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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management**

{SEC(2011) 1358 final}

{SEC(2011) 1359 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

Home affairs policies have been steadily growing in importance over the last years. These policies are at the heart of the European project to create an area without internal borders where EU citizens and third-country nationals may enter, circulate, live and work, bringing new ideas, capital, knowledge and innovation or filling gaps in the national labour markets, confident that their rights are fully respected and their security assured. The growing importance of home affairs policies has been confirmed by the Stockholm Programme. It is also one of the areas which have seen important changes under the Lisbon Treaty.

On 29 June 2011, the Commission adopted a proposal for the next multi-annual financial framework for the period 2014-2020<sup>1</sup>: a budget for delivering the Europe 2020 strategy. In the area of home affairs policies, covering security, migration and the management of external borders, the Commission proposed to simplify the structure of the expenditure instruments by reducing the number of programmes to a two-Fund structure: an Asylum and Migration Fund and an Internal Security Fund.

Simplification has been defined as a key objective in the EU Budget Review Communication<sup>2</sup>, the Smart Regulation agenda<sup>3</sup> and the aforesaid communication on the next multi-annual financial framework. Experience suggests that in the current programming period, the diversity and fragmentation of rules governing spending programmes are often perceived as unnecessarily complicated and difficult to implement and control. This imposes a heavy administrative burden on beneficiaries as well as on the Commission and Member States, which can have the unintended effect of discouraging participation, increasing error rates and delaying implementation. This means that the potential benefits of Union programmes are not fully realised.

This Regulation is part of a package of four Regulations, jointly establishing the framework for Union funding on home affairs under the two Funds. This Regulation lays down rules on programming, management and control, financial management, clearance of accounts, closure of programmes and reporting and evaluation. Thus, it sets out the delivery mechanisms whereas the purpose and scope of the two Funds, the resources and means of implementation are defined in their respective specific Regulations. This horizontal instrument will ensure a common approach to the implementation of the two Funds and a uniform treatment of beneficiaries in relation to all Union support in the area of home affairs.

This overall structure of four Regulations is necessary in the light of Treaty obligations. Due to different voting rules in the Council stemming from variable geometry pursuant to Protocols 19 (on the Schengen acquis) and 21 (the position of the UK and Ireland in respect of the area of Freedom, Security and Justice) it is not legally possible to draw up one single comprehensive legislative proposal for an Internal Security Fund, despite the coherence of the policy objectives to be addressed. Moreover, it was considered important that, in line with the general objective of simplification and mainstreaming, the two Funds (the Internal Security

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<sup>1</sup> COM(2011)500 Final.

<sup>2</sup> COM(2010)700 final.

<sup>3</sup> COM(2010)543 final.

Fund and the Asylum and Migration Fund) should have to the extent possible identical delivery mechanisms. Finally, by introducing a horizontal Regulation setting out common provisions, the overall number of provisions is reduced considerably than if they were replicated in each act.

This Regulation lays down obligations only of a financial and technical nature and leaves the choices on the definition of policy objectives, eligible actions, the allocation of resources and the scope of the intervention for each specific policy area to the respective legal basis (i.e. in the Specific Regulations).

Its mechanisms aim to cover the principal source of Union funding in the home affairs area. As such, it would then replace the myriad of provisions with varying degrees of detail and complexity currently found in the legal bases of the existing home affairs expenditure instruments: the four instruments of the General Programme "Solidarity and Management of Migration Flows", the External Borders Fund, European Refugee Fund, the European Fund for the Integration of third-country nationals, the European Return Fund, and the two Specific Programmes of the General Programme "Security and Safeguarding Liberties", ISEC (Prevention of and the fight against Crime) and CIPS (Prevention, Preparedness, and consequence management of Terrorism and other Security-related Risks).

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

In accordance with the greater emphasis placed on evaluation as a tool to inform policy making, this proposal is informed by evaluation results, stakeholder consultation and impact assessment.

Work on the preparation of the future financial instruments for home affairs started in 2010 and continued into 2011. As part of this preparatory work, an evaluation/impact assessment study was launched in December 2010 with the aid of an external contractor. This study was completed in July 2011 and brought together available evaluation results for the existing financial instruments and informed the problems, objectives and policy options, including their likely impact, examined in the impact assessment. Building upon this study, the Commission prepared an impact assessment report on which the Impact Assessment Board delivered its opinion on 9 September 2011.

The impact assessment identified problems in relation to the scope and priorities of the current home affairs spending programmes on the one hand and the problems regarding the delivery of funding on the other hand. In relation to the latter, the impact assessment examined options in relation to shared management, centralised management and the timely response to emergency situations.

- In relation to shared management, the impact assessment concluded that a multiannual programme preceded by a policy dialogue was the preferred option. Contrary to the status quo, which combines annual programmes within a multiannual framework, it would significantly reduce administrative workload. Although a shift to multiannual programming only would offer increased flexibility, it would not address the continuous need to respond to changing situations in the Member States and third countries, typical of the home affairs area. Multiannual programming

combined with a regular policy dialogue, however, would address this need and allow for a more results-driven approach.

- In terms of improving the delivery of funding under centralised management, the status quo was discarded because it offers little or no prospect of simplification or reduction of administrative workload. The move to a procurement only approach was also rejected because it would eliminate completely the possibility of promoting policy-driven actions, stimulating transnational co-operation and supporting civil society through grants. Recourse to a more targeted, less resource-intensive and diversified centralised management is the preferred option because it is expected to improve relations with key stakeholders and to lead to an overall reduction in workload.
- In relation to the emergency response mechanism, the impact assessment concluded that the current mechanism clearly does not meet the need for a quicker and more effective response to crises in the areas of migration and security. An improved mechanism extended to both a wider range of migration-related crises and security-related crises was considered the preferred option.

The impact assessment takes into account the results of a dedicated on-line public consultation on the future of home affairs funding. The consultation ran from 5 January to 20 March 2011 and was open to all stakeholders. A total of 115 responses were received from individuals and on behalf of organisations, including eight position papers. Respondents from all Member States contributed to the consultation as well as respondents from some third countries.

In April 2011, the conference "The future of EU funding for Home Affairs: A fresh look" brought together key stakeholders (Member States, international organisations, civil society organisations etc) to discuss the future of EU funding for home affairs. The conference was also an occasion to validate the outcome of the stock taking and the public consultation.

The future of EU funding for home affairs was raised and discussed with institutional stakeholders on numerous occasions, including at an informal lunch discussion during the JHA Council on 21 January 2011, an informal breakfast with the political coordinators of the European Parliament on 26 January 2011, at the hearing of Commissioner Malmström before the Parliament's SURE Committee on 10 March 2011 and during an exchange of views between the Director-General of DG Home Affairs and the Parliament's LIBE Committee on 17 March 2011. Specific expert advice was also gathered through discussions with Member States' experts within the framework of the common Committee for the General Programme on Solidarity and Management of Migration Flows.

These consultations, conferences and expert discussions confirmed that there is general agreement among key stakeholders on the need for simplification of delivery mechanisms and greater flexibility, notably to respond to emergencies. Stakeholders supported the idea of reducing the number of financial instruments to a two-Fund structure on the condition that this would actually lead to simplification. They also agreed on the need for a flexible emergency response mechanism to allow the Union to respond quickly and effectively to migration and security-related crises. Shared management with a move to multi-annual programming with the definition of common targets at Union level was generally seen as the appropriate management method for all home affairs spending although non-governmental organisations were of the view that direct management should also be continued. Stakeholders

also supported enhancing the role of the home affairs agencies in order to foster cooperation and increase synergies.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

The right to act derives from Article 3(2) of the Treaty on European Union which states that "the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime".

Pursuing simultaneously several objectives which are inseparably linked without each one being secondary and indirect in relation to the others, this Regulation is founded on substantive legal bases in Title V of the Treaty in the area of freedom, security and justice namely on Articles 78(2), 79(2 and 4), 82(1), 84 and 87(2). They constitute the legal bases for Union action in the areas of asylum, immigration, management of migration flows, fair treatment of third-country nationals residing legally in Member States, combating illegal immigration, removal and repatriation of persons residing without authorisation, trafficking in human beings, judicial cooperation in criminal matters, crime prevention, combating crime including terrorism, corruption, organised crime and police cooperation.

They constitute compatible legal bases in the light of the position of the United Kingdom, Ireland [and Denmark] with regard to the areas they cover, thus enabling voting on this text in the Council. As the ordinary legislative procedure applies to each of them, the combination of the legal bases chosen fully respects the prerogatives of the European Parliament.

Attention is also drawn to Article 80 of the TFEU which underlines that certain of these policies of the Union and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States.

In light of the above decision making procedure, the provisions of this Regulation lay down horizontal common provisions for the implementation of the Asylum and Migration Fund and one component of the Internal Security Fund, namely the instrument for financial support for police co-operation, preventing and combating crime, and crisis management.

For those home affairs policies covered by the Internal Security Fund the legal bases of which are not compatible with the above, this Regulation should become applicable on the basis of a specific clause in one of the specific Regulations, namely the instrument for financial support for external borders and visa based on Article 77(2) TFEU, as these policies constitute a development of the Schengen acquis in which the United Kingdom and Ireland do not participate.

Consequently, upon the joint adoption of this Regulation and the specific Regulations, the provisions of this Regulation will become equally applicable to all home affairs Union funding.

Overall, the home affairs area is an area where there is an obvious added value in mobilising the Union budget.

Union action is justified on the grounds of the objectives laid out in Article 67 of the Treaty on the Functioning of the Union (TFEU), setting out the means to constitute an area of freedom, security and justice. The implementation of financial assistance in partnership with the Member States through shared management is an important aspect of home affairs Union funding. The shared management method is considered appropriate for all home affairs policy areas and has therefore been extended to the area of internal security where it was not used previously. Centralised management is maintained for policy-driven activities.

Under shared management, the shift from annual programmes towards multiannual programming preceded by a policy dialogue within a strategic framework defined at Union level will ensure that the actions financed from the Union budget meet the needs of individual Member States whilst addressing Union priorities. This proposal lays down the general rules on programming, reporting, financial management, controls and evaluations which are necessary for the proper implementation of Union home affairs funding but -where possible- leaves the Member States the freedom to decide how to implement these rules at national level. For example, the eligibility of expenditure will be determined on the basis of national rules, subject to a limited number of common, simple principles which are laid down in this Regulation.

Thus, interventions take place at the appropriate level and the role of the Union does not go beyond what is necessary. As the Budget Review has highlighted, the "EU budget should be used to finance EU public goods, actions that Member States and regions cannot finance themselves, or where it can secure better results".<sup>4</sup>

Detailed justifications for Union action in relation to the various policy areas covered by this Regulation are included in the explanatory memorandum to the Specific Regulations.

#### **4. BUDGETARY IMPLICATION**

The Commission's proposal for the Multi-Annual Financial Framework includes a proposal of EUR 3,869 million for the Asylum and Migration Fund and of EUR 4,648 million for the Internal Security Fund (current prices).

#### **5. MAIN ELEMENTS**

As a new general framework for implementing Union funding in the area of home affairs policies, this Regulation sets out general rules on the financing of expenditure including rules on partnership, programming, reporting, monitoring and evaluation, the management and control systems to be put in place by the Member States and the clearance of accounts:

- The rules on partnership, programming, monitoring and evaluation have been designed on the basis of lessons learnt with the current four Funds of the General Programme "Solidarity and Management of Migration Flows";
- The rules on management and control systems, financial management, clearance of accounts and reporting and closure of programmes are inspired by Part II of the Commission proposal for a Regulation common provisions for Funds covered by the

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<sup>4</sup> "The EU Budget Review", COM (2010) 700, 19.10.2010.

Common Strategic Framework ("hereafter CSF Funds Regulation")<sup>5</sup> and the Commission proposal for a Regulation on the financing, management and monitoring of the common agricultural policy<sup>6</sup>, whilst ensuring, where useful, continuity with rules applied for the current four Funds.

The Regulation seeks to lay down the conditions for

- (1) a more policy-driven and results-oriented funding, including through reinforced strategic programming;
- (2) a significant simplification of the delivery mechanisms compared to the current situation;
- (3) more flexibility in financial management and in the implementation, in light of the need to be able to address new and unforeseen circumstances typical of home affairs;
- (4) an enhanced monitoring and evaluation framework, ensuring accountability, transparency and informed reflection on future support in the area of home affairs.

### **5.1. A policy-driven and results-oriented agenda**

#### For shared management

- At the beginning of the next Multiannual Financial Framework, there will be a single, overarching home affairs policy dialogue with each Member State on their use of the Funds, i.e. how each individual Member State will contribute to achieving the objectives of the area of freedom, security and justice using the Union budget. These dialogues will be preceded by a Communication from the Commission on the overall expectations and framework for the dialogue. This Communication will also present the Commission's intentions for the Union actions and the framework for their implementation (e.g. different management methods to be used).
- Taking into account the outcome of the policy dialogue, the programmes agreed between the Commission and the Member State will describe the baseline situation and lay down the objectives Member States are to achieve in the policy area and the objectives for the use of Union funding. The national programme will identify targets and examples of actions per objective. In addition, a seven-year financial plan will indicate how the allocated resources are to be committed and spent, within the ceilings available. In case of actions to be implemented in and in relation to third countries, such actions should not be directly development-oriented and the policy dialogue should seek full coherence with the principles and general objectives of the Union external action and foreign policy related to the country or region in question.
- While every effort will be made to ensure that the national programmes are adopted in 2014, it is not excluded that some programmes would not be adopted until 2015.

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<sup>5</sup> Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (COM (2011) 615 final)

<sup>6</sup> Proposal for a Regulation of the European Parliament and of the Council on the financing, managing and monitoring of the common agricultural policy (COM (2011) 628/3)

In order to avoid the loss of the related commitment appropriations for 2014, the Commission will therefore amend its proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020 [COM(2011) 398 of 29.06.2011] in order to extend the provisions of Article 7 of the said Regulation to programmes implemented under shared management under the Asylum and Migration and Internal Security Funds.

- Member States will report annually on financial management and the results achieved under the programmes.
- There will be a mid-term review in 2017 to re-examine the situation in each Member State. At this occasion, new resources can be allocated for the period 2018-2020.

#### For direct and indirect management

- The objectives to be achieved under the national programmes will be complemented by "Union actions" as well as a rapid response mechanism to deal with emergency situations. Union actions will support the implementation of Union policies through grants and procurement. They will include actions in and in relation to third countries as indicated in the Communication on the Multiannual Financial Framework<sup>7</sup>. Such actions shall not be directly development oriented and shall complement, as appropriate, the financial assistance provided through the EU's external aid instruments, which remain the main source of funding to help third countries build their relevant capacities. In implementing such support, full coherence will be sought with the principles and general objectives of the EU external action and foreign policy related to the country or region in question. Complementarity will be ensured through enhanced coordination with the EEAS and the relevant Commission services.
- Union actions and emergency assistance measures may also be carried out by Union Agencies in the area of home affairs (Cepol, Europol, EASO, Frontex and the IT Agency), where this is in the interest of the Union, where the actions are of an ad hoc nature, and where their successful implementation relies on the operational and technical expertise of the Agency concerned. Such actions will be implemented within the framework of their missions, in accordance with their legal bases, in complementarity with their work programmes and without prejudice to the overall staff reductions foreseen.
- Technical assistance at the initiative of the Commission will be used to support Member States and beneficiaries, to encourage mutual learning and improve communication (including corporate communication where appropriate) and evaluation. These appropriations will also support adequate control measures in the Union and in third countries relating to actions funded and run the IT system used for the communication between Member States and the Commission under shared management.

## **5.2. Simplification of delivery mechanisms**

### For shared management

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<sup>7</sup> See footnote 1



- Each Member State will be required to have a single national programme per Fund, thus bringing together various policy areas, resulting in support from the Union budget for respectively an integrated migration policy, including integration, asylum and return as regards the Asylum and Migration Fund, and a comprehensive internal security strategy, including police co-operation, border security, fight against serious cross border crime, document fraud etc, as regards the Internal Security Fund.
- The new framework represents a major simplification and reduction of administrative burden compared to the current four Funds, which work with both a multiannual strategy and annual programmes. The maximum number of programmes will be 26 for the AMF (excluding Denmark, if the United Kingdom and Ireland were to opt in) and 27 for the ISF (all Member States). Moreover, the Schengen associated States will also participate in the ISF as regards the external borders and visa and the police cooperation components.
- A low number of revisions of national programmes are expected: programmes will concentrate on objectives and targets and not on an exhaustive identification of actions. The objective is that, as far as possible, and except for new or unforeseen circumstances, there should be, per Member State and per Fund, one decision to approve the multiannual programme and, if needed, one decision to revise the programme in the context of the mid-term review.
- As under the CSF Funds, the partnership principle should be implemented through a monitoring committee.
- Each Member States will set up a single management and control system per Fund, with the possibility of having one system to cover both Funds. To take into account national institutional particularities, Member States may create delegated authorities, to whom the responsible authorities can delegate particular (programming and implementation) tasks.
- The eligibility of expenditure shall be determined on the basis of national rules, subject to a limited number of common, simple principles. This approach should constitute an important simplification in project management at the level of the beneficiaries. Simplified cost options such as flat rates and lump sums provide the means for Member States to introduce performance-oriented management at the level of beneficiaries.

#### For direct and indirect management

- Financial assistance will be available in the event of emergency situations, as defined in the relevant provisions of the specific Regulations. The mechanism shall be triggered by the Commission, also following the initiative of Member States, the Article 71 Committee (COSI) represented by the respective Union Presidency or other stakeholders such as international organisations (United Nations High Commissioner for Refugees, International Organisation for Migration, etc) and Union agencies in home affairs.
- All possible means will be used to avoid fragmentation by concentrating resources on a limited number of Union objectives and using the expertise of key stakeholders, where appropriate, on the basis of partnership agreements and framework agreements.

- For the financial support to the development of new IT systems ("the smart borders package"), the current annual financial decisions enabling the Commission to develop the central parts will be replaced by a multiannual framework.

### **5.3. Flexibility**

#### For shared management

- The impact of the mid-term review will depend on the situation in the Member States. Member States which are deemed to have additional risks or which obtain additional resources to implement Union specific priorities would be invited to revise the amounts in their financial plan and where appropriate to add elements in their programme.
- Financial flexibility is part and parcel of the current Interinstitutional Agreement on Budgetary Discipline and of the Commission proposal for the Regulation on the 2014-2020 MFF. It is also reflected in the proposal for the revision of the Financial Regulation and for its implementing rules. It will therefore be implemented notably through the different mechanisms provided by these proposals, bearing in mind as central phases for their implementation the multiannual financial programming and its annual update, the annual budget allocation and the annual budget implementation.
- The specific Regulations lay down the amounts that will be allocated to the national programmes, Union actions and other activities. However, in the overall package of this Regulation and the specific Regulations, it is foreseen that the Commission can, by delegated acts, change certain amounts in order to ensure optimal use of the Union budget.

#### For direct and indirect management

- Annual appropriations for Union actions, emergency assistance and, subject to annual ceilings, the technical assistance at the initiative of the Commission, are considered as one "envelope", thereby allowing maximum flexibility to decide from one financial year to another where the resources will be allocated, depending on the specific needs.
- Union actions are defined very broadly so as to give the Commission all the necessary tools to fulfil its law making and policy coordination tasks.
  - They focus on transnational aspects (co-operation, comparative analysis, networks), which require concerted actions across all Member States and actively support collective and mutually reinforcing actions of Member States and other actors which consolidate Union co-operation and bring about mutual learning and innovation.
  - They also allow actions that are not transnational but that are of a particular interest for the policy development in these areas for the Union as a whole.
  - They can cover actions in and in relation to third countries.
  - The specific Regulations foresee implementation in relation to all the policies and objectives supported by the Funds and even financing policy-related aspects of the operation of the Funds. In the case of the borders and visa component of the

Internal Security Fund, this could include the implementation of the Schengen evaluation and monitoring mechanism.

- Accordingly, the specific Regulations foresee support to the development of civil society and transnational networks (in particular for the Asylum and Migration Fund) and testing and validating research, e.g. applied research projects to bridge the gap from the Horizon 2020 Programme to operational use (in particular for the Internal Security Fund).

#### **5.4. A coherent and efficient reporting, monitoring and evaluation framework**

##### For shared management

- Member States will report annually on the implementation of the multiannual programme, as an integral part of the clearance of accounts' exercise. To feed into the mid term review process, they will be requested in 2017 to provide additional information on the progress made in achieving the objectives. A similar exercise will be undertaken in 2019, to allow, where appropriate, adjustments during the last financial year (2020).
- Supporting the development of a evaluation-based culture in the area of home affairs, the Funds will have a common evaluation and monitoring framework with broad policy related indicators which underline the result-oriented approach to the Funds and the essential role they could play in the policy mix to achieve the objectives towards an area of freedom, security and justice. These indicators relate to the impact the Funds could make: the development of a common culture of border security, police cooperation and crisis management; effective management of migration flows into the Union; fair and equal treatment of third-country nationals; solidarity and co-operation between Member States in addressing migration and internal security issues and a common Union approach on both migration and security towards third countries.
- To ensure adequate application of the principles on evaluation, and bearing in mind the practical experience with evaluation in Member States under the current Union funding on home affairs, the Commission and the Member States will work together to develop through implementing measures the common evaluation and monitoring framework, inter alia by defining templates and common output and result indicators.
- All measures will be established at the beginning of the programming period, thus enabling Member States to set up their reporting and evaluation systems on the basis of the agreed principles and requirements.
- To reduce the administrative burden and ensure synergies between reporting and evaluation, the information required for evaluation reports will build on and complete the information provided by Member States in the annual implementation reports of the national programmes.
- The interim evaluation report is due in 2018 and should feed into the reflection on the subsequent programming period.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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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 Articles 78(2), 79(2), 79(4), 82(1), 84 and 87(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>8</sup>,

Having regard to the opinion of the Committee of the Regions<sup>9</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Union's home affairs policy is to create an area of freedom, security and justice: an area without internal borders where people may enter, move, live and work freely, confident that their rights are fully respected and their security assured, bearing in mind common challenges such as the development of a comprehensive Union immigration policy to enhance competitiveness and social cohesion of the Union, the creation of a common European Asylum System and the prevention and combating of threats of serious and organised crime, cybercrime and terrorism.
- (2) Union funding to support the development of this area should constitute a tangible sign of the solidarity and responsibility sharing that are indispensable in responding to the common challenges.
- (3) The existence of a common framework should ensure the necessary coherence, simplification and uniform implementation of that funding across the policy areas concerned.

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<sup>8</sup> OJ C , , p. .

<sup>9</sup> OJ C , , p. .

- (4) A common framework should lay down the principles of assistance and identify the responsibilities of the Member States and the Commission in ensuring the application of those principles.
- (5) This Union funding would be more efficient and better targeted if co-financing of eligible actions were based on strategic multiannual programming, drawn up by each Member State in dialogue with the Commission.
- (6) Measures in and in relation to third countries supported through the Specific regulations 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 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 ensured with the Union humanitarian policy, in particular as regards the implementation of emergency assistance.
- (7) External action should be consistent and coherent as set out in article 18(4) of TEU.
- (8) Prior to the preparation of multi-annual programmes as a means to achieve the objectives of this Union funding, Member States and the Commission should engage in a policy dialogue and thereby establishing a coherent strategy for each individual Member State.
- (9) The strategy should be subject to a mid term review, to ensure appropriate funding in period 2018-2020.
- (10) Member States should establish a partnership with the authorities and bodies concerned to prepare, implement and monitor on their national programmes throughout the entire multiannual period. Member States should set up monitoring committees to monitor the national programmes and assist them in reviewing the implementation and progress made in achieving the objectives.
- (11) Eligibility of expenditure under the national programmes should be determined by national law, subject to common principles. The starting and closing dates for the eligibility of expenditure should be defined so as to provide for uniform and equitable rules applying to the national programmes.
- (12) Technical assistance should enable the Member States to support the implementation of their national programmes and assist beneficiaries in complying with their obligations and Union law.
- (13) To ensure an adequate framework for providing rapidly emergency assistance, this Regulation should allow support for actions the expenditure of which was incurred before the application for such assistance was made, in accordance with the provision

in the Financial Regulation<sup>10</sup> which allows such flexibility in duly substantiated exceptional cases.

- (14) The financial interests of the European Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties.
- (15) Member States should adopt adequate measures to guarantee the proper functioning of the management and control system and the quality of implementation. To this end, it is necessary to establish the general principles and necessary functions which these systems should fulfil.
- (16) The obligations on the Member States as regards management and control systems, the prevention, detection and correction of irregularities and infringements of Union law should be specified in order to guarantee the efficient and correct implementation of their national programmes.
- (17) In accordance with the principles of subsidiarity and proportionality, Member States should have the primary responsibility, through their management and control systems, for the implementation and control of national programmes.
- (18) Only Responsible authorities accredited by the Member States offer reasonable assurance that the necessary controls have been carried out before granting support from the Union budget to beneficiaries. It should therefore be explicitly laid down that only expenditure effected by accredited responsible authorities can be reimbursed from the Union budget.
- (19) The powers and responsibilities of the Commission to verify the effective functioning of the management and control systems, and to require Member State action, should be laid down.
- (20) Union budget commitments should be effected annually. In order to ensure effective programme management, it is necessary to lay down common rules for the payment of the annual balance, and the final balance.
- (21) The pre-financing payment at the start of programmes ensures that the Member State has the means to provide support to beneficiaries in the implementation of the programme once the programme is approved. Therefore, provisions should be made for initial pre-financing amounts. Initial pre-financing should be totally cleared at closure of the programme.
- (22) The triennial revision of the Financial Regulation<sup>11</sup> introduces changes in the shared management principles which have to be taken into account.
- (23) With a view to strengthening accountability for expenditure co-financed by the Union budget in any given year, an appropriate framework should be created for the annual clearance of accounts. Under this framework, the Responsible Authority should submit

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<sup>10</sup> Triennial revision of the Financial Regulation - Commission proposal COM(2010)0260

<sup>11</sup> Triennial revision of the Financial Regulation - Commission proposal COM(2010)0260

to the Commission, in respect of a national programme, a management declaration accompanied by the annual accounts, a summary report and an independent audit opinion and control report.

- (24) To support the assurance underlying the annual clearance of accounts across the Union, common provisions should be laid down on the nature and level of the controls to be carried out by Member States.
- (25) In order to ensure the sound financial management of Union resources, it may be necessary for the Commission to make financial corrections. To ensure legal certainty for the Member States, it is important to define the circumstances under which breaches of applicable Union or national law can lead to financial corrections by the Commission. In order to ensure that financial corrections which the Commission may impose on Member States are related to the protection of the Union's financial interests, they should be confined to cases where the breach of Union or national law concerns directly or indirectly the eligibility, regularity, management or control of actions and the corresponding expenditure. To ensure proportionality it is important that the Commission considers the nature and the gravity of the breach in deciding the amount of financial correction. In this regard, it is appropriate to set out the criteria for applying financial corrections by the Commission and the procedure that may lead to a decision on the financial correction.
- (26) In order to establish the financial relationship between the Responsible Authorities and the Union budget, the Commission should clear the accounts of these authorities annually. The clearance of accounts decision should cover the completeness, the accuracy and veracity of the accounts but not the conformity of the expenditure with the Union legislation.
- (27) The Commission, which is responsible for the proper application of Union law under Article 17 of the Treaty on European Union, should decide whether the expenditure incurred by the Member States complies with Union legislation. Member States should be given the right to justify their decisions to make payments. In order to give Member States legal and financial assurances as to expenditure effected in the past, a maximum period should be set for the Commission to decide which financial consequences should follow from non-compliance.
- (28) In order to encourage financial discipline, it is appropriate to define the arrangements for decommitment of any part of the budget commitment in a national programme, in particular where an amount may be excluded from the decommitment, notably when delays in the implementation result from a legal proceeding or an administrative appeal having suspending effect or from reasons of force majeure.
- (29) To ensure the appropriate application of the general rules on decommitment, the rules established should detail how the deadlines for decommitment are established and how the respective amounts are calculated.
- (30) It is important to bring the achievements of Union funding to the attention of the general public. Citizens have a right to know how the Union's financial resources are spent. The responsibility to ensure that the appropriate information is communicated to the public should lie with both the Responsible Authorities and the beneficiaries. To ensure more efficiency in communication to the public at large and stronger synergies

between the communication activities undertaken at the initiative of the Commission, the budget allocated to communication actions under this Union funding shall also contribute to cover corporate communication of the political priorities of the European Union provided that these are related to the general objectives of this Union funding.

- (31) For the purpose of ensuring a wide dissemination of information about this Union funding and to inform potential beneficiaries about funding opportunities, detailed rules relating to information and communication measures, as well as certain technical characteristics of such measures should be defined on the basis of this Regulation and each Member State should establish a website or website portal with the necessary information.
- (32) The effectiveness of actions supported also depend on their evaluation and the dissemination of their results. The responsibilities of the Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation and the quality of the related information, should be formalised.
- (33) In order to amend provisions of this Regulation on the common principles on the eligibility of expenditure, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (34) In order to ensure uniform conditions for the implementation of this Regulation, it should confer implementing powers 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>12</sup>.
- (35) The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the model forms for the provision of information to the Commission, given their purely technical nature.
- (36) Since the objective of this Regulation, namely to lay down general provisions cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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 objective. In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community and without prejudice to Article 4 of the said Protocol these Member

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<sup>12</sup> OJ L 55, 28.2.2011, p. 13.



States are not participating in the adoption of this Regulation and are not bound by or subject to its application. [OR] [*In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland gave notice of their wish to take part in the adoption and application of this Regulation.*]

- (37) In accordance with Articles 1 and 2 of the Protocol of the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application;

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### *Article 1*

##### **Purpose and scope**

This Regulation sets out general rules for the implementation of the Specific Regulations with regard to:

- (a) the financing of expenditure;
- (b) partnership, programming, reporting, monitoring and evaluation;
- (c) the management and control systems to be put in place by the Member States;
- (d) the clearance of accounts.

#### *Article 2*

##### **Definitions**

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

- (a) "Specific Regulations" means
  - Regulation .../2012/EU [establishing the Asylum and Migration Fund for the period 2014-2020];
  - Regulation .../2012/EU [establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management; and
  - Any other Regulation which provides for the application of this Regulation.

- (b) "programming" means the process of organisation, decision making and financing in several stages intended to implement, on a multiannual basis, the joint action by the Union and the Member States to achieve the objectives of the Specific Regulations;
- (c) "action" means a project or group of projects selected by the Responsible Authority of the national programme concerned, or under its responsibility, contributing to the general and specific objectives pursued by the Specific Regulations;
- (d) "Union action" means a transnational action or action of particular interest to the Union as defined in the Specific Regulations;
- (e) "project" means the specific, practical means deployed to implement all or a part of an action by a beneficiary of the Union contribution;
- (f) "emergency assistance" means a project or group of projects addressing an emergency situation as defined in the Specific Regulations;
- (g) "beneficiary" means the recipient of an Union contribution under a project, whether a public or private body, international organisations or the Red Cross (ICRC), the International Federation of National Red Cross and Red Crescent Societies.

## CHAPTER II

### PRINCIPLES OF ASSISTANCE

#### *Article 3*

##### **General principles**

1. The Specific Regulations shall provide support, through national programmes, Union actions and emergency assistance, which complements national, regional and local intervention, pursuing the objectives of the Union.
2. The Commission and the Member States shall ensure that the support provided under the Specific Regulations and by the Member States is consistent with the activities, policies and priorities of the European Union and complementary to other instruments of the European Union.
3. The support provided under the Specific Regulations shall be implemented in close cooperation between the Commission and the Member States.
4. In accordance with their respective responsibilities, the Commission and the Member States, together with the EEAS as regards actions in and in relation to third countries, shall ensure coordination among this Regulation and the Specific Regulations, and with other Union policies and instruments, including those in the framework of the Union's external action.
5. The Commission and the Member States shall apply the principle of sound financial management in accordance with Article [26] of the Financial Regulation.

6. The Commission and the Member States shall ensure the effectiveness of the support provided under the Specific Regulations, in particular through monitoring, reporting and evaluation.
7. The Commission and the Member States shall carry out their respective roles in relation to this Regulation and the Specific Regulations with the aim of reducing the administrative burden for beneficiaries.

#### *Article 4*

### **Compliance with Union and national law**

Actions financed by the Specific Regulations shall comply with applicable Union and national law.

#### *Article 5*

### **Protection of the financial interests of the European Union**

1. The Commission shall take appropriate measures ensuring that, when actions financed under the Specific Regulations are implemented, the financial interests of the European Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective controls and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties.
2. Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid together with any interest of late payments. They shall report these to the Commission and shall keep the Commission informed of the progress of administrative and legal proceedings.
3. When amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the general budget of the Union.
4. Member States shall offer effective prevention against fraud, especially as regards the areas with a higher level of risk, and which shall act as a deterrent, having regard to the benefits as well as the proportionality of the measures.
5. The Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 54, concerning the obligations of Member States specified in the paragraph 4.
6. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds.

The European Anti-fraud Office (OLAF) may carry out on-the-spot controls and inspections on economic operators concerned directly or indirectly by such funding

in accordance with the procedures laid down in Regulation (Euratom, EC) No 2185/96 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

Without prejudice to the first and second sub-paragraphs, cooperation agreements with third countries and international organisations and grant agreements and grant decisions and contracts resulting from the implementation of this Regulation and the Specific Regulations shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot controls and inspections.

#### *Article 6*

### **Programming**

The objectives of the Specific Regulations shall be pursued within the framework of the multiannual programming period from 2014 to 2020, subject to a mid-term review in accordance with Article 15.

## **CHAPTER III**

# **FINANCIAL FRAMEWORK FOR UNION ACTIONS, EMERGENCY AND TECHNICAL ASSISTANCE**

#### *Article 7*

### **Implementation framework**

1. The Commission shall establish the overall amount made available for Union actions, emergency assistance and technical assistance at the initiative of the Commission under the annual appropriations of the Union budget.
2. The Commission shall adopt, by way of implementing act, the work programme for Union actions and emergency assistance. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(3).
3. To ensure a timely availability of resources, the Commission may separately adopt a work programme for emergency assistance.
4. Union actions, emergency assistance and technical assistance at the initiative of the Commission may be implemented
  - directly, by the Commission or through executive agencies;
  - indirectly, by entities and persons other than Member States in accordance with Article [57] of the Financial Regulation.

## *Article 8*

### **Emergency assistance**

1. In response to an emergency situation as defined in the Specific Regulations, the Commission may decide to provide emergency assistance.
2. Within the limits of the available resources, the emergency assistance may amount to 100% of the eligible expenditure.
3. It may consist of assistance in Member States and in third countries in accordance with the objectives and actions defined in the Specific Regulations.
4. Emergency assistance may support expenditure which was incurred prior to the date of submission of the grant application or the request for assistance, when this is necessary for the implementation of the action.

## *Article 9*

### **Union actions and emergency assistance in or in relation to third countries**

1. The Commission may decide to finance Union actions and emergency assistance in or in relation to third countries in accordance with the objectives and actions defined in the Specific Regulations.
2. When such actions are implemented directly, the following entities shall be allowed to submit applications:
  - (a) Member States;
  - (b) third countries;
  - (c) joint bodies set up by the third countries and the Union or by Member States;
  - (d) international organisations, including regional organisations, UN bodies, departments and missions, international financial institutions and development banks and institutions of international jurisdiction in so far as they contribute to the objectives of the Specific Regulation(s) concerned;
  - (e) the International Committee of the Red Cross (ICRC), the International Federation of National Red Cross and Red Crescent Societies;
  - (f) Non-governmental organisations established and registered in the Union and in the countries associated with the implementation, application and development of the Schengen acquis.

## *Article 10*

### **Technical assistance at the initiative of the Commission**

1. At the initiative of or on behalf of the Commission, the Specific Regulations may support the preparatory, monitoring, administrative and technical assistance, evaluation, audit and control measures necessary for the implementation of this Regulation and the Specific Regulations.
2. Those measures may include but are not limited to:
  - (a) assistance for project preparation and appraisal;
  - (b) support for institutional strengthening and administrative capacity building for the effective management of this Regulation and the Specific Regulations;
  - (c) measures related to the analysis, management, monitoring, information exchange and implementation of this Regulation and the Specific Regulations, as well as measures relating to the implementation of control systems and technical and administrative assistance;
  - (d) evaluations, expert reports statistics and studies, including those of a general nature concerning the operation of the Specific Regulations;
  - (e) actions to disseminate information, support networking, carry out communication activities, raise awareness and promote cooperation and exchange of experience, including with third countries. To bring about greater efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication actions under this Regulation shall also contribute to covering the corporate communication of the political priorities of the European Union provided that these are related to the general objectives of this Regulation and the Specific Regulations;
  - (f) the installation, operation and interconnection of computerised systems for management, monitoring, audit, control and evaluation;
  - (g) the design of a common framework for evaluation and monitoring as well as a system of indicators, taking into account, where appropriate, national indicators;
  - (h) actions to improve evaluation methods and the exchange of information on evaluation practices;
  - (i) conferences, seminars, workshops and other common information and training measures on the implementation of this Regulation and the Specific Regulations for designated authorities and beneficiaries;
  - (j) actions related to audit.
3. The actions may concern the preceding and subsequent financial frameworks.

## CHAPTER IV

### NATIONAL PROGRAMMES

#### SECTION 1

#### PROGRAMMING AND IMPLEMENTATION FRAMEWORK

##### *Article 11*

##### **Subsidiary and proportional intervention**

1. Member States and the bodies designated by them for that purpose ("designated authorities") shall be responsible for implementing programmes and carrying out their tasks under this Regulation and the Specific Regulations at the appropriate level, in accordance with the institutional, legal and financial framework of the Member State and subject to compliance with this Regulation and the Specific Regulations.
2. Arrangements for the implementation and use of the support provided under the Specific Regulations, and in particular the financial and administrative resources required in relation to the reporting, evaluation, management and control, shall take into account the principle of proportionality having regard to the level of support allocated.

##### *Article 12*

##### **Partnership**

1. Each Member State shall organise, in accordance with its national rules and practices, a partnership with the authorities and bodies concerned to develop and implement national programmes.  
  
Such authorities and bodies shall include the competent regional, local, urban and other public authorities, and, where appropriate, international organisations and bodies representing civil society, such as non-governmental organisations or social partners.
2. Partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category.
3. The partners shall be involved in the preparation, implementation, monitoring and evaluation of national programmes.
4. Each Member State shall set up a monitoring committee to support the implementation of national programmes.
5. The Commission may participate in the work of the monitoring committee in an advisory capacity.

### *Article 13*

#### **Policy dialogue**

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

In case of actions to be implemented in and in relation to third countries, such actions shall not be directly development oriented and the policy dialogue shall seek full coherence with the principles and general objectives of the Union external action and foreign policy as regards the country or region concerned.

2. In the context of the examination of the payment request referred to in Article 39 and the implementation report referred to in Article 49, the Member State concerned and the Commission shall review the progress made in the implementation of the national programme, bearing in mind the conclusions of the policy dialogue.

### *Article 14*

#### **Preparation and approval of national programmes**

1. Each Member State shall propose, on the basis of the conclusions of the policy dialogue referred to in Article 13(1), a national programme in accordance with the Specific Regulations.
2. Each proposed national programme shall cover the financial years of the period from 1 January 2014 to 31 December 2020 and consist of the following elements:
  - (a) a description of the baseline situation in the Member State;
  - (b) an analysis of requirements in the Member State and the national objectives designed to meet those requirements during the period covered by the programme;
  - (c) an appropriate strategy identifying the objectives to be pursued with the support of the Union budget, with targets for their achievement, an indicative time table and examples of actions envisaged to meet these objectives;
  - (d) the mechanisms that ensure coordination between the instruments established by the Specific Regulations and other Union and national instruments;
  - (e) information on the monitoring and evaluation framework to be put in place and the indicators to be used to measure the progress in the implementation of the objectives pursued in relation to the baseline situation in the Member State;



- (f) arrangements to ensure the effective and efficient implementation of the support of the Union budget, including the planned use of technical assistance and the approach chosen for the implementation of the partnership principle laid down in Article 12;
  - (g) a draft financing plan broken down by each financial year of the period;
  - (h) the mechanisms and methods to be used to publicise the national programme;
  - (i) the implementing provisions for the national programme containing the identification of the designated authorities.
3. Member States shall submit the proposed national programmes to the Commission no later than three months after the policy dialogue referred to in Article 13(1) is concluded.
4. The national programmes shall be drawn up according to the model adopted by the Commission. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 55(2).
5. Before approving a proposed national programme, the Commission shall examine:
- (a) its consistency with the objectives of the Specific Regulations and the conclusions of the policy dialogue referred to in Article 13(1);
  - (b) the relevance of the objectives, targets, indicators, the time table and examples of actions envisaged in the proposed national programme in the light of the strategy which is proposed;
  - (c) the relevance of the implementing provisions referred to in point (i) of paragraph 2 in the light of the actions envisaged;
  - (d) the compliance of the proposed programme with Union law;
  - (e) the complementarity with support provided by other Union Funds including the European Social Fund;
  - (f) Where applicable under a Specific Regulation, for objectives and examples of actions in or in relation to third countries, coherence with the principles and objectives of the Union external action and foreign policy related to the country or region concerned.
6. The Commission shall make observations within three months of the date of submission of the proposed national programme. Where the Commission considers that a proposed national programme is inconsistent with the objectives of the Specific Regulations, insufficient in light of the strategy or does not comply with Union law, it shall invite the Member State concerned to provide all necessary additional information and, where appropriate, to revise the proposed national programme. The Member State shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed national programme.

7. The Commission shall approve, by implementing act, each national programme no later than six months following the formal submission by the Member State, provided that any observations made by the Commission have been satisfactorily taken into account.
8. In the light of new or unforeseen circumstances, at the initiative of the Commission or the Member State concerned, an approved national programme may be re-examined and, if necessary, revised for the rest of the programming period.

#### *Article 15*

##### **Mid term review**

1. In 2017 the Commission and each Member State shall re-examine the situation, in the light of the developments in Union policies and in the Member State concerned.
2. Following this re-examination, Member States may revise their national programmes. National programmes shall be revised for those Member States which will receive additional allocations in accordance with the Specific Regulations.
3. The rules laid down in Article 14 on the preparation and approval of national programmes shall apply mutatis mutandis to the preparation and approval of the revised national programmes.
4. The Commission shall allocate, by implementing acts, to Member States the resources for national programmes which are available in the framework of the mid-term review under the Specific Regulations. After the completion of the mid term review, the Commission shall submit to the European Parliament, the Council the European and Economic and Social Committee and the Committee of the Regions a report on the mid term review carried out in accordance with the provisions of this Regulation and the Specific Regulations.

#### *Article 16*

##### **Financing structure**

1. Financial contributions provided under the national programmes shall take the form of grants.
2. Actions supported under the national programmes shall be co-financed by public or private sources, shall be of a non-profit nature and shall not be subject to funding from other sources covered by the Union budget.
3. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure of a project.
4. The contribution from the Union budget may be increased to 90% under specific actions or strategic priorities as defined in the Specific Regulations.
5. The contribution from the Union budget may also be increased to 90% in duly justified circumstances, in particular if projects could otherwise not have been

implemented and the objectives of the national programme would not have been achieved.

### *Article 17*

#### **General Principles of Eligibility**

1. The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in this Regulation or in the Specific Regulations.
2. In accordance with the Specific Regulations, for it to be eligible, expenditure must be:
  - (a) within the scope of the Specific Regulations and their objectives;
  - (b) needed to carry out the activities covered by the project concerned;
  - (c) reasonable and comply with the principles of sound financial management, in particular value for money and cost-effectiveness.
3. Expenditure shall be eligible for support under the Specific Regulations if
  - it has been incurred and paid by a beneficiary between 1 January 2014 and 31 December 2022; and
  - it has been actually paid by the accredited Responsible Authority between 1 January 2014 and 30 June 2023.
4. Expenditure included in payment requests from the beneficiary to the Responsible Authority shall be supported by invoices or accounting documents of equivalent probative value, except for forms of support under Article 18(1)(b), (c) and (d). For such forms of support, by way of derogation from paragraph 3, the amounts included in the payment request shall be the cost reimbursed to the beneficiary by the Responsible Authority.
5. Net revenue directly generated by a project during its implementation which has not been taken into account at the time of approval of the project, shall be deducted from the eligible expenditure of the project in the final payment request submitted by the beneficiary.

### *Article 18*

#### **Eligible expenditure**

1. Eligible expenditure can be reimbursed in the following ways:
  - (a) Reimbursement of eligible costs actually incurred and paid, together with, where applicable, depreciation;
  - (b) standard scale of unit costs;

- (c) lump sums;
  - (d) flat-rate financing determined by the application of a percentage to one or several defined categories of costs.
2. The options referred to in paragraph 1 may be combined when each covers a different category of costs or where they are used for different projects forming a part of an action or for successive phases of an action.
  3. Where a project is implemented exclusively through the procurement of works, goods or services, only paragraph 1 (a) shall apply.
  4. The amounts referred to in paragraph 1 (b), (c) and (d) shall be established in advance in one of the following ways:
    - (a) a fair, equitable and verifiable calculation method based on:
      - (i) statistical data or other objective information; or
      - (ii) the verified historical data of individual beneficiaries or the application of their usual cost accounting practices;
    - (b) methods and corresponding scale of unit costs, lump sums and flat rates applicable in Union policies for a similar type of action/project and beneficiary;
    - (c) methods and corresponding scale of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of action/project and beneficiary;
  5. The document setting out the conditions for support for each project/action shall set out the method to be applied for determining the costs of the action and the conditions for the payment of the grant.
  6. Where the implementation of a project gives rise to indirect costs, they may be calculated as a flat rate in one of the following ways:
    - (a) a flat rate of up to 20% of eligible direct costs, where the rate is calculated on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Member State for a similar type of action/project or beneficiary;
    - (b) a flat rate of up to 15% of eligible direct staff costs; or
    - (c) a flat rate applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of action/project and beneficiary.
  7. Grants for which the support from the Union budget does not exceed 50,000 EUR shall take the form of lump sums or standard scale of unit costs.

8. Flat rate financing, standard scale of unit costs and lumpsums referred to in paragraph 4 may be calculated on a project-by-project approach by reference to a draft budget agreed ex ante by the Responsible Authority for grants for which the contribution from the Union budget does not exceed 100,000 EUR.
9. Depreciation costs may be considered as eligible under the following conditions:
  - (a) the expenditure is eligible in accordance with the eligibility rules of the national programme;
  - (b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices where reimbursed in the form referred to in point (a) of paragraph(1);
  - (c) the costs relate exclusively to the period of support for the project;
  - (d) support from the Union budget has not contributed towards the acquisition of the depreciated assets.

#### *Article 19*

#### **Ineligible expenditure**

The following expenditure shall not be eligible for a contribution from the Union budget under the Specific Regulations:

- (a) interest on debt;
- (b) the purchase of land not built on;
- (c) the purchase of land built on, where the land is necessary for the implementation of the project, in the amount exceeding 10% of the total eligible expenditure for the project concerned;
- (d) value added tax. However VAT amounts shall be eligible where they are not recoverable under national VAT legislation and are paid by a beneficiary other than non-taxable person as defined in the first subparagraph of Article 13(1) of Directive 2006/112/EC, provided that such VAT amounts are not incurred in relation to the provision of infrastructure.

#### *Article 20*

#### **Technical assistance at the initiative of the Member States**

1. At the initiative of a Member State for each national programme, the Specific Regulations may support actions for preparation, management, monitoring, evaluation, information and communication, networking, control and audit, as well as measures for the reinforcement of the administrative capacity for the implementation of this Regulation and the Specific Regulations.
2. Those measures may include

- (a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions or projects;
  - (b) expenditure relating to audits and on-the-spot controls of actions or projects;
  - (c) expenditure relating to evaluations of actions or projects;
  - (d) expenditure relating to information, dissemination and transparency in relation to actions or projects;
  - (e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of this Regulation and the Specific Regulations;
  - (f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions; this expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions or projects;
  - (g) expenditure for the reinforcement of the administrative capacity for the implementation of this Regulation and the Specific Regulations.
3. The appropriations may be used by the Member States to support actions for the reduction of administrative burden for beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and to use the support provided for under the Specific Regulations.
4. The actions may concern the preceding and subsequent financial frameworks.

## **SECTION 2 MANAGEMENT AND CONTROL**

### *Article 21*

#### **General principles of management and control systems**

Management and control systems shall provide for:

- (a) a description of the functions of each body concerned in management and control, and the allocation of functions within each body;
- (b) compliance with the principle of separation of functions between and within such bodies;
- (c) procedures for ensuring the correctness and regularity of expenditure declared;
- (d) computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting;

- (e) systems for reporting and monitoring where the Responsible Authority entrusts execution of tasks to another body;
- (f) arrangements for auditing the functioning of the management and control systems;
- (g) systems and procedures to ensure an adequate audit trail;
- (h) the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest.

## *Article 22*

### **Responsibilities of Member States**

1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities laid down in the rules on shared management set out in the Financial Regulation and this Regulation. In accordance with the principle of shared management, Member States shall be responsible for the management and control of national programmes.
2. Member States shall ensure that their management and control systems for programmes are set up in accordance with the provisions of this Regulation and that the systems function effectively.
3. Member States shall allocate adequate resources for each body to carry out their functions throughout the programming period.
4. Member States shall set up rules and procedures for the selection and implementation of projects in accordance with this Regulation.
5. All official exchanges of information between the Member State and the Commission shall be carried out using an electronic data exchange system established by the Commission.

## *Article 23*

### **Designated authorities**

1. For the implementation of its national programme each Member State shall designate the following bodies:
  - (a) an accrediting authority as defined in Article [56] of the Financial Regulation;
  - (b) an accredited Responsible Authority: a public sector body of the Member State, which shall be solely responsible for the proper management and control of the national programme and shall handle all communication with the Commission;
  - (c) an Audit Authority: a national public authority or body, which is functionally independent of the Responsible Authority and the accrediting authority and

which shall be responsible for verifying the effective functioning of the management and control system;

(d) where appropriate, a Delegated Authority: any public or private body which carries out certain tasks of the Responsible Authority under the responsibility of that Authority.

2. Each Member State shall lay down rules governing its relations with the authorities referred to in paragraph 1 and their relations with the Commission.

#### *Article 24*

##### **Accreditation of Responsible Authorities**

1. In accordance with Article [56(3)] of the Financial Regulation, each Responsible Authority responsible for the management and control of expenditure under this Regulation shall be accredited by formal decision of an accrediting authority at ministerial level.

2. The accreditation shall be granted subject to the body complying with the accreditation criteria on internal environment, control activities, information and communication, and monitoring laid down in or on the basis of this Regulation.

3. The accreditation shall be based on an opinion of an independent audit body that assesses the Responsible Authority's compliance with accreditation criteria. The independent audit body shall carry out its work in accordance with internationally accepted audit standards.

4. The accrediting authority shall supervise the accredited Responsible Authority and withdraw its accreditation by formal decision if one or more of the accreditation criteria are no longer met, unless the Responsible Authority takes the necessary remedial actions within a period of probation to be determined by the accrediting authority according to the severity of the problem. The accrediting body shall notify the Commission immediately of the setting of any probation period for an accredited Responsible Authority and of any withdrawal decision.

5. To ensure the sound operation of this system, the Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 54 concerning:

(a) minimum conditions for the accreditation of the Responsible Authorities with regard to the internal environment, control activities, information and communication, and monitoring, as well as rules on the procedure for issuing and withdrawing accreditation;

(b) rules relating to supervision and the procedure for reviewing accreditation of Responsible Authorities;

(c) the obligations of the Responsible Authorities as regards public intervention, as well as on the content of their management and control responsibilities.



**General principles on controls by Responsible Authorities**

1. Responsible Authorities shall carry out a systematic administrative control of all payment requests from the beneficiaries and shall supplement them by on-the-spot controls of the expenditure related to the final payment requests from the beneficiaries that are declared in the annual accounts in view of obtaining a sufficient level of assurance.
2. As regards the on-the-spot controls, the Responsible Authority shall draw its control sample from the entire population of beneficiaries comprising, where appropriate, a random part and a risk-based part, in order to obtain a representative error rate and a minimum confidence level, while targeting also highest errors.
3. The Responsible Authority shall draw up a control report on each on-the-spot control.
4. Where problems detected appear to be systemic in nature and may therefore entail a risk to other projects, the Responsible Authority shall ensure that further examination is carried out, including additional controls where necessary, to establish the scale of such problems and whether the error rate is above the materiality level. The necessary preventive and corrective measures shall be taken by the Responsible Authority and communicated to the Commission in the summary report referred to in Article 39(1)(c).
5. The Commission shall, by means of implementing acts, adopt the necessary rules aiming at reaching a uniform application of this Article. These rules may in particular relate to the following:
  - (a) the rules concerning administrative and on-the-spot controls to be conducted by the Member States with regard to the respect of obligations, commitments and eligibility rules resulting from the application of this Regulation and the Specific Regulations;
  - (b) the rules on the minimum level of on-the-spot controls necessary for an effective management of the risks, as well as the conditions under which Member States have to increase such controls, or may reduce them where the management and control systems function properly and the error rates are at an acceptable level;
  - (c) the rules and methods on the reporting of the controls and verification carried out and their results.

Those implementing acts shall be adopted by the Commission in accordance with the examination procedure referred to in Article 55(3).

## *Article 26*

### **Payment to beneficiaries**

Responsible Authorities shall ensure that the beneficiaries receive the total amount of the public support as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce these amounts for the beneficiaries.

## *Article 27*

### **Functions of the audit authority**

1. The audit authority shall ensure that audits are carried out on the management and control systems, on an appropriate sample of the expenditure included in the annual accounts.

The Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 54 on the status of the Audit Authorities and the conditions which their audits shall fulfil.

2. Where audits are carried out by a body other than the Audit Authority, the Audit Authority shall ensure that any such body has the necessary functional independence.
3. The Audit Authority shall ensure that audit work takes account of internationally accepted audit standards.

## *Article 28*

### **Cooperation with audit authorities**

1. The Commission shall cooperate with audit authorities to coordinate their respective audit plans and methods and shall immediately exchange the results of audits carried out on management and control systems.
2. The Commission and the audit authorities shall meet on a regular basis and at least once a year, unless otherwise agreed, to examine the annual control report and the opinion, and to exchange views on issues relating to improvement of the management and control systems.

## *Article 29*

### **Controls and audits by the Commission**

1. The Commission shall rely on available information, including the accreditation procedure, annual management declarations, annual control reports, annual audit opinions, annual implementation reports and audits carried out by national and Union bodies, to assess that the Member States have set up management and control

systems that comply with this Regulation and that those systems function effectively during the implementation of national programmes.

2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits or controls upon giving adequate prior notice. Officials or authorised representatives of the Member State may take part in such audits or controls.
3. The scope of the audits or controls may include, in particular:
  - (a) the verification of the effective functioning of management and control systems in a national programme or a part thereof;
  - (b) the compliance of administrative practices with Union rules;
  - (c) the existence of the required supporting documents and their correlation with the actions supported under the national programmes;
  - (d) the terms on which the actions have been undertaken and controlled;
  - (e) an assessment of the sound financial management of actions and/or the national programme.

4. Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits, shall have access to all records, documents and metadata, irrespective of the medium in which they are stored, relating to expenditure or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commission upon request.

The powers set out in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Commission officials and authorised representatives shall not take part, inter alia, in home visits or the formal questioning of persons within the framework of national legislation. However, they shall have access to the information thus obtained.

5. At the request of the Commission and with the agreement of the Member State, additional controls or inquiries into the actions covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons delegated by the Commission may take part in such controls.

In order to improve controls, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain controls or inquiries.

6. The Commission may require a Member State to take the actions necessary to ensure the effective functioning of its management and control systems or the correctness of expenditure in accordance with the applicable rules.

## **SECTION 3**

### **FINANCIAL MANAGEMENT**

#### *Article 30*

##### **Budget commitments**

1. The budget commitments of the Union in respect of each national programme shall be made in annual instalments during the period from 1 January 2014 to 31 December 2020.
2. The Commission decision approving each national programme shall constitute the financing decision within the meaning of Article [81(2)] of the Financial Regulation, and once notified to the Member State concerned, a legal commitment within the meaning of that Regulation.
3. For each national programme, the budget commitment for the first instalment shall follow the approval of the national programme by the Commission.
4. The budget commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the decision referred to in paragraph 2 of this Article, except where Article [13] of the Financial Regulation applies.

#### *Article 31*

##### **Common rules for payments**

1. Payments by the Commission of the contribution from the Union budget to the national programme shall be made in accordance with budget appropriations and subject to available funding. Each payment shall be posted to the earliest open budget commitment concerned.
2. Payments shall take the form of initial pre-financing, payments of the annual balance and the payment of the final balance.
3. Article [87] of the Financial Regulation shall apply.

#### *Article 32*

##### **Accumulation of initial pre-financing and annual balances**

1. The total of the initial pre-financing payment and the payments of the annual balance shall not exceed 95 % of the contribution from the Union budget to the national programme.
2. When the ceiling of 95 % is reached, the Member States shall continue transmitting requests for payment to the Commission.

### *Article 33*

#### **Initial pre-financing arrangements**

1. Following the Commission decision approving the national programme, an initial pre-financing amount for the whole programming period shall be paid by the Commission. This shall represent 4% of the contribution from the Union budget to the national programme concerned. It may be split into two instalments depending on budget availability.
2. If a national programme is approved in 2015 or later, the instalments shall be paid in the year of approval.
3. Pre-financing shall be used only for making payments to beneficiaries implementing the national programme. It shall be made available without delay to the Responsible Authority for this purpose.
4. The total amount paid as prefinancing shall be reimbursed to the Commission if no payment request in accordance with Article 39 is sent within 24 months of the date on which the Commission pays the first instalment of the initial prefinancing amount.
5. Interest generated on the initial prefinancing shall be posted to the national programme concerned and deducted from the amount of public expenditure indicated on the final payment request.
6. The amount paid as initial pre-financing shall be totally cleared from the Commission accounts in accordance with Article 36 at the latest when the national programme is closed.

### *Article 34*

#### ***Definition of the financial year***

For the purpose of this Regulation the financial year shall cover expenditure paid and revenue received and entered into the accounts of the Responsible Authority in the period beginning on 16 October in the year "N-1" and ending on 15 October of year "N".

### *Article 35*

#### **Payment of the annual balance**

1. The Commission shall pay the annual balance, subject to resource availability, on the basis of the financial plan in force, the annual accounts for the corresponding financial year of the national programme and the corresponding clearance decision.
2. The annual accounts shall cover the payments made by the Responsible Authority during the financial year for which the control requirements referred to in Article 25 have been met.

3. The annual balance shall be paid not later than six months after the information and documents mentioned in Article 39(1) and Article 49 are considered admissible by the Commission and the latest annual account have been cleared.

#### *Article 36*

#### **Closure of the programme**

1. Member States shall submit the following documents by 31 December 2023 at the latest:
  - (a) The information required for the last annual accounts, in accordance with Article 39(1);
  - (b) a request for payment of the final balance; and
  - (c) the final implementation report for the national programme as referred to in Article 49(1).
2. The payments made by the Responsible Authority from 16 October 2022 to 30 June 2023 shall be included in the last annual accounts.
3. After receiving the documents listed in paragraph 1, the Commission shall pay the final balance, subject to resource availability, on the basis of the financial plan in force, the last annual accounts and the corresponding clearance decision.
4. The final balance shall be paid no later than three months after the date of clearance of accounts of the final financial year or one month after the date of acceptance of the final implementation report, whichever date is later. The amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months, without prejudice to Article 47.

#### *Article 37*

#### **Interruption of the payment period**

1. The payment period following a request for payment may be interrupted by the authorising officer by delegation within the meaning of the Financial Regulation for a maximum period of nine months, when at least one of the following conditions is met:
  - (a) following information provided by a national or Union audit body, there is evidence to suggest a significant deficiency in the functioning of the management and control system;
  - (b) the authorising officer by delegation has to carry out additional verifications following information coming to his attention alerting him that expenditure in a payment request is linked to an irregularity having serious financial consequences;

- (c) one or more documents required under Article 39(1) were not submitted.
2. The authorising officer by delegation may limit the interruption to the part of the expenditure covered by the payment request affected by the elements referred to in paragraph 1. The authorising officer by delegation shall inform the Member State and the Responsible Authority immediately of the reason for interruption and shall ask them to remedy the situation. The interruption shall be ended by the authorising officer by delegation as soon as the necessary measures have been taken.

#### *Article 37a*

#### **Suspension of payments**

1. All or part of the annual balance may be suspended by the Commission where:
  - (a) there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
  - (b) expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected; or
  - (c) there is a serious breach by a Member State of its obligations under Article 22(1) and (2).
2. The Commission may decide to suspend all or part of annual balance after having given the Member State the opportunity to present its observations within a period of two months.
3. The Commission shall end suspension of all or part of annual balance where the Member State has taken the necessary measures to enable the suspension to be lifted. Where the required measures are not taken by the Member State, the Commission may adopt the decision to cancel all or part of the Union contribution to the operational programme in accordance with Article 42.

#### *Article 38*

#### **Use of the euro**

1. Amounts set out in programmes submitted by Member States, forecasts of expenditure, statements of expenditure, payment requests, annual accounts and expenditure mentioned in the annual and final implementation reports shall be denominated in euro.
2. Member States which have not adopted the euro as their currency on the date of a payment request shall convert the amounts of expenditure incurred in national currency into euro. This amount shall be converted into euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the Responsible Authority of the

national programme concerned. The rate shall be published electronically by the Commission each month.

3. When the euro becomes the currency of a Member State, the conversion procedure set out in paragraph 2 shall continue to apply to all expenditure recorded in the accounts by the Responsible Authority before the date of entry into force of the fixed conversion rate between the national currency and the euro.

## **SECTION 4**

### **CLEARANCE OF ACCOUNTS AND FINANCIAL CORRECTIONS**

#### *Article 39*

##### **Submission of information**

1. By 1 February of the year following the financial year, each Member State shall submit the following documents and information to the Commission in accordance with Article [56] of the Financial Regulation:
  - (a) the annual accounts of the Responsible Authority;
  - (b) the management declaration of assurance as to the completeness, accuracy and veracity of the annual accounts, the proper functioning of the internal control systems as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management;
  - (c) a summary report of all available audits and controls carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned;
  - (d) an audit opinion by the Audit Authority on the management declaration of assurance covering all its elements, accompanied by a control report setting out the findings of the audits carried out relating to the financial year covered by the opinion.
2. If requested to do so by the Commission the Member State shall provide further information to the Commission. If a Member State does not provide the requested information by the deadline for its submission set by the Commission, the Commission may take its decision on the clearance of the accounts on the basis of the information in its possession.
3. The documents foreseen in paragraph 1 shall serve as the request for payment of the annual balance.
4. The documents listed in paragraph 1 shall be drawn up according to the models adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 55(2).



## *Article 40*

### **Annual clearance of accounts**

1. By 30 April of the year following the financial year, the Commission shall decide on the clearance of the annual accounts for each national programme. The clearance decision shall cover the completeness, accuracy and veracity of the annual accounts submitted and be without prejudice to any subsequent financial corrections.
2. The Commission shall, by means of implementing acts, lay down the modalities for the implementation of the annual clearance of accounts procedure, as regards the measures to be taken in connection to the adoption of the decision and its implementation, including on the exchange of information between the Commission and the Member States and the deadlines to be respected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(3).

## *Article 41*

### **Financial corrections by the Member States**

Member States shall make financial corrections where irregularities or negligence are detected under the national programmes by cancelling all or part of the contribution from the Union budget concerned. Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Union budget and shall apply a proportionate correction.

Amounts cancelled and amounts recovered, as well as the interest thereon, shall be reallocated to the national programme concerned, excluding the amounts resulting from irregularities identified by the European Court of Auditors and the Commission services including OLAF.

After the closure of the national programme, the Member State shall refund the sums recovered to the Union budget.

## *Article 42*

### **Conformity clearance and financial corrections by the Commission**

1. The Commission shall make financial corrections by cancelling all or part of the Union contribution to a national programme and effecting recovery from the Member State in order to exclude from Union financing expenditure which is in breach of applicable Union and national law, including in relation to deficiencies in the management and control systems of Member States which have been detected by the Commission or the European Court of Auditors.
2. A breach of applicable Union or national law shall lead to a financial correction only where one of the following conditions is met:
  - (a) the breach has or could have affected the selection of projects under the national programme;

- (b) there is a risk that the breach has or could have affected the amount of expenditure declared for reimbursement by the Union budget.
3. When deciding on the amount of a financial correction under paragraph 1, the Commission shall take account of the nature and gravity of the breach of applicable Union or national law and its financial implications for the Union budget.
4. Before the adoption of any decision to refuse financing, the findings from the Commission and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken.
5. Financing may not be refused for:
- (a) expenditure which is incurred by the Responsible Authority more than 36 months before the Commission notifies the Member State in writing of its findings;
  - (b) expenditure on multiannual actions within the scope of the national programmes, where the final obligation on the beneficiary occurs more than 36 months before the Commission notifies the Member State in writing of its findings;
  - (c) expenditure on actions in national programmes, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be, the final payment, by the Responsible Authority, is made more than 36 months before the Commission notifies the Member State in writing of its findings.
6. The Commission shall, by means of implementing acts, lay down the modalities for the implementation of the conformity clearance as regards the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(3).

### *Article 43*

#### **Obligations of Member States**

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 21(h) of this Regulation and to recover State aid in the meaning of Article 107(1) of the Treaty and under Article 14 of Council Regulation (EC) No 659/1999<sup>13</sup>.

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<sup>13</sup> OJ L 83, 27.3.1999, p. 1.

#### *Article 44*

### **Repayment**

1. Any repayment due to be made to the general budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article [77] of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.
2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

## **SECTION 5 DECOMMITMENT**

#### *Article 45*

### **Principles**

1. National programmes shall be submitted to a decommitment procedure established on the basis that amounts linked to a commitment which are not covered by the initial pre-financing referred to in Article 33 or a request for payment in accordance with Article 39 by 31 December of the second year following that of the budget commitment shall be decommitted.
2. The commitment related to the last year of the period will be decommitted according to the rules followed for the closure of the programmes.
3. Any commitment still open on the latest date for expenditure to be eligible as referred to in Article 17(3) for which a payment request has not been made by the Responsible Authority within six months after that date shall be automatically decommitted.

#### *Article 46*

### **Exceptions to the decommitment**

1. The amount concerned by decommitment shall be reduced by the amounts that the Responsible Authority has not been able to declare to the Commission because of:
  - (a) actions suspended by a legal proceeding or by an administrative appeal having suspensory effect; or

- (b) reasons of *force majeure* seriously affecting implementation of all or part of the national programme. Responsible Authorities claiming *force majeure* shall demonstrate the direct consequences of the force majeure on the implementation of all or part of the national programme.

The reduction may be requested once if the suspension or *force majeure* lasted up to one year, or several times corresponding to the duration of the *force majeure* or the number of years between the date of the legal or administrative decision suspending the implementation of the action and the date of the final legal or administrative decision.

2. The Member State shall send the Commission information on the exceptions referred to in paragraph 1 by 31 January for the amount to be declared by the end of preceding year.
3. The part of the budget commitments for which a payment request has been made but payment of which has been reduced or suspended by the Commission at 31 December of year N + 2 shall be disregarded in calculating the automatic decommitment.

#### *Article 47*

#### **Procedure**

1. The Commission shall inform the Member State in good time whenever there is a risk of application of decommitment under Article 42.
2. On the basis of the information it has on 31 January, the Commission shall inform the Responsible Authority of the amount of the decommitment resulting from the information in its possession.
3. The Member State shall have two months to agree to the amount to be decommitted or to submit its observations.
4. The Commission shall carry out the automatic decommitment not later than nine months after the last time-limit resulting from the application of paragraphs 1 to 3.
5. In the event of automatic decommitment, the contribution from the Union budget to the national programme concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Union contribution in the financing plan will be reduced pro-rata, unless the Member State produces a revised financing plan.

## CHAPTER V

# INFORMATION, COMMUNICATION, MONITORING, EVALUATION AND REPORTING

### *Article 48*

#### **Information and publicity**

1. Member States and Responsible Authorities shall be responsible for:
  - (a) ensuring the establishment of a website or a website portal providing information on and access to the national programmes in that Member State;
  - (b) informing potential beneficiaries about funding opportunities under the national programmes;
  - (c) publicising to Union citizens the role and achievements of the Specific Regulations through information and communication actions on the results and impact of the national programmes.
2. Member States shall ensure transparency on the implementation of the national programmes and maintain a list of actions supported by each national programme which shall be accessible through the website or the website portal.
3. The Commission shall be empowered to adopt by delegated acts in accordance with the procedure referred to in Article 54 to lay down rules concerning the information and publicity measures for the public and information measures for beneficiaries.
4. The Commission shall, by means of implementing acts, define the technical characteristics of information and publicity measures. Those implementing acts shall be adopted by the Commission in accordance with the examination procedure referred to Article 55(3).

### *Article 49*

#### **Implementation reports**

1. By 31 March 2016 and by 31 March of each subsequent year until and including 2022, the Member State shall submit to the Commission an annual report on implementation of each national programme in the previous financial year.

The report submitted in 2016 shall cover the financial years 2014 and 2015.

The Member State shall submit a final report on implementation of the national programmes by 31 December 2023.

2. Annual implementation reports shall set out information on:

- (a) implementation of the national programme by reference to the financial data and the indicators;
  - (b) any issues which affect the performance of the national programme.
3. In the light of the mid-term review, the annual implementation report submitted in 2017 shall set out and assess the information referred to in paragraph 2 together with:
  - (a) progress towards achieving the objectives pursued with the contribution from the Union budget to the national programme;
  - (b) the involvement of the partners in the implementation, monitoring and evaluation of the national programme.
4. The annual implementation report submitted in 2019 and the final implementation report shall, in addition to the information and assessment set out in paragraphs 2 and 3 include information on and assess progress towards achieving the objectives of the national programme.
5. The annual implementation reports referred to in paragraphs 1 to 4 shall be admissible where they contain all the information required in those paragraphs. The Commission shall inform the Member State within 15 working days from the date of receipt of the annual implementation report if it is not admissible, failing which it shall be deemed admissible.
6. The Commission shall inform the Member State of its observations on the annual implementation report within two months from the receipt of the annual implementation report. Where the Commission does not provide observations within this deadline, the reports shall be deemed to be accepted.
7. The Commission may issue recommendations to address any issues which affect the implementation of the national programme. Where such recommendations are made, the Responsible Authority shall inform the Commission within three months of the corrective measures taken.
8. The annual and final implementation reports shall be drawn up according to the models adopted by the Commission. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 55(2).

#### *Article 50*

#### **The common monitoring and evaluation framework**

1. The Commission shall carry out regular monitoring of this Regulation and the Specific Regulations, where appropriate, in cooperation with the Member States.
2. The implementation of the Specific Regulations shall be evaluated by the Commission in partnership with the Member States.
3. A common monitoring and evaluation framework shall be established with a view to measuring the relevance, effectiveness, efficiency, added value, sustainability of the

actions and the simplification and the reduction of administrative burden, in the light of the objectives of this Regulation and the Specific Regulations and the performance of this Regulation and the Specific Regulations as instruments contributing to the development of the area of freedom, security and justice.

4. The Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 54 to develop further the common monitoring and evaluation framework.
5. Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of this Regulation and the Specific Regulations.
6. The Commission shall also consider the complementarity between the actions implemented under the Specific Regulations and those pursued under other relevant Union policies, instruments and initiatives.

#### *Article 51*

##### **Evaluation of national programmes by Member States**

1. Member States shall carry out evaluations to improve the quality of the design and the implementation of national programmes, in accordance with the common monitoring and evaluation framework.
2. Member States shall ensure that procedures are in place to produce and collect the data necessary for evaluations, including data related to common and programme-specific indicators.
3. The evaluations shall be carried out by evaluation experts that are functionally independent of the Responsible Authorities, Audit Authorities and Delegated Authorities. The Commission shall provide guidance on how to carry out evaluations.
4. All evaluations shall be made public in their entirety.

#### *Article 52*

##### **Evaluation reports by the Member States and the Commission**

1. In accordance with the common monitoring and evaluation framework, the Member States shall submit to the Commission:
  - (a) an interim evaluation report on the implementation of actions under the national programmes by 31 December 2017;
  - (b) an ex-post evaluation report on the effects of actions under the national programmes by 31 December 2023.

2. On the basis of the reports referred to in paragraph 1, the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:
  - (a) an interim evaluation report on the implementation of this Regulation and the Specific Regulations at the level of the Union by 30 June 2018;
  - (b) an ex-post evaluation report on the effects of this Regulation and the Specific Regulations, following the closure of the national programmes, by 30 June 2024.
3. The ex-post evaluation of the Commission shall also examine the impact of the Specific Regulations on the development of the area of freedom, security and justice in terms of their contribution to the following objectives:
  - (a) the development of a common culture of border security, law enforcement cooperation and crisis management;
  - (b) effective management of migration flows into the EU;
  - (c) the development of the Common European Asylum System;
  - (d) fair and equal treatment of third-country nationals;
  - (e) solidarity and co-operation between Member States in addressing migration and internal security issues;
  - (f) a common approach of the Union on migration and security towards third countries.

#### *Article 53*

#### **Report on the mid term review**

In 2018 the Commission shall submit to the European Parliament, the Council, the European and Economic and Social Committee and the Committee of the Regions a report on the mid term review carried out in accordance with the provisions of this Regulation and the Specific Regulations.

## **CHAPTER VI**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 54*

#### **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 delegation of power shall be tacitly extended for a period of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 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 55*

##### **Committee Procedure**

1. The Commission shall be assisted by the common Committee 'Asylum, Migration and Security' established by this Regulation. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### *Article 56*

##### **Review**

On the basis of a proposal from the Commission, the European Parliament and the Council shall review this Regulation by 30 June 2020 at the latest.

*Article 57*

**Entry into force**

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **ANNEX**

### **LEGISLATIVE FINANCIAL STATEMENT**

#### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

#### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

#### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. Summary of estimated impact on expenditure
  - 3.2.2. Estimated impact on operational appropriations
  - 3.2.3. Estimated impact on appropriations of an administrative nature
  - 3.2.4. Compatibility with the current multiannual financial framework
  - 3.2.5. Third-party participation in financing
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Communication "Building an open and secure Europe: the home affairs budget for 2014-2020";

Proposal for a Regulation laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management;

Proposal for a Regulation establishing the Asylum and Migration Fund;

Proposal for a Regulation establishing the instrument for financial support for police cooperation, preventing and combating crime, and crisis management;

Proposal for a Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa.

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>14</sup>

Currently Heading 3, Title 18 – Home Affairs

Future Multiannual Financial Perspectives: Heading 3 (Security and citizenship) – "Migration Management Fund" and "Internal security"

Nature of the proposal/initiative

- The proposal/initiative relates to **a new action** (home affairs funding for the period 2014-2020)
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>15</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.3. Objectives

1.3.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The final aim of home affairs policies is to create an area without internal borders where EU citizens and third-country nationals may enter, circulate, live and work, bringing new ideas, capital, knowledge and innovation or filling gaps in the national labour markets, confident that their rights are fully

<sup>14</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

<sup>15</sup> As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

respected and their security assured. Cooperation with non-EU countries and international organisations is crucial to achieving this goal.

The growing importance of home affairs policies has been confirmed by the Stockholm Programme and its Action Plan, the implementation of which is a strategic priority for the Union and covers areas such as migration (legal migration and integration; asylum; irregular migration and return), security (prevention of and fight against terrorism and organised crime; police cooperation) and management of the external borders (including visa policy), as well as the external dimension of these policies. The Lisbon Treaty also enables the Union to demonstrate greater ambition in responding to the day-to-day concerns of citizens in the area of freedom, security and justice. Home affairs policy priorities, in particular the integration of third-country nationals, should also be seen in the context of the seven flagship initiatives presented in the Europe 2020 Strategy which aim to help the EU overcome the current financial and economic crisis and achieve smart, sustainable and inclusive growth.

The Asylum and Migration Fund and the Internal Security Fund will provide the financial assistance needed to turn the Union's home affairs objectives into tangible results.

### *1.3.2. Specific objective(s) and ABM/ABB activity(ies) concerned*

#### **ASYLUM AND MIGRATION FUND**

- (a) strengthen and develop the Common European Asylum System, including its external dimension;
- (b) support legal migration to the Union in line with the economic and social needs of Member States and promote the effective integration of third-country nationals, including of asylum seekers and beneficiaries of international protection;
- (c) enhance fair and effective return strategies in the Member States, with emphasis on sustainability of return and effective readmission in the countries of origin;
- (d) enhance the solidarity and responsibility sharing between the Member States, in particular towards those most affected by migration and asylum flows.

Current ABB activities concerned: 18.03 (European Refugee Fund, emergency measures and European Fund for the Integration of Third-Country Nationals) and 18.02 (as far as European Return Fund is concerned).

#### **INTERNAL SECURITY FUND**

##### ***Instrument for financial support for police cooperation, preventing and combating crime, and crisis management***

In line with the priorities identified in relevant Union strategies, programmes, threat and risk assessments, the Instrument will contribute to the following specific objectives

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

(b) enhancing the capacity of Member States and the Union for managing effectively security-related risks and crisis, and preparing for and protecting people and critical infrastructure against terrorist attacks and other security related incidents.

Current ABB activities concerned: 18.05

***Instrument for financial support for external borders and visa***

In line with the priorities identified in relevant EU strategies, programmes, threat and risk assessments, the Instrument will contribute to the following specific objectives

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

(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.

Current ABB activity concerned: 18.02 (as far as External Borders Fund is concerned).

**1.3.3. *Expected result(s) and impact***

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The effects of the proposal on beneficiaries/target groups are described in more detail in Section 4.1.2 of the Impact Assessment.

In general, simplification introduced at all levels of the funding process and in each management mode will have a clear beneficial effect on the processes under which financial support will be managed.

**Asylum and Migration Fund:**

The main beneficiaries of the financial support for asylum and migration will be the Member States' departments responsible for the implementation of relevant acquis or policies as well as international organisations or NGOs working in the field of asylum and migration (admission procedures, integration measures and return operations).

The target groups benefitting from the changes are the asylum seekers, beneficiaries of international protection, resettled refugees and other third-country nationals arriving to the EU for various reasons and having different needs (e.g. economic, family reunification, unaccompanied minors, etc.). These target groups will be easier to reach as the merging of different actions concerning the management of migration into one Fund renders the access to funding easier (one responsible authority, better visibility and clearer scope of intervention) and will allow more flexible support (e.g. same kind of action aiming at several target groups). The scope of intervention will also be broadened, covering the whole migration chain with different target groups, including extended target groups, i.e. third-country nationals of second generation (having mother or father third-country national).

**Internal Security Fund:**

***Police cooperation, preventing and combating crime, and crisis management***

The main beneficiaries of the financial support will be the Member States and their law enforcement authorities as well as any other authority specialised in the protection of critical infrastructure and the management of crisis, but also relevant International and Non-Governmental Organisations, where appropriate (e.g. in the field of crime prevention, anti-radicalisation and anti-trafficking policies).

The target group benefitting from the changes will be the whole population.

The main achievements will be 1) an enhanced administrative and operational capability of Member States to detect and successfully prosecute cross-border, serious and organised crime, including terrorism in order to reduce the security-related threats emanating from such crime, and 2) stronger European resilience to crisis and disaster owing to a more coherent EU policy on risk management linking threat and risk assessments to policy making on the one hand and a more effective and co-ordinated EU response to crisis linking up existing capabilities and expertise on the other hand. An important achievement will also be improved capabilities of Member States to prevent, prepare and protect people and critical infrastructure against terrorist attacks and other serious security-related threats.

#### ***External borders and visa***

The main beneficiaries of the financial support for borders and visa will be the services implementing the EU acquis, the Schengen Borders Code and the Visa Code in the Member States: border guards, police and consular services. The target group benefitting from the changes will be travellers - all persons crossing external borders into the EU. The outcomes will include the enhanced capabilities of these services (1) to carry out border surveillance and liaise with other law enforcement services, within the framework of the European surveillance system (EUROSUR); (2) to manage migration flows at consular posts (visa applications) and (3) to improve the handling of passenger flows at border crossing points, ensuring on the one hand, a high and uniform level of protection, in co-operation with other law enforcement services, and, on the other, the smooth crossing in conformity with the acquis and the principles of respectful treatment and dignity. An important specific outcome will be the setting up of two new EU IT systems on the movement of third-country nationals across borders (an EU entry exit system and an EU registered travellers programme).

#### ***1.3.4. Indicators of results and impact***

*Specify the indicators for monitoring implementation of the proposal/initiative.*

Due to the necessity to conduct a policy dialogue before defining the national programmes, it is not possible to establish at this stage the definitive set of indicators that will be used to measure achievement of the above-mentioned specific objectives.

However, with regard to the area of **asylum and migration** indicators would include, inter alia, the level of improvement in asylum reception conditions, in the quality of asylum procedures, in the convergence of recognition rates across Member States, and in Member States' resettlement efforts, the level of increased participation of third-country nationals in employment, education and in democratic processes, the number of returnees and the level of increased mutual assistance between Member States including through practical cooperation and relocation.

With regard to **police cooperation and the prevention and combating of crime**, indicators would include the number of cross-border-joint operations and the number of best practice documents and events organised. Indicators for **crisis management** and the protection of critical infrastructure would include the number of tools put in place and/or further upgraded to facilitate the protection of critical

infrastructure by Member States in all sectors of the economy and the number of threat and risk assessments produced at the level of the Union.

In the area of **borders and visa** indicators would include the number of consular posts, secured and/or enhanced to ensure the efficient processing of visa applications and provide quality of service to visa applicants, and 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. Impact indicators will measure the increase in border security, visa issuing capacity and the capacity to handle safely and smoothly the traffic of travellers across borders.

#### **1.4. Grounds for the proposal/initiative**

##### *1.4.1. Requirement(s) to be met in the short or long term*

The EU will continue to face important challenges in the home affairs area in the period 2014-2020. Given demographic changes, structural changes in the labour markets and patterns of competition for skills, a forward-looking legal immigration and integration policy will be crucial for enhancing the EU's competitiveness and social cohesion, enriching our societies and creating opportunities for all. The EU also needs to properly address irregular migration and fight against trafficking in human beings. At the same time, we must continue to show solidarity with those in need of international protection. The completion of a more protective and efficient Common European Asylum System which reflects our values remains a priority.

Ensuring a safe and secure environment is necessary and beneficial to the economic, cultural and social growth of the EU. The EU has a decisive role to play, whether it is by addressing the threats of serious and organized crime, cybercrime and terrorism, and by ensuring the management of EU's external borders or by responding swiftly to emerging crises caused by man-made or natural disasters. In the era of globalisation, where threats are growing and increasingly have a transnational dimension, no Member State can respond effectively on its own. A coherent and comprehensive European answer is needed to ensure that law enforcement authorities can work effectively across borders and jurisdictions.

Cooperation with non-EU countries and international organisations is crucial to achieving these goals. Recent events in Northern Africa have demonstrated how important it is for the EU to have a comprehensive and coordinated approach to migration, borders and security. The increasingly important external dimension of the EU's home affairs policies must therefore be reinforced, in full coherence with the Union's foreign policy.

##### *1.4.2. Added value of EU involvement*

The management of migration flows and security threats present challenges which cannot be dealt with by the Member States acting alone. These are areas where there is obvious added value in mobilising the EU budget.

Some Member States bear a heavy burden due to their specific geographic situation and the length of the external borders of the Union that they have to manage. The abolition of internal border controls must be accompanied by common measures for the effective control and surveillance of the Union's external borders. The principle of solidarity and the fair sharing of responsibilities between Member States is therefore at the heart of the common policies on asylum, immigration and external borders. The EU budget provides the means to address the financial implications of this principle. In the area of



security, serious and organised crime, terrorism and other security-related threats are increasingly cross-border in nature. Transnational co-operation and coordination between law enforcement authorities is essential to successfully prevent and fight these crimes, for example through the exchange of information, joint investigations, interoperable technologies and common threat and risk assessments.

Dealing with migration flows, the management of the EU's external borders and the security of the EU requires substantial resources and capabilities from the Member States. Improved operational co-operation and coordination involving the pooling of resources in areas like training and equipment creates economies of scale and synergies thereby ensuring a more efficient use of public funds and reinforcing solidarity, mutual trust and responsibility sharing for common EU policies among Member States. This is particularly relevant in the area of security, where financial support for all forms of cross-border joint operation is essential to enhance cooperation between police, customs, border guards and judicial authorities.

In relation to the external dimension of home affairs, it is clear that the adoption of measures and the pooling of resources at EU level will increase significantly the EU leverage necessary to convince third countries to engage with the EU on those migration and security related issues which are primarily in the interest of the EU and the Member States.

The EU's right to act in the home affairs area derives from Title V "Area of Freedom, Security and Justice" of the Treaty on the Functioning of the European Union (TFEU), in particular Articles 77(2), 78(2), 79(2) and (4), 82(1), 84 and 87(2) TFEU. Cooperation with third countries and international organisations is covered by Article 212(3) TFEU. The proposals respect the principle of subsidiarity because the majority of funding will be implemented in accordance with the principle of shared management and respecting the institutional competencies of the Member States.

#### *1.4.3. Lessons learned from similar experiences in the past*

Although the current home affairs financial instruments are generally considered to achieve their objectives and function effectively, the lessons learned from the mid-term review and the stakeholder consultation are that there is a need to:

- Simplify and streamline the future home affairs instruments by reducing the number of financial programmes to two through the creation of an Asylum and Migration Fund and an Internal Security Fund. This will allow the EU to make a more strategic use of its instruments so that they are more responsive to the EU's political priorities and needs;
- Strengthen the role of the EU as a global player, by including an external dimension component in the future Funds to reinforce the EU's leverage in respect of the external policy dimension of home affairs policies;
- Give preference to shared management rather than centralised management where possible to remove unnecessary bureaucratic burdens;
- Establish a more results-oriented approach to shared management by moving to multiannual programming with a senior-level policy dialogue will ensure that the Member States' national programmes are fully aligned with EU policy objectives and priorities and focus on achieving results;

- Improve centralised management to provide a range of tools for policy-driven activities, including support for transnational actions, particularly innovative actions and actions in and related to third countries (external dimension), as well as emergency actions, studies and events;
- Establish a common regulatory framework with a shared set of rules on programming, reporting, financial management and controls which is as similar as possible to that of the other EU Funds managed in the shared management mode in order to generate a better understanding of the rules by all stakeholders and to ensure a high degree of coherence and consistency;
- Provide for a quick and effective response in case of emergencies, designing the Funds so that the EU can react appropriately in fast evolving situations;
- Enhance the role of the home affairs agencies to foster practical cooperation between Member States and by entrusting them with the implementation of specific actions, whilst ensuring appropriate political control over the agencies' activities.

More details can be found in the impact assessment and the explanatory memoranda of each Regulation.

#### *1.4.4. Coherence and possible synergy with other relevant instruments*

A number of other EU instruments will provide support to activities which are complementary to the activities that will be financed under the Asylum and Migration Fund and the Internal Security Fund:

The European Social Fund currently supports integration measures on access to the labour market whereas the Integration Fund finances measures such as civic orientation courses, participation in social and civic life, equal access to services, etc. Integration measures will continue to be supported along the same lines under the Asylum and Migration Fund and the future European Social Fund.

The dividing line between the Internal Security Fund and the Civil Protection Financial Instrument will remain as described in Article 3 of the current CIPS programme: natural disasters as well as unintentional man-made disasters are for civil protection (accidents), whereas intentional, man-made disasters are security-relevant and will therefore be covered by the Internal Security Fund.

Terrorist attacks or other security-related incidents will remain outside the scope of the EU Solidarity Fund. The precise scope and extent to which Article 222 TFEU (solidarity clause) might support Member States that are the object of a terrorist attack or the victim of natural and man-made disaster, is also not clear as this requires the formal adoption of implementing arrangements which have not even been proposed yet. Emergency funding possibilities in case of a major terrorist attack or other security-relevant incidents will therefore be supported by the Internal Security Fund.

The gap between security research under the Horizon 2020 Programme and the practical application of the results of such research will be closed because the Internal Security Fund will foresee specific objectives and eligible actions to allow for the funding of testing and validating of scientific research results ('prototypes') with a view to their serial application in practice ('pre-commercial procurement').

The future Justice Programme will be closely linked and complementary to the Internal Security Fund, especially its criminal justice component but is more focussed on judicial cooperation, procedural harmonisation and mutual recognition which in practice prevent substantial overlaps.

The external dimension components of the Asylum and Migration Fund and the Internal Security Fund will support actions in and in relation to third countries which cater primarily for EU interests and objectives, have a direct impact in the EU and its Member States and ensure continuity with activities implemented in the territory of the EU. This funding will be designed and implemented in coherence with EU external action and foreign policy. It is not intended to support actions which are development oriented and will complement, when appropriate, the financial assistance provided through external aid instruments. In this context, the successor to the Thematic Programme Migration & Asylum and the Instrument for Stability will be of particular interest for the home affairs area. While external aid instruments either support beneficiary countries' development needs or support general EU political interests with strategic partners, home affairs funds will support specific actions in third countries in the interest of EU migration policy and EU internal security objectives. They will therefore fill a specific gap and will contribute to completing the toolbox at the disposal of the EU.

### 1.5. Duration and financial impact

Proposal/initiative of **limited duration**

- Proposal/initiative in effect from 01/01/2014 to 31/12/2020
- Financial impact from 2014 to 2023

Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

### 1.6. Management mode(s) envisaged<sup>16</sup>

Centralised direct management by the Commission

Centralised indirect management with the delegation of implementation tasks to:

- executive agencies
- bodies set up by the Communities<sup>17</sup>
- national public-sector bodies/bodies with public-service mission
- persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

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<sup>16</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

<sup>17</sup> As referred to in Article 185 of the Financial Regulation.

Joint management with international organisations *(to be specified)*

*If more than one management mode is indicated, please provide details in the "Comments" section.*

Comments:

The proposals will be mainly implemented through shared management, with multi-annual national programmes.

The objectives to be achieved under the national programmes will be complemented by "Union actions" and a rapid response mechanism to deal with emergency situations. These will mainly take the form of grants and procurement under centralised direct management and will include actions in and in relation to third countries.

All possible means will be used to avoid fragmentation by concentrating resources on achieving a limited number of EU objectives and using the expertise of key stakeholders, where appropriate, on the basis of partnership agreements and framework agreements.

Technical assistance at the initiative of the Commission will be implemented by centralised direct management.

The countries associated with the application, implementation and the development of the Schengen acquis will also participate in the two instruments of the Internal Security Fund which constitute a development of the Schengen acquis (the instruments on borders and visa and police co-operation) as if they are Member States, in light of the Schengen Association Agreements. They will participate in the instruments in accordance with the provisions of the Regulation, implementing their own multi-annual national programmes and have the possibility to apply for funding under the Union actions etc. As under the External Borders Fund, specific arrangements will be concluded to specify the supplementary rules necessary for their participation (rules deriving from the Financial Regulation, its Implementing Rules and the Treaties, including the power of audit of the Court of Auditors). Since these States will contribute to the EU budget for the two instruments in proportion to their GDP, the arrangements will also determine the contributions to be received from these States as part of the responsibility-sharing on the Schengen governance, and this regardless of the size of their allocations under the instruments. To date, the associated States are Norway, Iceland, Switzerland and Liechtenstein.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

For shared management, a coherent and efficient reporting, monitoring and evaluation framework is proposed. For each national programme, Member States will be requested to set up a Monitoring Committee to which the Commission may participate.

On an annual basis Member States will report on the implementation of the multiannual programme. These reports are a precondition for annual payments. To feed into the mid term review process, they will be requested in 2017 to provide additional information on the progress made in achieving the objectives. A similar exercise will be undertaken in 2019, to allow, where appropriate, adjustments during the last financial year (2020).

Supporting the development of an evaluation-based culture in the area of home affairs, the Funds will have a common evaluation and monitoring framework with broad policy related indicators which underline the result-oriented approach of the Funds and the essential role they could play in the policy mix to achieve the objective of creating an area of freedom, security and justice. These indicators relate to the impact the Funds could make: the development of a common culture of border security, police cooperation and crisis management; effective management of migration flows into the EU; fair and equal treatment of third-country nationals; solidarity and co-operation between Member States in addressing migration and internal security issues and a common EU approach on both migration and security towards third countries.

To ensure adequate application of the principles on evaluation, and bearing in mind the practical experience with evaluation in Member States under the current EU funding on home affairs, the Commission and the Member States will work together to develop the common evaluation and monitoring framework, inter alia by defining templates and common output and result indicators.

All measures will be established at the beginning of the programming period, thus enabling Member States to set up their reporting and evaluation systems on the basis of the agreed principles and requirements.

To reduce administrative burden and ensure synergies between reporting and evaluation, the information required for evaluation reports will build on and complete the information provided by Member States in the annual implementation reports of the national programmes.

In 2018, the Commission will also submit a report on the mid term review carried out of the national programmes.

More globally, the Commission will submit an intermediate report on the implementation of the Funds by 30.06.2018 and an ex-post evaluation report by 30.06.2024, covering the whole implementation (i.e. not only national programmes under shared management).

## 2.2. Management and control system

### 2.2.1. Risk(s) identified

DG HOME has not been facing important risks of errors in its spending programmes. This is confirmed by the recurrent absence of significant findings in the annual reports of the Court of Auditors as well as by the absence of residual error rate above 2% in the past years in DG HOME (and former DG JLS) annual activity reports.

In shared management, the general risks in relation to the implementation of the current programmes fall mainly into three categories:

- Risk of inefficient or insufficiently targeted use of funds;
- Errors derived from the complexity of rules and weaknesses in management and control systems;
- Inefficient use of administrative resources (limited proportionality of requirements);

Specific elements concerning the system of the 4 Funds under the General Programme "Solidarity and Management of Migration Flows" are also worth mentioning.

- The system of annual programmes ensures that final payments are made regularly based on certified and audited expenditure. However, the eligibility period of the annual programmes is disconnected from the EU financial year and the chain of assurance is therefore not totally satisfactory, despite a very heavy system.
- Detailed eligibility rules are set by the Commission. This ensures in principle the homogeneity of the expenditure financed. However it also creates unnecessary workload for national authorities and the Commission and increases the risk of errors from beneficiaries and/or Member States due to the misinterpretations of EU rules.
- The current management and control systems are very close to those under the Structural Funds. However, they present slight differences, notably in the chain of responsibilities between certifying authorities and Audit Authorities. This creates confusion in the Member States, in particular when authorities are acting in the 2 types of Funds. It also increases the risk of errors and requires more intense monitoring.

These elements will be changed significantly in this proposal:

- The management and control systems will follow the general requirements set in the CSF Funds and will fully comply with the new requirements of the New Financial Regulation: the 3 authorities will be replaced by 2 authorities (Responsible Authority and Audit Authority) whose roles are clarified in view of providing better assurance.
- Multi-annual programming coupled with annual clearance based on the payments made by the Responsible Authority will align the eligibility periods with the annual accounts of the Commission, without increasing the administrative burden compared to the current system.
- On the spot checks will be carried out as part of the 1<sup>st</sup> level controls, i.e. by the Responsible Authority and will support its annual management declaration of assurance.

- Clarification and simplification of the eligibility rules as well as their harmonisation with other EU financial support instruments will reduce mistakes made by beneficiaries who use assistance from different sources. These eligibility rules will be set at national level, except for some basic principles, similar to those used for the CSF Funds.
- The use of simplified costs options is encouraged, especially for small grants.

In centralised management, the main risks are the following:

- Risk of weak correspondence between the projects received and the political priorities of DG HOME;
- Risk of poor quality of selected projects and poor technical implementation of the project, reducing the programmes' impact; due to inadequate selection procedures, lack of expertise or insufficient monitoring;
- Risk of inefficient or non-economic use of funds awarded, both for grants (complexity of reimbursing actual eligible costs coupled with limited possibilities to check eligible costs at the desk) and for procurement (sometimes limited number of economic providers with the required specialist knowledge entailing insufficient possibilities to compare price offers);
- Risk relating to the capacity of (especially) smaller organisations to effectively control expenditure as well as to ensure the transparency of operations carried out.
- Reputational risk for the Commission, if fraud or criminal activities are discovered; only partial assurance can be drawn from the third parties' internal control systems due to the rather large number of heterogeneous contractors and beneficiaries, each operating their own control system, often rather small in size.

Most of these risks are expected to be reduced thanks to a better targeting of proposals and the use of simplified elements included in the New Financial Regulation.

### 2.2.2. *Control method(s) envisaged*

#### Shared management:

**At Member State level**, the proposed architecture of the management and control systems represents an evolution of the set-up in place in 2007-2013 and preserves most of the functions carried out in the current period including administrative and on-the spot verifications, audits of management and control systems and project audits. The sequence of these functions is nevertheless changed to render on-the spot checks a clear responsibility of the Responsible Authority as part and parcel of the preparation for the annual clearance of account exercise.

In order to reinforce accountability, Responsible Authorities would be accredited by a national accrediting body in charge of their ongoing supervision. The reduction of the number of authorities – no more Certifying Authority and reduction of the number of Funds – is expected to reduce the administrative burden and enhance the possibility for building stronger administrative capacity, but also permit a clearer division of responsibilities.

To date no reliable estimation is available regarding the cost of controls of the shared management Funds in the Home Affairs area. The only estimation available is related to the ERDF and the Cohesion Fund where the costs of tasks related to controls (at national level excluding the costs of the Commission) are estimated around 2% of the total funding administered in the period 2007-2013. These costs are related to the following areas of control: 1% is derived from national coordination and programme preparation, 82% relate to programme management, 4% to certification and 13% to audit.

The following proposals will increase the costs of control:

- the creation and functioning of an accrediting body and in general the change of system;
- the submission of a management declaration accompanying the annual accounts;
- the on-the-spot checks to be made by the Responsible Authority;
- the need for additional audit activity by the Audit Authorities to audit the management declaration.

There are however also proposals which will reduce the costs of control:

- Certifying Authority will cease to exist. Although their functions will be partially transferred to the Responsible Authority, this will allow the Member State to save a substantial part of the costs relating to certification due to better administrative efficiency, reduced need for coordination and reduction of the scope of audits;
- The controls to be performed by the Audit Authority will be more oriented towards re-performing (a sample of) the 1<sup>st</sup> level administrative and on-the spot controls carried out by the Responsible Authority. This will speed up the adversarial procedure and ensure that all necessary controls are carried out before the submission of the annual accounts;
- The use of simplified costs will reduce administrative costs and burdens at all levels, for both administrations and beneficiaries;
- Annual closure, and the limitation of the period for conformity clearance to 36 months will reduce of the period of retention of documents for control purposes for public administrations and beneficiaries;
- The setting-up of electronic communication flows between the Commission and the Member States will be mandatory.

To these must be added the elements of simplification listed under §2.2.1 above that will also contribute to the reduction of administrative burden for beneficiaries and thus represent a simultaneous reduction of risks of error and of administrative burden.

Therefore, overall it is expected that these proposals will lead to a redistribution of control costs rather than an increase or a reduction. It is however anticipated that this redistribution of costs (across functions and due to the proportionate control arrangements, also across Member States and programmes) will enable a more effective mitigation of risks and a better and quicker chain of assurance.



**At Commission level**, the cost of management and controls for shared management is not expected to decrease in the first half of the programming period. This is firstly the case because the amount and policy areas concerned by shared management will expand compared to the current period. Therefore maintaining the same resources will already require gains in efficiency. In addition, the first years will be characterised by the conjunction of many important tasks to carry out: closure of programmes 2007-2013 (last closure reports due by 31 March 2016), policy dialogues and approval of the multi-annual national programmes 2014-2020, the setting-up of the new clearance of accounts system. In the second half of the period the potential resources available will be used to improve the evaluation and monitoring.

#### Centralised management

As regards centralised management, the Commission will continue to apply its current control system that is composed of the following building blocks: supervision of operations by the operational directorates, the ex-ante control by the Budget and Control Unit, the Internal Procurement Committee (JPS/HPC), the ex-post controls for grants or the audits from the Internal Audit Capacity and/or the Internal Audit Service. The ex-post control sector applies a "detection strategy" aimed at detecting a maximum of anomalies in view of recovering undue payments. Based on this strategy, the audits are carried out on a sample of projects selected almost entirely on the basis of a risk analysis.

Thanks to this combination of ex-ante and ex-post controls as well as desk checks and on-site audits, in the past years the quantifiable average residual error rate was lower than 2%. Therefore, the internal control system as well as its cost is deemed adequate in DG HOME to achieve the objective of a low error rate.

However, within this framework, DG HOME will continue to explore possibilities to enhance the management and to increase simplification. In particular, all simplified options made available in the New Financial Regulation will be used as much as possible as it is expected that they will contribute to the reduction of administrative burden for beneficiaries and thus represent a simultaneous reduction of risks of error and of administrative burden for the Commission.

#### New strands

The proposals foresee new strands for EU funding in the home affairs area, e.g. a better use of the expertise existing in the EU agencies, the development of the external dimension and the strengthening of the emergency mechanisms.

These will require new management and control methods for DG Home.

The amounts that will be devoted to these new strands are not fixed yet, but they are unlikely to be significant compared to the overall home affairs budget. However, it will be very important to set up the internal means and working arrangements to implement these new tasks as early as possible within the period, in full respect of the principles of sound financial management.

The analysis above shows clearly that, despite all simplifications introduced, the level of human resources required to implement the increased budget of DG HOME will have to be reinforced.

The human resources required will be met by staff from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation and in the light of budgetary constraints

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures.*

In addition to the application of all regulatory control mechanisms, DG HOME will devise an anti-fraud strategy in line with the Commission's new anti-fraud strategy (CAFS) adopted on 24 June 2011 in order to ensure inter alia that its internal anti-fraud related controls are fully aligned with the CAFS and that its fraud risk management approach is geared to identify fraud risk areas and adequate responses. Where necessary, networking groups and adequate IT tools dedicated to analysing fraud cases related to the Funds will be set up.

As regards shared management, the CAFS identifies clearly the need for the Commission proposals for 2014-2020 regulations to request Member States to put in place fraud prevention measures which are effective and proportionate to the identified fraud risks. The current proposal includes in article 5 a clear requirement for the Member States to prevent, detect and correct irregularities and to report to the Commission. Further details as regards these obligations will be part of the detailed rules on the functions of the Responsible Authority as foreseen in Article 24(5)(c).

In addition, the re-use of funds coming from financial correction based on commission or Court of Auditors findings has been clearly indicated in Article 41.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff. <sup>(18)</sup>	from EFTA <sup>19</sup> countries	from candidate countries <sup>20</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3		Diff	NO	NO	NO	NO

- New budget lines requested

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number Heading 3	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3	18 01 04 aa - Asylum and Migration Fund – Technical assistance	Non Diff	NO	NO	NO	NO
3	18 02 aa - Asylum and Migration Fund	Diff	NO	NO	NO	NO
3	18 01 04 bb - Internal Security Fund – Police & Crime - Technical assistance	Non Diff	NO	NO	YES	NO
3	18 02 bb - Internal Security Fund - Police & Crime	Diff	NO	NO	YES	NO
3	18 01 04 cc - Internal Security Fund – Borders & Visas - Technical assistance	Non Diff	NO	NO	YES	NO
3	18 02 cc - Internal Security Fund - Borders & Visas	Diff	NO	NO	YES	NO

<sup>18</sup> Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

<sup>19</sup> EFTA: European Free Trade Association.

<sup>20</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

Contributions from third Countries concern both components of the Internal Security Fund.

The criteria and the method to calculate these contributions are to be negotiated between the EU and the Associated States on the basis of a separate procedure.

Assuming percentages similar to those currently used under the EBF, the Associated States would be called upon to contribute with about EUR 210 million to the Borders and Visa component and with about EUR 50 million to the Police cooperation component.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

<b>Heading of multiannual financial framework:</b>	<b>Number 3</b>	Security and Citizenship
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DG HOME			2014	2015	2016	2017	2018	2019	2020	After 2020	TOTAL
<b>• Operational appropriations (current prices)</b>											
18 02 aa Asylum and Migration Fund	Commitments	(1)	517.492	527.892	538.500	549.320	560.356	571.613	586.266	-	<b>3,851.439</b>
	Payments	(2)	90.085	102.823	270.844	420.790	532.681	543.385	554.303	<b>1,336.528</b>	<b>3,851.439</b>
18 02 bb Internal Security Fund – Police and Crime	Commitments	(1a)	135.076	143.047	151.283	159.791	168.578	177.653	187.022		<b>1,122.450</b>
	Payments	(2a)	15.714	43.881	71.419	111.709	147.854	156.248	164.918	<b>410.707</b>	<b>1,122.450</b>
18 02 cc Internal Security Fund - Borders & Visas	Commitments	(1a)	422.310	447.186	472.886	499.435	526.856	555.173	584.412	-	<b>3,508.258</b>
	Payments	(2a)	59.999	120.794	223.204	350.813	461.098	487.256	514.275	<b>1,290.818</b>	<b>3,508.258</b>
<b>Appropriations of an administrative nature financed from the envelope for specific programmes<sup>21</sup></b>											
18 01 04 aa Asylum and Migration Fund		(3)	2.500	2.500	2.500	2.500	2.500	2.500	2.500		<b>18.500</b>
18 01 04 bb Internal Security Fund– Police and			0.800	0.800	0.800	0.800	0.800	0.800	0.800		<b>5.600</b>

<sup>21</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

Crime											
18 01 04 cc Internal Security Fund - Borders & Visas			1.700	1.700	1.700	1.700	1.700	1.700	1.700		<b>11.900</b>
<b>TOTAL appropriations for DG HOME</b>	Commitments	=1+1a +3	1.079,878	1.123,125	1.167,669	1.213,546	1.260,790	1.309,439	1.362,700		<b>8.517,147</b>
	Payments	=2+2a +3	170.799	272.497	570.467	888.313	1,146.634	1,191.889	1,238.496	<b>3,038.053</b>	<b>8.517,147</b>

<b>Heading of multiannual financial framework:</b>	<b>5</b>	<b>" Administrative expenditure "</b>
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EUR million (to 3 decimal places)

	2014	2015	2016	2017	2018	2019	2020	After 2020	TOTAL
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DG: HOME										
• Human resources			20.841	20.841	20.841	20.841	20.841	20.841		145.887
• Other administrative expenditure			0,156	0,159	0,162	0,165	0,168	0,172	0,175	1,157
<b>TOTAL DG HOME</b>	Appropriations		<b>20.997</b>	<b>21.000</b>	<b>21.003</b>	<b>21.006</b>	<b>21.009</b>	<b>21.013</b>	<b>21.016</b>	<b>147.044</b>

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)		<b>20.997</b>	<b>21.000</b>	<b>21.003</b>	<b>21.006</b>	<b>21.009</b>	<b>21.013</b>	<b>21.016</b>		<b>147.044</b>
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EUR million (to 3 decimal places)

		2014	2015	2016	2017	2018	2019	2020	After 2020	TOTAL
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	Commitments	<b>1,100.875</b>	<b>1,144.125</b>	<b>1,188.672</b>	<b>1,234.552</b>	<b>1,281.799</b>	<b>1,330.452</b>	<b>1,383.716</b>		<b>8,664.191</b>
	Payments	<b>191.796</b>	<b>293.497</b>	<b>591.470</b>	<b>909.319</b>	<b>1,167.643</b>	<b>1,212.902</b>	<b>1,259.512</b>	<b>3,038.053</b>	<b>8,664.191</b>

### 3.2.2. Estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal requires the use of operational appropriations, as explained below:

Home Affairs policy is implemented mainly by shared management. While spending priorities are set at the EU level, actual day-to-day management is vested in Responsible Authorities at national level. Common output indicators and targets will be decided together by the Commission and the Responsible Authorities as part of their national programmes, and approved by the Commission. It is therefore difficult to indicate targets for outputs until the programmes are drafted, negotiated and approved in 2013/14.

As regards centralised management, it is also not possible for DG HOME to provide an exhaustive list of all outputs to be delivered by means of the financial intervention under the Funds, their average costs and numbers, as requested by this section. There are no statistical tools at the moment allowing the calculation of meaningful average costs on the basis of the current programmes, and such a precise definition would be contrary to the principle that the future programme should provide enough flexibility to cater for adapting to political priorities between 2014-2020. This is particularly true for emergency assistance and actions in and in relation to third countries.

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs  ↓			Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)										TOTAL		
	OUTPUTS																		
	Type of output <sup>22</sup>	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs
SPECIFIC OBJECTIVE No 1 <sup>23</sup> ...																			
- Output																			
- Output																			

<sup>22</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>23</sup> As described in Section 1.4.2. "Specific objective(s)..."



- Output																			
Sub-total for specific objective N°1																			
SPECIFIC OBJECTIVE No 2...																			
- Output																			
Sub-total for specific objective N°2																			
<b>TOTAL COST</b>																			

### 3.2.3. Estimated impact on appropriations of an administrative nature

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places) **HOME**

<b>HEADING 5 of the multiannual financial framework<sup>24</sup></b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Human resources HOME	20.841	20.841	20.841	20.841	20.841	20.841	20.841	<b>145.887</b>
Other administrative expenditure	0,156	0,159	0,162	0,165	0,168	0,172	0,175	<b>1,157</b>
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<b>20.997</b>	<b>21.000</b>	<b>21.003</b>	<b>21.006</b>	<b>21.009</b>	<b>21.013</b>	<b>21.016</b>	<b>147.044</b>

<b>Outside HEADING 5<sup>25</sup> of the multiannual financial framework<sup>26</sup></b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Human resources HOME	1.280	1.280	1.280	1.280	1.280	1.280	1.280	<b>8.960</b>
Other expenditure of an administrative nature	3.720	3.720	3.720	3.720	3.720	3.720	3.720	<b>26.040</b>
<b>Subtotal outside HEADING 5 of the multiannual financial framework</b>	<b>5.000</b>	<b>5.000</b>	<b>5.000</b>	<b>5.000</b>	<b>5.000</b>	<b>5.000</b>	<b>5.000</b>	<b>35.000</b>

<b>TOTAL</b>	<b>25.997</b>	<b>26.000</b>	<b>26.003</b>	<b>26.006</b>	<b>26.009</b>	<b>26.013</b>	<b>26.016</b>	<b>182.044</b>
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<sup>24</sup> Global envelope, based on the 2011 Final Allocation for Human Resources, including officials and external staff

<sup>25</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

<sup>26</sup> External staff financed from former BA lines, based on the 2011 Final Allocation for Human Resources, including external staff at Headquarters and in Delegations

### 3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below: Figures used for the year n are the ones for 2011.

*Estimate to be expressed in full amounts (or at most to one decimal place)*

		2014	2015	2016	2017	2018	2019	2020
<b>• Establishment plan posts (officials and temporary agents) HOME</b>								
18 01 01 01 (Headquarters and Commission's Representation Offices)		136	136	136	136	136	136	136
XX 01 01 02 (Delegations)		15	15	15	15	15	15	15
18 01 05 01 (Indirect research)								
10 01 05 01 (Direct research)								
<b>• External personnel (in Full Time Equivalent unit: FTE)<sup>27</sup></b>								
18 02 01 (CA, INT, SNE from the "global envelope")		16	16	16	16	16	16	16
XX 02 02 (CA, INT, JED, LA and SNE in the delegations)		10	10	10	10	10	10	10
18 01 04 aa <sup>28</sup>	- at Headquarters <sup>29</sup>	10	10	10	10	10	10	10
	- in delegations	*	*	*	*	*	*	*
18 01 04 bb <sup>30</sup>	- at Headquarters <sup>31</sup>	4	4	4	4	4	4	4
	- in delegations	*	*	*	*	*	*	*
18 01 04 cc <sup>32</sup>	- at Headquarters <sup>33</sup>	6	6	6	6	6	6	6
	- in delegations	*	*	*	*	*	*	*
XX 01 05 02 (CA, INT, SNE - Indirect research)								
10 01 05 02 (CA, INT, SNE - Direct research)								
Other 13 01 04 02)								

<sup>27</sup> CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

<sup>28</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>29</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

<sup>30</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>31</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

<sup>32</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>33</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

<b>TOTAL</b>	<b>197</b>	<b>197</b>	<b>197</b>	<b>197</b>	<b>197</b>	<b>197</b>	<b>197</b>
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**XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation and in the light of budgetary constraints. Amounts and imputations would be adjusted in the event of any externalisation process to an Executive Agency.

Description of tasks to be carried out:

Officials and temporary agents at headquarters	<p>The tasks to be carried out comprise all tasks necessary to the management of a financial programme, such as:</p> <ul style="list-style-type: none"> <li>- providing input to the budgetary procedure;</li> <li>- conducting the policy dialogue with Member States;</li> <li>- preparing annual work programmes/financing decisions, establishing annual priorities, approving national programmes;</li> <li>- managing national programmes, calls for proposals and calls for tenders and the subsequent selection procedures;</li> <li>- communicating with stakeholders (potential/actual beneficiaries, Member States, etc);</li> <li>- drafting guidelines to Member States</li> <li>- managing projects, operationally and financially;</li> <li>- performing controls, as described above (ex ante verification, procurement committee, ex post audits, internal audit, clearance of accounts);</li> <li>- accounting;</li> <li>- developing and managing grant and national programme management IT tools;</li> <li>- monitoring and reporting on achievement of objectives, including in annual Activity Reports and Authorising Officer by sub-Delegation reports</li> </ul>
External personnel	The tasks are similar to those of officials and temporary agents, except for tasks that cannot be fulfilled by external personnel
Personnel in delegations	To accompany the development of policy implementation in the home affairs area, and in particular its external dimension, EU delegations will need to be equipped with sufficient home affairs expertise. This could be staff from the European Commission and/or the European External Action Service.

To accompany the development of policy implementation in the home affairs area, and in particular its external dimension, EU delegations will need to be equipped with sufficient home affairs expertise. This could be staff from the European Commission and/or the European External Action Service.

### 3.2.4. *Compatibility with the current multiannual financial framework*

- Proposal/initiative is compatible the **next** multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>34</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

### 3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties
- The proposal provides that European funding needs to be co-financed. The exact amount cannot be quantified. The regulation establishes maximum co-financing rates differentiated in line with the types of actions:

Appropriations in EUR million (to 3 decimal places)

	2014	2015	2016	2017	2018	2019	2020	Total
Specify the co-financing body	MS	MS	MS	MS	MS	MS	MS	
TOTAL appropriations cofinanced	tbd	tbd	tbd	tbd	tbd	tbd	tbd	

<sup>34</sup> See points 19 and 24 of the Interinstitutional Agreement.

### 3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative <sup>35</sup>						
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
Article .....								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

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<sup>35</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.