments other than the Development Cooperation Instrument (DCI) or the European Development Fund (EDF), in order to maintain those funds primarily for poverty-alleviation and eradication;***

## Justification

*Security instruments must be funded by dedicated budget lines for security. The DCI and EDF must fulfil the treaty-based obligation to be used for poverty eradication.*

### Amendment 4

#### Proposal for a regulation

##### Recital 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(1b) The Union should take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries, as stated by Article 208 TFEU; therefore, considering that any subordination of development aid and cooperation to security or defence policy is to be imperatively avoided, the external financial instruments, including the Instrument contributing to Security and Peace, are to be implemented in that spirit.***

### Amendment 5

#### Proposal for a regulation

##### Recital 2

*Text proposed by the Commission*

*Amendment*

(2) The United Nations' 2030 Agenda for Sustainable Development, adopted in September 2015, underlines the importance of promoting peaceful and inclusive societies ***both as a Sustainable Development Goal (SDG 16) and in order to achieve other development policy outcomes.*** SDG 16.a specifically requests to “strengthen relevant national institutions, including through international cooperation, for building capacities at all levels, in particular in developing countries, for preventing violence and

(2) The United Nations' 2030 Agenda for Sustainable Development, adopted in September 2015, ***outlines the Sustainable Development Goals (SDGs), the first of which is the eradication of poverty (SDG 1).*** ***SDG 16*** underlines the importance of promoting peaceful and inclusive societies. SDG 16.a specifically requests to “strengthen relevant national institutions, including through international cooperation, for building capacities at all levels, in particular in developing countries, for preventing violence and

combatting terrorism and crime”<sup>17</sup>.

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<sup>17</sup> United Nations, A/RES/70/1, Resolution adopted by the General Assembly on 25 September 2015

## Amendment 6

### 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 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.***

combatting terrorism and crime”<sup>17</sup>.

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<sup>17</sup> United Nations, A/RES/70/1, Resolution adopted by the General Assembly on 25 September 2015

##### *Amendment*

(3) ***Security sector reform***, including support to ***armed forces*** under exceptional circumstances, in third countries in a conflict prevention, crisis management or stabilisation context is essential to ensure appropriate conditions, ***including good governance for an effective use of development cooperation, whose main goal is poverty eradication.*** Those 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. ***The use of this instrument should be closely monitored and regular updates given to the European Parliament on activities that are financed under its provisions. It should be noted that the duration of this instrument is strictly limited to the end of the current Multiannual Financial Framework, whereupon the Commission should undertake a fully-fledged interdisciplinary evaluation of the actions funded in accordance with the provisions on CBSD established under this Regulation and of relevant instruments used by Member States to fund CBSD. That evaluation should assess the***

*coherence of CBSD actions funded by the Union and its Member States with the EU Global Strategy and the UN Sustainable Development Goals. Any future instruments created to address the security-development nexus should be based on the conclusions of this evaluation, only be undertaken after a wide-ranging, multi-stakeholder public consultation and should facilitate civilian cooperation among the Union, local and regional public or intergovernmental structures as well as NGOs in order to provide support to third countries.*

## Amendment 7

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) The Council conclusions on Common Security and Defence Policy (CSDP) of 18 May 2015 called to explore options to enhance coherence and coordination between EU security and development actions, as well as to improve the delivery of capacity building in support of security and development, notably in terms of financing instruments.<sup>19</sup> They also invited to develop an EU-wide strategic framework for Security Sector Reform, bringing together CSDP and all other relevant Common Foreign and Security Policy (CFSP) tools as well as ***development cooperation instruments and*** freedom, security and justice actors.

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<sup>19</sup> Foreign Affairs Council (Defence formation) conclusions on CSDP, document 8971/15 of 18 May 2015

*Amendment*

(6) The Council conclusions on Common Security and Defence Policy (CSDP) of 18 May 2015 called to explore options to enhance coherence and coordination between EU security and development actions, as well as to improve the delivery of capacity building in support of security and development, notably in terms of financing instruments.<sup>19</sup> They also invited to develop an EU-wide strategic framework for Security Sector Reform, bringing together CSDP and all other relevant Common Foreign and Security Policy (CFSP) tools as ***well as*** freedom, security and justice actors.

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<sup>19</sup> Foreign Affairs Council (Defence formation) conclusions on CSDP, document 8971/15 of 18 May 2015

## Amendment 8

### Proposal for a regulation

## **Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**(6a) The conclusions of the European Council of 7 and 8 February 2013 specified that at least 90% of the Union's total external aid should be deemed official development assistance in accordance with the definition established by the OECD's Development Assistance Committee (DAC). It is therefore vital that, as far as possible, the allocation of funding under the revised Regulation (EU) No 230/2014 reflect that ratio.**

*Justification*

*Almost 90% of spending under the Instrument contributing to Stability and Peace (IcSP) currently meets the CAD criteria.*

## **Amendment 9**

**Proposal for a regulation**

**Recital 6 b (new)**

*Text proposed by the Commission*

*Amendment*

**(6b) The primary objective of the Official Development Assistance (ODA) is not to finance security-related instruments.**

*Justification*

*Security instruments must be funded by dedicated budget lines for security. The DCI and EDF must fulfil the treaty-based obligation to be used for poverty eradication.*

## **Amendment 10**

**Proposal for a regulation**

**Recital 6 c (new)**

*Text proposed by the Commission*

*Amendment*

**(6c) The Council conclusions<sup>1a</sup> on the**



*Action Plan on Human Rights and Democracy 2015 - 2019 of 20 July 2015, in particular the annexed EU Action Plan on Human Rights and Democracy and its point 21(c), calls on the Commission, the European External Action Service (EEAS) and the Council to develop and implement, by 2017, a due diligence policy to ensure that the Union's support to security forces is in compliance with and contributes to the implementation of the Union's human rights policy and is consistent with the promotion, protection and enforcement of international human rights law and international humanitarian law, as applicable.*

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*1a*

*<http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf>*

#### *Justification*

*Prior to the entry into force of the amended IcSP regulation it is of crucial importance that a due diligence policy to ensure that EU support to security forces under the new Article 3a is in compliance with the EU human rights policy comes into effect.*

### **Amendment 11**

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

#### **Recital 6 d (new)**

*Text proposed by the Commission*

*Amendment*

*(6d) As regards the options available within the common foreign and security policy (CFSP), the European Parliament resolution of 22 November 2016 on the European Defence Union pointed out in paragraph 47 to a possible reform of the ATHENA mechanism aiming at enlarging its potential for cost-sharing and common funding, especially with regard to building the capacity of military actors in partner countries (with respect to training, mentoring, advice, provision of equipment, infrastructure improvement*

*and other services). A similar mechanism was developed outside of the Union budget by means of the African Peace Facility.*

#### *Justification*

*It is important to highlight that within CFSP options are available for implementing military capacity building programs in third countries. One of these options could be to reform the ATHENA mechanism as already promoted and supported by a recent European Parliament resolution.*

### **Amendment 12**

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

#### *Amendment*

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 capacity building in support of security and development in third countries, in line with sustainable development *objectives and the principles of aid effectiveness and policy coherence.*

### **Amendment 13**

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

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

Regulation (EU) No 230/2014

Article 3a – title

#### *Text proposed by the Commission*

Capacity building in *support* of security *and development*

#### *Amendment*

Capacity building in *the context* of security *sector reform*

## Justification

*Any measures in the context of the new Article 3a should be part of a broader Security Sector Reform (SSR) initiative in line with the new EU concept on SSR and relevant SSR measures in the contexts of development cooperation instruments. Such measures should focus on reforming relevant governmental structures in a way that parliamentary oversight, civilian control, transparency, accountability and efficiency are strengthened. Article 3a measure should not be understood as crisis response but as components of a medium and long term structural reform policy.*

### Amendment 14

#### 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 ***shall be eligible to*** cover 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.

***Assistance which falls under this Article shall be financed through redeployment within Heading IV of the general budget of the Union for the 2014-2020 multiannual financial framework without mobilising additional resources. Such redeployment shall exclude the use of appropriations allocated to measures under Regulation (EU) No 233/2014 of the European Parliament and of the Council<sup>1a</sup>***

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***<sup>1a</sup> Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020***

## Justification

*Parliament asks for a closed positive list of activities eligible for assistance under the IcSP,*

and recalls that the DCI funds cannot be used to finance CBSD activities.

## Amendment 15

### Proposal for a regulation

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

Regulation (EU) No 230/2014

Article 3a – paragraph 3 – introductory part

*Text proposed by the Commission*

3. Assistance pursuant to this Article shall **only** be provided:

*Amendment*

3. Assistance pursuant to this Article shall **remain exceptional and shall** be provided **under the following two conditions**:

## Amendment 16

### 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, **including the country's armed forces**, are key for **preserving, establishing or re-establishing the conditions essential for sustainable development**.

### *Justification*

*The primary objective cannot be shifted towards the stability, peace and the management of crisis without shifting the centre of gravity.*

## Amendment 17

### Proposal for a regulation

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

Regulation (EU) No 230/2014

Article 3a – paragraph 4 – point b

*Text proposed by the Commission*

(b) the procurement of arms and ammunition;

*Amendment*

(b) the procurement of arms, *spare parts* and ammunition *or any other equipment designed to deliver lethal force*;

**Amendment 18**

**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 *and the EEAS* shall *ensure full complementarity with other Union external assistance instruments as well as consistency with overall external action, including the CFSP*, and 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 19**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2**

Regulation (EU) No 230/2014

Article 3a – paragraph 6

*Text proposed by the Commission*

6. The Commission shall establish appropriate risk assessment, monitoring and evaluation procedures for measures pursuant to this Article.

*Amendment*

6. The Commission shall establish appropriate risk assessment, monitoring and evaluation procedures for measures pursuant to this Article *and, without delay, shall make that information publicly available. The European Parliament shall always be directly informed.*

## Amendment 20

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 3

Regulation (EU) No 230/2014

Article 7 – paragraph 1

*Text proposed by the Commission*

*Amendment*

(3) *In Article 7, paragraph (1) is replaced by the following:* **deleted**

**“1. Union assistance pursuant to Article 3, and to Article 3a as appropriate, shall be provided through exceptional assistance measures and interim response programmes.”**

#### *Justification*

*Decisions with regards to the new Article 3a on military capacity building should not be reached by using the procedures foreseen for Article 3 of this Regulation which are designed for fast track decisions for urgent exceptional assistance measures. The procedure for Article 3 does not involve the European Parliament, whereas the procedure for Articles 4 and 5 does.*

## Amendment 21

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 4

Regulation (EU) No 230/2014

Article 8 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Thematic strategy papers shall constitute the general basis for the implementation of assistance pursuant to Articles 4 and 5, and to Article 3a **as appropriate**. Thematic strategy papers shall provide a framework for cooperation between the Union and the partner countries or regions concerned.

1. Thematic strategy papers shall constitute the general basis for the implementation of assistance pursuant to Articles 4 and 5, and to Article 3a. Thematic strategy papers shall provide a framework for cooperation between the Union and the partner countries or regions concerned.

#### *Justification*

*The procedure foreseen for Articles 4 and 5 of this Regulation is the appropriate procedure for the new Article 3a. This procedure guarantees that the Parliaments is involved in the*

*process and that military capacity building measures are designed as so called long term measures which address structural problems in the context of a wider Security Sector Reform effort.*

## **Amendment 22**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 5**

Regulation (EU) No 230/2014

Article 10 – paragraph 1

#### *Text proposed by the Commission*

1. The Commission shall ensure that measures adopted under this Regulation in relation to the fight against terrorism and organised crime, as well as measures covered under Article 3a, are implemented in accordance with international law, including international humanitarian law.

#### *Amendment*

1. The Commission shall ensure that measures adopted under this Regulation in relation to the fight against terrorism and organised crime, as well as measures covered under Article 3a, are implemented in accordance with ***the “do no harm” principle as well as*** with international law, including international humanitarian law ***and human rights law, and the Union’s due diligence policy to ensure that the Union’s support to security forces is in compliance with and contributes to the implementation of the Union’s human rights policy and is consistent with the promotion, protection and enforcement of international human rights law and international humanitarian law. The Commission shall, without delay, make its relevant assessments publicly available.***

#### *Justification*

*A specific mention needs to be done to the “do not harm” principle and to human rights law.*

## **Amendment 23**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 6 a (new)**

Regulation (EU) No 230/2014

Article 13 – paragraph 3 – point b a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(6a) In Article 13(3), the following***

*point is added:*

*'(ba) 21 percentage points of the financial envelope shall be allocated to measures falling under Article 5;'*

*Justification*

*In Article 13 of this Regulation it is specified that Article 3 measures can consume 70% of the financial envelope and Article 4 measures 9%. In order to make sure that Article 5 continues to receive at least 21% it is important to add this language. Otherwise there is the risk that the new Article 3a consumes not only EUR 100 Million but also funding foreseen, but not properly earmarked, for Article 5.*

**Amendment 24**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 6 b (new)**

Regulation (EU) No 230/2014

Article 13 – paragraph 3 – point b b new

*Text proposed by the Commission*

*Amendment*

*(6b) In Article 13(3), the following point is added:*

*'(bb) assistance falling under Article 3a shall be limited to a maximum of EUR 100 000 000.'*

*Justification*

*It is important to guarantee that as a result of the introduction of the new Article 3a on military capacity building, funds available for the already existing Articles 3, 4 and 5 are not being reduced.*



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing an instrument contributing to stability and peace
<b>References</b>	COM(2016)0447 – C8-0264/2016 – 2016/0207(COD)
<b>Committee responsible</b> Date announced in plenary	AFET 12.9.2016
<b>Opinion by</b> Date announced in plenary	DEVE 12.9.2016
<b>Rapporteur</b> Date appointed	Linda McAvan 10.2.2017
<b>Previous rapporteur</b>	Paavo Väyrynen
<b>Discussed in committee</b>	25.4.2017            29.5.2017
<b>Date adopted</b>	3.7.2017
<b>Result of final vote</b>	+:                    13 -:                    8 0:                    1
<b>Members present for the final vote</b>	Beatriz Becerra Basterrechea, Ignazio Corrao, Doru-Claudian Frunzuliță, Enrique Guerrero Salom, Heidi Hautala, Teresa Jiménez-Becerril Barrio, Arne Lietz, Linda McAvan, Maurice Ponga, Cristian Dan Preda, Lola Sánchez Caldentey, Elly Schlein, Paavo Väyrynen, Bogdan Brunon Wenta, Joachim Zeller, Željana Žovko
<b>Substitutes present for the final vote</b>	Frank Engel, Ádám Kósa, Judith Sargentini
<b>Substitutes under Rule 200(2) present for the final vote</b>	John Stuart Agnew, Jean-Paul Denanot, Estefanía Torres Martínez

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

13	+
PPE	Frank Engel, Teresa Jiménez-Becerril Barrio, Ádám Kósa, Maurice Ponga, Cristian Dan Preda, Bogdan Brunon Wenta, Željana Zovko
S&D	Jean-Paul Denanot, Doru-Claudian Frunzulică, Enrique Guerrero Salom, Arne Lietz, Linda McAvan, Elly Schlein

8	-
ALDE	Beatriz Becerra Basterrechea, Paavo Väyrynen
EFDD	John Stuart Agnew, Ignazio Corrao
GUE/NGL	Lola Sánchez Caldentey, Estefanía Torres Martínez
Verts/ALE	Heidi Hautala, Judith Sargentini

1	0
PPE	Joachim Zeller

Key to symbols:

+ : in favour

- : against

0 : abstention