



The basic acts and other regulations of the 2014-2020 Home Affairs Funds: AMIF and ISF

3rd edition 2021

Printed by Bietlot in Belgium

Manuscript completed in 2021

This book was prepared by Stephanie Hardy, DG HOME. Unit E3, 2021

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Luxembourg: Publications Office of the European Union, 2021

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Print ISBN 978-92-76-31166-9

PDF ISBN 978-92-76-31165-2

EPUB ISBN 978-92-76-31167-6

doi:10.2837/286216

doi:10.2837/821793

doi:10.2837/824427

DR-03-21-132-EN-C

DR-03-21-132-EN-N

DR-03-21-132-EN-E

**The basic acts and
other regulations
of the 2014-2020
Home Affairs Funds:
AMIF and ISF**

3rd edition - 2021

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THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Function-
ing of the European Union, and in particular
Articles 82(1), 84 and 87(2) thereof,

Having regard to the proposal from the Euro-
pean Commission,

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

Having regard to the opinion of the European
Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Commit-
tee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legis-
lative procedure ⁽³⁾,

Whereas:

(1) The Union's objective of ensuring a high
level of security within an area of freedom,
security and justice pursuant to Article 67(3)
of the Treaty on the Functioning of the Euro-
pean Union (TFEU) should be achieved, inter
alia, through measures to prevent and com-
bat crime as well as through measures for

coordination and cooperation between law
enforcement authorities and other national
authorities of Member States, including with
Europol or other relevant Union bodies, and
with relevant third countries and interna-
tional organisations.

(2) To achieve this objective, enhanced
actions at Union level should be taken to
protect people and goods from increasingly
transnational threats and to support the
work carried out by Member States' compe-
tent authorities. Terrorism, organised crime,
itinerant crime, drug trafficking, corruption,
cybercrime, trafficking in human beings and
arms, inter alia, continue to challenge the
internal security of the Union.

(3) The Internal Security Strategy for the
European Union ('Internal Security Strat-
egy'), adopted by the Council in February
2010, constitutes a shared agenda for tack-
ling these common security challenges. The
Commission Communication of 22 Novem-
ber 2010 entitled 'The EU Internal Security
Strategy in Action: Five steps toward a more
secure Europe' translates the strategy's prin-
ciples and guidelines into concrete actions
by identifying five strategic objectives: to
disrupt international crime networks, to pre-
vent terrorism and address radicalisation
and recruitment, to raise levels of security
for citizens and businesses in cyberspace, to
strengthen security through border manage-
ment and to increase Europe's resilience in
the face of crises and disasters.

⁽¹⁾ OJ C 299, 4.10.2012, p. 108.

⁽²⁾ OJ C 277, 13.9.2012, p. 23.

⁽³⁾ Position of the European Parliament of 13 March
2014 (not yet published in the Official Journal) and
decision of the Council of 14 April 2014.

(4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and freedoms and the rule of law, a strong focus on the global perspective and on the link and the necessary coherence with external security should be key principles guiding the implementation of the Internal Security Strategy.

(5) To promote the implementation of the Internal Security Strategy and to ensure that it becomes an operational reality, Member States should be provided with adequate Union financial support by setting up and managing an Internal Security Fund ('the Fund').

(6) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the general and specific objectives laid down in this Regulation.

(7) Efficiency of measures and quality of spending constitute guiding principles in the implementation of the Fund. Furthermore, the Fund should also be implemented in the most effective and user-friendly manner possible.

(8) In times of austerity for Union policies, overcoming economic problems requires renewed flexibility, innovative organisational measures, better use of existing structures, and coordination between the Union's institutions, agencies and national authorities and with third countries.

(9) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources.

(10) The EU policy cycle established by the Council on 8-9 November 2010 aims at tack-

ling the most important serious and organised criminal threats to the Union in a coherent and methodical manner through optimum cooperation between the relevant services. In order to support an effective implementation of this multiannual cycle, funding under the instrument established by this Regulation (the 'Instrument') should make use of all possible methods of implementation as set out in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁴⁾, including, where appropriate, by indirect management, to ensure the timely and efficient delivery of the activities and projects.

(11) Due to the legal particularities applicable to Title V TFEU, it is not possible to establish the Fund as a single financial instrument. The Fund should therefore be established as a comprehensive framework for Union financial support in the field of internal security comprising the Instrument and the instrument for financial support for external borders and visa established by Regulation (EU) No 515/2014 of the European Parliament and of the Council ⁽⁵⁾. That comprehensive framework should be complemented by Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽⁶⁾.

⁽⁴⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽⁵⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (see page 143 of this Official Journal).

⁽⁶⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (see page 112 of this Official Journal).

(12) Cross-border crime such as human trafficking and exploitation of illegal immigration by criminal organisations may be tackled effectively through police cooperation.

(13) The global resources for this Regulation and for Regulation (EU) No 515/2014 jointly lay down the financial envelope for the entire duration of the Fund, which is to constitute the prime reference amount within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁷, for the European Parliament and the Council during the annual budgetary procedure.

(14) The European Parliament resolution of 23 October 2013 on organised crime, corruption and money laundering recognised that the fight against organised crime is a European challenge and called for more cooperation between Member States in the law enforcement field, as tackling organised crime effectively is fundamental to protecting the lawful economy from typical criminal activities such as the laundering of the proceeds of crime.

(15) Within the comprehensive framework of the Fund, the financial assistance provided under the Instrument should support police cooperation, exchange of and access to information, crime prevention, the fight against cross-border, serious and organised crime including terrorism, corruption, drug trafficking, trafficking in human beings and arms, exploitation of illegal immigration, child sexual exploitation, distribution of child abuse images and child pornography, cyber-crime, laundering of the proceeds of crime,

the protection of people and critical infrastructure against security-related incidents and the effective management of security-related risks and crises, taking into account common policies (strategies, policy cycles, programmes and action plans), legislation and practical cooperation.

(16) Financial assistance in these areas should in particular support actions promoting cross-border joint operations, access to and exchange of information, exchange of best practices, facilitated and secure communication and coordination, training and exchange of staff, analytical, monitoring and evaluation activities, comprehensive threat and risk assessments in accordance with the competencies set out in the TFEU, awareness raising activities, testing and validation of new technology, forensic science research, the acquisition of technical interoperable equipment and cooperation between Member States and relevant Union bodies, including Europol. Financial assistance in these areas should only support actions which are consistent with priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council.

(17) Within the comprehensive framework of the Union's anti-drugs strategy that advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under this Instrument should support all actions aimed at preventing and combating trafficking in drugs (supply reduction), and in particular measures targeting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including possession and purchase, with a view to engaging in drug trafficking activities.

(18) Measures in and in relation to third countries supported through the Instrument

(⁷) OJ C 373, 20.12.2013, p. 1.

should be adopted 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 Union external action and foreign policy related to the country or region in question, democratic principles and values, fundamental liberties and rights, the rule of law and the sovereignty of third countries. The measures should not be intended to support directly development-oriented actions and should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence should also be sought with Union humanitarian policy, in particular as regards the implementation of emergency measures.

(19) The Instrument should be implemented in full respect for the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and for the Union's international obligations.

(20) Pursuant to Article 3 of the Treaty on European Union (TEU), the Instrument should support activities which ensure the protection of children against violence, abuse, exploitation and neglect. The Instrument should also support safeguards and assistance for child witnesses and victims, in particular those who are unaccompanied or otherwise in need of guardianship.

(21) The Instrument should complement and reinforce the activities undertaken to develop cooperation between Europol or other relevant Union bodies and Member States in order to achieve the objectives of the Instrument in the field of police cooperation, preventing and combating crime, and crisis management. This means, *inter alia*, that, when drawing up their national programmes, Member States should take into

account the information database, analytical tools and operational and technical guidelines developed by Europol, in particular the Europol information system (EIS), the Europol Secure Information Exchange Network Application (SIENA) and the EU Serious and Organised Crime Threat Assessment (SOCTA).

(22) In order to ensure a uniform implementation of the Fund, the Union budget allocated to the Instrument should be implemented by direct and indirect management in respect of actions of particular interest to the Union ('Union actions'), emergency assistance and technical assistance, and by shared management in respect of national programmes and actions requiring administrative flexibility.

(23) For the resources implemented under shared management, it is necessary to ensure that the Member States' national programmes are consistent with Union priorities and objectives.

(24) The resources allocated to Member States for implementation through their national programmes should be established in this Regulation and distributed on the basis of clear, objective and measurable criteria. Those criteria should relate to the public goods to be protected by Member States and the degree of their financial capacity to ensure a high level of internal security, such as the size of their population, their territorial size and their gross domestic product. Moreover, since SOCTA of 2013 points out the prevalent importance of sea and air ports as entry points for criminal organisations for trafficking in human beings and illegal commodities, specific vulnerabilities represented by crime routes at these external crossings should be reflected in the distribution of available resources for actions undertaken by Member States through criteria relating to the number of passengers and weight of

cargo processed through international air and seaports.

(25) To reinforce solidarity and responsibility sharing for common Union policies, strategies and programmes, Member States should be encouraged to use a part of the global resources available for the national programmes to address the strategic Union priorities set out in Annex I to this Regulation. For projects addressing those priorities, the Union contribution to their total eligible cost should be increased to 90 %, in accordance with Regulation (EU) No 514/2014.

(26) The ceiling for resources which remain at the disposal of the Union should be complementary to the resources allocated to Member States for the implementation of their national programmes. That will ensure that the Union is able, in a given budget year, to support actions which are of particular interest to the Union, such as studies, testing and validation of new technologies, transnational projects, networking and exchange of best practices, monitoring of the implementation of relevant Union law and Union policies and actions in relation to and in third countries. The actions supported should be in line with the priorities identified in relevant Union strategies, programmes, action plans and risk and threat assessments.

(27) In order to contribute to the achievement of the general objective of the Instrument, Member States should ensure that their national programmes include actions addressing all the specific objectives of the Instrument and that the allocation of resources between the objectives is proportionate to the challenges and needs and ensures that the objectives can be met. Where a national programme does not address one of the specific objectives or the allocation is below the minimum percentages set in this Regulation, the Member State con-

cerned should provide a justification within the programme.

(28) In order to strengthen the Union's capacity to react immediately to security-related incidents or newly emerging threats to the Union, it should be possible to provide emergency assistance in accordance with the framework set out in Regulation (EU) No 514/2014.

(29) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared with action by Member States alone. As the Union is in a better position than Member States to address cross-border situations and to provide a platform for common approaches, activities eligible for support under this Regulation should contribute in particular to strengthening national and Union capabilities as well as cross-border cooperation and coordination, networking, mutual trust and the exchange of information and best practices.

(30) In order to supplement or amend provisions in this Regulation regarding the definition of strategic Union priorities, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, adding or deleting strategic Union priorities listed in this Regulation. 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.

(31) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from all Member States.

(32) The Commission should monitor the implementation of the Instrument, in accordance with the relevant provisions of Regulation (EU) No 514/2014, with the aid of key indicators for evaluating results and impacts. The indicators, including relevant baselines, should provide the minimum basis for evaluating the extent to which the objectives of the Instrument have been achieved.

(33) In order to measure the achievements of the Fund, common indicators should be established in relation to each specific objective of the Instrument. The measurement of the achievement of the specific objectives by means of common indicators does not render the implementation of actions related to those indicators mandatory.

(34) Council Decision 2007/125/JHA⁽⁸⁾ should be repealed, subject to the transitional provisions set out in this Regulation.

(35) Since the objectives of this Regulation, namely strengthening coordination and cooperation between law enforcement authorities, preventing and combating crime, protecting people and critical infrastructure against security-related incidents and enhancing the capacity of Member States and the Union to manage effectively security-related risks and crises, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In

accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(36) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(37) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland has notified its wish to take part in the adoption and application of this Regulation.

(38) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(39) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013 ⁽⁹⁾. Therefore, this Regulation should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

⁽⁸⁾ Council Decision 2007/125/JHA of 12 February 2007 establishing for the period 2007 to 2013, as part of the General Programme on Security and Safeguarding Liberties, the Specific Programme 'Prevention of and Fight against Crime' (OJ L 58, 24.2.2007, p. 7).

⁽⁹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 PURPOSE AND SCOPE

1. This Regulation establishes the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ('the Instrument'), as part of the Internal Security Fund ('the Fund').

Jointly with Regulation (EU) No 515/2014, this Regulation establishes the Fund for the period from 1 January 2014 to 31 December 2020.

2. This Regulation lays down:

(a) the objectives, eligible actions and strategic priorities for financial support to be provided under the Instrument;

(b) the general framework for the implementation of the eligible actions;

(c) the resources made available under the Instrument from 1 January 2014 to 31 December 2020 and their distribution.

3. This Regulation provides for the application of the rules set out in Regulation (EU) No 514/2014.

4. The Instrument shall not apply to matters that are covered by the Justice programme, as set out in Regulation (EU) No 1382/2013 of the European Parliament and of the Council ⁽¹⁰⁾. However the Instrument may cover actions which aim at encouraging cooperation between judicial authorities and law enforcement authorities.

5. Synergies, consistency and complementarity shall be sought with other relevant financial instruments of the Union, such as the Union Civil Protection Mechanism, established by Decision No 1313/2013/EU of the European Parliament and of the Council ⁽¹¹⁾, Horizon 2020, established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽¹²⁾, the third multiannual programme of Union action in the field of health, established by Regulation (EU) No 282/2014 of the European Parliament and of the Council ⁽¹³⁾, the European Union Solidarity Fund and the external aid instruments, namely the Instrument for Pre-accession Assistance (IPA II) established by Regulation (EU) No 231/2014 of the European Parliament and of the Council ⁽¹⁴⁾, the European Neighbourhood Instrument established by Regulation (EU) No 232/2014 of the European Parliament and of the Council ⁽¹⁵⁾ (6), the Development Cooperation Instrument estab-

⁽¹¹⁾ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

⁽¹²⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

⁽¹³⁾ Regulation (EU) No 282/2014 of the European Parliament and of the Council of 11 March 2014 on the establishment of a third Programme of the Union's action in the field of health (2014-2020) and repealing Decision No 1350/2007/EC (OJ L 86, 21.3.2014, p. 1).

⁽¹⁴⁾ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11).

⁽¹⁵⁾ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

⁽¹⁰⁾ Regulation (EU) No 1382/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Justice Programme for the period 2014 to 2020 (OJ L 354, 28.12.2013, p. 73).

lished by Regulation (EU) No 233/2014 of the European Parliament and of the Council ⁽¹⁶⁾, the Partnership Instrument for cooperation with third countries established by Regulation (EU) No 234/2014 of the European Parliament and of the Council ⁽¹⁷⁾, the European Instrument for Democracy and Human Rights established by Regulation (EU) No 235/2014 of the European Parliament and of the Council ⁽¹⁸⁾ and the Instrument contributing to Stability and Peace established by Regulation (EU) No 230/2014 of the European Parliament and of the Council ⁽¹⁹⁾. Actions financed under this Regulation shall not receive financial support for the same purpose from other Union financial instruments.

ARTICLE 2 DEFINITIONS

For the purpose of this Regulation, the following definitions shall apply:

(a) ‘police cooperation’ means the specific measures and types of cooperation involving all the Member States’ competent authorities as referred to in Article 87 TFEU;

(b) ‘exchange of and access to information’ means the secure collection, storage, processing, analysis and exchange of information relevant to the authorities as referred to

in Article 87 TFEU in relation to the prevention, detection, investigation, and prosecution of criminal offences, in particular cross-border, serious and organised crime;

(c) ‘crime prevention’ means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens’ feeling of insecurity, as referred to in Article 2(2) of Council Decision 2009/902/JHA ⁽²⁰⁾;

(d) ‘organised crime’ means punishable conduct relating to participation in a criminal organisation, as defined in Council Framework Decision 2008/841/JHA ⁽²¹⁾;

(e) ‘terrorism’ means any of the intentional acts and offences as defined in Council Framework Decision 2002/475/JHA ⁽²²⁾;

(f) ‘risk and crisis management’ means any measure relating to the assessment, prevention, preparedness and consequence management of terrorism, organised crime and other security-related risks;

(g) ‘prevention and preparedness’ means any measure aimed at preventing and/or reducing risks linked to possible terrorist attacks or other security-related incidents;

(h) ‘consequence management’ means the effective coordination of actions taken at national and/or Union level in order to react to and to reduce the impact of the effects

⁽¹⁶⁾ Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L 77, 15.3.2014, p. 44).

⁽¹⁷⁾ Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries (OJ L 77, 15.3.2014, p. 77).

⁽¹⁸⁾ Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.3.2014, p. 85).

⁽¹⁹⁾ Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument contributing to Stability and Peace (OJ L 77, 15.3.2014, p. 1).

⁽²⁰⁾ Council Decision 2009/902/JHA of 30 November 2009 setting-up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

⁽²¹⁾ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

⁽²²⁾ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

of a terrorist attack or any other security-related incident;

(i) ‘critical infrastructure’ means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption, breach or destruction of which would have a significant impact in a Member State or in the Union as a result of the failure to maintain those functions;

(j) ‘emergency situation’ means any security-related incident or newly emerging threat which has or may have a significant adverse impact on the security of people in one or more Member States.

ARTICLE 3 OBJECTIVES

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

2. Within the general objective set out in paragraph 1, the Instrument shall contribute — in accordance with the priorities identified in relevant Union strategies, policy cycles, programmes, threat and risk assessments — to the following specific objectives:

(a) crime prevention, combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities and other national authorities of Member States, including with Europol or other relevant Union bodies, and with relevant third countries and international organisations;

(b) enhancing the capacity of Member States and the Union for managing effectively security-related risks and crises, and preparing for and protecting people and critical infra-

structure against terrorist attacks and other security-related incidents.

The achievement of the specific objectives of the Instrument shall be evaluated in accordance with Article 55(2) of Regulation (EU) No 514/2014 using common indicators, as set out in Annex II to this Regulation and programme-specific indicators included in national programmes.

3. To achieve the objectives referred to in paragraphs 1 and 2, the Instrument shall contribute to the following operational objectives:

(a) promote and develop measures strengthening Member States’ capability to prevent crime and combat cross-border, serious and organised crime including terrorism, in particular through public-private partnerships, exchange of information and best practices, access to data, interoperable technologies, comparable statistics, applied criminology, public communication and awareness raising;

(b) promote and develop administrative and operational coordination, cooperation, mutual understanding and exchange of information among Member States’ law enforcement authorities, other national authorities, Europol or other relevant Union bodies and, where appropriate, with third countries and international organisations;

(c) promote and develop training schemes, including regarding technical and professional skills and knowledge of obligations relating to respect for human rights and fundamental freedoms, in implementation of European training policies, including through specific Union law enforcement exchange programmes, in order to foster a genuine European judicial and law enforcement culture;

(d) promote and develop measures, safeguards, mechanisms and best practices for early identification, protection and support of witnesses and victims of crime, including victims of terrorism, and in particular for child witnesses and victims, especially those who are unaccompanied or otherwise in need of guardianship;

(e) measures strengthening Member States' administrative and operational capability to protect critical infrastructure in all sectors of economic activity, including through public-private partnerships and improved coordination, cooperation, exchange and dissemination of know-how and experience within the Union and with relevant third countries;

(f) secure links and effective coordination between existing sector-specific early warning and crisis cooperation actors at Union and national level, including situation centres in order to enable the quick production of comprehensive and accurate overviews in crisis situations, coordinate response measures and share open, privileged and classified information;

(g) measures strengthening the administrative and operational capacity of the Member States and the Union to develop comprehensive threat and risk assessments, which are evidence based and consistent with priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council, in order to enable the Union to develop integrated approaches based on common and shared appreciations in crisis situations and to enhance mutual understanding of Member States' and partner countries' various definitions of threat levels.

4. The Instrument shall also contribute to the financing of technical assistance at

the initiative of the Member States and the Commission.

5. Actions funded under the Instrument shall be implemented in full respect for fundamental rights and human dignity. In particular, actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

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

ARTICLE 4 ELIGIBLE ACTIONS UNDER NATIONAL PROGRAMMES

1. Within the objectives referred to in Article 3 of this Regulation, in the light of the agreed conclusions of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014 and in accordance with the objectives of the national programme referred to in Article 7 of this Regulation, the Instrument shall support actions in Member States, and in particular those from the following list:

(a) actions improving police cooperation and coordination between law enforcement authorities, including with and between relevant Union bodies, in particular Europol and Eurojust, joint investigation teams and any other form of cross-border joint operation, access to and exchange of information and interoperable technologies;

(b) projects promoting networking, public-private partnerships, mutual confidence, understanding and learning, the identification, exchange and dissemination of know-how, experience and best practices,

information sharing, shared situation awareness and foresight, contingency planning and interoperability;

(c) analytical, monitoring and evaluation activities, including studies and threat, risk and impact assessments, which are evidence based and consistent with priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council;

(d) awareness raising, dissemination and communication activities;

(e) acquisition, maintenance of Union IT systems and national IT systems contributing to the achievement of the objectives of this Regulation, and/or further upgrading of IT systems and technical equipment, including testing compatibility of systems, secure facilities, infrastructures, related buildings and systems, especially information and communication technology (ICT) systems and their components, including for the purpose of European cooperation on cyber security and cyber crime, notably with the European Cybercrime Centre;

(f) exchange, training and education of staff and experts of relevant authorities, including language training and joint exercises or programmes;

(g) measures deploying, transferring, testing and validating new methodology or technology, including pilot projects and follow-up measures to Union funded security research projects.

2. Within the objectives referred to in Article 3, the Instrument may also support the following actions in relation to and in third countries:

(a) actions improving police cooperation and coordination between law enforcement authorities, including joint investigation teams and any other form of cross-border joint operation, access to and exchange of information and interoperable technologies;

(b) networking, mutual confidence, understanding and learning, the identification, exchange and dissemination of know-how, experience and best practices, information sharing, shared situation awareness and foresight, contingency planning and interoperability;

(c) exchange, training and education of staff and experts of relevant authorities.

The Commission and the Member States, together with the European External Action Service, shall ensure coordination as regards actions in and in relation to third countries, as set out in Article 3(5) of Regulation (EU) No 514/2014.

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

ARTICLE 5 GLOBAL RESOURCES AND IMPLEMENTATION

1. The global resources for the implementation of the Instrument shall be EUR 1 004 million in current prices.

2. Annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

3. The global resources shall be implemented through the following means:

(a) national programmes, in accordance with Article 7;

(b) Union actions, in accordance with Article 8;

(c) technical assistance, in accordance with Article 9;

(d) emergency assistance, in accordance with Article 10.

4. The budget allocated under the Instrument to Union actions referred to in Article 8 of this Regulation, to the technical assistance referred to in Article 9 of this Regulation and to the emergency assistance referred to in Article 10 of this Regulation shall be implemented under direct management and indirect management in accordance, respectively, with points (a) and (c) of Article 58(1) of

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²³⁾.

The budget allocated to the national programmes referred to in Article 7 of this Regulation shall be implemented under shared management in accordance with point (b) of Article 58(1) of Regulation (EU, Euratom) No 966/2012.

5. Without prejudice to the prerogatives of the European Parliament and the Council, the global resources shall be used as follows:

(a) EUR 662 million for the national programmes of Member States;

(b) EUR 342 million for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

6. Each Member State shall allocate the amounts for national programmes indicated in Annex III as follows:

(a) at least 20 % for actions relating to the specific objective referred to in point (a) of the first subparagraph of Article 3(2); and

(b) at least 10 % for actions relating to the specific objective referred to in point (b) of the first subparagraph of Article 3(2).

Member States may depart from those minimum percentages provided that an explanation is included in the national programmes

⁽²³⁾ (1) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

as to why allocating resources below that level does not jeopardise the achievement of the relevant objective. That explanation will be assessed by the Commission in the context of its approval of national programmes as referred to in Article 7(2).

7. Jointly with the global resources established for Regulation (EU) No 515/2014, the global resources available for the Instrument, as established in paragraph 1 of this Article, constitute the financial envelope for the Fund and serve as the prime reference, within the meaning of point 17 of the Inter-institutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, for the European Parliament and the Council during the annual budgetary procedure.

ARTICLE 6 RESOURCES FOR ELIGIBLE ACTIONS IN THE MEMBER STATES

1. EUR 662 million shall be allocated to the Member States as follows:

- (a) 30 % in proportion to the size of their total population;
- (b) 10 % in proportion to the size of their territory;
- (c) 15 % in proportion to the number of passengers and 10 % to the tons of cargo processed through their international air and sea ports;
- (d) 35 % in inverse proportion to their gross domestic product (purchasing power standard per inhabitant).

2. The reference figures for the data referred to in paragraph 1 shall be the latest statistics

produced by the Commission (Eurostat), on the basis of data provided by Member States in accordance with Union law. The reference date is 30 June 2013. The allocations for national programmes calculated on the basis of the criteria referred to in paragraph 1 are set out in Annex III.

ARTICLE 7 NATIONAL PROGRAMMES

1. The national programme to be prepared under the Instrument and the one to be prepared under Regulation (EU) No 515/2014 shall be proposed to the Commission as one single national programme for the Fund, in accordance with Article 14 of Regulation (EU) No 514/2014.

2. Under the national programmes to be examined and approved by the Commission pursuant to Article 14 of Regulation (EU) No 514/2014, Member States shall, within the objectives referred to in Article 3 of this Regulation, pursue in particular the strategic Union priorities listed in Annex I to this Regulation, taking account of the outcome of the policy dialogue referred to in Article 13 of Regulation (EU) No 514/2014. Member States shall not use more than 8 % of their total allocation under the national programme for the maintenance of Union IT systems and national IT systems contributing to the achievement of the objectives of this Regulation and not more than 8 % for actions in relation to or in third countries which implement the strategic Union priorities listed in Annex I to this Regulation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 11 to amend, add or delete strategic Union priorities listed in Annex I to this Regulation.

ARTICLE 8 UNION ACTIONS

1. At the Commission's initiative, the Instrument may be used to finance transnational actions or actions of particular interest to the Union ('Union actions') concerning the general, specific and operational objectives referred to in Article 3.

2. To be eligible for funding, Union actions shall be consistent with the priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council, in relevant Union strategies, policy cycles, programmes, threat and risk assessments, and support in particular:

(a) preparatory, monitoring, administrative and technical activities, and the development of an evaluation mechanism required to implement the policies on police cooperation, preventing and combating crime, and crisis management;

(b) transnational projects involving two or more Member States or at least one Member State and one third-country;

(c) analytical, monitoring and evaluation activities, including threat, risk and impact assessments, which are evidence based and consistent with priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council and projects monitoring the implementation of Union law and Union policy objectives in the Member States;

(d) projects promoting networking, public-private partnerships, mutual confidence, understanding and learning, identification and dissemination of best practices and innovative approaches at Union level, training and exchange programmes;

(e) projects supporting the development of methodological, notably statistical, tools and methods and common indicators;

(f) the acquisition, maintenance and/or further upgrading of technical equipment, expertise, secure facilities, infrastructures, related buildings and systems, especially ICT systems and their components at the Union level, including for the purpose of European cooperation on cyber security and cyber-crime, notably the European Cybercrime Centre;

(g) projects enhancing awareness of Union policies and objectives among stakeholders and the general public, including corporate communication on the political priorities of the Union;

(h) particularly innovative projects developing new methods and/or deploying new technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating the outcome of Union funded security research projects;

(i) studies and pilot projects.

3. Within the objectives referred to in Article 3, the Instrument shall also support actions in relation to and in third countries, and in particular the following:

(a) actions improving police cooperation and coordination between law enforcement authorities and, where applicable, international organisations, including joint investigation teams and any other form of cross-border joint operation, access to and exchange of information and interoperable technologies;

(b) networking, mutual confidence, understanding and learning, identification, exchange and dissemination of know-how,

experience and best practice, information sharing, shared situation awareness and foresight, contingency planning and interoperability;

(c) acquisition, maintenance, and/or further upgrading of technical equipment, including ICT systems and their components;

(d) exchange, training and education of staff and experts of relevant authorities, including language training;

(e) awareness raising, dissemination and communication activities;

(f) threat, risk and impact assessments;

(g) studies and pilot projects.

4. Union actions shall be implemented in accordance with Article 6 of Regulation (EU) No .514/2014.

ARTICLE 9 TECHNICAL ASSISTANCE

1. At the initiative of and/or on behalf of the Commission, the Instrument may contribute up to EUR 800 000 annually for technical assistance to the Fund, in accordance with Article 9 of Regulation (EU) No .514/2014.

2. At the initiative of a Member State, the Instrument may finance technical assistance activities, in accordance with Article 20 of Regulation (EU) No 514/2014. The amount set aside for technical assistance shall not exceed, for the period 2014-2020, 5 % of the total amount allocated to a Member State plus EUR 200 000.

ARTICLE 10 EMERGENCY ASSISTANCE

1. The Instrument shall provide financial assistance to address urgent and specific needs in the event of an emergency situation, as defined in point (j) of Article 2.

2. Emergency assistance shall be implemented in accordance with Articles 6 and 7 of Regulation (EU) No 514/2014.

CHAPTER III FINAL PROVISIONS

ARTICLE 11 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 power to adopt delegated acts referred to in Article 7(3) shall be conferred on the Commission for a period of seven years from 21 May 2014. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for a period of three years, unless the European Parliament or the Council opposes such extension not later than three months before the end of the seven-year period.

3. The delegation of power referred to in Article 7(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 Article 7(3) shall enter into force only if no objection has been expressed either by the European Parliament or by 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 Euro-

pean 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 of the Council.

ARTICLE 12 APPLICABILITY OF REGULATION (EU) NO 514/2014

The provisions of Regulation (EU) No 514/2014 shall apply to the Instrument.

ARTICLE 13 REPEAL

Decision 2007/125/JHA is repealed with effect from 1 January 2014.

ARTICLE 14 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation of the projects until their closure or the financial assistance approved by the Commission on the basis of Decision 2007/125/JHA, or any other legislation applying to that assistance on 31 December 2013.

2. When adopting decisions on co-financing under the Instrument, the Commission shall take account of measures adopted on the basis of Decision 2007/125/JHA before 20 May 2014 which have financial repercussions during the period covered by that co-financing.

3. Sums committed for co-financing approved by the Commission between 1 January 2011 and 31 December 2014 for which the documents required for closure of the operations have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Com-

mission by 31 December 2017, giving rise to the repayment of amounts unduly paid.

Amounts relating to operations which have been suspended due to legal proceedings or administrative appeals having suspensive effect shall be disregarded in calculating the amount to be automatically decommitted.

4. The Commission shall submit to the European Parliament and the Council, by 31 December 2015, an ex-post evaluation of Decision 2007/125/JHA concerning the period 2007-2013.

ARTICLE 15 REVIEW

The European Parliament and the Council shall, on the basis of a proposal of the Commission, review this Regulation by 30 June 2020. EN L 150/106 Official Journal of the European Union 20.5.2014

ARTICLE 16 ENTRY INTO FORCE AND APPLICATION

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 16 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I **List of strategic Union priorities referred to in Article 7(2)**

— Measures preventing all types of crime and fighting cross-border, serious and organised crime, in particular projects implementing relevant policy cycles, drug trafficking, trafficking in human beings, sexual exploitation of children and projects identifying and dismantling criminal networks, enhancing capacities to fight corruption, protecting the economy against criminal infiltration and reducing financial incentives by seizing, freezing and confiscating criminal assets.

— Measures preventing and combating cybercrime and raising the levels of security for citizens and business in cyberspace, in particular projects building capacities in law enforcement and the judiciary, projects ensuring work with industry to empower and protect citizens, and projects improving capabilities for dealing with cyber attacks.

— Measures preventing and combating terrorism and addressing radicalisation and recruitment, in particular projects empowering communities to develop local approaches and prevention policies, projects enabling competent authorities to cut off terrorists from access to funding and materials and follow their transactions, projects protecting the transport of passengers and cargo, and projects enhancing the security of explosives and chemical, biological, radiological and nuclear materials.

— Measures designed to raise Member States' administrative and operational capability to protect critical infrastructure in all economic sectors including those covered by

Council Directive 2008/114/EC ⁽²⁴⁾, in particular projects promoting public-private partnerships in order to build trust and facilitate cooperation, coordination, contingency planning and the exchange and dissemination of information and best practices among public and private actors.

— Measures increasing the Union's resilience to crisis and disaster, in particular projects promoting the development of a coherent Union policy on risk management linking threat and risk assessments to decision making, as well as projects supporting an effective and coordinated response to crisis linking up existing sector-specific capabilities, expertise centres and situation awareness centres, including those for health, civil protection and terrorism.

— Measures seeking to achieve a closer partnership between the Union and third countries, in particular countries situated on its external borders, and the drawing up and implementation of operational programmes of action for achievement of the above strategic Union priorities.

⁽²⁴⁾ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

ANNEX II **List of common indicators for the measurement of the 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.

(i) Number of joint investigation teams (JITs) and European Multidisciplinary Platform against Criminal Threats (EMPACT) operational projects supported by the Instrument, including the participating Member States and authorities.

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- leader (Member State),
- partners (Member States),
- participating authorities,
- participating EU Agency (Eurojust, Europol), if applicable.

(ii) Number of law enforcement officials trained on cross-border-related topics with the help of the Instrument, and the duration of their training (person days).

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- by type of crime (referred to in Article 83 TFEU): terrorism, trafficking in human beings and sexual exploitation of women and children; illicit drug trafficking; illicit arms

trafficking; money laundering; corruption; counterfeiting of means of payment; computer crime; organised crime; or

- by horizontal area of law enforcement: information exchange; operational cooperation;

(iii) Number and financial value of projects in the area of crime prevention

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down by type of crime (referred to in Article 83 TFEU): terrorism, trafficking in human beings and sexual exploitation of women and children; illicit drug trafficking; illicit arms trafficking; money laundering; corruption; counterfeiting of means of payment; computer crime; organised crime;

(iv) Number of projects supported by the Instrument, aiming to improve law enforcement information exchange which are related to Europol data systems, repositories or communication tools.

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down by type of crime (referred to in Article 83 TFEU): data loaders, extending access to SIENA, projects aiming to improving input to analysis work files etc.

(b) Enhancing the capacity of Member States and the Union for managing effectively security-related risks and crises, and preparing for and protecting people and critical infra-

structure against terrorist attacks and other security-related incidents.

(i) Number and tools put in place and/or further upgraded with the help of the Instrument to facilitate the protection of critical infrastructure by Member States in all sectors of the economy;

(ii) Number of projects relating to the assessment and management of risks in the field of internal security supported by the Instrument;

(iii) Number of expert meetings, workshops, seminars, conferences, publications, websites

and online consultations organised with the help of the Instrument.

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

— relating to critical infrastructure protection; or

— relating to risk and crisis management.

ANNEX III Figures for national programmes

ISF POLICE - Amounts of national programmes

MS	Population (individuals)		Territor (Km ²)		# passengers				
	(2013)		(2012)		air (2012)	sea (2011)	Total		
	30 %		10 %		15 %				
	Number	allocation	Number	allocation	Numbers			Allocation	
AT	8 488 511	3 845 782	83 879	1 321 372	8 196 234	0	8 196 234	3 169 093	
BE	11 183 350	5 066 698	30 528	480 917	8 573 821	0	8 573 821	3 315 088	
BG	7 282 041	3 299 182	110 900	1 747 038	1 705 825	0	1 705 825	659 561	
CH									
CY	862 011	390 540	9 251	145 734	1 587 211	107 000	1 694 211	655 071	
CZ	10 516 125	4 764 407	78 866	1 242 401	3 689 113	0	3 689 113	1 426 404	
DE	82 020 688	37 160 068	357 137	5 626 095	66 232 970	1 146 000	67 378 970	26 052 237	
DK									
EE	1 286 479	582 849	45 227	712 475	466 960	61 000	527 960	204 137	
ES	46 006 414	20 843 540	505 991	7 971 031	24 450 017	3 591 000	28 041 017	10 842 125	
FI	5 426 674	2 458 594	338 432	5 331 428	3 725 547	250 000	3 975 547	1 537 155	
FR	65 633 194	29 735 595	632 834	9 969 228	48 440 037	906 000	49 346 037	19 079 761	
GR	11 290 067	5 115 047	131 957	2 078 760	5 992 242	66 000	6 058 242	2 342 434	
HR	4 398 150	1 992 614	87 661	1 380 951	4 526 664	5 000	4 531 664	1 752 179	
HU	9 906 000	4 487 985	93 024	1 465 432	1 327 200	0	1 327 200	513 165	
IE	4 582 769	2 076 257	69 797	1 099 534	3 139 829	0	3 139 829	1 214 022	
IS									
IT	59 394 207	26 908 977	301 336	4 747 041	21 435 519	1 754 000	23 189 519	8 966 282	
LI									
LT	2 971 905	1 346 443	65 300	1 028 692	504 461	0	504 461	195 051	
LU	537 039	243 309	2 586	40 738	365 944	0	365 944	141 493	
LV	2 017 526	914 055	64 562	1 017 066	1 465 671	676 000	2 141 671	828 082	
MT	421 230	190 841	316	4 978	335 863	0	335 863	129 862	
NL	16 779 575	7 602 108	41 540	654 399	23 172 904	0	23 172 904	8 959 858	
NO									
PL	38 533 299	17 457 791	312 679	4 925 731	4 219 070	9 000	4 228 070	1 634 793	
PT	10 487 289	4 751 342	92 212	1 452 643	5 534 972	0	5 534 972	2 140 110	
RO	21 305 097	9 652 429	238 391	3 755 444	1 239 298	0	1 239 298	479 177	
SE	9 555 893	4 329 367	438 576	6 909 023	5 757 921	1 320 000	7 077 921	2 736 695	
SI	2 058 821	932 764	20 273	319 367	513 394	0	513 394	198 505	
SK	5 410 836	2 451 419	49 036	772 480	330 166	0	330 166	127 659	
UK									
Total	438 355 190	198 600 000	4 202 290	66 200 000	246 928 853	9 891 000	256 819 853	99 300 000	
Budget allocation share	198 600 000		66 200 000		99 300 000				

# tons of cargo				GDP/capita (EUR)			Allocations
air (2012)	sea (2011)	Total		(2012)			
10 %				35 %			2014-2020
Numbers			allocation	Number	clef	allocation	
219 775	0	219 775	4 651	36 400	16,66	3 822 008	12 162 906
1 068 434	232 789 000	233 857 434	4 948 770	34 000	17,84	4 091 797	17 903 270
18 536	25 185 000	25 203 536	533 344	5 400	112,33	25 763 168	32 002 293
28 934	6 564 000	6 592 934	139 516	20 500	29,59	6 786 396	8 117 257
58 642	0	58 642	1 241	14 500	41,83	9 594 559	17 029 012
4 448 191	296 037 000	300 485 191	6 358 712	32 299	18,78	4 307 288	79 504 401
23 760	48 479 000	48 502 760	1 026 390	12 700	47,76	10 954 418	13 480 269
592 192	398 332 000	398 924 192	8 441 827	22 700	26,72	6 128 683	54 227 207
195 622	115 452 000	115 647 622	2 447 275	35 600	17,04	3 907 896	15 682 348
1 767 360	322 251 000	324 018 360	6 856 709	31 100	19,50	4 473 348	70 114 640
72 187	135 314 000	135 386 187	2 864 972	17 200	35,27	8 088 437	20 489 650
6 915	21 862 000	21 868 915	462 779	10 300	58,89	13 506 904	19 095 426
61 855	0	61 855	1 309	9 800	61,90	14 196 032	20 663 922
113 409	45 078 000	45 191 409	956 317	35 700	16,99	3 896 950	9 243 080
844 974	499 885 000	500 729 974	10 596 188	25 700	23,60	5 413 273	56 631 761
15 425	42 661 000	42 676 425	903 096	11 000	55,15	12 647 374	16 120 656
615 287	0	615 287	13 020	83 600	7,26	1 664 128	2 102 689
31 460	67 016 000	67 047 460	1 418 824	10 900	55,65	12 763 405	16 941 431
16 513	5 578 000	5 594 513	118 388	16 300	37,21	8 535 037	8 979 107
1 563 499	491 695 000	493 258 499	10 438 081	35 800	16,94	3 886 065	31 540 510
68 306	57 738 000	57 806 306	1 223 267	9 900	61,27	14 052 637	39 294 220
116 259	67 507 000	67 623 259	1 431 008	15 600	38,88	8 918 020	18 693 124
28 523	38 918 000	38 946 523	824 166	6 200	97,84	22 438 889	37 150 105
144 369	181 636 000	181 780 369	3 846 742	43 000	14,11	3 235 375	21 057 201
9 015	16 198 000	16 207 015	342 964	17 200	35,27	8 088 437	9 882 037
20 894	0	20 894	442	13 200	45,95	10 539 478	13 891 478
12 150 336	3 116 175 000	3 128 325 336	66 200 000	606 599	1 010	231 700 000	662 000 000
			66 200 000	231 700 000			662 000 000

To ensure the implementation of the Passenger Name Record (PNR) Directive^[1] and the development of information exchange/interoperability tools, the Budgetary Authority reinforced the 2017 budget with EUR 134 million for the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

The additional allocations were made through the distribution key set out in Annex III of Regulation (EU) No 513/2014.

^[1] Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, (OJ L119, 4.5.2016, p132)

REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 16 APRIL 2014 LAYING DOWN GENERAL PROVISIONS ON THE ASYLUM, MIGRATION AND INTEGRATION FUND AND ON THE INSTRUMENT FOR FINANCIAL SUPPORT FOR POLICE COOPERATION, PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), Article 79(2) and (4), Article 82(1), Article 84 and Article 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 ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The 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 the competitiveness and social cohesion of the Union, the creation of a Common European Asylum System, the prevention of threats of serious and organised crime, and the fight against illegal immigration, human trafficking, cybercrime and terrorism.

(2) It is necessary to adopt an integrated approach to questions arising from the pressure of migration and asylum applications and regarding the management of the external borders of the Union, ensuring full respect for international and human rights law, including as regards actions implemented in third countries, showing solidarity amongst all Member States and demonstrating an awareness of the need to respect national responsibilities in the process of ensuring a clear definition of tasks.

(3) Union funding to support the development of the area of freedom, security and justice should bring added value for the Union and constitute a tangible sign of the solidarity and responsibility-sharing which are indispensable in responding to the common challenges.

(4) The existence of a common framework should ensure the necessary coherence, simplification and uniform implementation of that funding across the policy areas concerned.

⁽¹⁾ OJ C 299, 4.10.2012, p. 108.

⁽²⁾ OJ C 277, 13.9.2012, p. 23.

⁽³⁾ Position of the European Parliament of 13 March 2014 (not yet published in the Official Journal) and decision of the Council of 14 April 2014.

(5) The spending of funds in that area should be coordinated in order to assure complementarity, efficiency and visibility, as well as to achieve budgetary synergies.

(6) 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, including the prevention and detection of irregularities and fraud.

(7) Such 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.

(8) Measures in and in relation to third countries supported through the Specific Regulations as defined in this Regulation ('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's external action and foreign policy related to the country or region in question. Those measures should not be intended to support actions that are directly oriented towards development and they should complement, when appropriate, the financial assistance provided through external aid instruments. The principle of policy coherence for development, as set out in paragraph 35 of the European consensus on Development, should be respected. It is also important to ensure that the implementation of emergency assistance is consistent with, and, where relevant, complementary to the Union humanitarian policy and respects humanitarian principles as set out in the European Consensus on Humanitarian Aid.

(9) External action should be consistent and coherent, as set out in Article 18(4) of the Treaty on European Union (TEU).

(10) Prior to the preparation of multiannual programmes as a means of achieving the objectives of such Union funding, Member States and the Commission should engage in a policy dialogue and thereby establish a coherent strategy for each individual Member State. Following the completion of the policy dialogue, each Member State should submit to the Commission a national programme describing how it aims to achieve the objectives of the relevant Specific Regulation for the period 2014-20. The Commission should examine whether the national programme is consistent with those objectives and with the outcome of the policy dialogue. Moreover, the Commission should examine whether the distribution of Union funding between the objectives complies with the minimum percentage set per objective in the relevant Specific Regulation. It should be possible for Member States to depart from those minimum percentages, in which case they should state the reasons for the deviation in their national programme. In the event that the reasons given by the Member State concerned were not deemed adequate, the Commission might not approve the national programme. The Commission should regularly inform the European Parliament of the outcome of the policy dialogues, of the full programming process including the preparation of national programmes, covering also compliance with the minimum percentage set per objective in the relevant Specific Regulations as defined in this Regulation, and of the implementation of the national programmes.

(11) The strategy should be subject to a mid-term review, to ensure appropriate funding in the period 2018-20.

(12) Member States should establish, in a manner consistent with the principle of proportionality and the need to minimise administrative burden, a partnership with the authorities and bodies concerned to develop and implement their national programmes throughout the entire multiannual period. Member States should ensure that there is no conflict of interest among the partners at the different stages of the programming cycle. Each Member State should set up a committee to monitor the national programme and assist it in reviewing the implementation and the progress made in achieving the programme objectives. Each Member State should be responsible for establishing the practical arrangements for setting up the monitoring committee.

(13) Eligibility of expenditure under the national programmes should be determined by national law, subject to common principles set out in this Regulation. 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.

(14) 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. Where appropriate, technical assistance could cover the costs incurred by the competent authorities in third countries.

(15) 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, but not before 1 January 2014, in accordance with the provision in Regulation (EU, Euratom) No 966/2012 of the Euro-

pean Parliament and of the Council ⁽⁴⁾, which allows such flexibility in duly substantiated exceptional cases. The support may constitute 100 % of the eligible expenditure in duly justified cases where this is essential for the action to be carried out, particularly where the beneficiary is an international or non-governmental organisation. Actions supported with emergency assistance should arise directly from the emergency situation and should not replace long-term investments by Member States.

(16) The decisions taken relevant to the contribution from the Union budget should be properly documented to maintain an adequate audit trail.

(17) The financial interests of the 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, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

(18) In the context of the protection of the financial interests of the Union, the on-the-spot checks and audits carried out by the Member States, the Commission, the Court of Auditors and the European Anti-Fraud Office established by Commission Decision 1999/352/EC, ECSC, Euratom ⁽⁵⁾ ('OLAF') can be announced as well as unannounced, in accordance with the applicable law.

⁽⁴⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽⁵⁾ Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20).

(19) The new structure of the funding in the field of home affairs aims to simplify the applicable rules and to reduce the administrative burden for the beneficiaries. Nevertheless, the control mechanism should remain efficient, and therefore it is important to recall the applicable rules on the protection of the financial interests of the Union, providing for on-the-spot checks and audits which may be announced as well as unannounced.

(20) Member States should adopt adequate measures to guarantee the proper functioning of the management and control system and the quality of implementation of their national programmes. To this end, it is necessary to establish the general principles and necessary functions which these systems should fulfil.

(21) The obligations on the Member States as regards management and control systems and 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.

(22) 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. The support provided under the Specific Regulations should be implemented in close cooperation between the Commission and the Member States in accordance with the principle of subsidiarity.

(23) Member States should make full use of the knowledge, expertise and experience gained by public and/or private bodies in implementing earlier funds in the field of home affairs.

(24) Only Responsible Authorities designated 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 designated Responsible Authorities can be reimbursed from the Union budget.

(25) 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. (26) 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.

(27) The pre-financing payment at the start of programmes ensures that Member States have 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. The Responsible Authorities should ensure that beneficiaries receive the full amount due promptly.

(28) In addition, annual pre-financing should be provided to ensure that Member States have sufficient means to implement their national programmes. Annual pre-financing should be cleared each year with the payment of the annual balance.

(29) The triennial revision of Regulation (EU, Euratom) No 966/2012 introduces changes in the shared management method which have to be taken into account.

(30) 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 such framework, the Responsible Authority should submit to the Commission, in respect of a national programme, the documents referred to in the provisions on shared management with Member States of Regulation (EU, Euratom) No 966/2012.

(31) 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.

(32) 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 any 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 directly or indirectly concerns 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.

(33) In order to establish the financial relationship between the Responsible Authorities and the Union budget, the Commission

should clear the accounts of those authorities annually. The decision on the clearance of accounts should cover the completeness, the accuracy and veracity of the accounts but not the conformity of the expenditure with Union law.

(34) As the Commission is responsible for the proper application of Union law under Article 17 TEU, it should decide whether the expenditure incurred by the Member States complies with Union law. 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.

(35) It is important to ensure sound financial management and effective implementation, while also ensuring transparency, legal certainty, accessibility of funding and equal treatment of beneficiaries.

(36) With a view to simplifying the use of funding and reducing the risk of error, while providing for differentiation where needed to reflect the specificities of policy, it is appropriate to define the forms of support and the harmonised conditions for the eligibility of expenditure grants, including simplified costs options. In accordance with the principle of subsidiarity, Member States should adopt national rules on the eligibility of expenditure.

(37) 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 legal proceedings or an administrative

appeal having suspensive effect or from reasons of force majeure.

(38) 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.

(39) 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 the Commission, 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 should also contribute to covering corporate communication of the political priorities of the Union, provided that those are related to the general objectives of Union funding in the field of home affairs.

(40) For the purpose of ensuring a wide dissemination of information about Union funding in the field of home affairs, 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, at least, establish a website or website portal with the necessary information. Member States should undertake more direct forms of communication campaigns in order to properly inform the potential beneficiaries by, inter alia, organising regular public

events, so-called information days and training sessions.

(41) The effectiveness of actions supported also depends on their evaluation and the dissemination of their results. The responsibilities of the Member States and the Commission in this regard and the arrangements to ensure the reliability of evaluation and the quality of the related information should be formalised.

(42) 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 (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. 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.

(43) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from all Member States.

(44) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No

182/2011 of the European Parliament and of the Council ⁽⁶⁾.

(45) 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.

(46) Since the objective of this Regulation, namely to lay down general provisions for the implementation of the Specific Regulations, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(47) Insofar as this Regulation lays down general rules necessary for enabling the implementation of Specific Regulations which provide for its applicability to these Specific Regulations and which constitute acts building upon the Schengen *acquis* in relation to countries to which these Specific Regulations are applicable on the basis of relevant Protocols annexed to the TEU and to the TFEU or on the basis of the relevant Agreements, this Regulation should be applied together with these Specific Regulations. To that extent,

this implies that this Regulation can establish a link with and can have a direct impact on the provisions of the Specific Regulations developing the Schengen *acquis*, thus affecting the latter's legal framework.

(48) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, those Member States have notified their wish to take part in the adoption and application of this Regulation.

(49) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(50) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013 ⁽⁷⁾. Therefore, this Regulation should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

⁽⁶⁾ 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 (OJ L 55, 28.2.2011, p. 13).

⁽⁷⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 PURPOSE AND SCOPE

This Regulation lays down 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; and
- (d) the clearance of accounts.

ARTICLE 2 DEFINITIONS

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

(a) ‘Specific Regulations’ means

— Regulation (EU) No 516/2014 of the European Parliament and of the Council ⁽⁸⁾;

— Regulation (EU) No 513/2014 of the European Parliament and of the Council ⁽⁹⁾; and

⁽⁸⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (see page 168 of this Official Journal).

⁽⁹⁾ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (see page 93 of this Official Journal).

— 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 a 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 a Union contribution under a project, whether a public or private body, international organisation or the International Committee of the Red Cross (‘ICRC’), or 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 and resulting in added value for 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 relevant activities, policies and priorities of the Union and is complementary to other Union instruments, while taking into account the specific context of each Member State.

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 European External Action Service ('EEAS') as regards actions in and in relation to third countries, shall ensure coordination between this Regulation and the Specific Regulations, and with other relevant Union policies, strategies and instruments, including those in the framework of the Union's external action.

5. The Commission and the Member States, together with the EEAS where appropriate, shall ensure that actions in and in relation to third countries are carried out in synergy and in coherence with other actions outside the Union supported through Union instruments. They shall, in particular, ensure that those actions:

(a) are coherent with the Union's external policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;

(b) focus on non-development-oriented measures;

(c) serve the interests of the Union's internal policies and are consistent with activities undertaken inside the Union.

6. The Commission and the Member States shall apply the principle of sound financial management in accordance with Regulation (EU, Euratom) No 966/2012, in particular in accordance with the principles of economy, efficiency and effectiveness as provided for in Article 30 of that Regulation.

7. The Commission and the Member States shall ensure the effectiveness of the support provided under the Specific Regulations, including through monitoring, reporting and evaluation.

8. 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, the Member States and the Commission, taking into account the principle of proportionality.

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 UNION

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation and the Specific Regulations are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks, by the recovery of the amounts wrongly paid if irregularities are detected, and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid together with any interest on late payments. They shall notify those to the Commission and shall keep it informed of any significant progress in the related administrative and legal proceedings.

3. When amounts unduly paid to a beneficiary, as a result of fault or negligence on the part of a Member State cannot be recovered, that Member State shall be responsible for reimbursing the relevant amounts to the Union budget.

4. Member States shall offer effective prevention against fraud, especially as regards areas with a higher level of risk. Such prevention 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 Article 58 concerning the obligations of Member States specified in paragraphs 2 and 3 of this Article.

6. The Commission shall set out, by way of implementing acts, the frequency of the reporting of irregularities and the reporting format to be used. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 59(2).

7. 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 in accordance with this Regulation and the Specific Regulations.

8. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁰⁾ and Council Regulation (Euratom, EC) No 2185/96⁽¹¹⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement, grant decision or a contract funded in accordance with this Regulation and the Specific Regulations.

9. Without prejudice to paragraphs 1, 7 and 8, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation and the Specific Regulations shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

⁽¹⁰⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽¹¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

CHAPTER III FINANCIAL FRAMEWORK FOR UNION ACTIONS, EMERGENCY AND TECHNICAL ASSISTANCE

ARTICLE 6 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 acts, the work programme for Union actions and emergency assistance. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(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 either directly, by the Commission or through executive agencies, or indirectly, by entities and persons other than Member States in accordance with Article 60 of Regulation (EU, Euratom) No 966/2012.

ARTICLE 7 EMERGENCY ASSISTANCE

1. In response to an emergency situation as defined in the Specific Regulations, the Commission may decide to provide emergency assistance. In such cases, it shall inform the European Parliament and the Council in a timely manner.

2. Within the limits of the available resources, the emergency assistance may amount to 100 % of the eligible expenditure.

3. Emergency assistance 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, but not prior to 1 January 2014, when necessary for the implementation of the action.

5. Emergency assistance may take the form of grants awarded directly to Union agencies.

ARTICLE 8 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. Where such actions are implemented directly, the following entities shall be allowed to submit grant applications:

- (a) Member States;
- (b) third countries, in duly justified cases where a grant is necessary to achieve the objectives of this Regulation and the Specific Regulations;
- (c) joint bodies set up by third countries and the Union or by Member States;
- (d) international organisations, including regional organisations, UN bodies, depart-

ments 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 ICRC and 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*;

(g) Union agencies for emergency assistance.

ARTICLE 9 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 and activities necessary for the implementation of this Regulation and the Specific Regulations.

2. The measures and activities referred to in paragraph 1 may include:

(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 exchanges 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 Union, provided that those are related to the general objectives of this Regulation and the Specific Regulations;

(f) the installation, updating, 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 competent authorities and beneficiaries;

(j) actions related to fraud detection and prevention;

(k) actions related to audit.

3. The measures and activities referred to in paragraph 1 may also concern the preceding and subsequent financial frameworks.

CHAPTER IV NATIONAL PROGRAMMES

SECTION 1: Programming and Implementation framework

ARTICLE 10 PROGRAMMING

The objectives of the Specific Regulations shall be pursued within the framework of the multiannual programming for the period 2014-20, subject to a mid-term review in accordance with Article 15.

ARTICLE 11 SUBSIDIARY AND PROPORTIONATE INTERVENTION

1. Member States and their competent authorities as specified in Article 25 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 concerned 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 reporting, evaluation, management and control, shall take into account the principle of proportionality having regard to the level of support allocated, thereby reducing the administrative burden and facilitating efficient implementation.

ARTICLE 12 PARTNERSHIP

1. Each Member State shall, in accordance with its national rules and practices and subject to any applicable security requirements, organise a partnership with relevant authorities and bodies to perform the role set out in paragraph 3. The partnership shall be drawn

from relevant public authorities at national, regional and local level, where applicable. It shall also, where deemed appropriate, include relevant international organisations, non-governmental organisations and social partners.

2. The partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category.

3. The Member State shall involve the partnership in the preparation, implementation, monitoring and evaluation of national programmes. The composition of the partnership may vary at different stages of the programme.

4. Each Member State shall set up a monitoring committee to support the implementation of national programmes.

5. The Commission may provide guidance on the monitoring of national programmes and, where necessary and in agreement with the Member State concerned, may participate in the work of the monitoring committee in an advisory capacity.

ARTICLE 13 POLICY DIALOGUE

1. In order to facilitate the preparation of the national programmes, each Member State and the Commission shall hold a dialogue at the level of senior officials, taking into account the relevant indicative timeframes laid down in Article 14. The dialogue shall focus on the overall results to be achieved by means of the national programmes in order to address the needs and priorities of the

Member States in the areas of intervention covered by the Specific Regulations, taking account of the baseline situation in the Member State concerned and the objectives of the Specific Regulations. The dialogue shall also serve as an opportunity for an exchange of views on Union actions. The outcome of the dialogue shall serve as a guide for the preparation and approval of the national programmes and shall include an indication of the expected date of submission of the Member State's national programmes to the Commission, which shall allow the timely adoption of the programme. That outcome shall be recorded in agreed minutes.

2. In the 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's external action and foreign policy as regards the country or region concerned.

3. After the conclusion of the policy dialogues, the Commission shall inform the European Parliament of the overall outcome.

4. If deemed appropriate by a Member State and by the Commission, the policy dialogue may be repeated after the mid-term review referred to in Article 15, in order to reassess the needs of that Member State and the priorities of the Union.

ARTICLE 14 PREPARATION AND APPROVAL OF NATIONAL PROGRAMMES

1. Each Member State shall propose, on the basis of the outcome of the policy dialogue referred to in Article 13(1), a multiannual 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 shall consist of the following elements:

(a) a description of the baseline situation in the Member State, completed with the necessary factual information to assess the requirements correctly;

(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 those objectives;

(d) a description of how the objectives of the Specific Regulations are covered;

(e) the mechanisms that ensure coordination between the instruments established by the Specific Regulations and other Union and national instruments;

(f) information on the monitoring and evaluation framework to be put in place and the indicators to be used to measure progress in the implementation of the objectives pursued in relation to the baseline situation in the Member State;

(g) implementing provisions for the national programme containing the identification of the competent authorities, and a summary description of the envisaged management and control system;

(h) a summary description of the approach chosen for the implementation of the partnership principle laid down in Article 12;

(i) a draft financing plan indicatively broken down by each financial year of the period, including an indication of technical assistance expenditure;

(j) the mechanisms and methods to be used to publicise the national programme.

3. Member States shall submit the proposed national programmes to the Commission not later than three months after the conclusion of the policy dialogue referred to in Article 13.

4. The Commission shall adopt, by way of implementing acts, the model according to which the national programmes shall be drawn up. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

5. Before approving a proposed national programme, the Commission shall examine:

(a) its consistency with the objectives of the Specific Regulations and the outcome of the policy dialogue referred to in Article 13(1);

(b) the distribution of Union funding between objectives in the light of the requirements of the Specific Regulations and, where relevant, the justification for any deviation from the minimum shares set in the Specific Regulations;

(c) 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 proposed by Member States;

(d) the relevance of the implementing provisions referred to in point (g) of paragraph 2 in the light of the actions envisaged;

(e) the compliance of the proposed programme with Union law;

(f) the complementarity with support provided by other Union funds, including the European Social Fund;

(g) where applicable under a Specific Regulation, for objectives and examples of actions in or in relation to third countries, coherence with the principles and general objectives of the Union's 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 Regulation, in the light of the national strategy, or that the Union funding to be allocated to those objectives is insufficient or that the programme does not comply with Union law, it shall invite the Member State concerned to provide all necessary additional information and, where appropriate, to modify the proposed national programme.

7. The Commission shall approve each national programme not later than six months following the formal submission by the Member State, provided that any observations made by the Commission have been adequately taken into account.

8. Without prejudice to paragraph 7, the Commission shall inform the European Parliament of the overall outcome of the application of paragraphs 5 and 6, including compliance with or derogation from the minimum percentages set per objective in the relevant Specific Regulations.

9. 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 2018 the Commission and each Member State shall review the situation, in the light of the interim evaluation reports submitted by the Member States in accordance with point (a) of Article 57(1), and in the light of developments in Union policies and in the Member State concerned.

2. Following the review- referred to in paragraph 1, and in the light of its outcome, national programmes may be revised.

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. After the completion of the mid-term review, and as part of the interim evaluation referred to in point (a) of Article 57(2), the Commission shall report on the mid-term review to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

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 be increased to 90 % in exceptional duly justified circumstances, for example when, due to economic pressure on the national budget, projects would otherwise not be implemented and the objectives of the national programme would not be achieved.

6. The contribution from the Union budget to the technical assistance at the initiative of Member States may amount to 100 % of the total eligible expenditure.

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 expenditure to be eligible, it 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:

(a) it has been incurred by a beneficiary between 1 January 2014 and 31 December 2022; and

(b) it has been disbursed by the designated Responsible Authority between 1 January 2014 and 30 June 2023.

4. By way of derogation from paragraph 3, expenditure paid in 2014 shall also be eligible where it has been paid by the Responsible Authority before its formal designation in accordance with Article 26, provided that the management and controls systems applied before the formal designation are essentially the same as the ones in force after the formal designation of the Responsible Authority.

5. 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 points (b), (c) and (d) of Article 18(1). For such forms of support, by way of derogation from paragraph 3 of this Article, the amounts included in the payment request shall be the cost reimbursed to the beneficiary by the Responsible Authority.

6. 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 at the latest in the final payment request submitted by the beneficiary.

ARTICLE 18 ELIGIBLE EXPENDITURE

1. Eligible expenditure may be reimbursed in the following ways:

(a) reimbursement of eligible costs actually incurred and paid, together with, where applicable, depreciation;

(b) standard scales of unit costs;

(c) lump sums;

(d) flat-rate financing determined by the application of a percentage to one or more defined categories of costs.

2. The options referred to in paragraph 1 may be combined where each option covers different categories 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 public procurement of works, goods or services, only point (a) of paragraph 1 shall apply. Where the public procurement within a project is limited to certain categories of costs, all the options referred to in paragraph 1 may apply.

4. The amounts referred to in points (b), (c) and (d) of paragraph 1 shall be established in one of the following ways:

(a) a fair, equitable and verifiable calculation method based on:

(i) statistical data or other objective information;

(ii) the verified historical data of individual beneficiaries; or

(iii) the application of the usual cost accounting practices of individual beneficiaries;

(b) in accordance with the rules for application of corresponding scale of unit costs, lump sums and flat rates applicable in Union

policies for a similar type of project and beneficiary;

(c) in accordance with the rules for application of corresponding scale of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State concerned for a similar type of project and beneficiary.

5. The document setting out the conditions for support for each project shall set out the method to be applied for determining the costs of the project 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 25 % of eligible direct costs, provided that 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 concerned for a similar type of project and beneficiary;

(b) a flat rate of up to 15 % of eligible direct staff costs without there being a requirement for the Member State concerned to perform a calculation to determine the applicable rate;

(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 project and beneficiary.

7. For the purposes of determining staff costs relating to the implementation of a project, the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1 720 hours.

8. In addition to the methods laid down in paragraph 4, where the contribution from the Union budget does not exceed 100 000 EUR, the amounts referred to in points (b), (c) and (d) of paragraph 1 may be established on a case-by-case basis by reference to a draft budget agreed *ex ante* by the Responsible Authority.

9. Depreciation costs may be considered as eligible where the following conditions are met:

(a) the eligibility rules of the national programme allow for it;

(b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices for eligible costs 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.

10. Without prejudice to Article 43, for the purpose of paragraph 8 of this Article the Member States whose currency is not the euro may use the euro conversion rate fixed on the date of project approval or project agreement signature based on the monthly accounting exchange rate published electronically by the Commission. The euro conversion rate shall not be subject to modification in course of the project.

ARTICLE 19 INELIGIBLE EXPENDITURE

The following costs 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 upon;
- (c) the purchase of land built upon, where the land is necessary for the implementation of the project, in an amount exceeding 10 % of the total eligible expenditure for the project concerned;
- (d) value added tax (VAT), except where it is non-recoverable under national VAT law.

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. The measures referred to in paragraph 1 may include:

- (a) expenditure relating to the preparation, selection, appraisal, management and monitoring of the programme, actions or projects;
- (b) expenditure relating to audits and on-the-spot controls of actions or projects;
- (c) expenditure relating to evaluations of the programme, actions or projects;
- (d) expenditure relating to information, dissemination and transparency in relation to the programme, actions or projects, including expenditure resulting from the application of Article 53 and expenditure on campaigns to inform and raise awareness about the pro-

gramme's purpose, organised, inter alia, at a local level;

(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; including the costs of experts and other participants in those committees and including third-country participants, where their presence is essential to the effective implementation of programmes, 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 the beneficiaries and competent authorities referred to in Article 25, 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 also concern the preceding and subsequent financial frameworks.

5. When one or more competent authorities are common to more than one national programme, the appropriations for the technical assistance expenditure on each of the programmes concerned may be merged, either partly or entirely.

SECTION 2: Management and Control

ARTICLE 21 GENERAL PRINCIPLES OF MANAGEMENT AND CONTROL SYSTEMS

For the implementation of its national programme, each Member State shall set up management and control systems, which shall provide for:

- (a) a description of the functions of each authority involved in management and control, and the allocation of functions within each authority;
- (b) compliance with the principle of separation of functions between and within such authorities;
- (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 the 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 on late payments.

ARTICLE 22 RESPONSIBILITIES UNDER SHARED MANAGEMENT

In accordance with the principle of shared management, Member States and the Commission shall be responsible for the management and control of national programmes in accordance with their respective responsibilities laid down in this Regulation and the Specific Regulations.

ARTICLE 23 RESPONSIBILITIES OF BENEFICIARIES

Beneficiaries shall fully cooperate with the Commission and competent authorities when they carry out their functions and tasks in relation to this Regulation and the Specific Regulations.

ARTICLE 24 RESPONSIBILITIES OF MEMBER STATES

1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities, which are laid down in the rules on shared management set out in Regulation (EU, Euratom) No 966/2012 and this Regulation.
2. Member States shall ensure that their management and control systems for national programmes are set up in accordance with this Regulation and that those systems function effectively.
3. Member States shall allocate adequate resources for each competent authority to carry out their functions throughout the programming period.
4. Member States shall set up transparent rules and procedures for the selection

and implementation of projects in accordance with this Regulation and the Specific Regulations.

5. All official exchanges of information between the Member State and the Commission shall be carried out using an electronic data exchange system. The Commission shall establish, by way of implementing acts, the terms and conditions with which that electronic data exchange system is to comply. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).

ARTICLE 25 COMPETENT AUTHORITIES

1. For the purposes of this Regulation and the Specific Regulations, the competent authorities are:

(a) a Responsible Authority: a public sector body of the Member State concerned, which is the designated body within the meaning of Article 59(3) of Regulation (EU, Euratom) No 966/2012 and which shall be solely responsible for the proper management and control of the national programme and shall handle all communication with the Commission;

(b) an Audit Authority: a national public authority or body, which is functionally independent of the Responsible Authority and which shall be responsible for issuing annually the opinion referred to in the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012;

(c) where appropriate, one or more Delegated Authorities: any public or private body which carries out certain tasks of the responsible authority under the responsibility of the Responsible Authority.

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

ARTICLE 26 DESIGNATION OF RESPONSIBLE AUTHORITIES

1. Member States shall notify the Commission of the formal designation, in accordance with Article 59(3) of Regulation (EU, Euratom) No 966/2012, at ministerial level of the Responsible Authorities in Member States responsible for the management and control of expenditure under this Regulation, as soon as possible after the approval of the national programme.

2. The designation referred to in paragraph 1 shall be made subject to the body complying with the designation criteria on internal environment, control activities, information and communication, and monitoring laid down in or on the basis of this Regulation.

3. The designation of a Responsible Authority shall be based on an opinion of an audit body, which may be the Audit Authority, that assesses the Responsible Authority's compliance with the designation criteria. That body may be the autonomous public institution responsible for monitoring, evaluating and auditing the administration. The audit body shall function independently of the Responsible Authority and shall carry out its work in accordance with internationally accepted audit standards. In accordance with Article 59(3) of Regulation (EU, Euratom) No 966/2012, Member States may base their decision on designation on whether the management and control systems are essentially the same as those in place for the previous period and whether they have functioned effectively. If the existing audit and control results show that the designated bodies no longer comply with the designation criteria, Member States

shall take the necessary measures to ensure that deficiencies in the implementation of the tasks of those bodies are remedied, including by ending the designation.

4. To ensure the sound operation of this system, the Commission shall be empowered to adopt delegated acts in accordance with Article 58 concerning:

(a) minimum conditions for the designation 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 making and ending the designation;

(b) rules relating to supervision and the procedure for reviewing the designation 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.

ARTICLE 27 GENERAL PRINCIPLES ON CONTROLS BY RESPONSIBLE AUTHORITIES

1. Responsible Authorities shall carry out a systematic administrative control and shall supplement such a control by on-the-spot controls, including, where appropriate, unannounced on-the-spot controls of the expenditure related to the final payment requests from the beneficiaries that are declared in the annual accounts with a view to obtaining a sufficient level of assurance.

2. As regards 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 mini-

mum confidence level, while targeting also the 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 a 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 acceptable level. The necessary preventive and corrective measures shall be taken by the Responsible Authority and shall be communicated to the Commission in the summary referred to in point (b) of the first subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012.

5. The Commission shall adopt, by way of implementing acts, the necessary rules aiming at achieving a uniform application of this Article. Those rules may in particular relate to the following:

(a) the rules concerning administrative and on-the-spot controls including unannounced on-the-spot controls, to be conducted by the Responsible Authority with regard to compliance with obligations, commitments and eligibility rules resulting from the application of this Regulation and the Specific Regulations, including the rules relating to the period of time for which supporting documents should be kept;

(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 in accordance with the examination procedure referred to in Article 59(3).

ARTICLE 28 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 those amounts for the beneficiaries.

ARTICLE 29 FUNCTIONS OF THE AUDIT AUTHORITY

1. To support the opinion given in accordance with Article 59 of Regulation (EU, Euratom) No 966/2012, the audit authority shall ensure that audits are carried out on the management and control systems, and on an appropriate sample of the expenditure included in the annual accounts. The Commission shall be empowered to adopt delegated acts in accordance with Article 58 of this Regulation 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 specialist expertise and functional independence.

3. The Audit Authority shall ensure that audit work meets internationally accepted auditing standards.

ARTICLE 30 COOPERATION WITH AUDIT AUTHORITIES

1. The Commission shall cooperate with audit authorities to coordinate their respective audit plans and methods and shall as soon as possible exchange the results of audits carried out on management and control systems in order to make the best possible and proportionate use of control resources, and to avoid unjustified duplication of work.

2. The Commission and the audit authorities shall meet on a regular basis to exchange views on issues relating to the improvement of the management and control systems.

ARTICLE 31 CONTROLS AND AUDITS BY THE COMMISSION

1. The Commission shall rely on available information, including the designation procedure, the request for payment of the annual balance as referred to in Article 44, annual implementation reports and audits carried out by national and Union bodies, to assess whether the Member States have set up management and control systems that comply with this Regulation, and whether 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 subject to giving at least 12 working days notice to the competent national authority, except in urgent cases. The Commission shall respect the principle of proportionality by taking into account the need to avoid unjustified duplication of audits or controls carried out by Member States, the level of risk to the Union budget and the need to minimise the administrative burden on beneficiaries. 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 or controls, shall have access to all necessary records, documents and metadata, irrespective of the medium in which they are stored, relating to projects and technical assistance or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commis-

sion 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 without prejudice to the competences of national courts and in full respect for the fundamental rights of the legal subjects concerned.

5. At the request of the Commission and with the agreement of the Member State concerned, 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 32 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 decision of the Commission approving a national programme shall constitute a financing decision within the meaning of Article 84 of Regulation (EU, Euratom) No 966/2012 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 16 of Regulation (EU, Euratom) No 966/2012 applies.

ARTICLE 33 COMMON RULES FOR PAYMENTS

1. Payment by the Commission of the contribution from the Union budget to the national programme shall be made in accordance with budget appropriations and shall be 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, annual pre-financing, payments of the annual balance and the payment of the final balance.

3. Article 90 of Regulation (EU, Euratom) No 966/2012 shall apply.

ARTICLE 34 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 concerned.

2. When the ceiling of 95 % is reached, the Member States may continue transmitting requests for payment to the Commission.

ARTICLE 35 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 within four months by the Commission to the designated Responsible Authority. That initial pre-financing amount shall represent 4 % of the total contribution from the Union budget to the national programme concerned. It may be split into two instalments, depending on budget availability.

2. An annual pre-financing amount of 3 % of the total contribution from the Union budget to the national programme concerned shall be paid before 1 February 2015. For the years in the period 2016-22, it shall be 5 % of the total contribution from the Union budget to the national programme concerned.

3. If a national programme is approved in 2015 or later, the initial pre-financing and annual pre-financing shall be paid not later

than 60 days after the approval of the national programme, depending on budget availability.

4. In the case of amendments to the total contribution from the Union budget to a national programme, the initial as well as the annual pre-financing amounts shall be revised accordingly and reflected in the financing decision.

5. Pre-financing shall be used for making payments to beneficiaries implementing the national programme as well as for competent authorities for expenditure relating to technical assistance. It shall be made available without delay to the Responsible Authority for those purposes.

ARTICLE 36 CLEARANCE OF PRE-FINANCING

1. The amount paid as initial pre-financing shall be totally cleared from the Commission accounts in accordance with Article 40, at the latest when the national programme is closed.

2. The amount paid as annual pre-financing shall be cleared from the Commission accounts in accordance with Article 39.

3. The total amount paid as pre-financing shall be reimbursed to the Commission if no payment request in accordance with Article 44 is sent within 36 months of the date on which the Commission pays the first instalment of the initial pre-financing amount.

4. Interest generated on the initial pre-financing shall be posted to the national programme concerned and shall be deducted from the amount of public expenditure indicated on the final payment request.

ARTICLE 37 INTERNAL ASSIGNMENT OF REVENUE

1. The following shall be regarded as internal assigned revenue within the meaning of Article 21 of Regulation (EU, Euratom) No 966/2012:

(i) sums which, under Articles 45 and 47 of this Regulation, are paid to the Union budget, including interest;

(ii) sums which, following the closure of programmes under the preceding multiannual financial framework, are paid to the Union budget, including interest.

2. The sums referred to in paragraph 1 shall be paid to the Union budget and, in the event of reuse, shall be used in the first instance to finance expenditure under the Specific Regulations.

ARTICLE 38 DEFINITION OF THE FINANCIAL YEAR

For the purpose of this Regulation, the financial year, as referred to in Article 59 of Regulation (EU, Euratom) No 966/2012, shall cover expenditure paid and revenue received and entered into the accounts of the Responsible Authority in the period commencing on 16 October of year 'N-1' and ending on 15 October of year 'N'.

ARTICLE 39 PAYMENT OF THE ANNUAL BALANCE

1. The Commission shall pay the annual balance, 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, including the payments relating to technical assistance, during the financial year for which the control requirements referred to in Article 27 have been met.

3. Depending on budget availability, the annual balance shall be paid not later than six months after the information and documents referred to in Article 44(1) and Article 54 are considered admissible by the Commission and the latest annual accounts have been cleared.

ARTICLE 40 CLOSURE OF THE PROGRAMME

1. Member States shall submit the following documents by 31 December 2023:

(a) the information required for the last annual accounts, in accordance with Article 44(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 54(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, on the basis of the financial plan in force, the last annual accounts and the corresponding clearance decision.

4. Depending on budget availability, the final balance shall be paid not 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, without prejudice to Article 52, be decommitted by the Commission within a period of six months.

ARTICLE 41 INTERRUPTION OF THE PAYMENT DEADLINE

1. The payment deadline following a request for payment may be interrupted by the authorising officer by delegation within the meaning of Regulation (EU, Euratom) No 966/2012 for a maximum period of six months, when at least one of the following conditions is met:

(a) further to information provided by a national or Union audit body, there is clear 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 brought 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 44(1) were not submitted.

The Member State concerned may agree to an extension of the interruption period for an additional three months.

2. The authorising officer by delegation shall limit the interruption to the part of the expenditure covered by the payment request affected by the elements referred to in the first subparagraph of paragraph 1, unless it is not possible to identify the part of expenditure affected. The authorising officer by del-

egation shall inform the Member State and the Responsible Authority immediately in writing of the reason for the 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 42 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 effective functioning of the management and control system of the national programme which has put at risk the Union contribution to the national programme, and for which corrective measures have not been taken;

(b) expenditure in the annual accounts is linked to an irregularity having serious financial consequences which has not been corrected; or

(c) the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 41.

2. The Commission may decide to suspend all or part of an annual balance after having given the Member State concerned the opportunity to present its observations.

3. The Commission shall end the suspension of all or part of an annual balance where the

Member State concerned has taken the necessary measures to enable the suspension to be lifted.

ARTICLE 43 USE OF THE EURO

1. Amounts set out in national programmes submitted by Member States, forecasts of expenditure, statements of expenditure, requests for payments, annual accounts and expenditure mentioned in the annual and final implementation reports shall be denominated in euro.

2. Member States whose currency is not the euro on the date of a payment request shall convert the amounts of expenditure incurred in national currency into euro. Those amounts 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 exchange rate shall be published electronically by the Commission each month.

3. In cases where 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 44 REQUEST FOR PAYMENT OF THE ANNUAL BALANCE

1. By 15 February of the year following the financial year, each Member State shall submit to the Commission the documents and information required under Article 59(5) of Regulation (EU, Euratom) No 966/2012. The documents submitted shall serve as the request for payment of the annual balance. The deadline of 15 February may be exceptionally extended by the Commission to 1 March at the latest upon communication from the Member State concerned. Member States may, at the appropriate level, publish that information.

2. The Commission may ask a Member State to provide further information for the purpose of the annual clearance of the accounts. 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 Commission shall adopt, by way of implementing acts, the models according to which the documents referred to in paragraph 1 shall be drawn up. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 59(2).

ARTICLE 45 ANNUAL CLEARANCE OF ACCOUNTS

1. By 31 May 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 shall be without prejudice to any subsequent financial corrections.

2. The Commission shall, by way of implementing acts, lay down the arrangements for the implementation of the annual clearance of accounts procedure, as regards the measures to be taken in connection with 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 59(3).

ARTICLE 46 FINANCIAL CORRECTIONS BY MEMBER STATES

Member States shall make the financial corrections required in connection with individual or systemic irregularities detected under the national programmes. Financial corrections shall consist of cancelling all or part of the contribution from the Union budget concerned. The 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 Court of Auditors and the Commission services, including OLAF. After the closure of the national programme, the Member State concerned shall refund the sums recovered to the Union budget.

ARTICLE 47 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 concerned in order to exclude from Union financing any expenditure which is in breach of applicable law, including in relation to deficiencies in the management and control systems of Member States which have been detected by the Commission or the Court of Auditors.

2. A breach of applicable law shall lead to a financial correction only in relation to expenditure which has been declared to the Commission and where one of the following conditions is met:

(a) the breach has affected the selection of a project under the national programme, or, in cases where, due to the nature of the breach, it is not possible to establish that impact, there is a substantiated risk that the breach has had such an effect;

(b) the breach has affected the amount of expenditure declared for reimbursement by the Union budget, or in cases where, due to the nature of the breach, it is not possible to quantify its financial impact, but there is a substantiated risk that the breach has had such an effect.

3. When deciding on a financial correction under paragraph 1, the Commission shall respect the principle of proportionality by taking account of the nature and gravity of the breach of applicable law and its financial implications for the Union budget.

4. Before the adoption of any decision to refuse financing, the findings from the Com-

mission 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), 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 way of implementing acts, lay down the arrangements 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 59(3).

ARTICLE 48 OBLIGATIONS OF MEMBER STATES

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under point (h) of Article 21 of this Regulation and to recover

State aid within the meaning of Article 107(1) TFEU and under Article 14 of Council Regulation (EC) No 659/1999 ⁽¹²⁾.

ARTICLE 49 REPAYMENT

1. Any repayment due to be made to the Union budget shall be made before the due date indicated in the order for recovery drawn

⁽¹²⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 83, 27.3.1999, p. 1).

up in accordance with Article 80 of Regulation (EU, Euratom) No 966/2012. That due date shall be the last day of the second month following the issuing of the order.

2. Any delay in making 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 50 PRINCIPLES

NOTE: Revised in 2020 with decision 2020/1543.

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 and annual pre-financing referred to in Article 35 and a request for payment in accordance with Article 44 by 31 December of the second year following that of the budget commitment shall be decommitted. For the purpose of the decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to the 2014 total amount contribution to each of the 2015- 20 budget commitments.

2. By way of derogation from paragraph 1, the deadlines for decommitment shall not apply to the annual budget commitment related to the 2014 total annual contribution.

3. If the first annual budget commitment is related to the 2015 total annual contribu-

tion, by way of derogation from paragraph 1 the deadlines for decommitment shall not apply to the annual budget commitment related to the total annual contribution of 2015. In such cases, the Commission shall calculate the amount under paragraph 1 by adding one fifth of the annual budget commitment related to the 2015 total amount contribution to each of the 2016-20 budget commitments.

4. The commitment related to the last year of the period shall be decommitted in accordance with the rules followed for the closure of the programmes.

5. Any commitment still open on the latest date for expenditure to be eligible, as referred to in Article 17(3), and for which a payment request has not been made by the Responsible Authority within six months after that date shall be automatically decommitted.

ARTICLE 51 EXCEPTIONS TO 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 legal proceedings or by an administrative appeal having suspensive effect; or

(b) reasons of force majeure seriously affecting the 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. If the suspension or force majeure lasted more than one year, the reduction may be requested 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 to the Commission information on the exceptions referred to in paragraph 1 by 31 January, in order for the amount to be declared by the end of the 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 on 31 December of year $N + 2$, shall be disregarded in calculating the automatic decommitment.

ARTICLE 52 PROCEDURE

1. Whenever there is a risk of application of decommitment under Article 50, the Commission shall inform the Member States as soon as possible.

2. On the basis of the information in its possession 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 concerned 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 no 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 53 INFORMATION AND PUBLICITY

1. Member States and Responsible Authorities shall be responsible for:

(a) 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 of the implementation of the national programmes and shall maintain a list of actions supported by each national programme which shall be accessible through the website or the website portal. The list of actions shall include updated information on the final beneficiaries, the names of the projects and the amount of Union funding allocated to them.

3. As a rule, information shall be made public, except where it is restricted due to its confidential nature, particularly concerning security, public order, criminal investigations and the protection of personal data.

4. The Commission shall be empowered to adopt by delegated acts in accordance with Article 58 to lay down rules concerning the information and publicity measures for the public and information measures for beneficiaries.

5. The Commission shall, by way 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 in Article 59(3).

ARTICLE 54 IMPLEMENTATION REPORTS

1. By 31 March 2016 and by 31 March of each subsequent year until and including 2022, the Responsible Authority shall submit to the Commission an annual report on the implementation of each national programme in the previous financial year and may, at the appropriate level, publish that information. The report submitted in 2016 shall cover the financial years 2014 and 2015. The Member State shall submit a final report on the implementation of the national programmes by 31 December 2023.

2. Annual implementation reports shall set out information on:

(a) the implementation of the national programme by reference to the financial data and the indicators;

(b) any significant issues which affect the performance of the national programme.

3. In the light of the mid-term review as referred to in Article 15, the annual implementation report submitted in 2017 shall set out and assess:

(a) the information referred to in paragraph 2;

(b) the progress towards achieving the objectives in the national programmes pursued with the contribution from the Union budget;

(c) the involvement of relevant partners as referred to in Article 12.

4. The annual implementation report submitted in 2020 and the final implementation report shall, in addition to the information and assessment set out in paragraph 2, include information on and assess the progress towards achieving the objectives of the national programme, bearing in mind the outcome of the policy dialogue referred to in Article 13(1).

5. The annual implementation reports referred to in paragraphs 1 to 4 shall be admissible if they contain all the information required by those paragraphs. The Commission shall inform the Member State concerned 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 concerned of its observations on the annual implementation report within two months from the date of receipt of the annual implementation report. If the Commission does not provide observations within this deadline, the reports shall be deemed to be accepted.

7. The Commission may make observations on issues in the Responsible Authority's annual implementation report which affect the implementation of the national programme. Where such observations are made, the Responsible Authority shall provide necessary information with regard to those observations and, where appropriate, inform the Commission of the measures taken. The Commission shall be informed not

later than three months after it has made such observations.

8. The Commission shall adopt, by way of implementing acts, the models according to which the annual and final implementation reports shall be drawn up. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 59(2).

ARTICLE 55 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 in accordance with Article 57.

3. A common monitoring and evaluation framework shall be established with a view to measuring the relevance, effectiveness, efficiency, added value and 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 Article 58 to develop further the common monitoring and evaluation framework.

5. Member States shall provide the Commission with the necessary information 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.

7. The Commission shall pay particular attention to the monitoring and evaluation of actions and programmes related to third countries, in accordance with Article 8.

ARTICLE 56 EVALUATION OF NATIONAL PROGRAMMES BY MEMBER STATES

1. Member States shall carry out the evaluations referred to in Article 57(1). The evaluation to be carried out in 2017 shall contribute to improving 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 the evaluations referred to in paragraph 1, including data related to indicators in the common monitoring and evaluation framework.

3. The evaluations referred to in Article 57(1) shall be carried out by experts who are functionally independent of the Responsible Authorities, the Audit Authorities and the Delegated Authorities. Those experts may be affiliated to an autonomous public institution responsible for the monitoring, evaluation and audit of the administration. The Commission shall provide guidance on how to carry out evaluations.

4. The evaluations referred to in Article 57(1) shall be made public in their entirety, except where information is restricted due to its confidential nature, particularly concerning security, public order, criminal investigations and the protection of personal data.

ARTICLE 57 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 and progress towards achieving the objectives of their national programmes by 31 December 2017;

(b) an *ex-post* evaluation report on the effects of actions under their 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, to the Council, to the European Economic and Social Committee and to 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. That interim evaluation report shall include an assessment of the mid-term review carried out in accordance with this Regulation and the Specific Regulations;

(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) the effective management of migration flows into the Union;

(c) the development of the Common European Asylum System;

(d) the fair and equal treatment of third-country nationals;

(e) solidarity and cooperation between Member States in addressing migration and internal security issues;

(f) a common approach by the Union on migration and security towards third countries.

4. All evaluation reports pursuant to this Article shall be published in their entirety, except where information is restricted due to its confidential nature, particularly concerning security, public order, criminal investigations and protection of personal data.

CHAPTER VI FINAL PROVISIONS

ARTICLE 58 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 power to adopt delegated acts referred to in Articles 5(5), 26(4), 29(1), 53(4) and 55(4) shall be conferred on the Commission for a period of seven years from 21 May 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of powers shall be tacitly extended for a period of three years, unless the European Parliament or the Council opposes such extension not later than three months before the end of the seven-year period.

3. The delegation of powers referred to in Articles 5(5), 26(4), 29(1), 53(4) and 55(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 Articles 5(5), 26(4), 29(1), 53(4) and 55(4) shall enter into force only if no objection has been expressed either by the European Parliament or by 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 59 COMMITTEE PROCEDURE

1. The Commission shall be assisted by the Asylum, Migration and Integration and Internal Security Funds Committee. 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.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act, except for Articles 14(4), 24(5), 45(2), 47(6) and 53(5) of this Regulation.

ARTICLE 60 REVIEW

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

ARTICLE 61 ENTRY INTO FORCE AND APPLICATION

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 16 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

REGULATION (EU) 2020/1543 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 October 2020 amending Regulation (EU) No 514/2014 as regards the decommitment procedure

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), Article 79(2) and (4), Article 82(1), Article 84 and Article 87(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure¹³,

Whereas:

(1) Member States have been affected by the consequences of the COVID-19 pandemic in an unprecedented manner. The COVID-19 pandemic has affected migration, security and border management in Member States, which in turn has aggravated the serious liquidity shortages that Member States are facing due to the sudden and significant increase in public investments needed in many sectors. That has created an exceptional situation which should be addressed with specific measures.

(2) It is necessary to provide Member States with additional flexibility to enable them to respond to this unprecedented crisis by enhancing the possibility to make full use

of the available implementation period for national programmes as referred to in Regulation (EU) No 514/2014 of the European Parliament and of the Council¹⁴ up until the closure of those programmes by 31 December 2023. In order to respond to such a need, the deadlines for decommitment and submission of requests for payment of the annual balance should be the same. The regulatory deadline for requests for payment of the annual balance is 15 February of the year following the relevant financial year, which the Commission can exceptionally extend to 1 March of that year, whereas the deadline initially set for decommitment was 31 December of the second year following that of the budget commitment. By aligning the deadline for decommitment to the relevant deadline for the submission of requests for payment, the Commission will be able to take the request for payment of the annual balance submitted by the Member State on 15 February or 1 March, as appropriate, into consideration for the purpose of the decommitment exercise.

(3) In order to ensure that Member States can make full use of additional allocations granted in 2018 and 2019, the year in which the budget commitment is effected should be adjusted. Those additional allocations were included in the general budget of the European Union for the financial years 2018

⁽¹³⁾ Position of the European Parliament of 6 October 2020 (not yet published in the Official Journal) and decision of the Council of 13 October 2020.

⁽¹⁴⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

and 2019 and subsequently committed to the national programmes.

(4) In view of the urgency entailed by the exceptional circumstances caused by the COVID-19 pandemic, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union (TEU), to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(5) Since the objective of this Regulation, namely to maximise the use of the Asylum, Migration and Integration Fund, established by Regulation (EU) No 516/2014 of the European Parliament and of the Council¹⁵, and the Internal Security Fund, established by Regulations (EU) No 513/2014¹⁶ and (EU) No 515/2014¹⁷ of the European Parliament and of the Council, in addressing the direct and indirect effects stemming from the unprecedented public health crisis in the context of the COVID-19 pandemic, cannot be suf-

ficiently achieved by the Member States but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(6) Regulation (EU) No 514/2014 should therefore be amended accordingly.

(7) In order to provide Member States with legal certainty as regards the decommitment deadline, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

ARTICLE 1

In Article 50 of Regulation (EU) No 514/2014, paragraph 1 is replaced by the following:

‘1. National programmes shall be submitted to a decommitment procedure established on the basis that where, by 15 February or, in the event that the Commission exceptionally extends the deadline for the submission of the request for payment in accordance with Article 44(1), 1 March of the year following the second year following that of the budget commitment, amounts linked to a commitment are not covered by the initial and annual pre-financing referred to in Article 35 and by a request for payment submitted in accordance with Article 44(1), those amounts shall be decommitted. For the purpose of the decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to the

⁽¹⁵⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

⁽¹⁶⁾ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

⁽¹⁷⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

2014 total amount contribution to each of the 2015-2020 budget commitments.

In respect of amounts corresponding to the additional allocations assigned to the national programmes in 2018, the budget commitment shall be effected in 2019. In respect of amounts corresponding to the additional allocations assigned to the national programmes in 2019, the budget commitment shall be effected in 2020.’

ARTICLE 2

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 in accordance with the Treaties.

Done at Brussels, 21 October 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
M. ROTH

REGULATION (EU) NO 515/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 16 APRIL 2014 ESTABLISHING, AS PART OF THE INTERNAL SECURITY FUND, THE INSTRUMENT FOR FINANCIAL SUPPORT FOR EXTERNAL BORDERS AND VISA AND REPEALING DECISION NO 574/2007/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The Union's objective of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the Union (TFEU) should be achieved, inter alia, through common measures on the crossing of internal borders by persons and on border controls at external borders and the common visa policy

as part of a convergent multi-layer system, which would allow the exchange of data and a complete situation awareness and which aims to facilitate legitimate travel and to tackle illegal immigration.

(2) The Union needs a more coherent approach to the internal and external aspects of migration management and internal security, and should establish a correlation between the fight against illegal immigration and the improvement of the security of the external borders of the Union, and better cooperation and dialogue with third countries for the purposes of dealing with illegal immigration and promoting legal migration.

(3) It is necessary to develop an integrated approach to issues arising from the pressure of migration and asylum applications and for the management of the external borders of the Union, and to provide a budget and adequate resources to cope with emergencies in a spirit of respect for human rights and solidarity between all Member States, while remaining aware of national responsibilities and ensuring a clear division of tasks.

(4) The Internal Security Strategy for the European Union (the 'Internal Security Strategy'), adopted by the Council in February 2010, constitutes a shared agenda for tackling these common security challenges. The Commission Communication of November 2010, entitled 'The EU Internal Security Strategy in Action', translates the strategy's principles and guidelines into concrete actions by identifying five strategic object-

⁽¹⁾ OJ C 299, 4.10.2012, p. 108.

⁽²⁾ OJ C 277, 13.9.2012, p. 23.

⁽³⁾ Position of the European Parliament of 13 March 2014 (not yet published in the Official Journal) and decision of the Council of 14 April 2014.

ives: to disrupt international crime networks, to prevent terrorism and address radicalisation and recruitment, to raise levels of security for citizens and businesses in cyberspace, to strengthen security through border management and to increase Europe's resilience in the face of crises and disasters.

(5) According to the Internal Security Strategy, freedom, security and justice are objectives that should be pursued in parallel, and in order to achieve freedom and justice, security should always be pursued in accordance with the principles of the Treaties, the rule of law and the Union's fundamental rights obligations.

(6) Solidarity among Member States, clarity about the division of tasks, respect for fundamental freedoms and human rights and the rule of law, a strong focus on the global perspective and the link with external security, and consistency and coherence with the Union foreign policy objectives, as laid down in Article 21 of the Treaty on European Union (TEU), should be key principles guiding the implementation of the Internal Security Strategy.

(7) To promote the implementation of the Internal Security Strategy and to ensure that it becomes an operational reality, Member States should be provided with adequate Union financial support by setting up an Internal Security Fund ('the Fund').

(8) Due to the legal particularities applicable to Title V TFEU, it is not legally possible to establish the Fund as a single financial instrument. The Fund should therefore be established as a comprehensive framework for Union financial support in the field of internal security comprising the instrument for financial support for external borders and visa ('the Instrument') established by this Regulation as well as the instrument for

financial support for police cooperation, preventing and combating crime, and crisis management established by Regulation (EU) No 513/2014 of the European Parliament and of the Council ⁽⁴⁾. This comprehensive framework should be complemented by Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽⁵⁾ to which this Regulation should refer as regards rules on programming, financial management, management and control, clearance of accounts, closure of programmes and reporting and evaluation.

(9) The new two-pillar structure of funding in the field of home affairs should contribute to the simplification, rationalisation, consolidation and transparency of funding in that field. Synergies, consistency and complementarity should be sought with other funds and programmes, including with a view to allocating funding to common objectives. However, overlap between the different funding instruments should be avoided.

(10) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the general and specific objectives laid down in this Regulation.

⁽⁴⁾ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (see page 93 of this Official Journal).

⁽⁵⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (see page 112 of this Official Journal).

(11) Efficiency of measures and quality of spending constitute guiding principles in the implementation of the Fund. Furthermore, the Fund should also be implemented in the most effective and user-friendly manner possible.

(12) The Fund should take special account of those Member States which are facing disproportionate burdens from migratory flows due to their geographical location.

(13) Solidarity and responsibility-sharing between Member States and the Union is a fundamental component of the common policy for the management of the external borders.

(14) The Fund should express solidarity through financial assistance to those Member States that fully apply the Schengen provisions on external borders as well as to those which are preparing for full participation in Schengen, and should be used by the Member States in the interests of the Union's common policy for the management of the external borders.

(15) In order to contribute to the achievement of the general objective of the Fund, Member States should ensure that their national programmes address the specific objectives of the Instrument and that the allocation of resources between objectives is proportionate to the challenges and needs and ensures that the objectives can be met. Where a national programme does not address one of the specific objectives or the allocation is below the minimum percentages for some objectives of the national programmes set in this Regulation, the Member State concerned should provide a justification within the programme.

(16) In order to measure the achievements of the Fund, common indicators should be established in relation to each specific objective of the Instrument. The measurement of

the achievement of the specific objectives by means of common indicators does not render the implementation of actions related to those indicators mandatory.

(17) Participation by a Member State should not coincide with its participation in a temporary financial instrument of the Union which supports the beneficiary Member States to finance, inter alia, actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visas and external border control.

(18) The Instrument should build on the capacity-building process developed with the assistance of the External Borders Fund for the period 2007-2013, established by Decision No 574/2007/EC of the European Parliament and of the Council ⁽⁶⁾, and should extend it to take into account new developments.

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

⁽⁶⁾ (3) Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 22)

(20) The Instrument should complement and reinforce the activities undertaken to develop operational cooperation under the aegis of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Frontex Agency') as established by Council Regulation (EC) No 2007/2004 ⁽⁷⁾, including the new activities resulting from the amendments introduced by Regulation (EU) No 1168/2011 of the European Parliament and of the Council ⁽⁸⁾, and thereby further reinforce solidarity between those Member States controlling external borders in the interests and on behalf of the Schengen area as a whole. This means, *inter alia*, that, when drawing up their national programmes, Member States should take into account the analytical tools and operational and technical guidelines developed by the Frontex Agency as well as the training curricula developed, namely the common core curricula for the training of border guards, including its components with regard to fundamental rights and access to international protection. In order to develop complementarity between its mission and the responsibilities of the Member States for the control and surveillance of external borders as well as to ensure consistency and to avoid cost inefficiency, the Frontex Agency should be consulted by the Commission on draft national programmes submitted by the Member States, and in particular on the activities financed under the operating support.

(21) The Instrument should be implemented in full compliance with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and with the Union's international obligations, and without prejudice to the application of special provisions concerning the right to asylum and to international protection.

(22) Uniform and high-quality external border control is essential for strengthening the area of freedom, security and justice. In accordance with common Union standards, the Instrument should support measures relating to the management of external borders, to be implemented in accordance with the four-tier access control model which comprises measures in third countries, cooperation with neighbouring countries, border control measures and control measures within the area of free movement in order to prevent illegal immigration and cross-border crime inside the Schengen area.

(23) Pursuant to Article 3 TEU, the Instrument should support activities which ensure the protection of children at risk of harm at the external borders. In particular, when implementing actions in relation to the identification, immediate assistance and referral to protection services, Member States should, wherever possible, give special attention to vulnerable persons, in particular children and unaccompanied minors.

(24) To ensure a uniform and high-quality external border control and to facilitate legitimate travel across external borders within the framework of the Internal Security Strategy, the Instrument should contribute to the development of a European common integrated border management system. That system includes all the measures involving policy, law, systematic cooperation, burden sharing, assessment of the situation and changing circumstances regarding crossing points for irregular migrants, personnel, equipment and

⁽⁷⁾ (1) Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

⁽⁸⁾ Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 304, 22.11.2011, p. 1).

technology taken at different levels by the competent authorities of the Member States, acting in cooperation with the Frontex Agency, with third countries and, where necessary, with other actors, in particular Europol and the Agency for the Operational Management of Large-Scale IT-Systems, utilising, inter alia, the four-tier border security model and integrated risk analysis of the Union.

(25) In accordance with Protocol No 5 to the 2003 Act of Accession on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, the Instrument should bear any additional cost incurred in implementing the specific provisions of the Union *acquis* covering such transit, i.e. Council Regulation (EC) No 693/2003 ⁽⁹⁾ and Council Regulation (EC) No 694/2003 ⁽¹⁰⁾. The need for continued financial support for foregone fees, however, should be dependent upon the visa regime of the Union in force with the Russian Federation.

(26) The Instrument should include support for national measures and cooperation between Member States in the area of visa policy and other pre-frontier activities that take place prior to external border controls and should make full use of the Visa Information System (VIS). The efficient management of activities organised by the services of the Member States in third countries is in the interests of the common visa policy

as part of a multi-layered system aimed at facilitating legitimate travel and tackling illegal immigration into the Union, and constitutes an integral part of the common integrated border management system.

(27) Moreover, the Instrument should support measures in the territory of the Schengen countries as part of the development of a common integrated border management system which strengthens the overall functioning of the Schengen area.

(28) The Instrument should also support the development by the Union of IT systems, based on existing and/or new IT systems, which would equip Member States with the tools to manage the movement of third-country nationals across borders more efficiently and to ensure a better identification and verification of travellers, thereby facilitating travel and enhancing border security. To that end, a programme, in keeping with the Information Management Strategy for EU internal security, should be established with the aim of covering costs for the development of both the central and national components of such systems, ensuring technical consistency, interoperability with other Union IT systems, cost savings and a smooth implementation in the Member States. Those IT systems should comply with fundamental rights, including the protection of personal data.

(29) Member States should devote the necessary funding to the European Border Surveillance System (Eurosir), established by Regulation (EU) No 1052/2013 of the European Parliament and the Council ⁽¹¹⁾, in order to ensure the good functioning of that system.

⁽⁹⁾ (1) Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual (OJ L 99, 17.4.2003, p. 8).

⁽¹⁰⁾ (2) Council Regulation (EC) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003 (OJ L 99, 17.4.2003, p. 15).

⁽¹¹⁾ (3) Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosir) (OJ L 295, 6.11.2013, p. 11).

(30) To address immediately unforeseen migratory pressure and risks to border security, it should be possible to provide emergency assistance in accordance with the framework set out in Regulation (EU) No 514/2014.

(31) Moreover, in the interests of enhanced solidarity in the Schengen area as a whole, where weaknesses or possible risks are identified, in particular following a Schengen evaluation, the Member State concerned should follow the matter up adequately by using resources under its national programme by priority, where applicable, complementing emergency assistance measures.

(32) To reinforce solidarity and responsibility-sharing, Member States should be encouraged to use part of the resources available under their national programmes for specific priorities defined by the Union, such as the purchase of technical equipment needed by the Frontex Agency and the development of consular cooperation for the Union. There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources. Utmost transparency, accountability and democratic scrutiny should be ensured for innovative financial instruments and mechanisms that involve the Union budget.

(33) To safeguard the application of the Schengen *acquis* throughout the Schengen area, the implementation of Council Regulation (EU) No 1053/2013⁽¹²⁾ should also be supported under the Instrument, as an essential tool to facilitate the implementa-

tion of Union policies in the area of freedom, justice and security by ensuring a high level of external border protection and the absence of border controls within the Schengen area.

(34) In light of the experience gained with the External Borders Fund and the development of the SIS II and VIS, it is considered appropriate to allow for a certain degree of flexibility regarding possible transfers of resources between the different means of implementation of the objectives pursued under the Instrument, without prejudice to the principle of ensuring from the start a critical mass and financial stability for the programmes and the operating support for Member States and without prejudice to the scrutiny by the European Parliament and the Council.

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

(36) Measures in, and in relation to, third countries supported through the Instrument should be taken in synergy and coherence with other actions outside the Union, supported through geographic and thematic Union external assistance instruments. In

⁽¹²⁾ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27)

particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action and foreign policy related to the country or region in question. They should not be intended to support actions which are directly development-oriented and they should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence will also be sought with the Union's humanitarian policy, in particular as regards the implementation of emergency measures.

(37) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared with action by Member States alone. As the Union is in a better position than Member States to provide a framework for expressing Union solidarity in border control, visa policy and the management of migration flows, and to provide a platform for the development of common IT systems underpinning those policies, financial support provided under this Regulation will contribute in particular to strengthening national and Union capabilities in those areas.

(38) This Regulation should establish the allocation of basic amounts to Member States. The basic amount for each Member State should be calculated on the basis of the External Borders Fund allocations for each Member State in the years 2010-2012 and by dividing the figure obtained by the total of the appropriations available for shared management for those three years. The calculations were made in accordance with the distribution criteria laid down in Decision No 574/2007/EC.

(39) The Commission should monitor the implementation of the Instrument, in accordance with the relevant provisions of Regulation (EU) No 514/2014, with the aid of key

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

(40) In order to supplement or amend provisions in this Regulation regarding the definition of specific actions under the national programmes, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. 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.

(41) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from all Member States.

(42) In order to ensure a uniform, efficient and timely application of the provisions on operating support laid down in this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹³⁾.

(43) Since the objective of this Regulation, namely to provide for solidarity and responsibility sharing between Member States and the Union in the management of external

⁽¹³⁾ (1) 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 (OJ L 55, 28.2.2011, p. 13).

borders and visa policy, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(44) Decision No 574/2007/EC should be repealed, subject to the transitional provisions set out in this Regulation.

(45) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽¹⁴⁾ which falls within the areas referred to in Article 1, Points A and B of Council Decision 1999/437/EC ⁽¹⁵⁾.

(46) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽¹⁶⁾ which fall within the area referred

to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽¹⁷⁾.

(47) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen ⁽¹⁸⁾ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽¹⁹⁾.

(48) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to TEU and TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its

⁽¹⁴⁾ OJ L 176, 10.7.1999, p. 36.

⁽¹⁵⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen (OJ L 176, 10.7.1999, p. 31).

⁽¹⁶⁾ OJ L 53, 27.2.2008, p. 52.

⁽¹⁷⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽¹⁸⁾ OJ L 160, 18.6.2011, p. 21.

⁽¹⁹⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement this Regulation in its national law.

(49) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC ⁽²⁰⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(50) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽²¹⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(51) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013 ⁽²²⁾. Therefore, this Regulation should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

⁽²⁰⁾ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

⁽²¹⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽²²⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884)

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 PURPOSE AND SCOPE

1. This Regulation establishes the Instrument for financial support for the management of external borders and the common visa policy ('the Instrument') as part of the Internal Security Fund ('the Fund').

Jointly with Regulation (EU) 513/2014, this Regulation establishes the Fund for the period from 1 January 2014 to 31 December 2020.

2. This Regulation lays down:

(a) the objectives of financial support and the eligible actions;

(b) the general framework for the implementation of the eligible actions;

(c) the resources made available under the Instrument from 1 January 2014 to 31 December 2020 and their distribution;

(d) the scope and purpose of the different specific means through which the expenditure for the management of the external borders and the common visa policy is financed.

3. This Regulation provides for the application of the rules set out in Regulation (EU) No 514/2014.

ARTICLE 2 DEFINITIONS

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

(a) 'external borders' means the land borders of the Member States, including river and lake borders, sea borders and their airports,

river ports, sea ports and lake ports to which the provisions of Union law on the crossing of external borders apply, whether the borders are temporary or not;

(b) 'common Union standards' means the application of operational measures in a common and unfragmented manner to obtain a high and uniform level of security in the field of border control and visas in accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council ⁽²³⁾, Regulation (EC) No 810/2009 of the European Parliament and of the Council ⁽²⁴⁾, Regulation (EC) No 767/2008 of the European Parliament and of the Council ⁽²⁵⁾, Regulation (EC) No 2007/2004, Regulation (EC) No 1931/2006 of the European Parliament and of the Council ⁽²⁶⁾, the Schengen catalogue for external border control, the Practical Handbook for border guards, the Handbook on visas, the Eurosur Handbook and any other Regulations and guidelines to be adopted at the Union level on border control and visas;

⁽²³⁾ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

⁽²⁴⁾ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

⁽²⁵⁾ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁽²⁶⁾ Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ L 405, 30.12.2006, p. 1)

(c) ‘temporary external borders’ means:

(i) the common border between a Member State fully implementing the Schengen *acquis* and a Member State bound to apply the Schengen *acquis* in full, in conformity with its Act of Accession, but for which the relevant Council Decision authorising it to fully apply that *acquis* has not entered into force;

(ii) the common border between two Member States bound to apply the Schengen *acquis* in full, in conformity with their respective Acts of Accession, but for which the relevant Council Decision authorising them to fully apply that *acquis* has not yet entered into force;

(d) ‘border crossing point’ means any crossing point authorised by the competent authorities for the crossing of external borders as notified in accordance with Article 34(2) of Regulation (EC) No 562/2006;

(e) ‘Schengen evaluation and monitoring mechanism’ means the verification of the correct application of the Schengen *acquis* as laid down in Regulation (EU) No 1053/2013;

(f) ‘emergency situation’ means a situation resulting from an urgent and exceptional pressure where a large or disproportionate number of third-country nationals are crossing or are expected to cross the external border of one or more Member States or any other duly substantiated emergency situation requiring urgent action at the external borders;

(g) ‘external borders section’ means the whole or a part of the external land or sea border of a Member State as defined by national law or as determined by the national coordination centre or any other responsible national

authority for the purpose of the implementation of Regulation (EU) No 1052/2013.

ARTICLE 3 OBJECTIVES

1. The general objective of the Instrument shall be to contribute to ensuring a high level of security in the Union while facilitating legitimate travel, through a uniform and high level of control of the external borders and the effective processing of Schengen visas, in compliance with the Union’s commitment to fundamental freedoms and human rights.

2. Within the general objective set out in paragraph 1, the Instrument shall contribute — in accordance with the priorities identified in relevant Union strategies, programmes, threat assessments and risk assessments — to meeting the following specific objectives:

(a) supporting a common visa policy to facilitate legitimate travel, provide a high quality of service to visa applicants, ensure equal treatment of third-country nationals and tackle illegal immigration;

(b) supporting integrated border management, including promoting further harmonisation of border management-related measures in accordance with common Union standards and through the sharing of information between Member States and between Member States and the Frontex Agency, to ensure, on one hand, a uniform and high level of control and protection of the external borders, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*, while guaranteeing access to international protection for those needing it, in accordance with the obligations contracted by the Member States in the field of human rights, including the principle of *non-refoulement*.

The achievement of the specific objectives of the Instrument shall be evaluated in accordance with Article 55(2) of Regulation (EU) No 514/2014 using common indicators, as set out in Annex IV to this Regulation and programme-specific indicators included in national programmes.

3. To achieve the objectives referred to in paragraphs 1 and 2, the Instrument shall contribute to the following operational objectives:

(a) promoting the development, implementation and enforcement of policies with a view to ensuring the absence of any controls on persons, whatever their nationality, when crossing the internal borders, and to carrying out checks on persons and monitoring efficiently the crossing of external borders;

(b) gradually establishing an integrated management system for external borders, based on solidarity and responsibility, in particular by means of:

(i) the reinforcement of external border checks and surveillance systems and of inter-agency cooperation between border guards, customs, migration, asylum and law enforcement authorities of Member States at the external borders, including in the maritime border area;

(ii) measures within the territory relating to the management of external borders and the necessary flanking measures on document security, identity management and the interoperability of acquired technical equipment;

(iii) any measures also contributing to the prevention and fight against cross-border crime at external borders relating to the movement of persons, including trafficking in human beings and human smuggling;

(c) promoting the development and implementation of the common policy on visas and other short-stay residence permits, and of different forms of consular cooperation in order to ensure better consular coverage and harmonised practices on visa issuing;

(d) setting up and running IT systems, their communication infrastructure and equipment that support the common visa policy, border checks and border surveillance at the external borders and fully respect personal data protection law;

(e) reinforcing situational awareness at the external borders and the reaction capabilities of Member States;

(f) ensuring the efficient and uniform application of the Union's *acquis* on borders and visas, including the effective functioning of the Schengen evaluation and monitoring mechanism;

(g) reinforcing actions by the Member States contributing to enhancing the cooperation between Member States operating in third countries as regards the flows of third-country nationals into the territory of Member States, including prevention and tackling of illegal immigration, as well as the cooperation with third countries in that respect in full coherence with the objectives and principles of Union external action and humanitarian policy.

4. Actions funded under the Instrument shall be implemented in full compliance with fundamental rights and respect for human dignity. In particular, actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the principle of fair treatment of third-country nationals,

the right to asylum and international protection, the principle of *non-refoulement* and the international obligations of the Union and Member States arising from international instruments to which they are signatory such as the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.

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

5. When implementing actions funded under the Instrument which are related to maritime border surveillance, Member States shall pay special attention to their obligations under international maritime law to render assistance to persons in distress. In that regard, equipment and systems supported under the Instrument may be used to address search and rescue situations which may arise during a border surveillance operation at sea, thereby contributing to ensuring the protection and saving the lives of migrants.

6. The Instrument shall also contribute to the financing of technical assistance at the initiative of the Member States and the Commission.

ARTICLE 4 ELIGIBLE ACTIONS

1. Within the objectives referred to in Article 3 of this Regulation, and in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014 and in accordance with the objectives of the national programme referred to in Article 9 of this Regulation, the Instrument

shall support actions in or by Member States, in particular the following:

(a) infrastructures, buildings and systems required at border crossing points and for surveillance between border crossing points to prevent and tackle unauthorised border crossings, illegal immigration and cross-border criminality as well as to guarantee smooth travel flows;

(b) operating equipment, means of transport and communication systems required for effective and secure border control and the detection of persons;

(c) IT and communication systems for the efficient management of migration flows across borders, including investment in existing and future systems;

(d) infrastructures, buildings, communication and IT systems and operating equipment required for the processing of visa applications and consular cooperation, as well as other actions aimed at improving the quality of service for visa applicants;

(e) training in the use of the equipment and systems referred to in points (b), (c) and (d) and the promotion of quality management standards and training of border guards, including where appropriate in third countries, with respect to the performance of their surveillance, advisory and control tasks in compliance with international human rights law, including the identification of victims of human trafficking and people smuggling;

(f) secondment of immigration liaisons officers and document advisers in third countries and the exchange and secondment of border guards between Member States or between a Member State and a third country;

(g) studies, training, pilot projects and other actions gradually establishing an integrated management system for external borders as referred to in Article 3(3), including actions aiming to foster interagency cooperation either within Member States or between Member States and actions relating to the interoperability and harmonisation of border management systems;

(h) studies, pilot projects and actions aiming to implement the recommendations, operational standards and best practices resulting from the operational cooperation between Member States and Union agencies.

2. Within the objectives referred to in Article 3 of this Regulation, and in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014 and in accordance with the objectives of the national programme referred to in Article 9 of this Regulation, the Instrument shall support actions in relation to and in third countries and in particular the following:

(a) information systems, tools or equipment for sharing information between Member States and third countries;

(b) actions relating to operational cooperation between Member States and third countries, including joint operations;

(c) projects in third countries aimed at improving surveillance systems to ensure cooperation with Eurosur;

(d) studies, seminars, workshops, conferences, training, equipment and pilot projects to provide ad hoc technical and operational expertise to third countries;

(e) studies, seminars, workshops, conferences, training, equipment and pilot projects implementing specific recommendations, operational standards and best practices resulting from operational cooperation between Member States and Union agencies in third countries.

The Commission and the Member States, together with the European External Action Service, shall ensure coordination as regards actions in and in relation to third countries, as set out in Article 3(5) of Regulation (EU) No 514/2014.

3. The actions referred to in point (a) of paragraph 1 shall not be eligible at temporary external borders.

4. The actions related to the temporary and exceptional reintroduction of border control at internal borders as referred to in the Schengen Borders Code shall not be eligible.

5. The actions of which the exclusive aim or effect is the control of goods shall not be eligible.

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

ARTICLE 5 GLOBAL RESOURCES AND IMPLEMENTATION

1. The global resources for the implementation of the Instrument shall be EUR 2 760 million in current prices.

2. Annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

3. The global resources shall be implemented through the following means:

(a) national programmes, in accordance with Articles 9 and 12;

(b) operating support, within the framework of the national programmes and under the conditions laid down in Article 10;

(c) the Special Transit Scheme, in accordance with Article 11;

(d) Union actions, in accordance with Article 13;

(e) emergency assistance, in accordance with Article 14;

(f) the implementation of a programme for setting up IT systems supporting the management of migration flows across the external borders under the conditions laid down in Article 15;

(g) technical assistance in accordance with Article 16.

4. The budget allocated under the Instrument to Union actions referred to in Article 13 of this Regulation, to the emergency assis-

tance referred to in Article 14 of this Regulation and to the technical assistance referred to in Article 16(1) of this Regulation shall be implemented under direct management in accordance with point (a) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁷⁾ and, where appropriate, under indirect management in accordance with point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012.

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

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

The method(s) of implementation of the budget for the programme on the development of IT systems, based on existing and/or new IT systems, shall be set out in the relevant Union legislative acts subject to their adoption.

⁽²⁷⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

5. The global resources shall be used as follows:

(a) EUR 1 551 million for the national programmes of Member States;

(b) EUR 791 million for developing IT systems, based on existing and/or new IT systems, supporting the management of migration flows across the external borders, subject to the adoption of the relevant Union legislative acts;

Where that amount is not allocated or spent, the Commission shall, by means of a delegated act in accordance with Article 17, re-allocate it to one or more of the activities referred to in points (b) and (c) of Article 6(1) and point (d) of this paragraph. That delegated act shall include an assessment of the evolution of the relevant IT systems including the implementation of the budget and expected unspent amounts. That re-allocation may take place following the adoption of the relevant legislative acts or on the occasion of the mid-term review referred to in Article 8.

(c) EUR 154 million for the Special Transit Scheme;

(d) EUR 264 million for Union actions, emergency assistance and technical assistance at the initiative of the Commission, of which at least 30 % shall be used for Union actions.

6. Jointly with the global resources established for Regulation (EU) No 513/2014, the global resources available for the Instrument, as established in paragraph 1, constitute the financial envelope for the Fund and serve as the prime reference, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission

on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁸⁾, for the European Parliament and the Council during the annual budgetary procedure.

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

Arrangements shall be concluded on the financial contributions by those countries to the Instrument and the supplementary rules necessary for such participation, including provisions ensuring the protection of the Union's financial interests and the power of audit of the Court of Auditors.

The financial contributions from those countries shall be added to the global resources available from the Union budget referred to in paragraph 1.

ARTICLE 6 RESOURCES FOR ELIGIBLE ACTIONS IN THE MEMBER STATES

1. EUR 1 551 million shall be allocated to the Member States indicatively as follows:

(a) EUR 1 276 million, as indicated in Annex I;

(b) EUR 147 million, based on the results of the mechanism referred to in Article 7;

(c) in the framework of the mid-term review referred to in Article 8 and for the period as of budget year 2018, EUR 128 million, the remainder of the available appropriations under this Article or another amount, as determined pursuant to paragraph 4, based

⁽²⁸⁾ OJ C 373, 20.12.2013, p. 1.

on the results of the risk analysis and the mid-term review.

2. Each Member State shall allocate the basic amounts for national programmes indicated in Annex I as follows:

- (a) at least 10 % for actions relating to point (a) of Article 9(2);
- (b) at least 25 % for actions relating to point (b) of Article 9(2);
- (c) at least 5 % for actions relating to points (c), (d), (e) and (f) of Article 9(2).

Member States may depart from those minimum percentages provided that an explanation is included in the national programme as to why allocating resources below those minima does not jeopardise the achievement of the relevant objective. That explanation will be assessed by the Commission in the context of its approval of national programmes as referred to in Article 9(2).

3. Member States shall devote the necessary funding to Eurosur in order to ensure its good functioning.

4. To address properly the objectives of the Instrument in the event of unforeseen or new circumstances and/or to ensure the effective implementation of funding available under the Instrument, the Commission shall be empowered to adopt delegated acts in accordance with Article 17 to adjust the indicative amount laid down in point (c) of paragraph 1 of this Article.

5. Member States which accede to the Union in the period 2012-2020 shall not benefit from allocations for national programmes under the Instrument as long as they benefit from a temporary instrument of the Union which supports the beneficiary Mem-

ber States to finance actions at new external borders for the implementation of the Schengen *acquis* on borders and visas and external border control.

ARTICLE 7 RESOURCES FOR SPECIFIC ACTIONS

1. Member States may, in addition to their allocation calculated in accordance with point (a) of Article 6(1), receive an additional amount, provided that it is earmarked as such in the national programme and is to be used to achieve specific actions listed in Annex II.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 17 for the revision of the specific actions listed in Annex II, if deemed appropriate, including in the context of the mid-term review. On the basis of the new specific actions, Member States may receive an additional amount as laid down in paragraph 1 of this Article, subject to available resources.

3. The additional amounts under this Article shall be allocated to the Member States concerned in the individual financing decision approving or revising their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014.

ARTICLE 8 RESOURCES IN THE FRAMEWORK OF THE MID-TERM REVIEW

1. In order to allocate the amount indicated in point (c) of Article 6(1), by 1 June 2017 the Commission shall take into account the burden of Member States in border management, including search and rescue activities which may arise during border surveillance operations at sea and assessment reports drawn up as part of the Schengen evaluation

and monitoring mechanism, and threat levels at the external borders for the period 2017-2020, as well as factors that affected security at the external borders in 2014-2016. That amount shall be distributed between Member States on the basis of the weighing of the following categories of borders, taking into account paragraph 6 of this Article:

- (a) 45 % for external maritime borders;
- (b) 38 % for external land borders;
- (c) 17 % for airports.

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

- (a) coefficient 0,5 for minimum threat;
- (b) coefficient 1 for normal threat;
- (c) coefficient 3 for medium threat;
- (d) coefficient 5 for high threat.

3. For the airports, the allocation shall be calculated for each Member State as follows:

- (a) 50 % on the basis of the number of persons crossing the external borders;
- (b) 50 % on the basis of the number of third-country nationals refused entry at the external borders.

4. In accordance with the Frontex Agency's risk analysis report and in consultation with the Frontex Agency, and, where relevant, other Union agencies, the Commission shall determine threat levels for each external border section of the Member States for the

period 2017-2020. The threat levels shall be based on the following factors:

- (a) burden in border management at the external borders;
- (b) factors that affected security at the external borders of the Member States in the period 2014-2016;
- (c) changes in Union policies, for example visa policies;
- (d) possible future trends in migratory flows and risks of unlawful activities related to the irregular crossing of persons of the external borders; and
- (e) likely political, economic and social developments in third countries, and in particular, neighbouring countries.

Before issuing its report determining the threat levels, the Commission shall hold an exchange of views with the Member States.

5. For the purpose of the distribution of resources under paragraph 1:

- (a) the line between the areas referred to in Article 1 of Council Regulation (EC) No 866/2004 ⁽²⁹⁾, but not the maritime border north of that line, shall be taken into account even though it does not constitute an external land border for as long as Article 1 of Protocol No 10 on Cyprus to the 2003 Act of Accession remains applicable;
- (b) the expression 'external maritime borders' shall mean the outer limit of the territorial sea of the Member States as defined in

⁽²⁹⁾ Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession (OJ L 161, 30.4.2004, p. 128).

accordance with Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, in cases where long range operations are required on a regular basis in order to prevent unauthorised border crossings, that expression shall mean the outer limit of high threat areas. Those outer limits shall be determined by taking into account the relevant data on these operations in 2014-2016 as provided by the Member States in question.

6. Moreover, following invitation from the Commission by 1 June 2017, Member States may receive an additional allocation, provided that it is earmarked as such in the national programme and is to be used to achieve specific actions to be established in the light of the priorities of the Union at that time.

7. The additional amounts under this Article shall be allocated to the Member States concerned in an individual financing decision approving or revising their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014.

ARTICLE 9 NATIONAL PROGRAMMES

1. The national programme to be prepared, taking into account the outcome of the policy dialogue referred to in Article 13 of Regulation (EU) No 514/2014, under the Instrument and the one to be prepared under Regulation (EU) No 513/2014 shall be proposed to the Commission as one single national programme for the Fund and in accordance with Article 14 of Regulation (EU) No 514/2014.

2. Under the national programmes to be examined and approved by the Commission pursuant to Article 14 of Regulation (EU) No 514/2014, Member States shall, within the objectives referred to in Article 3 of this Reg-

ulation and taking into account the outcome of the policy dialogue referred to in Article 13 of Regulation (EU) No 514/2014, pursue in particular objectives from the following:

(a) developing Eurosur in accordance with Union law and guidelines;

(b) supporting and expanding the existing capacity at national level in visa policy and in the management of the external borders, as well as supporting and expanding measures within the area of free movement relating to the management of external borders, bearing in mind in particular, new technology, developments and/or standards in relation to the management of migration flows;

(c) supporting the further development of the management of migration flows by consular and other services of the Member States in third countries, including the setting up of consular cooperation mechanisms with a view to facilitating legitimate travel in accordance with Union law or the law of the Member State concerned and preventing illegal immigration into the Union;

(d) reinforcing integrated border management by testing and introducing new tools, interoperable systems and working methods which aim to enhance information exchange within the Member State or to improve inter-agency cooperation;

(e) developing projects with a view to ensuring a uniform and high level of control of the external border in accordance with common Union standards and aiming at increased interoperability of border management systems between Member States;

(f) supporting actions, after consulting the Frontex Agency, aimed at promoting further harmonisation of border management and

in particular technological capabilities, in accordance with common Union standards;

(g) ensuring the correct and uniform application of the Union *acquis* on border control and visas in response to weaknesses identified at Union level, as shown by results established in the framework of the Schengen evaluation and monitoring mechanism;

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

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

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

ARTICLE 10 OPERATING SUPPORT UNDER THE NATIONAL PROGRAMMES OF THE MEMBER STATES

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

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

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

(b) compliance with the objectives of the national programme;

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

3. To that end, before the approval of the national programme, the Commission shall assess the baseline situation in Member States which have indicated their intention to request operating support, taking into account, where relevant, the Schengen evaluation reports.

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

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

4. Operating support shall be concentrated on specific tasks and/or services and shall be focused on the objectives as laid down in Annex III. It shall entail full reimbursement of the expenditure incurred to accomplish the tasks and/or services defined in the national programme, within the financial limits set by the programme and the ceiling laid down in paragraph 1.

5. Operating support shall be the subject of monitoring and exchange of information between the Commission and the Member State concerned in relation to the baseline situation in that Member State, the objectives and targets to be accomplished and the indicators to measure progress.

6. The Commission shall set out, by means of implementing acts, reporting procedures on the application of this provision and any other practical arrangements to be made between Member States and the Commission to comply with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).

ARTICLE 11 OPERATING SUPPORT FOR THE SPECIAL TRANSIT SCHEME

The Instrument shall provide support to compensate for foregone fees from visas issued for the purpose of transit and additional costs incurred in implementing the Facilitated Transit Document (FTD) and the Facilitated Rail Transit Document (FRTD) scheme in accordance with Regulation (EC) No 693/2003 and Regulation (EC) No 694/2003.

1. The resources allocated to Lithuania pursuant to paragraph 1 shall not exceed EUR 1 54 million for the period 2014-2020 and shall be made available as additional specific operating support for Lithuania.

2. For the purpose of paragraph 1, additional costs means costs which result directly from the specific requirements of implementing the operation of the Special Transit Scheme and which are not generated as a result of the issuing of visas for the purpose of transit or other purposes.

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

- (a) investment in infrastructures;
- (b) training of staff implementing the special transit scheme;
- (c) additional operational costs, including salaries of staff specifically implementing the special transit scheme.

3. The foregone fees referred to in paragraph 1 of this Article shall be calculated on the basis of the level of visa fees and the visa fee waivers established by the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation⁽³⁰⁾, within the financial framework set out in paragraph 2 of this Article.

4. The Commission and Lithuania shall review the application of this Article in the event of changes which have an impact on the existence and/or functioning of the Special Transit Scheme.

5. The Commission shall set out, by means of implementing acts, reporting procedures on the application of this provision and any financial and other practical arrangements to be made between Lithuania and the Commission to comply with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).

6. To ensure the smooth functioning of the Special Transit Scheme the Commission may make specific interim payment arrangements which derogate from the provisions of Regulation (EU) No 514/2014.

⁽³⁰⁾ OJ L 129, 17.5.2007, p. 27

ARTICLE 12 PROGRAMMING IN LINE WITH THE OUTCOMES OF THE SCHENGEN EVALUATION AND MONITORING MECHANISM

Following a Schengen evaluation report, as adopted in accordance with Regulation (EU) No 1053/2013, the Member State concerned shall examine, together with the Commission and the Frontex Agency, how to address the findings, including any deficiencies, and implement the recommendations within the framework of its national programme.

Where necessary, a Member State shall revise its national programme in accordance with Article 14(9) of Regulation (EU) No 514/2014 to take into account those findings and recommendations.

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

ARTICLE 13 UNION ACTIONS

1. At the Commission's initiative, the Instrument may be used to finance transnational actions or actions of particular interest to the Union ('Union actions') concerning the general, specific and operational objectives referred to in Article 3.

2. To be eligible for funding, Union actions shall in particular pursue the following objectives:

(a) to support preparatory, monitoring, administrative and technical activities,

required to implement external borders and visa policies, including to strengthen the governance of the Schengen area by developing and implementing the evaluation mechanism as established by Regulation (EU) No 1053/2013 to verify the application of the Schengen *acquis* and the Schengen Borders Code, in particular mission expenditure for experts of the Commission and the Member States participating in on site visits;

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

(c) to support the development of statistical tools, including common statistical tools, methods and common indicators;

(d) to support and monitor the implementation of Union law and Union policy objectives in the Member States, and assess their effectiveness and impact, including with regard to respect for human rights and fundamental freedoms, as far as the scope of the Instrument is concerned;

(e) to promote networking, mutual learning, identification and dissemination of best practices and innovative approaches amongst different stakeholders at European level;

(f) to promote projects aiming at harmonisation and interoperability of border management-related measures in accordance with common Union standards with a view to developing an integrated European border management system;

(g) to enhance awareness of Union policies and objectives among stakeholders and the general public, including corporate communication on the political priorities of the Union;

(h) to boost the capacity of European networks to assess, promote, support and further develop Union policies and objectives;

(i) to support particularly innovative projects developing new methods and/or technologies with a potential for transferability to other Member States, especially projects which aim to test and validate research projects;

(j) to support actions in relation to and in third countries as referred to in Article 4(2).

3. Union actions shall be implemented in accordance with Article 6 of Regulation (EU) No 514/2014.

ARTICLE 14 EMERGENCY ASSISTANCE

1. The Instrument shall provide financial assistance to address urgent and specific needs in the event of an emergency situation as defined in point (f) of Article 2.

2. Emergency assistance shall be implemented in accordance with Articles 6 and 7 of Regulation (EU) No 514/2014.

ARTICLE 15 ESTABLISHING A PROGRAMME ON THE DEVELOPMENT OF IT SYSTEMS

The programme on the development of the IT systems, based on existing and/or new IT systems, shall be implemented subject to adoption of the Union legislative acts defining those IT systems and their com-

munication infrastructure with the aim, in particular, of improving the management and control of travel flows at the external borders by reinforcing checks while speeding up border crossings for regular travellers. Where appropriate, synergies with existing IT systems shall be sought in order to avoid double-spending.

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

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

ARTICLE 16 TECHNICAL ASSISTANCE

1. At the initiative and/or on behalf of the Commission, the Instrument may contribute up to EUR 1,7 million annually for technical assistance to the Fund in accordance with Article 9 of Regulation (EU) No 514/2014.

2. At the initiative of a Member State, the Instrument may finance technical assistance activities, in accordance with Article 20 of Regulation (EU) No 514/2014. The amount set aside for technical assistance shall not exceed, for the period 2014-2020, 5 % of the total amount allocated to a Member State plus EUR 500 000.

CHAPTER III FINAL PROVISIONS

ARTICLE 17 EXERCISE OF THE DELEGATION

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in point (b) of Article 5(5) and Articles 6(4), 7(2) and 15 shall be conferred on the Commission for a period of seven years from 21 May 2014. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the seven year period. The delegation of power shall be tacitly extended for a period of three years, unless the European Parliament or the Council opposes such extension not later than three months before the end of the seven-year period.

3. The delegation of power referred to in point (b) of Article 5(5) and Articles 6(4), 7(2) and 15 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 point (b) of Article 5(5) and Articles 6(4), 7(2) and 15 shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.

ARTICLE 18 COMMITTEE PROCEDURE

The Commission shall be assisted by the 'Asylum, Migration and Integration and Internal Security Funds Committee' established by Article 59(1) of Regulation EU No 514/2014.

1. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

ARTICLE 19 APPLICABILITY OF REGULATION (EU) NO 514/2014

The provisions of Regulation (EU) No 514/2014 shall apply to the Instrument.

ARTICLE 20 REPEAL

Decision No 574/2007/EC shall be repealed with effect from 1 January 2014.

ARTICLE 21 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of the projects and annual programmes until their closure or the financial assistance approved by the Commission on the basis of Decision No 574/2007/EC or any other legislation applying to that assistance on 31 December 2013.

2. When adopting decisions on co-financing under the Instrument, the Commission shall take account of measures adopted on the basis of Decision No 574/2007/EC before 20 May 2014 which have financial repercussions during the period covered by that co-financing.

3. Sums committed for co-financing approved by the Commission between 1 January 2011 and 31 December 2014 for which the documents required for closure of the actions have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission by 31 December 2017, giving rise to the repayment of amounts unduly paid.

4. Amounts relating to actions which have been suspended due to legal proceedings or administrative appeals having suspensive effect shall be disregarded in calculating the amount to be automatically decommitted.

5. Member States shall submit to the Commission by 30 June 2015 the evaluation report on the results and impact of actions co-financed under the Decision No 574/2007/EC concerning the period 2011-2013.

6. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions by 31 December 2015 the ex-post evaluation report under Decision No 574/2007/EC concerning the period 2011-2013.

ARTICLE 22 REVIEW

The European Parliament and the Council shall, on the basis of a proposal of the Commission, review this Regulation by 30 June 2020

ARTICLE 23 ENTRY INTO FORCE AND APPLICATION

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 16 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I Amounts constituting the basis for the national programmes of Member States (in EUR)

Member State/ associated state	Minimum amount	Fixed part dis- tributed on basis of 2010-2012 average	% 2010-2012 with Croatia	TOTAL
AT	5 000 000	9 162 727	0,828 %	14 162 727
BE	5 000 000	12 519 321	1,131 %	17 519 321
BG	5 000 000	35 366 130	3,196 %	40 366 130
CH	5 000 000	13 920 284	1,258 %	18 920 284
CY	15 000 000	19 507 030	1,763 %	34 507 030
CZ	5 000 000	9 381 484	0,848 %	14 381 484
DE	5 000 000	46 753 437	4,225 %	51 753 437
DK	5 000 000	5 322 133	0,481 %	10 322 133
EE	5 000 000	16 781 752	1,516 %	21 781 752
ES	5 000 000	190 366 875	17,201 %	195 366 875
FI	5 000 000	31 934 528	2,886 %	36 934 528
FR	5 000 000	79 999 342	7,229 %	84 999 342
GR	5 000 000	161 814 388	14,621 %	166 814 388
HR	4 285 714	31 324 057	2,830 %	35 609 771
HU	5 000 000	35 829 197	3,237 %	40 829 197
IE				
IS	5 000 000	326 980	0,030 %	5 326 980
IT	5 000 000	151 306 897	13,672 %	156 306 897
LI	5 000 000	0	0,000 %	5 000 000
LT	5 000 000	19 704 873	1,780 %	24 704 873
LU	5 000 000	400 129	0,036 %	5 400 129
LV	5 000 000	10 521 704	0,951 %	15 521 704
MT	15 000 000	38 098 597	3,442 %	53 098 597
NL	5 000 000	25 609 543	2,314 %	30 609 543
NO	5 000 000	9 317 819	0,842 %	14 317 819
PL	5 000 000	44 113 133	3,986 %	49 113 133
PT	5 000 000	13 900 023	1,256 %	18 900 023
RO	5 000 000	56 151 568	5,074 %	61 151 568
SE	5 000 000	6 518 706	0,589 %	11 518 706
SI	5 000 000	25 669 103	2,319 %	30 669 103
SK	5 000 000	5 092 525	0,460 %	10 092 525
UK				
TOTAL	169 285 714	1 106 714 286	100,00 %	1 276 000 000

ANNEX II List of specific actions

1. Setting up consular cooperation mechanisms between at least two Member States resulting in economies of scale as regards the processing of applications and the issuing of visas at consulates in accordance with the principles on cooperation laid down in the Visa Code, including common visa application centres.

2. Purchasing means of transport and operating equipment that are considered necessary for the deployment during joint operations by the Frontex Agency and which shall be put at the disposal of the Frontex Agency in accordance with the second and third subparagraph of Article 7(5) of Regulation (EC) No 2007/2004.

ANNEX III Objectives for operating support within the national programmes

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

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

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

- operations
- staff costs, including for training
- service costs, maintenance and repair

- upgrading/replacement of equipment
- real estate (depreciation, refurbishment)

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

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

ANNEX IV List of common indicators for the measurement of the specific objectives

(a) Supporting a common visa policy to facilitate legitimate travel, ensure equal treatment of third-country nationals and tackle illegal immigration

(i) Number of consular cooperation activities developed with the help of the Instrument

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- co-locations,
- common application centres,
- representations,
- others.

(ii) Number of staff trained and number of training courses in aspects related to the common visa policy with the help of the Instrument

(iii) Number of specialised posts in third countries supported by the Instrument

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- immigration liaison officers,
- others.

(iv) Percentage and number of consulates developed or upgraded with the help of

the Instrument out of the total number of consulates

(b) Supporting borders management, including through sharing information between Member States and between Member States and the Frontex Agency, to ensure, on one hand, a high level of protection of the external borders, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*

(i) Number of staff trained and number of training courses in aspects related to border management with the help of the Instrument

(ii) Number of border control (checks and surveillance) infrastructure and means developed or upgraded with the help of the Instrument

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- infrastructure,
- fleet (air, land, sea borders),
- equipment,
- others.

(iii) Number of border crossings of the external borders through ABC gates supported from the Instrument out of the total number of border crossings

(iv) Number of national border surveillance infrastructure established/further developed in the framework of Eurosur

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

- National Coordination Centres,
- Regional Coordination Centres,
- Local Coordination Centres,
- other types of coordination centres.

(v) Number of incidents reported by Member States to the European Situational Picture

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

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

COMMISSION DELEGATED REGULATION (EU) 2020/446 OF 15 OCTOBER 2019 AMENDING ANNEX II TO REGULATION (EU) NO 515/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING AS PART OF THE INTERNAL SECURITY FUND, THE INSTRUMENT FOR FINANCIAL SUPPORT FOR EXTERNAL BORDERS AND VISA

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC⁽¹⁾, and in particular Article 7(2) thereof,

Whereas:

(1) In the context of the mid-term review referred to in Article 15 of Regulation (EU) No 514/2014 of the European Parliament and of the Council⁽²⁾, additional funding needs of the Member States were identified in the area of border management.

(2) The mid-term review identified the need to provide adequate financial support to border control activities, in particular in the hotspots areas as defined in Article 2(10) of Regulation (EU) 2016/1624 of the European

Parliament and of the Council⁽³⁾, as well as in other border areas facing similar existing or potential high and disproportionate migratory pressure.

(3) Annex II to Regulation (EU) No 515/2014 lists two specific actions for Member States to receive additional funding.

(4) The funding of actions aiming at reinforcing border control capacities and implementing the hotspot approach, or similar, cannot be adequately channelled through the current list of specific actions. Therefore, amending that list is the best way to meet the needs identified within the objectives of Internal Security Fund – Borders and Visa.

(5) The new specific action being added to Annex II to Regulation (EU) No 515/2014 will contribute to an effective level of control of the external borders of the Union. It is in line with the specific objective of that Regulation, as referred to in its Article 3(2)(b), which is to support integrated border management, facilitating access to international protection for those needing it.

⁽¹⁾ OJ L 150, 20.5.2014, p. 143.

⁽²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

⁽³⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

(6) The addition of a new specific action that reflects the recent policy developments and funding needs of the Member States will generate significant added value as it will contribute to the mitigation of the pressure on those most affected by migration and asylum flows and, thus, on the Union as a whole.

(7) In order to allow for the prompt application of this specific action, in view of the urgent funding needs identified, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(8) Regulation (EU) No 515/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

In Annex II to Regulation (EU) No 515/2014, the following point 3 is added:

‘3. Border control activities such as border checks and border surveillance measures in areas facing currently or potentially high or disproportionate migratory pressure, or both, including activities related to the establishment, development and operation of hotspot areas, as defined in Article 2(10) of Regulation (EU) 2016/1624 of the European Parliament and of the Council⁴, as well as, where necessary, support to border management activities in third countries.’

(⁴) Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

ARTICLE 2

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 in accordance with the Treaties.

Done at Brussels, 15 October 2019.

For the Commission
The President
 Jean-Claude JUNCKER

**REGULATION (EU) NO 516/2014 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL OF 16 APRIL 2014 ESTABLISHING THE
ASYLUM, MIGRATION AND INTEGRATION FUND, AMENDING
COUNCIL DECISION 2008/381/EC AND REPEALING DECISIONS
NO 573/2007/EC AND NO 575/2007/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL AND COUNCIL DECISION
2007/435/EC**

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2) and Article 79(2) and (4) 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 ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The Union's objective to constitute an area of freedom, security and justice should be achieved, inter alia, through common measures framing a policy on asylum and immigration, based on solidarity between

Member States, which is fair towards third countries and their nationals. The European Council of 2 December 2009 recognised that financial resources within the Union should be made increasingly flexible and coherent, in terms of both scope and applicability, to support policy developments in the field of asylum and migration.

(2) In order to contribute to the development of the common Union policy on asylum and immigration and to the strengthening of the area of freedom, security and justice in the light of the application of the principles of solidarity and responsibility-sharing between the Member States and cooperation with third countries, this Regulation should establish the Asylum, Migration and Integration Fund ('the Fund').

(3) The Fund should reflect the need for increased flexibility and simplification, while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the general and specific objectives laid down in this Regulation.

(4) Efficiency of measures and quality of spending constitute guiding principles in the implementation of the Fund. Furthermore, the Fund should also be implemented in the most effective and user-friendly manner possible.

⁽¹⁾ OJ C 299, 4.10.2012, p. 108.

⁽²⁾ OJ C 277, 13.9.2012, p. 23.

⁽³⁾ Position of the European Parliament of 13 March 2014 (not yet published in the Official Journal) and decision of the Council of 14 April 2014.

(5) The new two-pillar structure of funding in the field of home affairs should contribute to the simplification, rationalisation, consolidation and transparency of funding in that field. Synergies, consistency and complementarity should be sought between different funds and programmes, including with a view to allocating funding to common objectives. However, any overlap between the different funding instruments should be avoided.

(6) The Fund should create a flexible framework allowing Member States to receive financial resources under their national programmes to support the policy areas under the Fund according to their specific situation and needs, and in the light of the general and specific objectives of the Fund, for which the financial support would be the most effective and appropriate.

(7) The Fund should express solidarity through financial assistance to Member States. It should enhance the effective management of migration flows to the Union in areas where the Union adds maximum value, in particular by sharing responsibility between Member States and by sharing responsibility and strengthening cooperation with third countries.

(8) In order to contribute to the achievement of the general objective of the Fund, Member States should ensure that their national programmes include actions addressing the specific objectives of this Regulation, and that the allocation of resources between objectives ensures that the objectives can be met. In the unusual event that a Member State wishes to derogate from the minimum percentages laid down in this Regulation, the Member State concerned should provide a detailed justification within its national programme.

(9) To ensure a uniform and high-quality asylum policy and apply higher standards of international protection, the Fund should contribute to the effective functioning of the Common European Asylum System, which encompasses measures relating to policy, legislation, and capacity-building, while acting in cooperation with other Member States, Union agencies and third countries.

(10) It is appropriate to support and improve the efforts made by Member States to fully and properly implement the Union asylum *acquis*, in particular to grant appropriate reception conditions to displaced persons and applicants for, and beneficiaries of, international protection, to ensure the correct determination of status, in accordance with Directive 2011/95/EU of the European Parliament and of the Council ⁽⁴⁾, to apply fair and effective asylum procedures and to promote good practice in the field of asylum, so as to protect the rights of persons requiring international protection and enable Member States' asylum systems to work efficiently.

(11) The Fund should offer adequate support to joint efforts by Member States to identify, share and promote best practices and establish effective cooperation structures in order to enhance the quality of decision-making in the framework of the Common European Asylum System.

(12) The Fund should complement and reinforce the activities undertaken by the European Asylum Support Office ('EASO') established by Regulation (EU) No 439/2010

⁽⁴⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

of the European Parliament and of the Council ⁽⁵⁾, with a view to coordinating practical cooperation between Member States on asylum, supporting Member States subject to particular pressure on their asylum systems and contributing to the implementation of the Common European Asylum System. The Commission may make use of the possibility offered by Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁶⁾ to entrust EASO with the implementation of specific, ad hoc tasks, such as the coordination of Member States' actions on resettlement in accordance with Regulation (EU) No 439/2010.

(13) The Fund should support the efforts by the Union and the Member States relating to the enhancement of the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under existing Union law.

(14) The Fund should support the efforts made by Member States to provide international protection and a durable solution in their territories to refugees and displaced persons identified as eligible for resettlement by the United Nations High Commissioner for Refugees ('UNHCR'), such as the assessment of the resettlement needs and transfer of the persons concerned to their territories, with a view to granting them a secure legal status and to promoting their effective integration.

(15) The Fund should provide support for new approaches concerning access to asylum procedures in a safer manner, in particular by targeting main countries of transit such as protection programmes for particular groups or certain procedures for examination of applications for asylum.

(16) It is in the nature of the Fund that it should be able to provide support to voluntary burden-sharing operations agreed between Member States and consisting of the transfer of beneficiaries of international protection, and of applicants for international protection, from one Member State to another.

(17) Partnerships and cooperation with third countries to ensure the adequate management of inflows of persons applying for asylum or other forms of international protection are an essential component of Union asylum policy. With the aim of providing access to international protection and durable solutions at the earliest possible stage, including in the framework of Regional Protection Programmes, the Fund should include a strong Union resettlement component.

(18) To improve and reinforce the integration process in European societies, the Fund should facilitate legal migration to the Union in accordance with the economic and social needs of Member States and anticipate the preparation of the integration process already in the country of origin of the third-country nationals coming to the Union.

(19) In order to be efficient and achieve the greatest added value, the Fund should pursue a more targeted approach, in support of consistent strategies specifically designed to promote the integration of third-country nationals at national, local and/or regional level, where appropriate. Those strategies should be implemented mainly by local or

⁽⁵⁾ Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

⁽⁶⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1)

regional authorities and non-state actors, while not excluding national authorities, in particular where the specific administrative organisation of a Member State would so require, or where, in a Member State, integration actions fall within a competence shared between the State and decentralised administration. The implementing organisations should choose the measures most appropriate to their particular situation from a range of measures available.

(20) The implementation of the Fund should be consistent with the Union's Common Basic Principles on Integration, as specified in the Common Programme for Integration.

(21) The scope of the integration measures should also include beneficiaries of international protection in order to ensure a comprehensive approach to integration, taking into account the specificities of those target groups. Where integration measures are combined with reception measures, actions should, where appropriate, also allow applicants for international protection to be included.

(22) To ensure the consistency of the Union's response to the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund. In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to establish cooperation and coordination mechanisms with the authorities designated by Member States for the purpose of the management of the interventions of the European Social Fund.

(23) For practical reasons, some actions may concern a group of people which can be more efficiently addressed as a whole, without distinguishing between its members.

It would therefore be appropriate to provide for the possibility for those Member States that would so wish to provide in their national programmes that integration actions may include immediate relatives of third-country nationals, to the extent that it is necessary for the effective implementation of such actions. The term 'immediate relative' would be understood as meaning spouses, partners, and any person having direct family links in descending or ascending line with the third-country national targeted by the integration action, and who would otherwise not be covered by the scope of the Fund.

(24) The Fund should support Member States in setting up strategies organising legal migration, enhancing their capacity to develop, implement, monitor and evaluate in general all immigration and integration strategies, policies and measures for third-country nationals, including Union legal instruments. The Fund should also support the exchange of information, best practices and cooperation between different departments of administration as well as with other Member States.

(25) The Union should continue and expand the use of Mobility Partnerships as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries. The Fund should support activities in the framework of Mobility Partnerships taking place either in the Union or in third countries and aimed at pursuing Union needs and priorities, in particular actions ensuring the continuity of funding encompassing both the Union and third countries.

(26) It is appropriate to continue supporting and encouraging efforts by the Member States to improve the management of the return of third-country nationals in all its dimensions, with a view to the continuous,

fair and effective implementation of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council ⁽⁷⁾. The Fund should promote the development of return strategies at national level within the concept of integrated return management, and also measures supporting their effective implementation in third countries.

(27) As regards the voluntary return of persons, including persons who wish to be returned even though they are under no obligation to leave the territory, incentives for such returnees, such as preferential treatment in the form of enhanced return assistance, should be envisaged. This kind of voluntary return is in the interests of both returnees and the authorities in terms of its cost-effectiveness. Member States should be encouraged to give preference to voluntary return.

(28) However, from a policy point of view, voluntary and enforced return are interlinked and have a mutually reinforcing effect, and Member States should therefore be encouraged in their return management to reinforce the complementarities of the two forms. There is a need to carry out removals in order to safeguard the integrity of the immigration and asylum policy of the Union and the immigration and asylum systems of the Member States. Thus, the possibility of removals is a prerequisite for ensuring that this policy is not undermined and for enforcing the rule of law, which itself is essential to the creation of an area of freedom, security and justice. The Fund should therefore support actions of Member States to facilitate removals in

accordance with the standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.

(29) It is essential for the Fund to support specific measures for returnees in the country of return, in order to ensure their effective return to their town or region of origin under good conditions and to enhance their durable reintegration into their community.

(30) Union readmission agreements are an integral component of the Union return policy and a central tool for the efficient management of migration flows, as they facilitate the swift return of irregular migrants. Those agreements are an important element in the framework of the dialogue and cooperation with third countries of origin and transit of irregular migrants, and their implementation in third countries should be supported in the interests of effective return strategies at national and Union level.

(31) The Fund should complement and reinforce the activities undertaken by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, established by Council Regulation (EC) No 2007/2004 ⁽⁸⁾, part of the tasks of which are to provide Member States with the necessary support for organising joint return operations and identifying best practices on the acquisition of travel documents and the removal of illegally staying third-country nationals in the territories of the Member States, as well as to assist Member States in circumstances requiring increased technical

⁽⁷⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

⁽⁸⁾ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

and operational assistance at the external borders, taking into account that some situations may involve humanitarian emergencies and rescue at sea.

(32) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to combat illegal immigration or the circumventing of existing legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.

(33) The Fund should be implemented in full respect for the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and for the fundamental rights enshrined in the relevant international instruments, including the relevant case-law of the European Court of Human Rights. Eligible actions should take account of the human rights-based approach to the protection of migrants, refugees and asylum seekers and should, in particular, ensure that special attention is paid to, and a dedicated response is provided for, the specific situation of vulnerable persons, in particular women, unaccompanied minors and other minors at risk.

(34) The terms 'vulnerable persons' and 'family members' are defined differently in different acts relevant for this Regulation. They should therefore be understood in the meaning of the relevant act, bearing in mind the context in which they are used. In the context of resettlement, Member States that resettle should closely consult the UNHCR in relation to the term 'family members' in their resettlement practices and actual resettlement processes.

(35) Measures on and in relation to third countries supported through the Fund should be adopted in synergy and in coherence with other actions outside the Union supported through Union external assistance instru-

ments, both geographic and thematic. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of Union's external action and foreign policy related to the country or region in question. The measures should not be intended to support actions that are directly oriented towards development and should complement, when appropriate, the financial assistance provided through external aid instruments. The principle of policy coherence for development, as set out in paragraph 35 of the European Consensus on Development, should be respected. It is also important to ensure that the implementation of emergency assistance is consistent with and, where relevant, complementary to the Union's humanitarian policy and respects humanitarian principles as set out in the European Consensus on Humanitarian Aid.

(36) A large part of the available resources under the Fund should be allocated proportionately to the responsibility borne by each Member State through its efforts in managing migration flows on the basis of objective criteria. For that purpose, the latest available statistical data collected by Eurostat under Regulation (EC) No 862/2007 of the European Parliament and of the Council ⁽¹⁾ relating to the migration flows, such as the number of first asylum applications, the number of positive decisions granting refugee or subsidiary protection status, the number of resettled refugees, the number of legally residing third-country nationals, the number of third-country nationals who have obtained an authorisation issued by a Member State to reside, the number of return decisions issued by national authorities and the number of effected returns, should be used.

(37) The allocation of basic amounts to Member States is laid down by this Regulation. The basic amount is composed of a minimum amount and an amount calcu-

lated on the basis of the average of 2011, 2012 and 2013 allocations for each Member State under the European Refugee Fund, established by Decision No 573/2007/EC of the European Parliament and of the Council ⁽²⁾, the European Fund for the Integration of third-country nationals established by Council Decision 2007/43 5/EC ⁽³⁾ and the European Return Fund established by Decision No 575/2007/EC of the European Parliament and of the Council ⁽⁴⁾. The calculation of allocations was made in accordance with the distribution criteria laid down in Decision No 573/2007/EC, Decision 2007/435/EC and Decision No 575/2007/EC. In the light of the European Council conclusions of 7-8 February 2013, which underlined that particular emphasis should be given to insular societies who face disproportional migration challenges, it is appropriate to increase the minimum amounts for Cyprus and Malta.

(38) Whilst it is appropriate for an amount to be allocated to each Member State on the basis of the latest available statistical data, part of the available resources under the Fund should also be distributed for the implementation of specific actions which require cooperative effort amongst Member States and generate significant added value for the Union, as well as for the implementation of a Union Resettlement Programme and the transfer of beneficiaries of international protection from one Member State to another.

(39) For that purpose, this Regulation should establish a list of specific actions eligible for resources from the Fund. Additional amounts should be allocated to those Member States which make a commitment to implement such actions.

(40) In the light of the progressive establishment of a Union Resettlement Programme, the Fund should provide targeted assistance in the form of financial incentives

(lump sums) for each resettled person. The Commission, in cooperation with the EASO and in accordance with their respective competences, should monitor the effective implementation of resettlement operations supported under the Fund.

(41) With a view to increasing the impact of the Union's resettlement efforts in providing protection to persons in need of international protection and maximising the strategic impact of resettlement through a better targeting of those persons who are in greatest need of resettlement, common priorities with respect to resettlement should be formulated at Union level. Those common priorities should be amended only where there is a clear justification for doing so, or in the light of any recommendations from the UNHCR, on the basis of the general categories specified in this Regulation.

(42) Given their particular vulnerability, some categories of persons in need of international protection should always be included in the common Union resettlement priorities.

(1) Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23).

(2) Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC (oj L 144, 6.6.2007, p. 1).

(3) Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the

Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 168, 28.6.2007, p. 18).

(4) Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 45).

(43) Taking into account the resettlement needs set out in the common Union resettlement priorities, it is also necessary that additional financial incentives are provided for the resettlement of persons with respect to specific geographic regions and nationalities, as well as to the specific categories of persons to be resettled, where resettlement is determined to be the most appropriate response to their special needs.

(44) To enhance the solidarity and better share the responsibility between the Member States, in particular towards those most affected by asylum flows, a similar mechanism based on financial incentives should also be established for the transfer of beneficiaries of international protection from one Member State to another. Such a mechanism should reduce the pressure on Member States receiving higher numbers of asylum seekers and beneficiaries of international protection, either in absolute or proportionate terms.

(45) The support provided by the Fund will be more efficient and bring greater added value if a limited number of compulsory objectives are identified in this Regulation, to be pursued in the programmes drawn up by each Member State and taking into account its specific situation and needs.

(46) It is important for enhanced solidarity that the Fund provides, in coordination and in synergy with the humanitarian assistance managed by the Commission where appropriate, additional support to address emergency situations of heavy migratory pressure in Member States or third countries, or in the event of mass influx of displaced persons, pursuant to Council Directive 2001/55/EC⁽⁹⁾, through emergency assistance. Emergency assistance should also include support to ad hoc humanitarian admission programmes aimed at allowing temporary stay on the territory of a Member State in the event of an urgent humanitarian crisis in third countries. However, such other humanitarian admission programmes are without prejudice to, and should not undermine, the Union's resettlement programme that explicitly aims as from the start to provide a durable solution to persons in need of international protection transferred to the Union from third countries. To that end, Member States should not be entitled to receive additional lump sums in respect of persons granted temporary stay on the territory of a Member State under such other humanitarian admission programmes.

(47) This Regulation should provide financial assistance for the activities of the European Migration Network established by Council Decision 2008/381/EC⁽¹⁰⁾, in accordance with its objectives and tasks.

(48) Decision 2008/381/EC should therefore be amended to align procedures and

⁽⁹⁾ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

⁽¹⁰⁾ Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p.7).

to facilitate the provision of appropriate and timely financial support to the National Contact Points that are referred to in that Decision.

(49) In the light of the purpose of financial incentives allocated to the Member States for resettlement and/or the transfer of beneficiaries of international protection from one Member State to another in the form of lump sums, and because they represent a small fraction of the actual costs, this Regulation should provide for certain derogations from the rules on the eligibility of expenditure.

(50) In order to supplement or amend provisions of this Regulation on lump sums for resettlement and transfer of beneficiaries of international protection from one Member State to another and on the definition of specific actions and of common Union resettlement priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. 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.

(51) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from all Member States.

(52) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU)

No 182/2011 of the European Parliament and of the Council ⁽¹¹⁾.

(53) Funding from the Union budget should concentrate on activities where the Union intervention can bring additional value compared to the action of Member States alone. As the Union is in a better position than Member States to provide a framework for expressing Union solidarity in the management of migration flows, financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in this area.

(54) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources.

(55) The Commission should monitor the implementation of the Fund in accordance with Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽¹²⁾, with the aid of common indicators for evaluating results and impacts. Those indicators, including relevant baselines, should provide the minimum basis for evaluating the extent to which the objectives of the Fund have been achieved.

(56) In order to measure the achievements of the Fund, common indicators should be established in relation to each of its specific

⁽¹¹⁾ 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 (OJ L 55, 28.2.2011, p. 13).

⁽¹²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (see page 112 of this Official Journal).

objectives. The common indicators should not affect the optional or mandatory nature of the implementation of related actions as laid down in this Regulation.

(57) For the purpose of its management and implementation, the Fund should form part of a coherent framework consisting of this Regulation and Regulation (EU) No 513/2014 of the European Parliament and of the Council ⁽¹³⁾. For the purposes of the Fund, the partnership provided for in Regulation (EU) No 514/2014 should include relevant international organisations, non-governmental organisations and social partners. Each Member State should be responsible for establishing the composition of the partnership and the practical arrangements concerning its implementation.

(58) Since the objective of this Regulation, namely contributing to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum, subsidiary protection and temporary protection and the common immigration policy, cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(59) Pursuant to Articles 8 and 10 TFEU, the Fund should take account of the mainstreaming of equality between women and men and anti-discrimination principles.

(60) Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC should be repealed, subject to the transitional provisions set out in this Regulation.

(61) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, those Member States have notified their wish to take part in the adoption and application of this Regulation.

(62) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(63) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁴⁾. Therefore, this Regulation should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

⁽¹³⁾ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (see page 93 of this Official Journal).

⁽¹⁴⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 PURPOSE AND SCOPE

1. This Regulation establishes the Asylum, Migration and Integration Fund ('the Fund') for the period from 1 January 2014 to 31 December 2020.

2. This Regulation lays down:

(a) the objectives of financial support and the eligible actions;

(b) the general framework for the implementation of eligible actions;

(c) the available financial resources and their distribution;

(d) the principles and mechanism for the establishment of common Union resettlement priorities; and

(e) the financial assistance provided for the activities of the European Migration Network.

(f) This Regulation provides for the application of the rules set out in Regulation (EU) No 514/2014, without prejudice to Article 4 of this Regulation.

ARTICLE 2 DEFINITIONS

For the purpose of this Regulation, the following definitions apply:

(a) 'resettlement' means the process whereby, on a request from the United Nations High Commissioner for Refugees ('UNHCR') based on a person's need for international protection, third-country nationals are transferred from a third country and established in a Member State where they

are permitted to reside with one of the following statuses:

(i) 'refugee status' within the meaning of point (e) of Article 2 of Directive 2011/95/EU;

(ii) 'subsidiary protection status' within the meaning of point (g) of Article 2 of Directive 2011/95/EU; or

(iii) any other status which offers similar rights and benefits under national and Union law as those referred to in points (i) and (ii);

(b) 'other humanitarian admission programmes' means an ad hoc process whereby a Member State admits a number of third-country nationals to stay on its territory for a temporary period of time in order to protect them from urgent humanitarian crises due to events such as political developments or conflicts;

(c) 'international protection' means refugee status and subsidiary protection status within the meaning of Directive 2011/95/EU;

(d) 'return' means the process of a third-country national going back, whether in voluntary compliance with an obligation to return or enforced, as defined in Article 3 of Directive 2008/115/EC;

(e) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU. Reference to third-country nationals shall be understood to include stateless persons and persons with undetermined nationality;

(f) 'removal' means the enforcement of the obligation to return, namely the physical

transportation out of the Member State, as defined in Article 3 of Directive 2008/115/EC;

(g) 'voluntary departure' means compliance with the obligation to return within the time-limit fixed for that purpose in the return decision, as defined in Article 3 of Directive 2008/115/EC;

(h) 'unaccompanied minor' means a third-country national below the age of 18 years, who arrives or arrived on the territory of a Member State unaccompanied by an adult responsible for him/her whether by law or the national practice of the Member State concerned, and for as long as he/she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he/she entered the territory of a Member State;

(i) 'vulnerable person' means any third-country national who complies with the definition under Union law relevant to the policy area of action supported under the Fund;

(j) 'family member' means any third-country national who complies with the definition under Union law relevant to the policy area of action supported under the Fund;

(k) 'emergency situation' means a situation resulting from:

(i) heavy migratory pressure in one or more Member States characterised by a large and disproportionate inflow of third-country nationals, which places significant and urgent demands on their reception and detention facilities, asylum systems and procedures;

(ii) the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC; or

(iii) heavy migratory pressure in third countries where refugees are stranded due to events such as political developments or conflicts.

ARTICLE 3 OBJECTIVES

1. The general objective of the Fund shall be to contribute to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum, subsidiary protection and temporary protection and the common immigration policy, while fully respecting the rights and principles enshrined in the Charter of Fundamental Rights of the European Union.

2. Within its general objective, the Fund shall contribute to the following common specific objectives:

(a) to strengthen and develop all aspects of the Common European Asylum System, including its external dimension;

(b) to support legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, while safeguarding the integrity of the immigration systems of Member States, and to promote the effective integration of third-country nationals;

(c) to enhance fair and effective return strategies in the Member States which contribute to combating illegal immigration, with an emphasis on sustainability of return and effective readmission in the countries of origin and transit;

(d) to enhance solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows, including through practical cooperation.

The achievement of the specific objectives of the Fund shall be evaluated in accordance with Article 55(2) of Regulation (EU) No 514/2014 using common indicators as set out in Annex IV to this Regulation and programme-specific indicators included in national programmes.

3. Measures taken to achieve the objectives referred to in paragraphs 1 and 2 shall be fully coherent with measures supported through the external financing instruments of the Union and with the principles and general objectives of the Union's external action.

4. The objectives referred to in paragraphs 1 and 2 of this Article shall be achieved with due regard to the principles and objectives of the Union's humanitarian policy. Consistency with the measures funded by the Union's external financing instruments shall be ensured in accordance with Article 24.

ARTICLE 4 PARTNERSHIP

For the purposes of the Fund, the partnership referred to in Article 12 of Regulation (EU) No 514/2014 shall include relevant international organisations, non-governmental organisations and social partners.

CHAPTER II COMMON EUROPEAN ASYLUM SYSTEM

ARTICLE 5 RECEPTION AND ASYLUM SYSTEMS

1. Within the specific objective laid down in point (a) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes laid down in Article 19 of this Regulation, the Fund shall support actions focusing on one or more of the following categories of third-country nationals:

(a) those who enjoy refugee status or subsidiary protection status within the meaning of Directive 2011/95/EU;

(b) those who have applied for one of the forms of international protection referred to in point (a) and have not yet received a final decision;

(c) those who enjoy temporary protection within the meaning of Directive 2001/55/EC;

(d) those who are being or have been resettled in or transferred from a Member State.

As regards reception conditions and asylum procedures, the Fund shall support, in particular, the following actions focusing on the categories of persons referred to in the first subparagraph of this paragraph:

(a) the provision of material aid, including assistance at the border, education, training, support services, health and psychological care;

(b) the provision of support services such as translation and interpretation, education, training, including language training, and other initiatives which are consistent with the status of the person concerned;

(c) the setting-up and improvement of administrative structures, systems and training for staff and relevant authorities to ensure effective and easy access to asylum procedures for asylum seekers and efficient and high-quality asylum procedures, in particular, where necessary, to support the development of the Union *acquis*;

(d) the provision of social assistance, information or help with administrative and/or judicial formalities and information or counselling on the possible outcomes of the asylum procedure, including on aspects such as return procedures;

(e) the provision of legal assistance and representation;

(f) the identification of vulnerable groups and specific assistance for vulnerable persons, in particular in accordance with points (a) to (e);

(g) the establishment, development and improvement of alternative measures to detention.

Where deemed appropriate, and where the national programme of a Member State provides for them, the Fund may also support integration-related measures, such as those referred to in Article 9(1), concerning the reception of persons referred to in the first subparagraph of this paragraph.

2. Within the specific objective defined in point (a) of the first subparagraph of Article 3(2), and in line with the objectives of the national programmes defined in Article 19, as regards accommodation infrastructure and reception systems, the Fund shall support, in particular, the following actions:

(a) the improvement and maintenance of existing accommodation infrastructure and services;

(b) the strengthening and improvement of administrative structures and systems;

(c) information for local communities;

(d) the training of the staff of authorities, including local authorities, who will be interacting with the persons referred to in paragraph 1 in the context of their reception;

(e) the establishment, running and development of new accommodation infrastruc-

ture and services, as well as administrative structures and systems, in particular, where necessary, to address the structural needs of Member States.

3. Within the specific objectives laid down in points (a) and (d) of the first subparagraph of Article 3(2), and in accordance with the objectives of the national programmes defined in Article 19, the Fund shall also support actions similar to those listed in paragraph 1 of this Article, where such actions are related to persons who are temporarily staying:

— in transit and processing centres for refugees, in particular to support resettlement operations in cooperation with the UNHCR, or

— on the territory of a Member State in the context of other humanitarian admission programmes.

ARTICLE 6 MEMBER STATES' CAPACITY TO DEVELOP, MONITOR AND EVALUATE THEIR ASYLUM POLICIES AND PROCEDURES

Within the specific objective laid down in point (a) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, as regards actions relating to the enhancement of Member States' capacity to develop, monitor and evaluate their asylum policies and procedures, the Fund shall support, in particular, the following actions:

(a) actions enhancing the capacity of Member States — including in relation to the mechanism for early warning, preparedness and crisis management established in Regulation (EU) No 604/2013 of the European

Parliament and of the Council ⁽¹⁵⁾ — to collect, analyse and disseminate qualitative and quantitative data and statistics on asylum procedures, reception capacities, resettlement and the transfer of applicants for and/or beneficiaries of international protection from one Member State to another;

(b) actions enhancing the capacity of Member States to collect, analyse and disseminate country-of-origin information;

(c) actions directly contributing to the evaluation of asylum policies, such as national impact assessments, surveys amongst target groups and other relevant stakeholders, and to the development of indicators and benchmarking.

ARTICLE 7 RESETTLEMENT, TRANSFER OF APPLICANTS FOR, AND BENEFICIARIES OF, INTERNATIONAL PROTECTION AND OTHER AD HOC HUMANITARIAN ADMISSION

1. Within the specific objective laid down in points (a) and (d) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, the Fund shall support, in particular, the following actions related to resettlement of any third country national who is being resettled or has been resettled in a Member State, and other humanitarian admission programmes:

(a) the establishment and development of national resettlement programmes and strategies and other humanitarian admission programmes, including needs analysis, improvement of indicators and evaluation;

(b) the establishment of appropriate infrastructure and services to ensure the smooth and effective implementation of resettlement actions and actions concerning other humanitarian admission programmes, including language assistance;

(c) the setting up of structures, systems and training of staff to conduct missions to the third countries and/or other Member States, to carry out interviews and to conduct medical and security screening;

(d) the assessment of potential resettlement cases and/or cases of other humanitarian admission by the competent Member States' authorities, such as conducting missions to the third country, carrying out interviews and conducting medical and security screening;

(e) pre-departure health assessment and medical treatment, pre-departure material provisions, pre-departure information and integration measures and travel arrangements, including the provision of medical escort services;

(f) information and assistance upon arrival or shortly thereafter, including interpretation services;

(g) actions for family reunification purposes for persons being resettled in a Member State;

(h) the strengthening of infrastructure and services relevant to migration and asylum in the countries designated for the implementation of Regional Protection Programmes;

⁽¹⁵⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

(i) creating conditions conducive to the integration, autonomy and self-reliance of resettled refugees on a long-term basis.

2. Within the specific objective laid down in point (d) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of the Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, the Fund shall also support actions similar to those listed in paragraph 1 of this Article, where deemed

appropriate in the light of policy developments within the implementation period of the Fund or where the national programme of a Member State makes such provisions, in relation to the transfer of applicants for and/or beneficiaries of international protection. Such operations shall be carried out with their consent from the Member State which granted them international protection or is responsible for examining their application to another interested Member State where they will be granted equivalent protection or where their application for international protection will be examined.

CHAPTER III INTEGRATION OF THIRD-COUNTRY NATIONALS AND LEGAL MIGRATION

ARTICLE 8 IMMIGRATION AND PRE-DEPARTURE MEASURES

Within the specific objective laid down in point (b) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, the Fund shall support actions taking place in a third country which focus on third-country nationals who comply with specific pre-departure measures and/or conditions set out in national law and in accordance with Union law where applicable, including those relating to the ability to integrate in the society of a Member State. In this context, the Fund shall support, in particular, the following actions:

(a) information packages and campaigns to raise awareness and promote intercultural dialogue, including via user-friendly communication and information technology and websites;

(b) the assessment of skills and qualifications, as well as enhancement of transparency and compatibility of skills and qualifications in a third country with those of a Member State;

(c) training enhancing employability in a Member State;

(d) comprehensive civic orientation courses and language tuition;

(e) assistance in the context of applications for family reunification within the meaning of Council Directive 2003/86/EC ⁽¹⁶⁾.

ARTICLE 9 INTEGRATION MEASURES

1. Within the specific objective laid down in point (b) of the first subparagraph of Article 3(2) of this Regulation, in the light of the out-

⁽¹⁶⁾ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

come of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, the Fund shall support actions which take place in the framework of consistent strategies, taking into account the integration needs of third-country nationals at local and/or regional level. In this context, the Fund shall support, in particular, the following actions focusing on third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State:

(a) setting up and developing such integration strategies with the participation of local or regional actors, where appropriate, including needs analysis, the improvement of integration indicators, and evaluation, including participatory assessments, in order to identify best practices;

(b) providing advice and assistance in areas such as housing, means of subsistence, administrative and legal guidance, health, psychological and social care, child care and family reunification;

(c) actions introducing third-country nationals to the receiving society and actions enabling them to adapt to it, to inform them about their rights and obligations, to participate in civil and cultural life and to share the values enshrined in the Charter of Fundamental Rights of the European Union;

(d) measures focusing on education and training, including language training and preparatory actions to facilitate access to the labour market;

(e) actions designed to promote self-empowerment and to enable third-country nationals to provide for themselves;

(f) actions that promote meaningful contact and constructive dialogue between third-country nationals and the receiving society, and actions to promote acceptance by the receiving society, including through the involvement of the media;

(g) actions promoting both equality of access and equality of outcomes in relation to third-country nationals' dealings with public and private services, including adaptation of those services to dealing with third-country nationals;

(h) capacity-building of beneficiaries, as defined in point (g) of Article 2 of Regulation (EU) No 514/2014, including through exchanges of experience and best practices, and networking.

2. The actions referred to in paragraph 1 shall, wherever necessary, take into account the specific needs of different categories of third-country nationals, including beneficiaries of international protection, resettled or transferred persons and, in particular, vulnerable persons.

3. National programmes may allow for the inclusion in the actions referred to in paragraph 1 of immediate relatives of persons covered by the target group referred to in that paragraph, to the extent that it is necessary for the effective implementation of such actions.

4. For the purpose of programming and implementation of the actions referred to in paragraph 1 of this Article, the partnership referred to in Article 12 of Regulation (EU) No 514/2014 shall include the authorities designated by Member States for the purpose of the management of the interventions of the European Social Fund.

ARTICLE 10 PRACTICAL COOPERATION AND CAPACITY- BUILDING MEASURES

Within the specific objective laid down in point (b) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of the Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, the Fund shall support actions focusing on one or more of the following:

(a) building up strategies promoting legal migration with a view to facilitating the development and implementation of flexible admission procedures;

(b) supporting cooperation between third countries and the recruitment agencies, the employment services and the immigration services of Member States, as well as supporting Member States in their implementation of Union migration law, consultation processes with relevant stakeholders and expert advice or information exchanges on approaches which target specific nationalities or categories of third-country nationals with respect to the needs of the labour markets;

(c) reinforcing the capacity of Member States to develop, implement, monitor and evaluate their immigration strategies, policies and measures across the different levels and departments of administrations, in particular enhancing their capacity to collect, analyse and disseminate detailed and systematic data and statistics on migration procedures and flows and residence permits, and develop monitoring tools, evaluation schemes, indicators and benchmarking

for measuring the achievement of those strategies;

(d) training of beneficiaries as defined in point (g) of Article 2 of Regulation (EU) No 514/2014 and of staff providing public and private services, including educational institutions, promoting the exchange of experiences and best practices, cooperation and networking, and intercultural capacities, as well as improving the quality of services provided;

(e) building sustainable organisational structures for integration and diversity management, in particular through cooperation between different stakeholders enabling officials at various levels of national administrations to swiftly acquire information about experiences and best practices elsewhere and, where possible, to pool resources between relevant authorities as well as between governmental and non-governmental bodies to provide services to third-country nationals more effectively, inter alia, through one-stop-shops (i.e. coordinated integration-support centres);

(f) contributing to a dynamic two-way process of mutual interaction, underlying integration strategies at local and regional level by developing platforms for the consultation of third-country nationals, exchanges of information among stakeholders and intercultural and religious dialogue platforms between third-country nationals' communities, between those communities and the receiving society and/or between those communities and policy and decision-making authorities;

(g) actions to promote and reinforce the practical cooperation between the relevant authorities of Member States, with a focus

on, inter alia, exchanges of information, best practices and strategies, and the development and implementation of joint actions,

including with a view to safeguarding the integrity of the immigration systems of Member States.

CHAPTER IV RETURN

ARTICLE 11 MEASURES ACCOMPANYING RETURN PROCEDURES

Within the specific objective laid down in point (c) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, as regards measures accompanying return procedures, the Fund shall focus on one or more of the following categories of third-country nationals:

(a) third-country nationals who have not yet received a final negative decision in relation to their request to stay, their legal residence and/or international protection in a Member State, and who may choose to make use of voluntary return;

(b) third-country nationals enjoying the right to stay, legal residence and/or international protection within the meaning of Directive 2011/95/EU, or temporary protection within the meaning of Directive 2001/55/EC in a Member State, and who have chosen to make use of voluntary return;

(c) third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry and/or stay in a Member State, including those third-country nationals whose removal has been postponed in accordance with Article 9 and Article 14(1) of Directive 2008/115/EC.

In this context, the Fund shall support, in particular, the following actions focusing on the categories of persons referred to in the first subparagraph:

(a) the introduction, development and improvement of alternative measures to detention;

(b) the provision of social assistance, information or help with administrative and/or judicial formalities and information or counselling;

(c) the provision of legal aid and language assistance;

(d) specific assistance for vulnerable persons;

(e) the introduction and improvement of independent and effective systems for monitoring enforced return, as laid down in Article 8(6) of Directive 2008/115/EC;

(f) the establishment, maintenance and improvement of accommodation, reception or detention infrastructure, services and conditions;

(g) the setting-up of administrative structures and systems, including IT tools;

(h) the training of staff to ensure smooth and effective return procedures, including their management and implementation.

ARTICLE 12 RETURN MEASURES

Within the specific objective laid down in point (c) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, as regards return measures the Fund shall support actions focusing on the persons referred to in Article 11 of this Regulation. In this context, the Fund shall support, in particular, the following actions:

- (a) measures necessary for the preparation of return operations, such as those leading to the identification of third-country nationals, to the issuing of travel documents and to family tracing;
- (b) cooperation with the consular authorities and immigration services of third countries with a view to obtaining travel documents, facilitating repatriation and ensuring readmission;
- (c) assisted voluntary return measures, including medical examinations and assistance, travel arrangements, financial contributions and pre- and post-return counselling and assistance;
- (d) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of coercive equipment;
- (e) measures to launch the progress of reintegration for the returnee's personal development, such as cash-incentives, training, placement and employment assistance and start-up support for economic activities;

(f) facilities and services in third countries ensuring appropriate temporary accommodation and reception upon arrival;

(g) specific assistance for vulnerable persons.

ARTICLE 13 PRACTICAL COOPERATION AND CAPACITY-BUILDING MEASURES

Within the specific objective laid down in point (c) of the first subparagraph of Article 3(2) of this Regulation, in the light of the outcome of the policy dialogue as provided for in Article 13 of Regulation (EU) No 514/2014, and in accordance with the objectives of the national programmes defined in Article 19 of this Regulation, as regards practical cooperation and capacity-building measures the Fund shall support, in particular, the following actions:

- (a) actions to promote, develop and reinforce operational cooperation and information exchange between the return services and other authorities of Member States involved in return, including as regards cooperation with the consular authorities and immigration services of third countries and joint return operations;
- (b) actions to support cooperation between third countries and the return services of Member States, including measures aiming to strengthen third countries' capacities to conduct readmission and reintegration activities, in particular in the framework of readmission agreements;
- (c) actions enhancing the capacity to develop effective and sustainable return policies, in particular by exchanging information on the situation in countries of return, best practices, sharing experiences and pooling resources between Member States;

(d) actions enhancing the capacity to collect, analyse and disseminate detailed and systematic data and statistics on return procedures and measures, reception and detention capacities, enforced and voluntary returns, monitoring and reintegration;

(e) actions directly contributing to the evaluation of return policies, such as national

impact assessments, surveys amongst target groups, the development of indicators and benchmarking;

(f) information measures and campaigns in third countries aimed at raising awareness of the appropriate legal channels for immigration and the risks of illegal immigration.

CHAPTER V FINANCIAL AND IMPLEMENTATION FRAMEWORK

ARTICLE 14 GLOBAL RESOURCES AND IMPLEMENTATION

1. The global resources for the implementation of this Regulation shall be EUR 3 137 million in current prices.

2. The annual appropriations for the Fund shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

3. The global resources shall be implemented through the following means:

(a) national programmes, in accordance with Article 19;

(b) Union actions, in accordance with Article 20;

(c) emergency assistance, in accordance with Article 21;

(d) the European Migration Network, in accordance with Article 22;

(e) technical assistance, in accordance with Article 23.

4. The budget allocated under this Regulation to Union actions referred to in Article 20 of this Regulation, to the emergency

assistance referred to in Article 21 of this Regulation, to the European Migration Network referred to in Article 22 of this Regulation and to the technical assistance referred to in Article 23 of this Regulation shall be implemented under direct management in accordance with point (a) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 and, where appropriate, under indirect management in accordance with point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012. The budget allocated to national programmes referred to in Article 19 of this Regulation shall be implemented under shared management in accordance with point (b) of Article 58(1) of Regulation (EU, Euratom) No 966/2012.

5. The Commission shall remain responsible for the implementation of the Union budget in accordance with Article 317 TFEU and shall inform the European Parliament and the Council of the operations carried out by entities other than Member States.

6. Without prejudice to the prerogatives of the European Parliament and of the Council, the prime reference financial envelope shall be used indicatively as follows:

(a) EUR 2 752 million for national programmes of Member States;

(b) EUR 385 million for Union actions, emergency assistance, the European Migration Network and technical assistance of the Commission, of which at least 30 % shall be used for Union actions and the European Migration Network.

ARTICLE 15 RESOURCES FOR ELIGIBLE ACTIONS IN THE MEMBER STATES

1. The amount of EUR 2 752 million shall be allocated to the Member States indicatively as follows:

(a) EUR 2 392 million shall be allocated as indicated in Annex I. Member States shall allocate at least 20 % of those resources to the specific objective referred to in point (a) of the first subparagraph of Article 3(2), and at least 20 % to the specific objective referred to in point (b) of the first subparagraph of Article 3(2). Member States may depart from those minimum percentages only where a detailed explanation is included in the national programme as to why allocating resources below this level does not jeopardise the achievement of the objective. As far as the specific objective referred to in point (a) of the first subparagraph of Article 3(2) is concerned, those Member States faced with structural deficiencies in the area of accommodation, infrastructure and services shall not fall below the minimum percentage laid down in this Regulation;

(b) EUR 360 million shall be allocated on the basis of the distribution mechanism for specific actions as referred to in Article 16, for the Union Resettlement Programme as referred to Article 17, and for the transfer of beneficiaries of international protection from one Member State to another as referred to in Article 18.

2. The amount referred to in point (b) of paragraph 1 shall support:

(a) specific actions listed in Annex II;

(b) the Union Resettlement Programme in accordance with Article 17 and/or transfers of beneficiaries of international protection from one Member State to another in accordance with Article 18.

3. In the event that an amount remains available under point (b) of paragraph 1 of this Article or that another amount is available, it will be allocated in the framework of the mid-term review laid down in Article 15 of Regulation (EU) No 514/2014 pro-rata to the basic amounts for national programmes established in Annex I to this Regulation.

ARTICLE 16 RESOURCES FOR SPECIFIC ACTIONS

1. An additional amount as referred to in point (a) of Article 15 (2) may be allocated to the Member States, provided that it is earmarked as such in the programme and that it is used to implement the specific actions listed in Annex II.

2. To take into account new policy developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 of this Regulation to revise Annex II in the context of the mid-term review referred to in Article 15 of Regulation (EU) No 514/2014. On the basis of the revised list of specific actions, Member States may receive an additional amount as laid down in paragraph 1 of this Article, subject to available resources.

3. The additional amounts referred to in paragraphs 1 and 2 of this Article shall be allocated to the Member States in the indi-

vidual financing decisions approving or revising their national programmes in the context of the mid-term review according to the procedure laid down in Articles 14 and 15 of Regulation (EU) No 514/2014. Those amounts shall only be used for the implementation of the specific actions listed in Annex II to this Regulation.

ARTICLE 17 RESOURCES FOR THE UNION RESETTLEMENT PROGRAMME

1. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 15(1), receive every two years an additional amount as set out in point (b) of Article 15(2) based on a lump sum of EUR 6 000 for each resettled person.

2. The lump sum referred to in paragraph 1 shall be increased to EUR 10 000 for each person resettled in accordance with the common Union resettlement priorities established pursuant to paragraph 3 and listed in Annex III and for each vulnerable person as laid down in paragraph 5.

3. The common Union resettlement priorities shall be based on the following general categories of persons: (a) persons from a country or region designated for the implementation of a Regional Protection Programme;

(b) persons from a country or region which has been identified in the UNHCR resettlement forecast and where Union common action would have a significant impact on addressing the protection needs;

(c) persons belonging to a specific category falling within the UNHCR resettlement criteria.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to amend Annex III, on the basis of the

general categories set out in paragraph 3 of this Article, where there is a clear justification for doing so or in the light of any recommendations from the UNHCR.

5. The following vulnerable groups of persons shall also qualify for the lump sum provided for in paragraph 2:

(a) women and children at risk;

(b) unaccompanied minors;

(c) persons having medical needs that can be addressed only through resettlement;

(d) persons in need of emergency resettlement or urgent resettlement for legal or physical protection needs, including victims of violence or torture.

6. Where a Member State resettles a person belonging to more than one of the categories referred to in paragraphs 1 and 2, it shall receive the lump sum for that person only once.

7. Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraphs 1, 3 and 5, provided that those family members have been resettled in accordance with this Regulation.

8. The Commission shall establish, by way of implementing acts, the timetable and other implementation conditions related to the allocation mechanism of resources for the Union Resettlement Programme. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).

9. The additional amounts referred to in paragraphs 1 and 2 of this Article shall be allocated to the Member States every two

years, for the first time in the individual financing decisions approving their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014, and later in a financing decision to be annexed to the decisions approving their national programme. Those amounts shall not be transferred to other actions under the national programme.

10. To effectively pursue the objectives of the Union Resettlement Programme and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1 and 2 of this Article, in particular taking into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by the lump sums.

ARTICLE 18 RESOURCES FOR THE TRANSFER OF BENEFICIARIES OF INTERNATIONAL PROTECTION

1. With a view to implementing the principle of solidarity and fair sharing of responsibility and in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 15(1), an additional amount as set out in point (b) of Article 15(2) based on a lump sum of EUR 6 000 for each beneficiary of international protection transferred from another Member State.

2. Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.

3. The additional amounts referred to in paragraph 1 of this Article shall be allocated to the Member States for the first time in the individual financing decisions approving their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014 and later in a financing decision to be annexed to the decision approving their national programme. Those amounts shall not be transferred to other actions under the national programme.

4. To effectively pursue the objectives of solidarity and responsibility sharing between the Member States referred to in Article 80 TFEU, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 of this Regulation to adjust the lump sum referred to in paragraph 1 of this Article, in particular taking into account the current rates of inflation, relevant developments in the field of transfer of beneficiaries of international protection from one Member State to another, as well as factors which can optimise the use of the financial incentive brought by the lump sums.

ARTICLE 19 NATIONAL PROGRAMMES

1. Under the national programmes to be examined and approved in accordance with Article 14 of Regulation (EU) No 514/2014, Member States shall, within the objectives laid down in Article 3 of this Regulation, and taking account of the outcome of the policy dialogue referred to in Article 13 of Regulation (EU) No 514/2014, pursue in particular the following objectives:

(a) strengthening the establishment of the Common European Asylum System by ensuring the efficient and uniform application of the Union *acquis* on asylum and the proper functioning of Regulation (EU) No 604/2013.

Such actions may also include the establishment and development of the Union Resettlement Programme;

(b) setting up and developing integration strategies, encompassing different aspects of the two-way dynamic process, to be implemented at national/local/regional level where appropriate, taking into account the integration needs of third-country nationals at local/regional level, addressing specific needs of different categories of migrants and developing effective partnerships between relevant stakeholders;

(c) developing a return programme, which includes a component on assisted voluntary return and, where appropriate, on reintegration.

2. Member States shall ensure that all actions supported under the Fund shall be implemented in full compliance with fundamental rights and respect for human dignity. In particular, such actions shall fully respect the rights and principles enshrined in the Charter of Fundamental Rights of the European Union.

3. Subject to the requirement to pursue the above objectives and taking into account their individual circumstances, Member States shall aim to achieve a fair and transparent distribution of resources among the specific objectives set out in Article 3(2).

ARTICLE 20 UNION ACTIONS

1. At the Commission's initiative, the Fund may be used to finance transnational actions or actions of particular interest to the Union ('Union actions'), concerning the general and specific objectives referred to in Article 3.

2. To be eligible for funding, Union actions shall, in particular, support:

(a) the furthering of Union cooperation in implementing Union law and in sharing best practices in the field of asylum, notably on resettlement and the transfer of applicants for and/or beneficiaries of international protection from one Member State to another, including through networking and exchanging information, on legal migration, on integration of third-country nationals, including arrival support and coordination activities to promote resettlement with the local communities that are to welcome resettled refugees, and on return;

(b) the setting-up of transnational cooperation networks and pilot projects, including innovative projects, based on transnational partnerships between bodies located in two or more Member States designed to stimulate innovation and to facilitate exchanges of experiences and best practices;

(c) studies and research on possible new forms of Union cooperation in the field of asylum, immigration, integration and return and relevant Union law, the dissemination and exchange of information on best practices and on all other aspects of asylum, immigration, integration and return policies, including corporate communication on the political priorities of the Union;

(d) the development and application by Member States of common statistical tools, methods and indicators for measuring policy developments in the field of asylum, legal migration and integration and return;

(e) preparatory, monitoring, administrative and technical support and the development of an evaluation mechanism required to implement the policies on asylum and immigration;

(f) cooperation with third countries on the basis of the Union's Global Approach to

Migration and Mobility, in particular in the framework of the implementation of readmission agreements, Mobility Partnerships and Regional Protection Programmes;

(g) information measures and campaigns in third countries aimed at raising awareness of appropriate legal channels for immigration and the risks of illegal immigration.

3. Union actions shall be implemented in accordance with Article 6 of Regulation (EU) No 514/2014.

4. The Commission shall ensure a fair and transparent distribution of resources among the objectives referred to in Article 3(2).

ARTICLE 21 EMERGENCY ASSISTANCE

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of an emergency situation, as defined in point (k) of Article 2. Measures implemented in third countries in accordance with this Article shall be consistent with and, where relevant, complementary to the Union humanitarian policy and respect humanitarian principles as set out in the Consensus on Humanitarian Aid.

2. Emergency assistance shall be implemented in accordance with Articles 6 and 7 of Regulation (EU) No 514/2014.

ARTICLE 22 EUROPEAN MIGRATION NETWORK

1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.

2. The amount made available for the European Migration Network under the annual

appropriations of the Fund and the work programme laying down the priorities for its activities shall be adopted by the Commission, after approval by the Steering Board, in accordance with the procedure referred to in point (a) of Article 4(5) of Decision 2008/381/EC. The decision of the Commission shall constitute a financing decision pursuant to Article 84 of Regulation (EU, Euratom) No 966/2012.

3. Financial assistance provided for the activities of the European Migration Network shall take the form of grants to the National Contact Points referred to in Article 3 of Decision 2008/381/EC and public contracts as appropriate, in accordance with Regulation (EU, Euratom) No 966/2012. The assistance shall ensure appropriate and timely financial support to those National Contact Points. Costs incurred for the implementation of actions of those National Contact Points supported through grants awarded in 2014 may be eligible from 1 January 2014.

4. Decision 2008/381/EC is amended as follows:

(a) point (a) of Article 4(5) is replaced by the following:

‘(a) prepare and approve the draft work programme of activities, notably with regard to the objectives, thematic priorities and indicative amounts of the budget for each National Contact Point to ensure the proper functioning of the EMN, on the basis of a draft from the Chair;’;

(b) Article 6 is amended as follows:

(i) paragraph 4 is replaced by the following:

‘4. The Commission shall monitor the execution of the work programme of activities and regularly report on its execution and on

the development of the EMN to the Steering Board.;

- (ii) paragraphs 5 to 8 are deleted;
- (c) Article 11 is deleted;
- (d) Article 12 is deleted.

ARTICLE 23 TECHNICAL ASSISTANCE

1. At the initiative and/or on behalf of the Commission, up to EUR 2,5 million of the Fund shall be annually used for technical assistance in accordance with Article 9 of Regulation (EU) No 514/2014.

2. At the initiative of a Member State, the Fund may finance technical assistance activities, in accordance with Article 20 of Regulation (EU) No 514/2014. The amount set aside for technical assistance shall not exceed, for the period 2014-2020, 5,5 % of the total amount allocated to a Member State plus EUR 1 000 000.

ARTICLE 24 COORDINATION

The Commission and the Member States, together with the European External Action Service where appropriate, shall ensure that actions in and in relation to third countries are taken in synergy and in coherence with other actions outside the Union supported through Union instruments. They shall, in particular, ensure that those actions:

- (a) are coherent with the Union's external policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;
- (b) focus on non-development-oriented measures;
- (c) serve the interests of the Union's internal policies and are consistent with activities undertaken inside the Union.

CHAPTER VI FINAL PROVISIONS

ARTICLE 25 SPECIFIC PROVISIONS CONCERNING LUMP SUMS FOR RESETTLEMENT AND TRANSFER OF BENEFICIARIES OF INTERNATIONAL PROTECTION FROM ONE MEMBER STATE TO ANOTHER

By way of derogation from the rules on the eligibility of expenditure laid down in Article 18 of Regulation (EU) No 514/2014, in particular as regards the lump sums and flat rates, the lump sums allocated to the Member States for resettlement and/or the transfer of beneficiaries of international protection from one Member State to another pursuant to this Regulation shall be:

- (a) exempt from the obligation that they are to be based on statistical or historic data; and
- (b) granted provided that the person in respect of whom the lump sum is allocated was effectively resettled and/or transferred in accordance with this Regulation.

ARTICLE 26 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 power to adopt delegated acts referred to in Article 16(2), Article 17(4) and (10) and Article 18(4) shall be conferred on the Commission for a period of seven years from 21 May 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of powers shall be tacitly extended for a period of three years, unless the European Parliament or the Council opposes such

extension not later than three months before the end of the seven-year period.

3. The delegation of power referred to in Article 16(2), Article 17(4) and (10) and Article 18(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 Article 16(2), Article 17(4) and (10) and Article 18(4) shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.

ARTICLE 27 COMMITTEE PROCEDURE

1. The Commission shall be assisted by the 'Asylum, Migration and Integration and Internal Security Funds Committee' established by Article 59(1) of Regulation (EU) No 514/2014.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

ARTICLE 28 REVIEW

The European Parliament and the Council shall, on the basis of a proposal of the Commission, review this Regulation by 30 June 2020.

ARTICLE 29 APPLICABILITY OF REGULATION (EU) NO 514/2014

The provisions of Regulation (EU) No 514/2014 shall apply to the Fund, without prejudice to Article 4 of this Regulation.

ARTICLE 30 REPEAL

Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC are repealed with effect from 1 January 2014.

ARTICLE 31 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of the projects and annual programmes concerned, until their closure, or of the financial assistance approved by the Commission on the basis of Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC or any other legislation applying to that assistance on 31 December 2013. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of financial support approved by the Commission on the basis of Decision 2008/381/EC or any other legislation applying to that assistance on 31 December 2013.

2. When adopting decisions on co-financing under this Regulation, the Commission shall take account of measures adopted on the basis of Decisions No 573/2007/EC, No 575/2007/EC, 2007/435/EC and 2008/381/EC before 20 May 2014 which have financial repercussions during the period covered by that co-financing.

3. Sums committed for co-financing approved by the Commission between 1 January 2011 and 31 December 2014 for which the documents required for closure of the actions have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission by 31 December 2017, giving rise to the repayment of amounts unduly paid.

4. Amounts relating to actions which have been suspended due to legal proceedings or administrative appeals having suspensive effect shall be disregarded in calculating the amount to be automatically decommitted.

5. By 30 June 2015, Member States shall submit to the Commission evaluation reports on the results and impact of actions co-financed under Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC concerning the period 2011-2013.

6. By 31 December 2015, the Commission shall submit to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions *ex-post* evaluation reports under Decisions No 573/2007/EC, No 575/2007/EC and 2007/435/EC concerning the period 2011-2013.

ARTICLE 32 ENTRY INTO FORCE AND APPLICATION

Done at Strasbourg, 16 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

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

It shall apply from 1 January 2014.

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

To address the most pressing needs and to ensure the implementation of the migration priorities, the Budgetary Authority reinforced the 2017 Union budget with EUR 1 130 million for the Asylum, Migration and Integration Fund.

The additional allocations to the national programmes are made in accordance with Annex I of Regulation (EU) No 516/2014 of the European Parliament and of the Council.

To address the most pressing needs and to ensure the implementation of migration priorities, the Budgetary Authority reinforced the 2018 Union budget with EUR 30 million and EUR 20 million to support respectively the integration of third-country nationals and return measures.

The additional allocations to the national programmes are made in accordance with Annex I of Regulation (EU) No 516/2014 of the European Parliament and Council

ANNEX I Multiannual breakdowns per Member State for the period 2014-2020 (in EUR)

Member State	Minimum amount	% average 2011-2013 allocations ERF+IF+RF	Average amount 2011-2013	TOTAL
AT	5 000 000	2,65 %	59 533 977	64 533 977
BE	5 000 000	3,75 %	84 250 977	89 250 977
BG	5 000 000	0,22 %	5 006 777	10 006 777
CY	10 000 000	0,99 %	22 308 677	32 308 677
CZ	5 000 000	0,94 %	21 185 177	26 185 177
DE	5 000 000	9,05 %	203 416 877	208 416 877
EE	5 000 000	0,23 %	5 156 577	10 156 577
ES	5 000 000	11,22 %	252 101 877	257 101 877
FI	5 000 000	0,82 %	18 488 777	23 488 777
FR	5 000 000	11,60 %	260 565 577	265 565 577
GR	5 000 000	11,32 %	254 348 877	259 348 877
HR	5 000 000	0,54 %	12 133 800	17 133 800
HU	5 000 000	0,83 %	18 713 477	23 713 477
IE	5 000 000	0,65 %	14 519 077	19 519 077
IT	5 000 000	13,59 %	305 355 777	310 355 777
LT	5 000 000	0,21 %	4 632 277	9 632 277
LU	5 000 000	0,10 %	2160 577	7 160 577
LV	5 000 000	0,39 %	8 751 777	13 751 777
MT	10 000 000	0,32 %	7178 877	17 178 877
NL	5 000 000	3,98 %	89 419 077	94 419 077
PL	5 000 000	2,60 %	58 410 477	63 410 477
PT	5 000 000	1,24 %	27 776 377	32 776 377
RO	5 000 000	0,75 %	16 915 877	21 915 877
SE	5 000 000	5,05 %	113 536 877	118 536 877
SI	5 000 000	0,43 %	9 725 477	14 725 477
SK	5 000 000	0,27 %	5 980 477	10 980 477
UK	5 000 000	16,26 %	365 425 577	370 425 577
MS Totals	145 000 000	100,00 %	2 247 000 000	2 392 000 000

ANNEX II List of specific actions referred to in Article 16

SEE COMMISSION DELEGATED REGULATION (EU) 2020/445 OF 15 OCTOBER 2019

1. Establishment and development in the Union of transit and processing centres for refugees, in particular to support resettlement operations in cooperation with the UNHCR.
2. New approaches, in cooperation with the UNHCR, concerning access to asylum procedures targeting main countries of transit, such as protection programmes for particular groups or certain procedures for examination of applications for asylum.
3. Joint initiatives amongst Member States in the field of integration, such as benchmarking exercises, peer reviews or testing of European modules, for example on the acquisition of language skills or the organisation of introductory programmes and with the aim of improving the coordination of policies between Member States, regions and local authorities.
4. Joint initiatives aimed at the identification and implementation of new approaches concerning the procedures at first encounter and standards of protection of and assistance for unaccompanied minors.
5. Joint return operations, including joint actions on the implementation of Union readmission agreements.
6. Joint reintegration projects in the countries of origin with a view to sustainable return, as well as joint actions to strengthen third countries' capacities to implement Union readmission agreements.
7. Joint initiatives aimed at restoring family unity and reintegration of unaccompanied minors in their countries of origin.
8. Joint initiatives among Member States in the field of legal migration, including the setting up of joint migration centres in third countries, as well as joint projects to promote cooperation between Member States with a view to encouraging the use of exclusively legal migration channels and informing about the risks of illegal immigration.

ANNEX III List of common Union resettlement priorities

1. The Regional Protection Programme in Eastern Europe (Belarus, Moldova, Ukraine).
2. The Regional Protection Programme in the Horn of Africa (Djibouti, Kenya, Yemen).
3. The Regional Protection Programme in North Africa (Egypt, Libya, Tunisia).
4. Refugees in the region of Eastern Africa/ Great Lakes.
5. Iraqi refugees in Syria, Lebanon, Jordan.
6. Iraqi refugees in Turkey.
7. Syrian refugees in the region.

ANNEX IV List of common indicators for the measurement of the specific objectives

(a) To strengthen and develop all aspects of the Common European Asylum System, including its external dimension.

(i) Number of target group persons provided with assistance through projects in the field of reception and asylum systems supported under the Fund.

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

— number of target group persons benefiting from information and assistance throughout the asylum procedures,

— number of target group persons benefiting from legal assistance and representation,

— number of vulnerable persons and unaccompanied minors benefiting from specific assistance;

(ii) Capacity (i.e. number of places) of new reception accommodation infrastructure set up in line with the common requirements for reception conditions set out in the Union *acquis* and of existing reception accommodation infrastructure improved in accordance with the same requirements as a result of the projects supported under the Fund and percentage in the total reception accommodation capacity;

(iii) Number of persons trained in asylum-related topics with the assistance of the Fund, and that number as a percentage of the total number of staff trained in those topics;

(iv) Number of country-of-origin information products and fact-finding missions conducted with the assistance of the Fund;

(v) Number of projects supported under the Fund to develop, monitor and evaluate asylum policies in Member States;

(vi) Number of persons resettled with support of the Fund.

(b) To support legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, while reducing the abuse of legal migration, and to promote the effective integration of third-country nationals.

(i) Number of target group persons who participated in pre-departure measures supported under the Fund;

(ii) Number of target group persons assisted by the Fund through integration measures in the framework of national, local and regional strategies.

For the purposes of annual implementation reports, as referred to in Article 54 of Regulation (EU) No 514/2014, this indicator shall be further broken down in sub-categories such as:

— number of target group persons assisted through measures focusing on education and training, including language training and preparatory actions to facilitate access to the labour market,

— number of target group persons supported through the provision of advice and assistance in the area of housing,

— number of target group persons assisted through the provision of health and psychological care,

— number of target group persons assisted through measures related to democratic participation;

(iii) Number of local, regional and national policy frameworks/measures/tools in place for the integration of third-country nationals and involving civil society and migrant communities, as well as all other relevant stakeholders, as a result of the measures supported under the Fund;

(iv) Number of cooperation projects with other Member States on the integration of third-country nationals supported under the Fund;

(v) Number of projects supported under the Fund to develop, monitor and evaluate integration policies in Member States.

(c) To enhance fair and effective return strategies in the Member States supporting the fight against illegal immigration with an emphasis on sustainability of return and effective readmission in the countries of origin and transit.

(i) Number of persons trained on return-related topics with the assistance of the Fund;

(ii) Number of returnees who received pre or post return reintegration assistance co-financed by the Fund;

(iii) Number of returnees whose return was co-financed by the Fund, persons who returned voluntarily and persons who were removed;

(iv) Number of monitored removal operations co-financed by the Fund;

(v) Number of projects supported under the Fund to develop, monitor and evaluate return policies in Member States.

(d) To enhance the solidarity and responsibility sharing between the Member States, in particular towards those most affected by migration and asylum flows.

(i) Number of applicants and beneficiaries of international protection transferred from one Member State to another with support of the Fund;

(ii) Number of cooperation projects with other Member States on enhancing solidarity and responsibility sharing between the Member States supported under the Fund.

REGULATION (EU) 2018/2000 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 12 DECEMBER 2018 AMENDING REGULATION (EU) NO 516/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AS REGARDS THE RECOMMITMENT OF THE REMAINING AMOUNTS COMMITTED TO SUPPORT THE IMPLEMENTATION OF COUNCIL DECISIONS (EU) 2015/1523 AND (EU) 2015/1601 OR THE ALLOCATION OF THOSE AMOUNTS TO OTHER ACTIONS UNDER THE NATIONAL PROGRAMMES

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2) and Article 79(2) and (4) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) The purpose of this Regulation is to enable the recommitment of the remaining amounts committed to support the implementation of Council Decisions (EU) 2015/1523 ⁽²⁾ and (EU) 2015/1601 ⁽³⁾ provided for under Regu-

lation (EU) No 516/2014 of the European Parliament and the Council ⁽⁴⁾ or the allocation of those amounts to other actions under the national programmes in line with Union priorities and Member States' needs in specific areas of asylum and migration. It is also to ensure that such recommitment or allocation occurs in a transparent manner.

(2) The Commission committed funding to Member States' national programmes under the Asylum, Migration and Integration Fund to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601. Decision (EU) 2015/1601 was amended by Council Decision (EU) 2016/1754 ⁽⁵⁾. Those Decisions have now ceased to apply.

(3) Part of the funding allocated under Decisions (EU) 2015/1523 and (EU) 2015/1601 in 2016 and in some cases 2017 remains

⁽¹⁾ Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 11 December 2018.

⁽²⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

⁽³⁾ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).

⁽⁴⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

⁽⁵⁾ Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 268, 1.10.2016, p. 82).

available in the Member States' national programmes.

(4) It should be possible for Member States to use the remaining amounts to continue to implement relocation by recommitting them to the same action under the national programmes. Member States should recommit or transfer at least 20 % of those amounts to actions in national programmes, for the transfer of applicants for international protection or of beneficiaries of international protection, for resettlement or other ad hoc humanitarian admissions, as well as for preparatory measures for the transfer of applicants for international protection following their arrival in the Union, including by sea, or for the transfer of beneficiaries of international protection. Such measures should comprise only those measures referred to in points (a), (b), (e) and (f) of the second subparagraph of Article 5(1) of Regulation (EU) No 516/2014.

(5) Where duly justified in the revision of Member States' national programmes, it should be possible for Member States to use up to 80 % of those amounts to address other challenges in the areas of asylum and migration, in line with Regulation (EU) No 516/2014. Member States' needs in those areas remain significant. Rec commitments of the remaining amounts to the same action, or their transfer to other actions under the national programme should be possible only once and with the approval of the Commission. Member States should ensure that the allocation of funds takes place in a manner that fully respects the principles set out in Regulation (EU, Euratom) 2018/1046 of the

European Parliament and of the Council ⁽⁶⁾, in particular the principles of efficiency and transparency.

(6) The target group eligible for transfer, as well as the number of Member States from which transfers take place, should be expanded to give more flexibility to Member States in carrying out transfers, taking into account the specific needs of unaccompanied minors, or other vulnerable applicants, and the specific situation of family members of beneficiaries of international protection. The specific provisions concerning lump sums for resettlement and transfer of beneficiaries of international protection from one Member State to another should reflect that expansion.

(7) Member States and the Commission should have sufficient time to revise the national programmes to accommodate the relevant changes provided for by this Regulation. Therefore, a derogation from Article 50(1) of Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽⁷⁾ should be applied to the remaining amounts committed to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601, extending the deadline for decommitment by six months with a view to

⁽⁶⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁷⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

completing the procedure for the revision of the national programmes, as referred to in Article 14 of Regulation (EU) No 514/2014.

(8) Member States should also have sufficient time to use the amounts recommitted to the same action or transferred to other actions prior to the decommitment of those amounts. Therefore, when such commitments or transfers of amounts under the national programme are approved by the Commission, the amounts concerned should be considered to have been committed in the year of the revision of the national programme that approves the recommitment or the transfer concerned.

(9) The Commission should report annually to the European Parliament and to the Council as regards the implementation of resources for the transfer of applicants for international protection and of beneficiaries of international protection, in particular as regards transfers of amounts to other actions under the national programme as provided for in this Regulation.

(10) This Regulation does not affect the funding available under Article 17 of Regulation (EU) No 516/2014.

(11) The objectives of this Regulation are pursued without prejudice to the ongoing negotiations on the reform of Regulation (EU) No 604/2013 of the European Parliament and of the Council ⁽⁸⁾.

(12) In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(13) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified, by letter of 7 December 2018, its wish to take part in the adoption and application of this Regulation.

(14) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(15) In view of the need to avoid decommitment of the remaining amounts committed to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.

(16) If Regulation (EU) No 516/2014 is not amended before the end of 2018, the relevant funding will no longer be available for Member States' use under the national programmes supported by the Asylum, Migration and Integration Fund. In view of the urgency of amending Regulation (EU) No 516/2014, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on

⁽⁸⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community.

(17) Regulation (EU) No 516/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

ARTICLE 1

Regulation (EU) No 516/2014 is amended as follows:

(1) Article 18 is amended as follows:

(a) the heading is replaced by the following:

‘Resources for the transfer of applicants for international protection or of beneficiaries of international protection’;

(b) in paragraph 1, the words ‘beneficiary of international protection’ are replaced by the words ‘applicant for international protection or beneficiary of international protection’;

(c) paragraph 3 is replaced by the following:

‘3. The additional amounts referred to in paragraph 1 of this Article shall be allocated to the Member States for the first time in the individual financing decisions approving their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014 and later in a financing decision to be annexed to the decision approving their national programme. Commitments of those amounts to the same action under the national programme or transfers of those amounts to other actions under the national programme shall be possible where duly justified in the revision of the relevant national programme. An amount may only be recommitted or transferred once.

The Commission shall approve the recommitment or transfer through the revision of the national programme.

In respect of amounts stemming from the provisional measures established by Council Decisions (EU) 2015/1523 ⁽⁹⁾ and (EU) 2015/1601 ⁽¹⁰⁾, with a view to enhancing solidarity and in accordance with Article 80 TFEU, Member States shall allocate at least 20 % of those amounts to actions under the national programmes for the transfer of applicants for international protection or of beneficiaries of international protection, for resettlement or other ad hoc humanitarian admissions, as well as for preparatory measures for the transfer of applicants for international protection following their arrival in the Union, including arrival by sea, or for the transfer of beneficiaries of international protection. Such measures shall not include any measures related to detention. Where a Member State recommits or transfers resources below that minimum percentage, it shall not be possible to transfer the difference between the recommitted or transferred amount and the minimum percentage to other actions under the national programme.’

(d) the following paragraphs are inserted:

‘3a. For the purpose of Article 50(1) of Regulation (EU) No 514/2014, where amounts stemming from the provisional measures established by Decisions (EU) 2015/1523 and (EU) 2015/1601 are recommitted to the same action under the national programme

⁽⁹⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

⁽¹⁰⁾ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).;

or transferred to other actions under the national programme in accordance with paragraph 3 of this Article, the amounts concerned shall be considered to have been committed in the year of the revision of the national programme that approves the recommitment or transfer in question.

3b. By way of derogation from Article 50(1) of Regulation (EU) No 514/2014, the deadline for the decommitment of the amounts referred to in paragraph 3a of this Article shall be extended by a period of six months.

3c. The Commission shall report annually to the European Parliament and to the Council on the application of this Article.’;

(e) paragraph 4 is replaced by the following:

‘4. To effectively pursue the objectives of solidarity and fair sharing of responsibility between the Member States referred to in Article 80 TFEU, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 of this Regulation to adjust the lump sum referred to in paragraph 1 of this Article, taking into account in particular the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another and in the field of resettlement and other ad hoc humanitarian admission, as well as factors which can optimise the use of the financial incentive brought by the lump sums.’;

(2) in the heading and the introductory wording of Article 25, the words ‘beneficiaries of international protection’ are replaced by the words ‘applicants for international protection or of beneficiaries of international protection’.

ARTICLE 2

This Regulation shall enter into force on the day 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 in accordance with the Treaties.

Done at Strasbourg, 12 December 2018.

*For the European Parliament
The President*

A. TAJANI

*For the Council
The President*

J. BOGNER-STRAUSS

**COMMISSION DELEGATED REGULATION (EU) 2020/445 OF
15 OCTOBER 2019 AMENDING ANNEX II TO REGULATION
(EU) NO 516/2014 OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL ESTABLISHING THE ASYLUM, MIGRATION AND
INTEGRATION FUND**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC ⁽¹⁾, and in particular Article 16(2) thereof,

Whereas:

(1) In the context of the mid-term review referred to in Article 15 of Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽²⁾, additional funding needs of the Member States were identified in the area of asylum, migration and integration.

(2) The mid-term review identified the need to provide adequate financial support in relation to reception and accommodation and detention facilities, and respective services, for applicants for international protection or

for third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry or stay in a Member State, as well as for housing support for beneficiaries of international protection.

(3) Annex II to Regulation (EU) No 516/2014 lists eight specific actions for Member States to receive additional funding, out of which six are joint actions involving several Member States.

(4) The policy developments and the funding needs detected in the context of the mid-term review cannot be adequately tackled through the current list of specific actions. Therefore, amending that list is the best way to meet the needs identified within the objectives of the Asylum, Migration and Integration Fund.

(5) The new specific action being added to Annex II to Regulation (EU) No 516/2014 will contribute to the efficient management of the migration flows. It is in line with the specific objective of that Regulation, as referred to in its Article 3(2)(d), which is to enhance solidarity between the Member States.

(6) The addition of a new specific action that reflects the recent policy developments and funding needs of the Member States will generate significant added value as it will contribute to the mitigation of the pressure on those most affected by migration and asylum flows and, thus, on the Union as a whole.

⁽¹⁾ OJ L 150, 20.5.2014, p. 168.

⁽²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

(7) In order to allow for the prompt application of this specific action, in view of the urgent funding needs identified, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(8) Regulation (EU) No 516/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

In Annex II to Regulation (EU) No 516/2014, the following point 9 is added:

‘9. In Member States facing high or disproportionate migratory pressure, or both, the establishment, development and operation of adequate reception and accommodation and detention facilities, and respective services, for applicants for international protection or third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry or stay, or both, as well as housing support for beneficiaries of international protection.’

ARTICLE 2

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 in accordance with the Treaties.

Done at Brussels, 15 October 2019.

For the Commission
The President

Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) NO 1042/2014 OF 25.7.2014 SUPPLEMENTING REGULATION (EU) NO 514/2014 WITH REGARD TO THE DESIGNATION AND MANAGEMENT AND CONTROL RESPONSIBILITIES OF RESPONSIBLE AUTHORITIES AND WITH REGARD TO STATUS AND OBLIGATIONS OF AUDIT AUTHORITIES

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Articles 26(4) and 29(1) thereof,

Whereas:

(1) To ensure the continuity between the implementation of the previous Funds under the General Programme “Solidarity and Management of Migrations Flows” 2007-2013 framework and of the Specific Regulations under the 2014-2020 framework, Regulation (EU) No 514/2014 has largely been modelled on the rules in force for the previous Funds, but taking into account the changes introduced in the shared management by Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾.

(2) To ensure that the bodies implementing the national programmes have the capacity to fulfil their task efficiently and in line with the objectives and priorities set out in the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014, rules should be laid down for designating them, supervising their designation and ending it where necessary.

(3) To ensure that the scope of their responsibilities enable them to implement the national programme, it is necessary to lay down rules defining the management and control responsibilities of the Responsible Authorities, in particular the conditions under which they may delegate or outsource some of their tasks.

(4) The selection and award procedure for granting the Union contribution under national programmes should comply with the principles of transparency, non discrimination and equal treatment. It is therefore necessary to lay down the conditions under which Member States should implement the actions under the national programmes, in particular to identify under which circumstances the Responsible Authority may implement projects directly.

(5) In all Member States, the audits should be effective, have the appropriate scope and be carried out in accordance with the International Standards on Auditing. For this purpose, the status and auditing standards

⁽¹⁾ OJ L 150, 20.05.2014, p. 112.

⁽²⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1)

of the Audit Authorities should be clearly defined.

(6) To ensure that the audit activities of the Audit Authorities allow them to support their audit opinions, the different types of audit activities should be defined.

(7) It is important that the results of the Audit Authority's activity are timely and adequately reported to the designating authority as well as to the European Commission. In particular, it is important that the management declaration and the annual summary of the final audit reports and of controls carried out transmitted as part of the annual request for payment reflects well the result of the Audit Authority's work and conclusions. Therefore, the Audit Authority should, as part of its audit work, ensure that information related to its

audit activity is adequately reported in these documents.

(8) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval and implementation of the national programmes, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(9) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(10) Denmark is not bound by Regulation (EU) No 514/2014 nor by this Regulation.

HAS ADOPTED THIS REGULATION:

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 DEFINITIONS

For the purposes of this Regulation, the definitions in Regulation (EU) No 514/2014 shall apply. The following definitions shall also apply:

(a) ‘designating authority’ means the ministerial authority of a Member State referred to in Article 26(1) of Regulation (EU) 514/2014 that designates the Responsible Authority;

(b) ‘competent authorities’ means the Responsible Authority, the Audit Authority and, where appropriate, the Delegated Authority referred to in Article 25(1) of Regulation (EU) No 514/2014;

(c) ‘SFC2014’ means the electronic information system established by Article 2 of

Commission Implementing Regulation (EU) No 802/2014 ⁽³⁾;

(d) ‘grant agreement’ means an agreement or an equivalent form of legal instrument on the basis of which the Responsible Authority provides grants to the beneficiary for the purpose of implementing a project under the national programme.

⁽³⁾ Commission Implementing Regulation (EU) No 802/2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management.

CHAPTER II The Responsible Authority

SECTION 1: Designation of the responsible authority

ARTICLE 2 CRITERIA AND PROCEDURE FOR DESIGNATING THE RESPONSIBLE AUTHORITY

1. The body to be designated as the Responsible Authority shall have an administrative organisation and a system of internal control that comply with the criteria set out in Annex I to this Regulation (‘the designation criteria’). The designation criteria concern:

(e) internal environment,

(f) control activities;

(g) internal information and communication;

(h) internal monitoring and reporting.

Member States may lay down further designation criteria to take account of the size, responsibilities and other characteristics of the Responsible Authority.

2. The audit body referred to in Article 26(3) of Regulation (EU) No 514/2014 shall assess whether the prospective Responsible Authority complies with the designation criteria in Annex I and shall document its audit findings, conclusions and opinion in an audit report addressed to the designating authority.

3. If the designating authority is not satisfied that the prospective Responsible Authority complies with the designation criteria, it shall give this body specific instructions to remedy its non-compliances and a deadline for compliance before it may be designated as the Responsible Authority.

Pending compliance, the body may be granted provisional designation as Responsible Authority for no more than 12 months. The length of this provisional period shall be proportionate to the non-compliances identified.

4. Upon designating the Responsible Authority, the Member State shall notify the Commission without delay through SFC 2014. With this notification, the Member State shall transmit documentation setting out:

- a) the main division of responsibilities between the organisational units of the Responsible Authority;
- b) where appropriate, its relationship with delegated authorities, the activities to be delegated, and the main procedures for supervising these delegated activities; and
- c) a summary of the main procedures for processing financial claims from beneficiaries and for authorising and recording expenditure.

ARTICLE 3 SUPERVISION OF THE RESPONSIBLE AUTHORITY AND REVIEW OF THE DESIGNATION

1. The designating authority shall supervise the Responsible Authority, in particular on the basis of the information referred to in Article 14(2) of this Regulation, and shall follow up any deficiencies identified.

2. Member States shall ensure that information indicating that the Responsible Authority no longer complies with the designation criteria is reported to the designating authority without delay.

3. When the Responsible Authority no longer fully complies with the designation criteria, or its system of internal control is so deficient as to undermine its ability to fulfil its tasks, the designating authority shall put the Responsible Authority on probation. In such cases, the designating authority shall draw up a remedial plan for the Responsible Authority to implement within a period commensurate with the seriousness of the non-compliance or deficiency. This period shall not exceed 12 months from the start of the probation period.

4. The designating authority shall promptly inform the Commission of any remedial plan drawn up pursuant to paragraph 3 and keep the Commission informed about its progress.

5. If Responsible Authority designation is ended, the designating authority shall promptly designate another Responsible Authority in accordance with Article 26 of Regulation (EU) No 514/2014 and Article 2 of this Regulation to ensure that payments to beneficiaries continue uninterrupted.

6. Where the Commission finds that a Member State has not complied with its obligation to draw up a remedial plan pursuant to paragraph 3, or that the Responsible Authority retains its designation while failing to implement the remedial plan within the imposed time-limit, the Commission shall address any remaining deficiencies through the conformity clearance procedure provided for in Article 47 of Regulation (EU) No 514/2014.

Section II: management and control responsibilities of the Responsible Authority

ARTICLE 4 TASKS OF THE RESPONSIBLE AUTHORITY

The Responsible Authority shall manage and implement the national programme in accordance with the principles of sound financial management. It shall:

(a) consult partners in accordance with Article 12(1) of Regulation (EU) No 514/2014;

(b) ensure the proper functioning of the monitoring committee referred to in Article 12(4) of Regulation (EU) No 514/2014;

(c) submit a proposal to the Commission for the national programme referred to in Article 14 of Regulation (EU) No 514/2014 and any subsequent revisions using SFC2014;

(d) define and establish the eligibility rules for projects and project costs for all activities, ensuring equality of treatment and avoiding any conflicts of interest, in accordance with the principles of sound financial management;

(e) organise and advertise calls for tenders and proposals, and organise and advertise the subsequent selection and award of projects for financing under the national programme, in accordance with the scope and objectives of the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014 and with the criteria set out in Article 9 of this Regulation;

(f) ensure that there are systems in place to collect the data required to report the common and programme-specific indicators to the Commission, together with other data on

the implementation of the programme and projects;

(g) receive payments from the Commission, and make payments to the beneficiaries;

(h) ensure consistency and complementarity between co-financing under the Specific Regulations and other relevant national and Union instruments;

(i) monitor the projects and check that the expenditure declared for projects has actually been incurred and complies with Union and national rules;

(j) ensure that there is a system for recording and storing in computerised form accounting records for each project under the national programme and that the data on implementation necessary for financial management, monitoring, control and evaluation are collected;

(k) without prejudice to national accounting rules, ensure that beneficiaries and other bodies involved in implementing projects financed under the national programme maintain either a separate accounting system or an adequate accounting code for all transactions relating to the project;

(l) ensure that the evaluations of the national programme referred to in Article 56 and Article 57(1) of Regulation (EU) No 514/2014 are carried out within the relevant time limits;

(m) ensure that the independent evaluators receive, for the purposes of carrying out the evaluation referred to in Article 56 and Article 57(1) of Regulation (EU) No 514/2014 and formulating the evaluation opinion, all

necessary information on the management of the national programme;

(n) set up procedures to ensure that all documents regarding expenditure, decisions and control activities have the required audit trail and are held in accordance with the Commission Implementing Regulations adopted on the basis of Article 27(5) of Regulation (EU) No 514/2014.

(o) ensure that the Audit Authority receives, for the purposes of carrying out the audits referred to in Article 29 of Regulation (EU) No 514/2014 and formulating the audit opinion, all necessary information on the management and control procedures applied and expenditure financed under the Specific Regulations;

(p) draw up the implementation reports referred to in Article 54 of Regulation (EU) No 514/2014 and the evaluation reports referred to in Article 57(1) of Regulation (EU) No 514/2014 and submit them to the Commission using SFC2014;

(q) draw up the request for payment in accordance with Article 44 of Regulation (EU) No 514/2014, and submit it to the Commission using SFC2014;

(r) carry out information and publicity activities and disseminate the programme's results, in accordance with Article 53 of Regulation (EU) No 514/2014;

(s) carry out administrative controls and on-the-spot controls in accordance with Article 27 of Regulation (EU) No 514/2014;

(t) cooperate with the Commission and the Responsible Authorities in other Member States; and

(u) respond to the findings of the Audit Authority either by addressing them or, where the findings of the Audit Authority are not accepted, by providing a detailed justification.

ARTICLE 5 DELEGATED AUTHORITY

1. The Responsible Authority may delegate some or all of its tasks to a delegated authority in accordance with Article 25(1) (c) of Regulation (EU) No 514/2014. Any delegation of tasks shall comply with the principles of sound financial management, and shall ensure compliance with the principle of non-discrimination and the visibility of Union funding. The delegated tasks shall not give rise to conflicts of interest.

2. The scope of the tasks delegated by the Responsible Authority to the Delegated Authority and the detailed procedures for fulfilling them shall be set out in a document signed by the Responsible Authority and the Delegated Authority. This Act of Delegation shall mention at least:

- a) the relevant Specific Regulation;
- b) the task(s) delegated to the Delegated Authority; the obligation of the Delegated Authority to verify the beneficiaries' compliance with Union and national rules;
- c) the obligation of the Delegated Authority to put in place and to maintain an organisation structure and a management and control system suited to its duties;
- d) the information and the supporting documents the Delegated Authority is to submit to the Responsible Authority and the time limits it is to observe; and
- e) the Responsible Authority's mechanism for supervising the Delegated Authority.

3. Pursuant to Article 25(1)(a) of Regulation (EU) No 514/2014, communication with the Commission shall not be delegated. The Delegated Authority shall communicate with the Commission via the Responsible Authority.

4. If the Delegated Authority is not a public administration or a private body with a public service mission governed by national law, the Responsible Authority shall not delegate to it executive powers that involve a large measure of discretion implying political choices.

5. The Responsible Authority shall remain responsible for the tasks it has delegated. The Responsible Authority shall regularly review the delegated tasks to confirm that

the work performed is satisfactory and in compliance with Union and national rules.

6. For delegated tasks, this Regulation shall apply to the Delegated Authority by analogy.

ARTICLE 6 OUTSOURCING TASKS

The Responsible Authority may outsource some of its tasks. It shall, however, remain responsible for them.

The Responsible Authority shall regularly review the outsourced tasks to confirm that the work performed is satisfactory and in compliance with Union and national rules.

SECTION III: Obligations of the Responsible Authority as regards public intervention

ARTICLE 7 THE ROLE OF THE RESPONSIBLE AUTHORITY AS AWARDING BODY

1. As a general rule, the Responsible Authority shall award grants for projects under the national programme on the basis of open calls for proposals.

2. The Responsible Authority may award grants for projects on the basis of a restricted call for proposals.

Restricted calls for proposals are open only to selected organisations because of the specific nature of the project or the technical or administrative competence of the bodies invited to submit proposals.

The grounds justifying the use of a restricted call for proposals shall be set out in the call for proposals.

3. The Responsible Authority may award grants directly where the specific nature of the project or the technical or administrative competence of the relevant bodies leaves no other choice, such as in the case of *de jure* or *de facto* monopolies.

The grounds justifying the use of a direct award shall be set out in the award decision.

4. In duly justified cases, including continuation of multiannual projects which were selected after a previous call for proposals or in emergency situations, grants may be awarded without a call for proposals.

The grounds justifying that the grant was awarded without a call for proposals shall be set out in the award decision.

5. When the Responsible Authority acts as an awarding body, neither the Responsible Authority nor any Delegated Authority

may be a beneficiary of a grant awarded in accordance with this Article.

6. The Responsible Authority shall determine who awards grants and shall ensure that conflicts of interest are avoided, in particular when the applicants are national bodies.

ARTICLE 8 CONDITIONS UNDER WHICH THE RESPONSIBLE AUTHORITY ACTS AS EXECUTING BODY

1. The Responsible Authority may decide to implement projects directly, either alone or in association with any other national authority, because of administrative powers, technical expertise, or because the characteristics of the project leaves no other choice for the implementation, such as a *de jure* monopoly or security requirements. In such cases, the Responsible Authority shall be the beneficiary of the grant.

2. The Responsible Authority's reasons for acting as executing body and selecting any associated national authorities as described in paragraph 1 shall be reported to the Commission in the annual implementation report referred to in Article 54 of Regulation (EU) No 514/2014.

3. When implementing projects as an executing body, the Responsible Authority shall observe the principle of value for money and prevent conflicts of interest.

4. The administrative decision to co-finance a project under the national programme shall include any information necessary to monitor the implementation of co-financed products and services and to check the expenditure incurred.

5. If the Responsible Authority is likely to act as executing body on a regular basis:

(a) the Responsible Authority and the Audit Authority shall not be part of the same body, unless the Audit Authority reports to an outside body and its audit independence is guaranteed; and

(b) the tasks of the Responsible Authority as set out in Article 4 shall not be affected.

ARTICLE 9 SELECTION AND AWARD PROCEDURE

1. The calls for proposals referred to in Article 7(1) shall be publicised in a way that ensures open competition and appropriate publicity among potential beneficiaries. Any substantial change to the calls shall be publicised in the same way.

The calls for proposals referred to in Article 7(1) and (2) shall specify at least the following:

(a) objectives;

(b) selection and award criteria;

(c) arrangements for Union and, if applicable, national financing, including, where applicable, the possibility to apply a higher co-financing rate in accordance with Article 16(5) of Regulation (EU) No 514/2014;

(d) arrangements and final date for submission of the proposals;

(e) eligibility rules for the expenditure;

(f) project duration; and

(g) financial and other information to be kept and reported.

2. Before the award decision is taken, the Responsible Authority shall satisfy itself that the beneficiaries in the project have the

capacity to meet the selection and award criteria.

3. The Responsible Authority shall define the procedures for the receipt of proposals. It shall subject proposals to a formal, technical and budgetary analysis and qualitative assessment applying the criteria laid down in the call for proposals in a transparent and non-discriminatory manner. The Responsible Authority shall record in writing the reasons for the rejection of the other proposals.

4. The award decision shall indicate at least the name of the beneficiaries, the essential details of the project and its operational objectives, the maximum amount of Union contribution and the maximum rate of co-financing of the total eligible costs.

5. The Responsible Authority shall inform all applicants of its decision in writing. It shall give unsuccessful candidates the reasons for their rejection with reference to the selection and award criteria.

ARTICLE 10 DOCUMENTS FORMALISING GRANTS WHEN THE RESPONSIBLE AUTHORITY ACTS AS AWARDING BODY

1. In cases where the Responsible Authority acts as awarding body, it shall lay down project management procedures which require, at least to:

(a) sign grant agreements with beneficiaries and

(b) monitor the grant agreements, including any amendments thereto, by administrative means such as exchanges of correspondence or written reports.

2. The grant agreement shall include or indicate the following:

(a) maximum amount of Union contribution;

(b) maximum percentage of Union contribution in accordance with the relevant Specific Regulation;

(c) detailed description and timetable of the project;

(d) if applicable, any major task that the beneficiary intends to subcontract to third parties, together with the related costs;

(e) agreed forward budget and financing plan for the project, including expenditure and income, in accordance with the eligibility rules established;

(f) method for calculating the amount of Union contribution upon the project's closure;

(g) timetable and implementing provisions of the agreement, including provisions on reporting obligations, amendments to the agreement and termination of the agreement;

(h) operational objectives of the project, including quantified objectives and the indicators to be reported on;

(i) provision requiring the beneficiary to collect, in a timely manner, the requisite data for the common indicators set out in the Specific Regulation, and any programme-specific indicators, and to report these data at least once a year;

(j) definition of the eligible costs, including, where applicable, a description of the methodology for determining scale-of-unit costs, lump sums and flat-rate financing;

(k) bookkeeping requirements and conditions relating to payment of the grant;

- (l) conditions relating to the audit trail;
- (m) provisions relating to data protection and
- (n) provisions relating to publicity.

3. As a general rule, the grant agreement shall be signed before any of the project activities charged to the national programme begin.

4. The grant agreement shall expressly stipulate that the Commission, or its representatives, and the Court of Auditors exercise powers of audit over all grant beneficiaries, contractors and sub-contractors who receive Union funding under the national programme, and will do so on the basis of documentary and on-the-spot controls.

ARTICLE 11 DOCUMENTS FORMALISING GRANTS WHEN THE RESPONSIBLE AUTHORITY ACTS AS EXECUTING BODY

1. In cases where the Responsible Authority acts as executing body, it shall lay down project management procedures which require at least to:

- (a) formalise an administrative decision to co-finance projects and
- (b) monitor the administrative decision and any amendments thereto by administrative means such as exchanges of correspondence or written reports.

2. The administrative decision shall include or indicate the following:

- (a) maximum amount of Union contribution;
- (b) maximum percentage of Union contribution in accordance with the relevant Specific Regulation;
- (c) detailed description and timetable of the project;

(d) if applicable, any major task that the beneficiary intends to subcontract to third parties, together with the related costs;

(e) agreed forward budget and financing plan for the project, including expenditure and income, in accordance with the eligibility rules established;

(f) method for calculating the amount of Union contribution upon the project's closure;

(g) operational objectives of the project, including quantified objectives and the indicators to be used;

(h) provision requiring the Responsible Authority to collect, and report at least once a year, the requisite data for the common indicators set out in the Specific Regulation, and any programme-specific indicators, and to report these data at least once a year;

(i) definition of the eligible costs, including, where applicable, a description of methodology for determining scale-of-unit costs, lump sums and flat-rate financing;

(j) bookkeeping requirements and conditions relating to payment of the grant;

(k) conditions relating to the audit trail;

(l) provisions relating to data protection and

(m) provisions relating to publicity.

3. As a general rule, the administrative decision shall be taken before any of the project activities charged to the national programme begin.

4. The administrative decision shall expressly stipulate that the Commission, or its representatives, and the Court of Auditors exercise powers of audit over all grant beneficiaries, contractors and sub-contractors who receive Union funding under the national programme, and will do so on the basis of documentary and on-the-spot controls.

CHAPTER III Status of the Audit Authority and obligations with regards to audits

ARTICLE 12 STATUS OF THE AUDIT AUTHORITY

1. In accordance with the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 and with Article 25(1)(b) of Regulation (EU) No 514/2014, the Audit Authority shall function independently from the Responsible Authority. Functional independence shall be deemed to exist when there is no direct hierarchical relation between the Audit Authority and the Responsible Authority, and the Audit Authority has full autonomy in its opinions and declarations.

2. All audit work shall be carried out in accordance with internationally accepted audit standards.

ARTICLE 13 OUTSOURCING AUDIT WORK

The Audit Authority may outsource part of its audit work to another audit body, provided that this body is functionally independent from the Responsible Authority. The Audit Authority shall remain responsible for the work it outsources.

Outsourced audits shall be carried out in accordance with internationally accepted audit standards and under the close monitoring and supervision of the Audit Authority.

ARTICLE 14 AUDITS

1. To deliver the opinion referred to in the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 the Audit Authority shall conduct system and financial audits.

2. System audits shall verify whether the Responsible Authority's management and control systems have functioned effectively so as to give reasonable assurance that the expenditure included in the annual accounts is legal and regular. Based on these audits, the Audit Authority shall determine whether the Responsible Authority continues to comply with the designation criteria set out in Annex I.

3. Financial audits shall be performed to provide reasonable assurance that the annual accounts give a true and fair view of the expenditure declared by the Responsible Authority.

In order to conclude whether the accounts give a true and fair view, the Audit Authority shall verify that all elements of expenditure paid and public contributions received and entered into the accounts of the Responsible Authority in the financial year are correctly recorded in the accounting system and correspond to the supporting accounting records maintained by the Responsible Authority. The Audit Authority shall in particular, on the basis of these accounts:

(a) verify that the total amount of eligible expenditure declared in the request for payment of the annual balance submitted to the Commission agrees with the expenditure in the accounts of the Responsible Authority and, if there are differences, that adequate explanations have been provided in the accounts for the reconciling amounts;

(b) verify that the amounts withdrawn and recovered, the amounts to be recovered, and the irrecoverable amounts as at the end of the financial year, correspond to the

amounts entered in the accounting system of the Responsible Authority and are supported by documented decisions of the Responsible Authority;

(c) ascertain that the Responsible Authority has performed the administrative and on-the-spot controls in compliance with Article 27 of Regulation (EU) No 514/2014.

Verifications referred to in points (a), (b) and (c) may be carried out on a sample basis.

4. As part of its system and financial audits, the Audit Authority shall re-perform some of the administrative or on-the-spot controls that were carried out by the Responsible Authority. The Audit Authority shall determine the extent of re-performance audit work based on its risk assessment.

5. If the Audit Authority's system or financial audits identify material weaknesses in the effective functioning of the Responsible Authority's management and control systems, the Audit Authority shall:

(a) assess the financial and operational impact of these weaknesses;

(b) make appropriate recommendations to the Responsible Authority for corrective and preventive measures;

(c) monitor the Responsible Authority's implementation of these measures and assess whether an action plan to restore the effective functioning of the management and control systems is in place.

6. Upon completing its audit activities referred to in paragraphs 1, 2 and 3, the Audit Authority shall report its findings to the designating authority, including whether, in its opinion, the Responsible Authority continues to comply with the designation criteria.

7. The Audit Authority shall ensure that all information related to its audit activities referred to in paragraphs 1, 2 and 3 is adequately reported by the Responsible Authority to the European Commission.

CHAPTER IV FINAL PROVISION

ARTICLE 15 ENTRY INTO FORCE

This Regulation shall enter into force on the day following 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 in accordance with the Treaties.

Done at Brussels, 25.7.2014,

For the Commission,
The President,
José Manuel BARROSO

ANNEX I Designation criteria for the Responsible Authority

1. INTERNAL ENVIRONMENT

(A) Organisational structure

Organisational structure allowing the Responsible Authority to execute its tasks set out in Article 4.

Organisational structure, defined in an organisation chart, which shows a clear assignment of roles and responsibilities.

(B) Human resources standards

Appropriate human resources to carry out the tasks described in Article 4.

Segregation of duties so that no member of staff has responsibility for more than one of authorising, paying or accounting for sums charged to the national programme, and no member of staff performs one of those tasks without being supervised by a second member of staff.

Written definition of the responsibilities of each member of staff, including limits on his or her financial authority.

Appropriate staff training.

Procedures to avoid conflicts of interest, including where a member of staff occupying a position of responsibility or a sensitive position with regard to verification, authorisation, payment and accounting of claims also fulfils other functions outside the Responsible Authority.

2. CONTROL ACTIVITIES

(A) Selection of projects

Procedures regarding the selection and award of grants in accordance with Article 9.

Procedures regarding the content and signature of grant agreements and administrative decisions in accordance with Articles 10 and 11.

(B) Procedures for administrative and on-the-spot controls

Procedures for informing the management of the Responsible Authority at an appropriate level, on a regular and timely basis of the results of controls carried out, in order to allow for the revision of the control strategy and internal control procedures when systemic deficiencies are identified or as needed.

Description of the sampling method used when administrative or on-the-spot controls are not exhaustive but performed on a sample basis, and a procedure to report discrepancies and irregularities.

Where documents (in paper or electronic form) relating to the controls carried out on financial claims are retained by other bodies, procedures set up by those bodies and the Responsible Authority to ensure that the Responsible Authority has access to these documents.

(C) Procedures for authorising payment of financial claims submitted by a beneficiary

Procedures to ensure the monitoring of the implementation of grant agreements, administrative decisions and contracts according to the contractual terms and conditions.

Procedures for the receipt, recording and processing of financial claims submitted by a beneficiary, defining notably the description of the documents to be used and the procedure for reviewing the work carried out.

Checklist of the verifications required by each member of staff responsible for authorisation, including a review of the work carried out.

Procedure for authorising payment, including verifying compliance with Union and national rules and including the checks required by Articles 5(2) and 27 of Regulation (EU) No 514/2014 to prevent and detect fraud and irregularity with particular regard to the risks faced.

(D) Procedures for payment

Procedures to ensure that payments are made only to bank accounts belonging to the beneficiary and that no payments are made in cash.

Procedures to ensure that all payments for which transfers are not executed are re-credited to the budget of the national programme.

(E) Procedures for accounting

Accounting procedures to ensure that annual accounts are complete, accurate and timely, and that any errors or omissions are detected and corrected, in particular through periodic controls and reconciliations.

(F) Procedures for advance payments

Procedures to ensure that payments of advances to beneficiaries are separately identified in the accounting records.

Procedures to ensure that advances are cleared within the stipulated time limits and those overdue for clearing are identified.

(G) Procedures for debts

Procedures to ensure that the criteria provided for in points (A) to (D) apply, *mutatis mutandis*, to amounts which the Responsible

Authority is required to recover in accordance with Article 21(h) of Regulation (EU) No 514/2014.

Procedures to ensure proper follow-up on recovery orders issued and, if applicable, on default interest.

Procedures to ensure that if recovery cannot be made, the cause is identified, so as to evaluate whether the Member State should reimburse the Union Budget.

System for recognising all amounts due and for recording all such debts prior to their receipt in a debtor's ledger.

Procedures to ensure that this debtor's ledger is verified at regular intervals to ensure its reliability and completeness.

(H) Procedures for detection of irregularities and anti-fraud

Definitions of irregularities in compliance with Union requirements.

Mechanisms to ensure that irregularities can be detected in a timely manner and that immediate corrective measure can be taken.

Procedures for putting in place proportionate anti-fraud measures.

Procedures to ensure that the Commission is kept informed of irregularities detected and, if appropriate, of any corrective measures taken in the annual accounts.

(I) Audit trail

Procedure to ensure an adequate audit trail in accordance with the implementing Regulation adopted on the basis of Article 27(5) of Regulation (EU) No 514/2014, by providing documentary evidence, to be held on the premises of the Responsible Authority, relating to the selection of projects, the authori-

sation, accounting and payment of financial claims submitted by a beneficiary and the handling of advances and debts.

3. INTERNAL INFORMATION AND COMMUNICATION

(A) Communication

Procedures to ensure that:

1. all changes in Union legislation are recorded;
2. Instructions, databases and checklists are updated to reflect these in a timely manner; and
3. all interested parties, such as the Delegated Authority, are informed of these changes in a timely manner.

Procedures to ensure that all beneficiaries have the necessary information to carry out their tasks and implement operations.

Procedures to ensure adequate *ex post* information on the results of the selection process is provided to applicants.

(B) Information systems security

Security of the information system(s) used is in line with the most recent internationally accepted standards.

Procedures to ensure that financial and technological measures are in proportion to the risks.

INTERNAL MONITORING AND REPORTING

(A) Internal documents and reports

Documented procedures and corresponding checklists to be completed in order to:

- 1) support the work of the monitoring committee referred to in Article 12(4) of Regula-

tion (EU) No 514/2014 and provide it with the information it requires to carry out its tasks, in particular data relating to the national programme's progress towards meeting its objectives, financial data and data relating to indicators and milestones;

2) draw up annual and final implementation reports and to submit these to the Commission;

3) draw up the documents constituting the request for payment of the annual balance referred to in Article 44 of Regulation (EU) No 514/2014

4) ensure that senior management is provided with all necessary reports and information to effectively monitor the implementation of the programmes that it is responsible for; and

5) ensure that senior management is provided with the reports from independent assessments or audits on the functioning of their systems.

Documented procedures for reporting and monitoring, if the Responsible Authority has entrusted the execution of tasks to another body.

(B) Monitoring of other tasks not carried out by the authorities themselves

Where bodies are acting under the responsibility of the Responsible Authority, with the exclusion of delegated authorities, procedures to ensure that supervisory mechanisms are in place to ensure sound financial management.

Where control activities are outsourced, procedures to ensure that supervisory mechanisms are in place to ensure a common control methodology and consistency of the work.

Where the Responsible Authority delegates activities, procedures to ensure that Article 5(4) of this Regulation is complied with.

**COMMISSION DELEGATED REGULATION (EU) 2018/1291 OF
16 MAY 2018 AMENDING DELEGATED REGULATION (EU) NO
1042/2014 SUPPLEMENTING REGULATION (EU) NO 514/2014
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH
REGARD TO THE DESIGNATION AND MANAGEMENT AND
CONTROL RESPONSIBILITIES OF RESPONSIBLE AUTHORITIES
AND WITH REGARD TO STATUS AND OBLIGATIONS OF AUDIT
AUTHORITIES**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Articles 26(4) and 29(1) thereof,

Whereas:

(1) In order to provide legal certainty it is necessary to clarify that a Delegated Authority may also act as an executing body. In this case, the Audit Authority shall function independently from the Delegated Authority, including when the latter acts as executing body.

(2) The first clearance of accounts exercises carried out pursuant to Article 1 of Commission Implementing Regulation

(EU) 2015/378 ⁽²⁾ highlighted the need to provide clarity on the scope of system audits to be conducted by the Audit Authority and to align this Regulation with the key requirements set out in Annex to Implementing Regulation (EU) 2015/378. By clarifying the scope of system audits, the main types of deficiencies should be established and the corresponding level of financial corrections due to system deficiencies should be determined and applied in a consistent and comparable manner by Member States.

(3) In order to bring Commission Delegated Regulation (EU) No 1042/2014 ⁽³⁾ in line with Article 29 of Regulation (EU) No 514/2014 and with Article 59(5) of Regulation (EU, Euratom) No 966/2012 of the European

⁽²⁾ Commission Implementing Regulation (EU) 2015/378 of 2 March 2015 laying down rules for the application of Regulation (EU) No 514/2014 of the European Parliament and of the Council with regard to the implementation of the annual clearance of accounts procedure and the implementation of the conformity clearance (OJ L 64, 7.3.2015, p. 30).

⁽³⁾ Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities (OJ L 289, 3.10.2014, p. 3).

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

Parliament and of the Council ⁽⁴⁾ it is necessary to include a reference to the obligation on the Audit Authority to perform audits on expenditure.

(4) For the purpose of the audits of expenditure it is necessary to define that the auditable population should include financial data representing payments made by the Responsible Authority throughout a financial year, as well as, for the Asylum, Migration and Integration Fund, the number of persons relocated, resettled, transferred and legally admitted.

(5) To ensure that the scope and effectiveness of audits on expenditure are adequate and carried out to the same standards by all the Audit Authorities, it is necessary to set out the minimum requirements for sampling, which an Audit Authority should observe in establishing or approving the sampling method.

(6) Pursuant to Article 30 of Regulation (EU) No 514/2014, for the purpose of reporting of audit results to the Commission it is necessary to present the model for the annual control report, which sets out the audit information and data to be provided each year to support the Audit Authority's opinions submitted with the accounts. This annual control report should be sent to the Commission via the electronic data exchange system referred to in Article 2 of Commission Imple-

menting Regulation (EU) No 802/2014 ⁽⁵⁾ ('SFC2014') and, in particular, via the module for national auditors and audit services of the Commission,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

Delegated Regulation (EU) No 1042/2014 is amended as follow:

(1) in paragraph 1 of Article 5, the following second subparagraph is added:

'Where authorised by the Responsible Authority, the Delegated Authority may act as executing body as referred to in Article 8.;

(2) Article 5.2 b) is replaced by the following:

'b) the task(s) delegated to the Delegated Authority, including where applicable, the projects for which the Delegated Authority may act as executing body as referred to in Article 8.;

(3) Article 14 is replaced by the following:

⁽⁵⁾ Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (OJ L 219, 25.7.2014, p. 22).

⁽⁴⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

‘ARTICLE 14

AUDITS

1. To deliver the opinion referred to in the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁶⁾, the Audit Authority shall conduct system audits, audits of expenditure and audits of accounts.

2. System audits shall verify whether the Responsible Authority’s management and control system has functioned effectively so as to give reasonable assurance that the financial data included in the request for payment of the annual balance submitted to the Commission in accordance with Article 44 of Regulation (EU) No 514/2014 is legal and regular.

Based on these system audits, the Audit Authority shall verify the compliance with the key requirements set out in Annex to Commission Implementing Regulation (EU) 2015/378 ⁽⁷⁾ and whether the Responsible Authority continues to comply with the designation criteria set out in Annex I to the present Regulation.

3. Audits of expenditure shall be carried out in respect of each financial year on an

appropriate sample drawn from the financial data considered eligible by the Responsible Authority (“the draft accounts”) after completion of all its controls referred to in Article 27 of Regulation (EU) No 514/2014 and Commission Implementing Regulation (EU) 2015/840 ⁽⁸⁾.

The financial data shall comprise all types of payments made by the Responsible Authority during a financial year as defined in Article 38 of Regulation (EU) No 514/2014, including advance payments, interim payments, final payments and payments relating to technical assistance and operating support. The financial data shall also comprise, for the Asylum, Migration and Integration Fund, the number of persons relocated, resettled, transferred or legally admitted.

Audits of expenditure shall:

- be carried out on the basis of supporting documents constituting the audit trail and shall verify the legality and regularity of the financial data in the draft accounts,
- where applicable, include on-the-spot verification of the expenditure incurred by the beneficiaries, including *mutatis mutandis* for payments made under technical assistance and operating support,
- where applicable, include verification of compliance with the requirements set for persons relocated in accordance with Council Decisions (EU) 2015/1523 and 2015/1601,

⁽⁶⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽⁷⁾ Commission Implementing Regulation (EU) 2015/378 of 2 March 2015 laying down rules for the application of Regulation (EU) No 514/2014 of the European Parliament and of the Council with regard to the implementation of the annual clearance of accounts procedure and the implementation of the conformity clearance (OJ L 64, 7.3.2015, p. 30).

⁽⁸⁾ Commission Implementing Regulation (EU) 2015/840 of 29 May 2015 on controls carried out by Responsible Authorities pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 134, 30.5.2015, p. 1);

resettled in accordance with Article 17 of Regulation (EU) No 516/2014, transferred in accordance with Article 18 of Regulation (EU) No 516/2014 and legally admitted in accordance with Council Decisions (EU) 2015/1601, for which a lump sum is claimed,

- verify the accuracy and completeness of the payments to beneficiaries and recorded by the Responsible Authority in its accounting system and the reconciliation of the audit trail at all levels.

When the Audit Authority detects an error rate in the draft accounts that is material or problems detected appear to be systemic in nature and therefore entail a risk for other payments funded by the national programme, the Audit Authority shall ensure further examination, including, where necessary, additional audits to establish the scale of the problems. The maximum materiality level shall be 2 % of the Union contribution of the financial data in the “draft accounts”.

The Audit Authority shall recommend the necessary corrective actions to the Responsible Authority, including where applicable, flat rate financial corrections in line with Commission Implementing Regulation (EU) 2015/378. The Audit Authority shall report the results of the audits of expenditure and the associated recommendations and corrective measures in the annual control report referred to in Article 14(8).

4. The Audit Authority shall establish the method for the selection of the appropriate sample (“the sampling method”) in accordance with internationally accepted auditing standards. The sampling method shall enable the Audit Authority to estimate the total error rate in the “draft accounts” for the financial year.

The Audit Authority shall document, in the annual control report referred to in Article 14(8), its professional judgment used to establish the statistical or non-statistical sampling method and the applicable sampling parameters. The Audit Authority shall keep records of the sampling methodology applied covering the planning, selection, testing and evaluation stages, in order to demonstrate that the selected sampling method is suitable.

When statistical sampling methods cannot be used, a non-statistical sampling method may be used on the professional judgment of the Audit Authority. Any non-statistical sampling method shall provide for a random selection of the sample items and cover a minimum of 10 % of the value of the financial data included in the “draft accounts”.

The sampling method chosen and the sample size shall allow the Audit Authority to draw conclusions on the total population from which the sample was drawn.

For this purpose and if applicable, the Audit Authority may stratify the financial data by dividing into strata, each of which is a group of sampling units which have similar characteristics.

When the audit sample includes interim payments and/or final payments clearing advance payments declared in the accounts of previous financial years, these advance payments shall fall within the scope of the audit of expenditure.

However, for reporting in Table 10.2 “Results of audits of expenditure” in the annual control report referred to in Article 14.8, the error rates and audit coverage shall be calculated solely on the basis of the audit sample drawn from the financial data in the “draft accounts” of the current financial year.

5. Audits on accounts shall be carried out to provide reasonable assurance that the annual accounts give a true and fair view of the financial data reported in the request for payment of the annual balance ("the final accounts") submitted by the Responsible Authority to the Commission in accordance with Article 44 of Regulation (EU) No 514/2014.

In order to conclude whether the final accounts give a true and fair view, the Audit Authority shall verify that all the financial data and public contributions received and entered in the accounts prepared by the Responsible Authority for the financial year are correctly recorded in the accounting system and correspond to the supporting accounting records maintained by the Responsible Authority. The Audit Authority shall in particular, on the basis of these accounts:

(a) verify that the total amount of financial data reported in the request for payment of the annual balance agrees with the Responsible Authority's accounting system and, if there are differences, that adequate explanations have been documented for the reconciling amounts;

(b) verify that the amounts withdrawn and recovered, the amounts to be recovered and the irrecoverable amounts as at the end of the financial year, correspond to the amounts entered in the accounting system of the Responsible Authority and are supported by documented decisions of the Responsible Authority;

(c) ascertain that the Responsible Authority has performed the administrative and financial and operational on-the-spot controls in compliance with Article 27 of Regulation (EU) No 514/2014 and Commission Implementing Regulation (EU) 2015/840.

The verifications referred to in points (a), (b) and (c) may be carried out on a sample basis.

On the basis of the total error rate determined by the audits of expenditure and the results of the audit of accounts, the Audit Authority shall calculate the residual error rate to deliver the opinion referred to in the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012. The calculation of the residual error rate shall be documented in the annual control report referred to in paragraph 8.

6. If the Audit Authority's audit findings, on completion of all its audit work, suggest material weaknesses in the effective functioning of the Responsible Authority's management and control system, the Audit Authority shall:

(a) assess the financial impact of these weaknesses in line with Commission Implementing Regulation (EU) 2015/378;

(b) make appropriate recommendations to the Responsible Authority for corrective and preventive measures;

(c) monitor the Responsible Authority's implementation of the measures referred in point (b) above and assess whether an action plan to restore the effective functioning of the management and control systems is in place.

7. Pursuant to Article 3(2), the Audit Authority shall report its findings to the Designating Authority, including whether, in its opinion, the Responsible Authority continues to comply with the designation criteria.

8. The Audit Authority shall ensure that all information related to its audit activity referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 is adequately reported to the Commission. For this purpose, the Audit Authority shall

draw up an annual control report setting out the main findings of its audit work. The annual control report shall be drawn up in accordance with the model set out in Annex to this Regulation and shall be sent to the Commission via the electronic data exchange system referred to in Article 2 of Commission Implementing Regulation (EU) No 802/2014. The annual control report shall be sent to the Commission no later than 3 working days after the Responsible Authority submits the request for payment of the annual balance to the Commission in accordance with Article 44 of Regulation (EU) No 514/2014.”

(4) a new Annex II is added to this Regulation.

ARTICLE 2

This Regulation shall enter into force on the twentieth 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 in accordance with the Treaties.

Done at Brussels, 16 May 2018.

For the Commission
The President
 Jean-Claude JUNCKER

ANNEX II Model for the annual control report

ANNUAL CONTROL REPORT [FUND]

(1) INTRODUCTION

This section shall include the following information:

1.1 Identification of the Audit Authority and other bodies that have been involved in preparing the report.

1.2 Reference period (i.e. the financial year ⁽⁹⁾).

(2) COMPLIANCE WITH DESIGNATION CRITERIA AND SIGNIFICANT CHANGES IN MANAGEMENT AND CONTROL SYSTEM(S) (if applicable)

This section shall include the following information:

2.1 Details of any significant changes in the management and control systems related to the competent authorities' responsibilities (including, where applicable, any delegation of functions), the effective date of such changes as well as the impact of these changes on the audit work.

2.2 Based on the audit work carried out by the Audit Authority, confirmation of whether the management and control system still complies with the designation criteria defined in Article 2 and Annex I of Commission Delegated Regulation (EU) No 1042/2014.

2.3 Information on reporting to the Designating Authority on the Responsible Authority's compliance with the designation criteria set out in Article 2.2 and Annex I of Commission Delegated Regulation (EU) No 1042/2014.

(3) CHANGES TO THE AUDIT STRATEGY

This section shall include the following information:

⁽⁹⁾ As defined in Article 38 of Regulation (EU) No 514/2014.

3.1 Details of changes that have been made to the audit strategy and an explanation of the reasons for those changes, in particular details of any modifications to the sampling method used for audits of expenditure (see section 5 below).

(4) SYSTEM AUDITS

This section shall include the following information:

4.1 Details of the bodies that have carried out system audits to verify whether the management and control system of the fund have functioned effectively (as provided for in Article 14(2) of Commission Delegated Regulation (EU) No 1042/2014).

4.2 In relation to Table 10.1 “Results of system audits” annexed to the annual control report, a description of the main findings and conclusions drawn from system audits on key requirements.

4.3 Indication of whether any problems detected are considered to be systemic in nature, quantification of irregular financial data and applicable corrective measures to address such systemic errors, including any related financial corrections made in accordance with Article 46 of Regulation (EU) No 514/2014 and Implementing Regulation (EU) No 378/2015.

4.4 Information on the follow-up of audit recommendations from system audits carried out in previous years.

(5) AUDITS OF EXPENDITURE

This section shall include the following information:

5.1 Details of the bodies that carried out the audits of expenditure (as provided for in Arti-

cles 14.3 and 14.4 of Commission Delegated Regulation (EU) No 1042/2014).

5.2 Description of the sampling methodology applied, specifying the sampling parameters ⁽¹⁰⁾ used and the underlying calculations and professional judgement applied to the sample selection ⁽¹¹⁾, the calculation of the total error rate (including stratification where applicable) and information on whether the methodology is in line with the audit strategy. If stratification is applied, the strata parameters need to be described.

5.3 Analysis of the principal results of the audits of expenditure, describing the number of sample items audited, the respective amounts and type of financial data audited, the nature ⁽¹²⁾ and type ⁽¹³⁾ of errors detected and the applicable corrective measures proposed by the Audit Authority (including measures to avoid similar errors in the future, financial corrections for the individual irregularities detected as well as any applicable extrapolated or flat-rate financial corrections ⁽¹⁴⁾). If stratification is applied, further information by strata is to be provided in this section and summarised in Table 10.2

⁽¹⁰⁾ The sampling parameters include the sampling unit, population value and size, sample value and size, audit coverage (in EUR and the percentage of items and amounts covered) and the sampling criteria. For statistical sampling, the materiality level, confidence level, expected error rate and sampling interval should also be indicated.

⁽¹¹⁾ If non-statistical sampling is applied, the Audit Authority should indicate the steps taken to ensure randomness of the sample (and its representativity) and provide a sufficient sample size to enable the Audit Authority to estimate the total error of the population and draw up a valid audit opinion.

⁽¹²⁾ For example: eligibility, public procurement, state aid.

⁽¹³⁾ Random, systemic or anomalous errors.

⁽¹⁴⁾ Flat-rate and/or extrapolated financial corrections may be applicable for example if there are systemic errors and/or if the total error rate on the draft accounts is material.

“Results of audits of expenditure” annexed to the annual control report.

5.4 If the audit sample includes interim payments and/or final payment clearing advance payments declared in the accounts of previous financial years, the amount of the advance payments falling within the scope of audits of expenditure, the errors detected and applicable financial corrections relating to these advance payments shall be presented in Table 10.3 “Results of audits on additional expenditure” annexed to the annual control report.

5.5 Explanations on how the error rates presented in Table 10.2 are calculated and, if applicable, information on the audits of additional expenditure presented in Table 10.3.

5.6 Information on whether any irregularities detected by the audits of expenditure are considered to be systemic in nature and therefore entail a risk to other payments, including the quantification of their impact on the population and any related financial corrections.

5.7 Information on the status of implementation by the Responsible Authority of the corrective measures including financial corrections proposed by the Audit Authority as a result of the audits of expenditure before submitting the “final accounts” to the Commission. Any possible deviations between the corrections proposed by the Audit Authority and the corrections implemented by the Responsible Authority should be disclosed.

5.8 Information on the follow-up of audits of expenditure carried out in previous years, in particular on deficiencies of a systemic nature.

(6) AUDITS OF ACCOUNTS

This section shall include the following information:

6.1 Details of the bodies that have carried out audits of accounts (as provided for in Article 14.5 of Commission Delegated Regulation (EU) No 1042/2014).

6.2 Description of the audit approach used to verify the financial data in the accounts accompanying the request for payment of the annual balance submitted by the Responsible Authority defined in Article 14.5 of Commission Delegated Regulation (EU) No 1042/2014. This should include a reference to the audit work carried out as part of the system audits (detailed in section 4) and the audits of expenditure (detailed in section 5) with relevance to the assurance required on the accounts.

6.3 Conclusions drawn from the audit of accounts regarding the true and fair view of the financial data in the accounts accompanying the request for payment of the annual balance submitted by the Responsible Authority, as well as the financial corrections made and reflected in the accounts as a result of such audits.

6.4 Indication of whether any irregularities detected are considered to be systemic in nature and the applicable corrective measures taken.

(7) COORDINATION BETWEEN AUDIT BODIES AND SUPERVISORY WORK BY THE AUDIT AUTHORITY (where applicable)

This section shall include the following information:

7.1 Description of the procedure for coordination between the Audit Authority and any audit bodies that carried out audits as provided for in Article 13 of Commission Delegated Regulation (EU) No 1042/2014, where appropriate.

7.2 Description of the procedure for supervision and quality review applied by the Audit Authority on the audit work carried out by such audit bodies.

(8) OTHER INFORMATION

This section shall include the following information:

8.1 Where applicable, information on reported fraud and suspicions of fraud detected as part of the audits performed by the Audit Authority (including the cases reported by other national or EU bodies and related to the operations audited by the Audit Authority), together with the measures taken.

8.2 Where applicable, subsequent events that occurred after the “draft accounts” for the financial year were transmitted to the Audit Authority and before the associated annual control report was transmitted to the Commission, which may be relevant for the opinion issued by the Audit Authority. In particular, any variances between the financial data presented by the Responsible Author-

ity in the “draft accounts” (i.e. the population from which the audit sample was drawn ⁽¹⁵⁾) and the final accounts submitted to the Commission should be disclosed and explained.

(9) OVERALL LEVEL OF ASSURANCE

9.1 Indication of the overall level of assurance on the proper functioning of the management and control system ⁽¹⁶⁾, and explanation of how such a level was obtained from the combination of the results of the system audits, audits of expenditure and accounts. Where relevant, the Audit Authority shall also take into account the results of the audit work carried out by other national or EU audit bodies which may have an impact on the financial data reported for the financial year.

9.2 Assessment of any mitigating and corrective measures implemented by the Responsible Authority such as financial corrections, and an indication of whether additional corrective measures are needed from both a system and financial perspective.

(10) ANNEXES TO THE ANNUAL CONTROL REPORT

10.1 Results of system audits (template defined below)

10.2 Results of audits of expenditure (template defined below)

10.3 Results of audits on additional expenditure (if applicable)

⁽¹⁵⁾ Column B of Table 10.2.

⁽¹⁶⁾ The overall level of assurance shall correspond to one of the four categories defined in Commission Implementing Regulation (EU) 2017/646: Category 1 (Works well. No or only minor improvement(s) needed), Category 2 (Works. Some improvement(s) needed), Category 3 (Works partially. Substantial improvements needed) and Category 4 (Essentially does not work).

10.1 Results of system audits

Audited Entity (e.g. Responsible Authority, Delegated Authority, etc.)	Title of the audit	Date of the final audit report	Key requirements (where applicable) as defined in Table 1- Annex I to Commission Implementing Regulation (EU) No 378/2015]									Overall assessment (category 1, 2, 3, 4) (as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015)	Comments
			KR 1	KR 2	KR 3	KR 4	KR 5	KR 6	KR 7	KR 8	KR 9		
			(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)		
			(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)		

(17) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(18) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(19) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(20) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(21) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(22) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(23) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(24) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(25) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(26) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(27) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(28) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(29) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(30) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(31) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(32) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(33) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

(34) Category 1, 2, 3, 4 as defined in Table 2 — Annex I to Commission Implementing Regulation (EU) No 378/2015

10.2 Results of audits of expenditure

A	B	C	D	E	F	G	H	I	J	Comments
Fund/type of payment ⁽¹⁾	Amount in EUR corresponding to the population or sub-population in the "draft accounts" from which the sample was drawn ⁽²⁾	Audit sample (EUR amount) ⁽³⁾	Audit sample (as % of population) [D = C/B]	Amount of errors detected by the Audit Authority in the sample EUR ⁽⁴⁾	Error rate % in the sample [F = E/C] ⁽⁴⁾	Total error rate in the population ⁽⁵⁾	Total errors in the population (EUR amount) [H = G * B]	Financial corrections (EUR amount) implemented by the Responsible Authority as a result of the total error rate ⁽⁶⁾	Residual total error rate (%) [J = (H – I)/B]	
Strata (if applicable) ⁽¹⁾										
Total (A)	Total (B)	Amount EUR	%							

10.3 Results of audits on additional expenditure ⁽⁸⁾

K	L	M	N	O	Comments
Description	Fund/project/payment reference n°.	Additional expenditure audited ⁽¹⁾	Amount of errors in the additional expenditure audited ⁽⁴⁾	Financial corrections implemented by the Responsible Authority on the additional expenditure audited ⁽⁶⁾	
Expenditure linked to interim payments or final payments included in the random/statistical sample					
Other (to be described) ...					

(¹) If the financial data — i.e. the audit population — is divided into different strata (e.g. advance payments, interim payments or final payments, other), the information is to be provided by strata where applicable. One line for each stratum and the strata parameters must be described in section 5 of the annual control report.

(²) Column B shall refer to the auditable population, i.e. the “draft accounts” representing all payments made by the Responsible Authority in the current financial year from which the sample was drawn.

(³) If the audit sample drawn from the current financial year includes interim payments and/or final payments clearing advance payments declared in the accounts of previous financial years, these advance payments shall fall within the scope of the audit of expenditure for the sampled interim payments and/or final payment.

However, for reporting purposes *only the interim payments or final payments sampled from the draft accounts of the current financial year* shall be reported in Table 10.2 (Column C) and taken into consideration for *calculating the audit coverage for the current financial year* (Column D).

The “amount of the advance payments” cleared by interim payments and/or final payments and verified within the scope of audits of expenditure shall be reported in Table 10.3, Column M. See also footnote 8.

(⁴) The Audit Authority shall report the errors detected in the sample (as amounts and as percentage of the sample) *before* any financial corrections are applied by the Responsible Authority as a result of the audit work carried out by the Audit Authority.

Only the amount of errors relating to the *audited interim payments or final payments drawn from the draft accounts of the current financial year* shall be taken into consideration for the calculating and reporting of the amount of errors and the error rate in Table 10.2, columns E and F.

The amount of detected errors that have an impact on the “amount of advance payments” cleared should be reported in Table 10.3, Column N.

(⁵) The *total error rate in the population* is the Audit Authority’s estimation of the total error rate in the “draft accounts” for the current financial year. The total error rate shall be calculated *before* any financial corrections are applied by the Responsible Authority.

The Audit Authority shall describe the methodology used to estimate the total error rate as well as the underlying calculations (including information on stratification, where applicable) in section 5 of the annual control report. In principle, the total error rate shall be the sum of the projected random errors and, if applicable, the total amount of systemic errors in the population and any uncorrected anomalous errors, divided by the population.

(⁶) Column I shall disclose the financial corrections implemented by the Responsible Authority *solely* on the auditable population, i.e. the “draft accounts” for the current financial year from which the sample was drawn.

Any financial corrections relating to the “amount of advance payments” cleared should be reported in Table 10.3, Column O.

(⁷) Column J should disclose the residual error rate in the accounts after the Responsible Authority has implemented the financial corrections *for the current financial year only*.

Any non-corrected errors in the “amount of advance payments” cleared should not be included in the calculation of the residual error rate for the accounts for the current financial year.

(⁸) In Table 10.3, the Audit Authority must report the results of any audits carried out

on items *other* than the sampled amounts reported in Table 10.2. If the Audit Authority considers it necessary to carry out additional audits (e.g. risk-based audits, audits on negative or zero payments), the results of these additional audits should also be presented in Table 10.3.

**COMMISSION IMPLEMENTING REGULATION (EU) 840/2015
OF 29 MAY 2015 ON CONTROLS CARRIED OUT BY RESPONSIBLE
AUTHORITIES PURSUANT TO REGULATION (EU) NO 514/2014
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING
DOWN GENERAL PROVISIONS ON THE ASYLUM, MIGRATION AND
INTEGRATION FUND AND ON THE INSTRUMENT FOR FINANCIAL
SUPPORT FOR POLICE COOPERATION, PREVENTING AND
COMBATING CRIME, AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 27(5) thereof,

Whereas:

(1) Responsible Authorities are responsible for the management and control of expenditure under Regulation (EU) No 514/2014. For that purpose they are to carry out administrative and on-the-spot controls.

(2) Efficient administrative controls carried out by Responsible Authorities should firstly consist in analysing financial declarations sent by beneficiaries. More detailed checking of individual supporting documents should only be carried out when that analysis reveals inconsistencies or irregularities. In order to ensure a sufficient level of assurance while

reducing the administrative burden, it is also important to clarify the circumstances under which the Responsible Authority can rely on an audit certificate.

3) On-the-spot controls should cover both financial and operational aspects and may need to be performed at different stages of a project. It is therefore necessary to define the scope of each type of on-the-spot control, in order to ensure that they are carried out in the most efficient way.

(4) Operational on-the-spot controls should take place while projects are being implemented, so that timely corrective measures can be taken. Such controls should apply both to a sample of projects that are still in progress on the first day of the relevant financial year and to projects that start during that financial year.

(5) With the aim of ensuring a sufficient level of assurance while reducing the administrative burden, the circumstances should be defined in which the risk of error is considered immaterial and as a consequence the number of financial on-the-spot controls can be reduced. However, it is also necessary to specify the action to be taken where there is a material error rate, in order to obtain sufficient assurance about the legality and regularity of the Union expenditure.

⁽¹⁾ OJ L 150, 20.5.2014, p.112.

(6) The main elements of financial on-the-spot controls should be clarified. In particular, Responsible Authorities must verify the non-profit nature of the projects supported by the national programmes. They should check that those projects do not receive double financing of expenditure under the national programmes and other Union programmes, in respect of all programming periods, including funding provided by agencies.

(7) Supporting documents should be kept for a specified period after the completion of each project, in order to allow the Responsible Authorities, the Commission (including OLAF) and the European Court of Auditors to carry out their controls.

(8) In order to allow for the application of this Regulation as soon as the national programmes are approved, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union.

(9) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(10) Without prejudice to Recital 47 of Regulation (EU) No 514/2014, Denmark is not bound by Regulation (EU) No 514/2014 or by this Regulation.

(11) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee,

ARTICLE 1 ADMINISTRATIVE CONTROLS

1. The Responsible Authority shall carry out administrative controls on all financial declarations sent by the beneficiaries with the aim of receiving Union funding, in accordance with the grant agreements defined in point (d) of Article 1 of Commission Delegated Regulation (EU) No 1042/2014 ⁽²⁾ ('financial declarations'). These controls shall, as a minimum, include the following elements:

(a) checks designed to confirm the formal correctness and the arithmetic accuracy of the financial declarations;

(b) checks to confirm that the project has achieved the objectives set out in the grant agreement or that progress is being made towards achieving those objectives;

(c) an analytical review to assess the relevance of the declared expenditure in the financial declarations and its compliance with the requirements set out in the grant agreement and the applicable Union and national rules.

2. Where administrative controls reveal inconsistencies or irregularities, the Responsible Authority shall carry out detailed checks in order to assess the legality and regularity of the expenditure, in particular by reviewing a targeted sample of supporting documents.

3. The Responsible Authority may require the beneficiary to obtain an audit certificate

HAS ADOPTED THIS REGULATION:

⁽²⁾ Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities (OJ L 289, 3.10.2014, p.3).

and an audit report covering all the aspects referred to in points (a) and (c) of paragraph 1, issued by an independent auditor. In that case, the Responsible Authority shall set out the scope of the controls to be performed by the independent auditor as well as the template of the audit report.

ARTICLE 2 GENERAL PRINCIPLES REGARDING ON-THE-SPOT CONTROLS

The Responsible Authority shall carry out financial and operational on-the-spot controls.

On-the-spot controls shall be carried out on the basis of documentation and records held by the project beneficiaries.

Unannounced on-the-spot controls may be carried out in accordance with the national law where the level of assurance could be undermined if prior notice was given.

ARTICLE 3 FINANCIAL ON-THE- SPOT CONTROLS

1. Financial on-the-spot controls shall aim at providing a sufficient level of assurance as to the legality and regularity of the transactions and contracts underlying the financial declarations.

2. The Responsible Authority shall verify that:

(a) the expenditure in relation to the financial declarations corresponds to the accounting records and supporting documents held by the project beneficiaries;

(b) the expenditure in relation to the financial declarations satisfies the eligibility requirements set out in the grant agreement and the applicable Union and national rules;

(c) the sources of financing comply with Article 16(2) of Regulation (EU) No 514/2014.

3. Without prejudice to Article 4(2) of this Regulation, financial on-the-spot controls shall cover a minimum of 10 % of the cumulated Union contribution to the projects declared as finalised in the annual accounts referred to in Article 39 of Regulation (EU) No 514/2014.

ARTICLE 4 CONDITIONS FOR REDUCING OR INCREASING FINANCIAL ON-THE-SPOT CONTROLS

1. The Responsible Authority shall ascertain the level of the error rate in the Union contribution controlled in the annual accounts referred to in Article 39 of Regulation (EU) No 514/2014 for financial year N.

2. The Responsible Authority may reduce the coverage of financial on-the-spot controls in the following financial year N+1 when the two following conditions are met:

(a) the error rate is less than 2 % of the Union contribution controlled in the annual accounts for financial year N,

(b) the financial on-the-spot controls carried out since the start of the national programme cover a minimum of 10 % of the cumulated Union contribution to all the projects declared as finalised in the annual accounts since the start of the programme.

3. Where the error rate is greater than or equal to 2 % of the Union contribution controlled in the annual accounts for financial year N, the Responsible Authority shall analyse the significance of this error rate in order to establish the scale and effect of the errors and to determine whether the error rate is representative of the entire population of payments declared. The Responsible

Authority shall take the necessary preventive and corrective measures, including additional controls, and shall set out the results of such analysis in the annual summary referred to in point (b) of the first subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾.

The financial on-the-spot controls for the following financial year (N+1) shall cover a percentage of the cumulated Union contribution to the projects declared as finalised in the annual accounts for the financial year N+1 that is higher than the corresponding percentage in financial year N. This higher percentage shall not be lower than 10 %. Additionally, up to financial year N+1 the financial on-the-spot controls carried out since the start of the national programme shall cover a minimum of 10 % of the cumulated Union contribution to all the projects declared as finalised in the annual accounts since the start of the programme.

Where the error rate resulting from the increased controls carried out in year N+1 falls below 2 %, the Responsible Authority shall, in the next financial year (N+2) carry out financial on-the-spot controls on a minimum of 10 % of the cumulated Union contribution to the projects declared as finalised in the annual accounts for financial year N+2.

ARTICLE 5 OPERATIONAL ON-THE-SPOT CONTROLS

1. When carrying out operational on-the-spot controls, the Responsible Authority shall verify that the project in question is being

implemented in accordance with the grant agreement. In particular, it shall check that the indicators reported by the beneficiaries are reliable and the project is proceeding without undue delays.

2. Operational on-the-spot controls carried out in financial year N shall cover a minimum of 20 % of the number of projects being implemented during that financial year, as declared in the corresponding annual accounts referred to in Article 39 of Regulation (EU) No 514/2014.

ARTICLE 6 SAMPLE METHODOLOGY FOR ON-THE-SPOT CONTROLS

The Responsible Authority shall carry out on-the-spot controls on a sample of projects representing an appropriate mix of types and sizes of projects, transactions, beneficiaries and implementing modes. The sample shall take into account any risk factors as well as cost-benefit aspects of the controls.

ARTICLE 7 CONTROL REPORTS

1. The Responsible Authority shall draw up a report on each administrative and on-the-spot control, giving the following information:

- (a) full identification of the project and its corresponding grant agreement;
- (b) the name and signature of the controller;
- (c) the beneficiary's name;
- (d) the type of controls (administrative, financial or operational on-the-spot or a combination);
- (e) where necessary, the scope of the control;
- (f) the expenditure falling within the scope of the control and the expenditure (sample) actually verified;
- (g) the amount of expenditure considered ineligible; and
- (h) a description of the major findings, weaknesses, errors and irregularities, additional

⁽³⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p.1).

controls and analysis carried out, recommendations and corrective measures proposed and the reaction of the beneficiary.

2. The control report may be presented as a checklist.

ARTICLE 8 SPECIFIC CONDITIONS

Where the Responsible Authority acts as executing body, as referred to in Article 8 of Delegated Regulation (EU) No 1042/2014, the administrative and on-the-spot controls referred to in Articles 1 and 2 of this Regulation shall be carried out by an entity or a person functionally independent from the entities or persons managing the projects.

ARTICLE 9 RETENTION OF SUPPORTING DOCUMENTS

1. The Responsible Authority shall ensure that all records, documents and metadata regarding the expenditure declared and the assigned revenues and audits and controls performed are kept at the Commission's (including OLAF) and the European Court of Auditors' disposal for at least four years following the financial year in which the final payment was declared.

To that end, the Responsible Authority shall lay down rules regarding the retention of records, documents and metadata by the beneficiaries.

2. Where irregularities are identified by the Responsible Authority concerned, the supporting documents referred to in paragraph 1 shall be kept at the Commission's disposal for at least three years following the year in which the amounts in question were entirely recovered from the beneficiary and credited to the national programme.

3. Where a conformity clearance procedure as referred to in Article 47 of Regulation (EU) No 514/2014 is launched, the supporting documents referred to in paragraph 1 of this Article shall be kept at the Commission's disposal for at least one year following the year in which that procedure has been concluded.

4. If a conformity decision is the subject of legal proceedings before the Court of Justice of the European Union, the relevant supporting documents shall be kept at the Commission's disposal for at least one year following the year in which those proceedings have been concluded.

5. The supporting documents referred to in paragraphs 1, 2, 3 and 4 shall be kept at the Commission's disposal in paper form or in electronic form.

Documents may be kept exclusively in electronic form only if the national law of the Member State concerned permits the use of electronic documents as evidence of the underlying transactions in national court proceedings.

6. The Member States may prescribe longer periods for the retention of supporting documents.

ARTICLE 10

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 in accordance with the Treaties.

Done at Brussels, 29 May 2015,

For the Commission,
The President,
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1019 of 13 July 2020 amending Implementing Regulation (EU) 2015/840

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of 16 April 2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 27(5) thereof,

Whereas:

(1) Article 5(2) of Commission Implementing Regulation (EU) 2015/840 ⁽²⁾ provides that during a financial year the Responsible Authorities are to carry out operational on-the-spot controls covering a minimum of 20 % of the number of projects being implemented during that financial year.

(2) Member States have been affected by the COVID-19 pandemic in an unprecedented manner. The crisis has required Member States to impose restrictions on the freedom of movement on their territory making it difficult to carry out on-the-spot controls.

(3) In order to provide flexibility to the Responsible Authorities for performing the required operational on-the-spot controls, it is appropriate to amend the existing rules to avoid delays in the clearance of accounts procedure. Such flexibility should be achieved by providing the possibility to the Responsible Authorities to carry out the requirements for operational on-the-spot controls at a later stage during the programming period when due to the COVID-19 pandemic the annual minimum of 20 % of the number of projects implemented during a given financial year cannot be reached in that financial year.

(4) Ireland is bound by Regulation (EU) No 514/2014 and is as consequence bound by this Regulation.

(5) The United Kingdom is bound by Regulation (EU) No 514/2014 and is as consequence bound by this Regulation. In accordance with Article 138 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³, applicable Union law, including the rules on financial corrections and on clearance of accounts, will continue to apply to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities.

(6) Denmark is not bound by Regulation (EU) No 514/2014 or by this Regulation.

(7) Given the urgency of the situation related to the COVID-19 pandemic, it is appropriate

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

⁽²⁾ Commission Implementing Regulation (EU) 2015/840 of 29 May 2015 on controls carried out by Responsible Authorities pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 134, 30.5.2015, p. 1).

⁽³⁾ OJ C 384 I, 12.11.2019, p. 1.

that this Regulation enters into force on the day following that of its publication in the *Official Journal of the European Union*.

(8) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee established by Article 59(1) of Regulation (EU) No 514/2014.

(9) Implementing Regulation (EU) 2015/840 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

In Article 5 of Implementing Regulation (EU) 2015/840, paragraph 2 is replaced by the following:

'2. Operational on-the-spot controls carried out in financial year N shall cover a minimum of 20% of the number of projects being implemented during that financial year, as declared in the corresponding annual accounts referred to in Article 39 of Regulation (EU) No 514/2014. When this minimum cannot be reached in financial year N due to the COVID-19 pandemic, the controls that have not been carried out in financial year N shall be performed at a later stage during the programming period.'

ARTICLE 2

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 in accordance with the Treaties.

Done at Brussels, 13 July 2020.

For the Commission
The President

Ursula VON DER LEYEN

**COMMISSION IMPLEMENTING REGULATION (EU) NO 802/2014
OF 24 JULY 2014 ESTABLISHING MODELS FOR NATIONAL
PROGRAMMES AND ESTABLISHING THE TERMS AND CONDITIONS
OF THE ELECTRONIC DATA EXCHANGE SYSTEM BETWEEN THE
COMMISSION AND MEMBER STATES PURSUANT TO REGULATION
(EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL LAYING DOWN GENERAL PROVISIONS ON THE ASYLUM,
MIGRATION AND INTEGRATION FUND AND ON THE INSTRUMENT
FOR FINANCIAL SUPPORT FOR POLICE COOPERATION,
PREVENTION AND COMBATING CRIME AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying

down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support

for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Articles 14(4)

and 24(5) thereof,

Whereas:

(1) Regulation (EU) No 514/2014 together with the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014, constitute a framework for Union funding to support the development of the area of freedom, security and justice.

(2) Regulation (EU) No 514/2014 requires each Member State to propose a multiannual national programme. To ensure that the information provided to the Commission is consistent and comparable, it is necessary to establish a model which the national programme should follow.

(3) Pursuant to Article 24(5) of Regulation (EU) No 514/2014 all official exchanges of information between Member States and the Commission are to be carried out using an electronic data exchange system. It is therefore necessary to establish the terms and conditions with which that electronic data exchange system should comply. In order to be cost-effective and ensure overall coherence with all Union shared management Funds, the terms and conditions of the electronic data exchange system are the same, to the extent possible, as those provided for

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

in Commission Implementing Regulation (EU) No 184/2014 ⁽²⁾.

(4) In order to improve the quality of information exchanged, and to render the information exchange system simpler and more useful, it is necessary to lay down basic requirements regarding the form and scope of the information to be exchanged.

(5) Principles and rules should be laid down regarding the identification of the party responsible for uploading documents into the electronic data exchange system and updating those documents

(6) Technical characteristics for an efficient electronic exchange system should be established in order to reduce the administrative burden for Member States and the Commission.

(7) To ensure that both Member States and the Commission can continue to exchange information in cases of *force majeure* that hinder the use of electronic data exchange

system, alternative means to encode and transfer data need to be specified.

(8) Member States and the Commission should ensure that transfer of data through the electronic data exchange system is performed in a secured manner allowing for availability, integrity, authenticity, confidentiality and non-repudiation of information. Therefore rules on security should be set out.

(9) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, and notably the right to protection of personal data. This Regulation should therefore be applied in accordance with these rights and principles. Concerning personal data processed by Member States, Directive 95/46/EC of the European Parliament and of the Council ⁽³⁾ applies. Concerning the processing of personal data by the Union institutions and bodies and the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽⁴⁾ applies.

(10) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval of the national programmes, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

⁽²⁾ Commission Implementing Regulation (EU) No 184/2014 of 25 February 2014 laying down pursuant to Regulation (EU) No 1303/2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, the terms and conditions applicable to the electronic data exchange system between the Member States and the Commission and adopting pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal, the nomenclature of the categories of intervention for support from the European Regional Development Fund under the European territorial cooperation goal (OJ L 57, 27.2.2014, p. 7).

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽⁴⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(11) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(12) Denmark is not bound by Regulation (EU) No 514/2014 nor by this Regulation.

(13) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee.

HAS ADOPTED THIS REGULATION:

ARTICLE 1 MODELS FOR NATIONAL PROGRAMMES

The model for national programmes is set out in the Annex.

ARTICLE 2 ESTABLISHMENT OF ELECTRONIC DATA EXCHANGE SYSTEM

The Commission shall establish an electronic data exchange system for all official exchanges of information between Member States and the Commission (hereinafter referred to as 'SFC2014').

ARTICLE 3 CONTENT OF ELECTRONIC DATA EXCHANGE SYSTEM

1) SFC2014 shall contain at least the information specified in the models, formats and templates established in accordance with Article 1 of this Regulation, that are in accordance with the Regulation (EU) No 514/2014 and the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014.

2. The information provided in the electronic forms embedded in SFC2014 (hereinafter referred to as 'structured data') shall not be replaced by non-structured data, including the use of hyperlinks or other types of non-

structured data such as attachment of documents or images. Where a Member State transmits the same information in the form of structured data and non-structured data, the structured data shall be used in case of inconsistencies.

ARTICLE 4 OPERATION OF SFC2014

1. The Commission and the competent authorities referred to in Article 25 of Regulation (EU) No 514/2014 shall enter into SFC2014 the information for the transmission of which they are responsible, and any updates thereto.

2. Any transmission of information to the Commission shall be verified and submitted by a person other than the person who entered the data for that transmission. This separation of tasks shall be supported by SFC2014 or by the Member State's management and control information systems connected automatically with SFC2014.

3. Member States shall appoint, at national or regional level or at both national and regional levels, one or more persons responsible for managing access rights to SFC2014. Those persons shall fulfil the following tasks:

- (a) identifying users requesting access, making sure those users are employed by the organisation;
- (b) informing users about their obligations to preserve the security of the system;
- (c) verifying the entitlement of users to the required privilege level in relation to their tasks and their hierarchical position;
- (d) requesting the termination of access rights when those access rights are no longer needed or justified;

(e) promptly reporting suspicious events that may undermine the security of the system;

(f) ensuring the continued accuracy of user identification data by reporting any changes;

(g) taking the necessary data protection and commercial confidentiality precautions in accordance with applicable Union and national rules; and

(h) informing the Commission of any changes affecting the capacity of the Member State authorities or users of SFC2014 to carry out the responsibilities referred to in paragraph 1 or their personal capacity to carry out the responsibilities referred to in points (a) to (g).

4. Exchanges of data and transactions shall bear a compulsory electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council ⁽⁵⁾. Member States and the Commission shall recognise the legal effectiveness and admissibility of the electronic signature used in SFC2014 as evidence in legal proceedings.

5. Information processed through SFC2014 shall respect the protection of privacy of personal data for individuals and commercial confidentiality for legal entities in accordance with Directive 2002/58/EC of the European Parliament and of the Council ⁽⁶⁾, Directive 2009/136/EC of the European Parliament

and of the Council ⁽⁷⁾, Directive 95/46/EC and Regulation (EC) No 45/2001.

ARTICLE 5 CHARACTERISTICS OF SFC2014

In order to ensure the electronic exchange of information, SFC2014 shall have the following characteristics:

(a) interactive forms or forms pre-filled by the system on the basis of data already previously recorded in the system;

(b) automatic calculations, where they reduce the encoding effort of users;

(c) automatic embedded controls to verify internal consistency of transmitted data and consistency of this data with applicable rules;

(d) system-generated alerts warning SFC2014 users that certain actions can or cannot be performed;

(e) online status tracking of the treatment of information entered into the system; and

(f) availability of historical data in respect of all information entered for a national programme.

⁽⁵⁾ Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

⁽⁶⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

⁽⁷⁾ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 337, 18.12.2009, p. 11).

ARTICLE 6 TRANSMISSION OF DATA THROUGH SFC2014

1. SFC2014 shall be accessible to Member States and the Commission either directly through an interactive user interface (that is to say, a Web application) or via a technical interface using predefined protocols (that is to say, Web services) that allows for automatic synchronisation and transmission of data between Member States information systems and SFC2014.

2. The date of electronic transmission of information by the Member State to the Commission and vice versa shall be considered to be the date of submission of the document concerned.

3. In cases of force *majeure*, a malfunctioning of SFC2014 or a lack of a connection with SFC2014 exceeding one working day in the last week before a regulatory deadline for the submission of information or five working days at other times, the information exchange between Member State and the Commission may take place in paper form using the models, formats and templates referred to in Article 3(1).

When the electronic exchange system ceases to malfunction, the connection with that system is re-established or the cause of force *majeure* ceases, the party concerned shall enter without delay the information already sent in paper form into SFC2014.

4. In cases referred to in paragraph 3 the date stamped by the post shall be considered to be the date of submission of the document concerned.

ARTICLE 7 SECURITY OF DATA TRANSMITTED THROUGH SFC2014

1. The Commission shall establish an information technology security policy (hereinafter referred to as 'SFC IT security policy') for SFC2014 applicable to personnel using SFC2014 in accordance with relevant Union rules, in particular Commission Decision C(2006)3602 ⁽⁸⁾ and its implementing rules. The Commission shall designate one or more persons responsible for defining, maintaining and ensuring the correct application of the security policy for SFC2014.

2. Member States and European institutions other than the Commission, who have received access rights to SFC2014, shall comply with the IT security terms and conditions published in the SFC2014 portal and the measures that are implemented in SFC2014 by the Commission to secure the transmission of data, in particular in relation to the use of the technical interface referred to in Article 6(1) of this Regulation.

3. Member States and the Commission shall implement and ensure effectiveness of security measures adopted to protect the data they have stored and transmitted through SFC2014.

4. Member States shall adopt national, regional or local information technology security policies covering access to SFC2014 and automatic input of data into it, ensuring a minimum set of security requirements. These national, regional or local IT security policies may refer to other security documents. Each Member State shall ensure that

⁽⁸⁾ Commission Decision C(2006) 3602 of 16 August 2006 concerning the security of information systems used by the European Commission.

these IT security policies apply to all authorities using SFC2014.

5. These national, regional or local IT security policies shall include:

(a) the IT security aspects of the work performed by the person or persons responsible for managing the access rights referred to in Article 4(3) of this Regulation when working directly in SFC2014; and

(b) the IT security measures for those national, regional or local computer systems connected to SFC2014 through a technical interface referred to in Article 6(1) of this Regulation.

For the purposes of point (b) of the first subparagraph, the following aspects of IT security shall be covered, as appropriate:

- (a) physical security;
- (b) data media and access control;
- (c) storage control;
- (d) access and password control;
- (e) monitoring;
- (f) interconnection to SFC2014;
- (g) communication infrastructure;
- (h) human resources; and
- (i) incident management.

6. The national, regional or local IT security policies shall be based on a risk assessment and the measures described shall be proportionate to the risks identified.

7. The documents setting out the national, regional or local IT security policies shall be made available to the Commission upon request.

8. Member States shall designate, at a national or regional level, one or more persons responsible for maintaining and ensuring the application of the national, regional or local IT security policies. That person or those persons shall act as contact point with the person or persons designated by the Commission and referred to in paragraph 1.

9. Both the SFC IT security policy and the relevant national, regional or local IT security policies shall be updated in the event of technological changes, the identification of new threats or other relevant developments. In any event, they shall be reviewed on an annual basis to ensure that they continue to provide an appropriate response.

ARTICLE 8

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 Member States in accordance with the Treaties.

Done at Brussels, 24 July 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX 1: MODEL FOR NATIONAL PROGRAMME

Competent authorities responsible for the management and control systems (Article 25 of Regulation (EU) No 514/2014)

Identification and contact details:

	Name of the authority	Head of the authority	Address	Email address	Date of designation	Activities delegated
Responsible Authority	'decision='N'	'decision='N'	'decision='N'	'decision='N'	'decision='N'	
Audit Authority	'decision='N'	'decision='N'	'decision='N'	'decision='N'		
Delegated Authority 1	'decision='N'	'decision='N'	'decision='N'	'decision='N'		'decision='N'
Delegated Authority 2	'decision='N'	'decision='N'	'decision='N'	'decision='N'		'decision='N'
Delegated Authority n (10 max)	'decision='N'	'decision='N'	'decision='N'	'decision='N'		'decision='N'

Attached document: notification of designation with:

- (a) the main division of responsibilities between its organisational units;
- (b) where appropriate, its relationship with delegated authorities, the activities to be delegated, and the main procedures for supervising these delegated activities; and
- (c) a summary of the main procedures for processing financial claims from beneficiaries and for authorising and recording expenditure

Provide a summary description of the envisaged management and control system (Article 14(2)(g) of Regulation (EU) No 514/2014).

CCI	<0.1 type='S' maxlength='15' input='G'>
Title	<i>The national programme of the Fund for [Member State]</i>
Version	<0.3 type='N' input='G'>
First Year	<0.4 type='N' maxlength='4' input='M'>
Last Year	2020
Eligible From	1 January 2014
Eligible To	30 June 2023
EC Decision Number	<0.8 type='S' input='G'>
EC Decision Date	<0.8 type='D' input='G'>

Section 1: Executive Summary

Provide an overall summary of the entire programme, highlighting national strategies, national objectives and targets (desired outcomes and results).

Section 2: Baseline situation in the Member State (Article 14(2)(a) and (b) of Regulation (EU) No 514/2014.

The baseline situation is a summary of the state of play as of December 2013 in the Member State for the fields relevant to the Fund. This section shall include:

- a description of the baseline situation in the Member State, ***completed with the necessary factual information to assess the requirements correctly***;
- an analysis of requirements in the Member State, including the key issues from the outcome of the policy dialogue;
- measures undertaken so far, including measures implemented with the former Home Affairs Funds;

– national needs assessment, including challenges identified in relevant evaluations; and

– indicative annual resources from the national budget, broken down by specific objectives set in the national programmes.

The information must be self-contained and cannot refer to information in attached documents or contain hyperlinks. A document may be attached with additional details.

Any attached document will not form part of the Commission decision approving the national programme referred to in Article 14(7) of Regulation (EU) 514/2014.

Section 3: Programme Objectives (Article 14(2) (b), (c) and (d) of Regulation (EU) No 514/2014)

The information in the specific objectives shall be self-contained and cannot refer to information in any attached document or contain hyperlinks.

Specific objective (as laid down in the Specific Regulations): provide the appropriate strategy, identifying the national objectives, including a description of how the objectives of the Specific Regulations are covered, in order to meet the requirements identified in the baseline situation.

National objective: provide a brief description of the main actions to achieve the national objective, indicating those example actions that will be supported by the national programme (i.e. funding priorities), and as part of the description provide the targets (desired outcomes and results).

Specific action (as laid down in the Specific Regulations):

- describe how the action will be carried out and provide justification for the allocated amount;

- for joint actions (trans-national projects), the lead Member State only should list the participating Member States, including their role and possible financial contribution, if applicable; and

- participating Member States should describe their role and financial contribution, if applicable.

SPECIFIC OBJECTIVE N: <i>Title</i> <i>input='F'></i>
<i>type='S' maxlength='3000' input='M'></i>
National objective n: <i>title</i> <i>input='F'></i>
<i>type='S' maxlength='2800' input='M'></i>
Specific action n: <i>title</i> <i>input='F'></i>
<i>type='S' maxlength='1900' input='M'></i>

Indicative timetable: for each national objective enter the three main actions to be supported with the national programme. For each action enter the year when it is planned (e.g. call for proposals), when it will be implemented (e.g. contracts/grants signed), and when the action will be closed or completed (e.g. final report).

Indicative timetable: (Article 14(2)(c) of Regulation (EU) No 514/2014)				
	Name of action	Start of planning	Start of implementation	Closing
Specific objective n: <i>input='F'</i>				
National objective n: <i>input='F'</i>	<i>type='S' maxlength='80' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>
	<i>type='S' maxlength='80' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>
	<i>type='S' maxlength='80' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>	<i>type='N' maxlength='4' input='G/M'></i>

Section 4: Special cases

In the case where the national programme includes pledging, provide the numbers for each category for the respective pledging period, when applicable.

By completing the pledging plan, the Member State confirms that there is an official national commitment to honour the pledge during the respective pledging period and

that the measures will be effectively carried out during the period.

Pledging plan: provide a justification for the pledge, the official commitment to honour the pledge, an indicative timetable, selection process and operations needed to carry out the pledge.

Pledging plan			
<i>type='S' maxlength='1000' input='M'></i>			
Categories <i>input='F'</i>	Pledging period <i>input='F'</i>	Pledging period <i>input='F'</i>	Pledging period <i>input='F'</i>
....	<i>Type= N input='M'</i> <i>Decision ='N'</i>	<i>Type= N input='M'</i> <i>Decision ='N'</i>	<i>Type= N input='M'</i> <i>Decision ='N'</i>
Total	<i>input='G'</i>	<i>input='G'</i>	<i>input='G'</i>

Section 5: Common indicators and programme specific indicators (Article 14 (2)(f) of Regulation (EU) No 514/2014)

Common indicator (as set out in the Specific Regulations): for each specific objective pursued provide the target value for each common indicator and the source of the data (e.g. project reports).

vide: the link to the relevant specific objective; a description of the indicator; the measurement unit; the baseline value; the target value to reach; and the source of the data. Each programme specific indicator must be linked to a single specific objective.

In the case where the national programme includes programme specific indicators pro-

Indicator ID	Indicator description	Measurement unit	Baseline value	Target value	Source of data
Specific objective n: title (input='F')					

Section 6: Framework for preparation and implementation of the programme by the Member State

6.1 Partnership involvement in the preparation of the programme (Article 12(3) of Regulation (EU) No 514/2014)

Summary of the approach taken, the composition and involvement of partners and key stages of broader consultation, where relevant, including a list of the main partners (or types of partners) involved or consulted.

6.2 Monitoring Committee (Article 12(4) of Regulation (EU) No 514/2014)

6.3 Common monitoring and evaluation framework (Article 14(2)(f) of Regulation (EU) No 514/2014)

Provide a brief description of the planned approach and methods to be used.

Include replies to the following:

(b) Where will the evaluation and monitoring function be located? Who will be the entity responsible for evaluation?

(c) Will the evaluation or monitoring be outsourced?

(d) How will data on projects and indicators be collected (monitoring system)?

6.4 Partnership involvement in the implementation, monitoring and evaluation of the national programme (Article 12(3) and 14(2)(h) of Regulation (EU) No 514/2014)

Provide a brief description of the approach that will be taken for partners, their level of involvement and key stages of broader consultation, where relevant, including a list of the types of partners involved or consulted (or the main partners).

6.5 Information and publicity (Article 14(2)(j) and 53 of Regulation (EU) No 514/2014)

Provide description of the mechanisms and methods to be used to publicise the national programme.

6.6 Coordination and complementarity with other instruments (Article 14(2)(e) and 14(5)(f) of Regulation (EU) No 514/2014)

Briefly describe the mechanisms to ensure coordination between the instruments established by the Specific Regulations and with other Union and national instruments. This should include, if applicable, the identification of bodies responsible for coordination in these areas and, where appropriate, the structures or arrangements (e.g. committees, consultation procedures) used for this purpose.

As regards the complementarity with other Union instruments the following should be considered:

- European Structural and Investment Funds (European Regional Development Fund, European Social Fund, Cohesion Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund);
- Other EU Funds or programmes (e.g. Lifelong Learning Programme, Culture Programme, Youth in Action Programme);
- EU external relations instruments (e.g. Instrument for Pre-accession Assistance, European Neighbourhood and Partnership Instrument, Instrument for Stability), as far as actions in or in relation with third countries are concerned.

6.7 Beneficiaries and direct award

6.7.1 List the main types of beneficiaries of the programme (use the list below)

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The types of beneficiaries are: State/federal authorities, local public bodies, non-governmental organisations, international public organisations, national Red Cross, International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, private and public law companies, education/research organisations, social partners.

6.7.2 Direct award

Indicate the national objective, when it is intended to use direct award and provide a justification for each circumstance.

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Section 7: The financing plan of the programme (Article 14(2)(i) of Regulation (EU) No 514/2014)

Financing plan of the national programme specifying, for the whole programming period, the amount of the total EU contribution to each specific objective pursued. The amounts for national objectives within a specific objective are indicative. The total technical assistance expenditure is indicated.

Table 7.1 Financing plan by specific objectives (in Euro)

Specific objective: title (input='F')	
National objective n (input='F')	type='N' input='M'>
Subtotal of national objectives (input='F')	type='N' input='G'>
Specific action n (input='F')	type='N' input='M'>
Total 1 SO (input='F')	type='N' input='G'>
National objective n+1 (input='F')	type='N' input='M'>
Subtotal of national objectives (input='F')	type='N' input='G'>
Specific action n+1 (input='F')	type='N' input='M'>
Total n (input='F')	type='N' input='G'>
Special cases (input='F')	type='N' input='G'>
Total special cases (input='F')	type='N' input='G'>
Technical assistance: (Maximum =fixed amount + (Total allocation) *5 or 5.5 % in accordance with the Specific Regulations)	type='N' input='M'>
TOTAL	type='N' input='G'>

Indicative financing plan of the national programme specifying the total EU contribution for each financial year

Table 7.2 Financing plan by financial year (in Euro)

YEAR	2014	2015	2016	2017	2018	2019	2020	TOTAL
TOTAL	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>

7.3 Justification for any deviation from the minimum shares set in the Specific Regulations. (Only required if the minima are not met) Article 14(5)(b)

Provide a detailed explanation for derogating from the minimum shares as set out in the Specific Regulations.

**COMMISSION DELEGATED REGULATION (EU) NO 1048/2014
OF 30.7.2014 LAYING DOWN INFORMATION AND PUBLICITY
MEASURES FOR THE PUBLIC AND INFORMATION MEASURES FOR
BENEFICIARIES PURSUANT TO REGULATION (EU) NO 514/2014
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING
DOWN GENERAL PROVISIONS ON THE ASYLUM, MIGRATION AND
INTEGRATION FUND AND ON THE INSTRUMENT FOR FINANCIAL
SUPPORT FOR POLICE COOPERATION, PREVENTING AND
COMBATING CRIME, AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 53(4) thereof,

Whereas:

(1) Regulation (EU) No 514/2014 lays down general provisions for the implementation of the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

(2) Experience has shown that European Union citizens are insufficiently aware of the role played by the Union in funding programmes. It is therefore appropriate to define in detail the information and publicity

measures necessary to bridge this communication and information gap.

(3) The minimum measures needed to inform potential beneficiaries about the financing opportunities offered jointly by the Union and Member States through the national programme should be set out. This will ensure that information on possible funding opportunities is disseminated widely to all interested parties and support transparency. To further enhance transparency about use of the funds, the list of beneficiaries, the names of projects and the amount of public funding allocated to projects should be published.

(4) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval and implementation of the national programmes, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(5) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

⁽¹⁾ OJ L 150, 20.5.2014, p. 112

(6) Denmark is not bound by Regulation (EU) No 514/2014 nor by this Regulation.

HAS ADOPTED THIS REGULATION:

ARTICLE 1 RESPONSIBILITIES OF MEMBER STATE RELATING TO INFORMATION AND PUBLICITY FOR THE PUBLIC

1. The Member State shall ensure that information and publicity measures provided for in Article 53(1) of Regulation (EU) No 514/2014 are disseminated widely using various forms and methods of communication.

The Member State shall ensure that the key elements regarding the national programme are disseminated widely, with details of the financial contributions concerned, and that they are made available to all interested parties.

However, the Member State may decide to keep confidential the detailed management arrangements laid down in the national programme and any other information relating to its implementation on grounds referred to in Article 53(3) of Regulation (EU) No 514/2014.

2. The Member State shall organise information activities, presenting the launch of the national programme or its achievements as well as the achievements of the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014.

The list of actions referred to in Article 53(2) of Regulation (EU) No 514/2014 shall be updated at least annually.

Each Member State shall communicate the address of the website referred to in Article 53(1)(a) of Regulation (EU) No 514/2014 to the Commission.

ARTICLE 2 RESPONSIBILITIES OF BENEFICIARIES RELATING TO INFORMATION AND PUBLICITY FOR THE PUBLIC

1. The Member States shall ensure that the beneficiaries shall also be responsible for informing the public about the financial assistance obtained under a national programme, in accordance with this article.

2. The Member States shall ensure that the beneficiary put up a permanent prominent plaque of significant size no later than three months after completion of any project that fulfils the following conditions:

- the total Union contribution to the project exceeds EUR 100 000 and
- the project consists of purchasing a physical object or of financing infrastructure or construction projects.

The plaque shall state the type and name of the project. The information referred to in Article 1 of Commission Implementing Regulation (EU) No 1049/2014 ⁽²⁾ shall take up at least 25% of the plaque.

3. Where a project receives funding under a national programme, the Member States shall ensure that the beneficiary makes sure that the persons taking part in the project are informed of that funding.

⁽²⁾ Commission Implementing Regulation (EU) No 1049/2014 on technical characteristics of information and publicity measures pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (OJ L 219, 10.07.2014, p 9)

4. Any project or national programme document, including attendance certificates, shall include a statement indicating that the project is co-financed under the national programme.

ARTICLE 3 RESPONSIBILITY OF THE MEMBER STATE TO INFORM POTENTIAL BENEFICIARIES

1. The Member State shall ensure that potential beneficiaries have access to the relevant up-to-date information, taking into account the accessibility of electronic or other communication means, on at least the following:

- the funding opportunities and the launching of calls for proposals;
- the conditions of eligibility for funding under a national programme;
- a description of the procedures for examining applications for funding and of the time periods involved;
- the criteria for selecting and granting the projects to be funded; and
- the contacts who can provide information on the national programme.

2. The Member State shall inform potential beneficiaries of the publications available in accordance with Article 53(2) of Regulation (EU) No 514/2014.

ARTICLE 4 RESPONSIBILITY OF THE MEMBER STATE TO INFORM BENEFICIARIES

The Member State shall inform beneficiaries that acceptance of funding also implies acceptance of their inclusion on the list of actions published in accordance with Article 53(2) of Regulation (EU) No 514/2014.

ARTICLE 5

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 in accordance with the Treaties.

Done at Brussels, 30.7.2014

For the Commission,
The President
José Manuel BARROSO

**COMMISSION IMPLEMENTING REGULATION (EU) NO 1049/2014
OF 30 JULY 2014 ON TECHNICAL CHARACTERISTICS OF
INFORMATION AND PUBLICITY MEASURES PURSUANT TO
REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL LAYING DOWN GENERAL PROVISIONS
ON THE ASYLUM, MIGRATION AND INTEGRATION FUND AND
ON THE INSTRUMENT FOR FINANCIAL SUPPORT FOR POLICE
COOPERATION, PREVENTION AND COMBATING CRIME AND
CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying

down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for

police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 53(5) thereof,

Whereas:

(1) Regulation (EU) No 514/2014 lays down general provisions for the implementation of the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

(2) It is necessary to ensure that the financial support of the Union is visibly acknowledged so that the role played by the Union in funding programmes may become more widely

known. Information and publicity measures should thus contain specific information indicating the involvement of the Union, including the emblem of the Union. For the sake of consistency, the emblem of the Union should appear in a standard format.

(3) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(4) Denmark is not bound by Regulation (EU) No 514/2014 nor by this Regulation.

(5) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval of the national programmes, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Asylum, Migration and Internal Security Funds Committee,

(7) HAS ADOPTED THIS REGULATION:

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

ARTICLE 1 TECHNICAL CHARACTERISTICS OF INFORMATION AND PUBLICITY FOR THE PROJECT

All information and publicity measures aimed at beneficiaries, potential beneficiaries and the general public shall include:

- (a) the emblem of the European Union, in accordance with the graphic standards set out in the Annex, and a reference to the European Union;
- (b) a reference to the Fund supporting the project as indicated in the Annex;
- (c) a statement chosen by the responsible authority, highlighting the added value of the contribution from the European Union.

For small promotional items points (a) and (c) shall not apply.

ARTICLE 2

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 all Member States.

Done at Brussels, 30 July 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX INSTRUCTIONS CONCERNING THE EMBLEM AND DEFINITION OF THE STANDARD COLOURS SYMBOLIC

DESCRIPTION

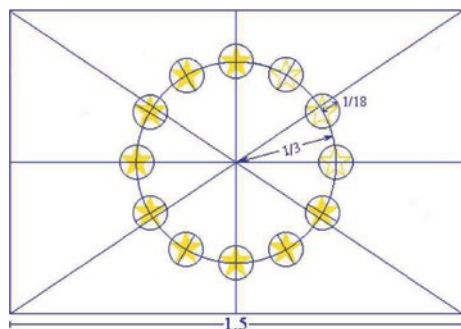
Against a background of blue sky, twelve golden stars form a circle representing the union of the peoples of Europe. The number of stars is fixed, twelve being the symbol of perfection and unity.

For full details and guidance, see http://ec.europa.eu/dgs/communication/services/visual_identity/pdf/use-emblem_en.pdf

1. HERALDIC DESCRIPTION

On an azure field a circle of twelve golden mullets, their points not touching.

2. GEOMETRIC DESCRIPTION



The emblem has the form of a blue rectangular flag of which the fly is one and a half times the length of the hoist. Twelve gold stars situated at equal intervals form an invisible circle whose centre is the point of intersection of the diagonals of the rectangle. The radius of the circle is equal to one third of the height of the hoist. Each of the stars has five points which are situated on the circumference of an invisible circle whose radius is equal to one eighteenth of the height

of the hoist. All the stars are upright, i.e. with one point vertical and two points in a straight line at right angles to the mast. The circle is arranged so that the stars appear in the position of the hours on the face of a clock. Their number is invariable.

3. REGULATION COLOURS

The emblem is in the following colours:

PANTONE REFLEX BLUE for the surface of the rectangle;

PANTONE YELLOW for the stars.

Four-colour process

If the four-colour process is used, recreate the two standard colours by using the four colours of the four-colour process.

PANTONE YELLOW is obtained by using 100 % 'Process Yellow'.

PANTONE REFLEX BLUE is obtained by mixing 100 % 'Process Cyan' and 80 % 'Process Magenta'.

INTERNET

In the web-palette PANTONE REFLEX BLUE corresponds to colour RGB:0/0/153 (hexadecimal: 003399) and PANTONE YELLOW to colour RGB:255/204/0 (hexadecimal: FFCC00).

MONOCHROME REPRODUCTION PROCESS

Using black, outline the rectangle in black and print the stars in black on white.



Using blue (Reflex Blue), use 100 % with the stars reproduced in negative white.



6. REPRODUCTION ON A COLOURED BACKGROUND

If there is no alternative to a coloured background, put a white border around the rectangle, the width of the border being 1/25th of the height of the rectangle.



7. APPLICATION OF TEXT ABOUT ACKNOWLEDGEMENT OF EU FUNDING

Basic rules

The minimum height of the EU emblem shall be 1 cm.

The name of the European Union shall always be spelled in full.

The typeface to be used in conjunction with the EU emblem can be any of the following: Arial, Calibri, Garamond, Trebuchet, Tahoma, Verdana.

Italic and underline variations and the use of font effects is not allowed.

The positioning of the text in relation to the EU emblem is not prescribed in any particular way but the text should not interfere with the emblem in any way.

The font size used should be proportionate to the size of the emblem.

The colour of the font should be reflex blue (same blue colour as the EU flag), black or white depending on the background.

**COMMISSION IMPLEMENTING REGULATION (EU) NO 801/2014
OF 24 JULY 2014 SETTING OUT THE TIMETABLE AND OTHER
IMPLEMENTING CONDITIONS RELATED TO THE MECHANISM
FOR THE ALLOCATION OF RESOURCES FOR THE UNION
RESETTLEMENT PROGRAMME UNDER THE ASYLUM, MIGRATION
AND INTEGRATION FUND**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund ⁽¹⁾, in particular Article 17(8) thereof,

After consulting the Asylum, Migration and Integration and Internal Security Funds Committee established by Article 59(1) of Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽²⁾,

Whereas:

1. In addition to the amounts allocated pursuant to Article 15(1)(a) of Regulation (EU) No 516/2014, Member States receive an additional amount, every two years, for each resettled person.

2. The periods to be taken into account for the calculation of the additional amount should be specified. It is appropriate to establish

three resettlement periods, in respect of each of which an additional amount may be allocated to a Member State.

3. If, in 2017, it appears necessary to provide for a revision in 2019 of the common Union resettlement priorities referred to in Article 17(2) of Regulation (EU) No 516/2014, the third resettlement period, covering the years 2018 to 2020, may be limited to the years 2018 and 2019. If so, this Regulation will be amended to provide for an additional resettlement period for the year 2020.

4. In order for the Commission to establish the additional amount to be allocated in respect of resettlement in any given resettlement period, each Member State should submit to the Commission an estimate of the number of persons it plans to resettle during that period. The estimate should be submitted via the electronic data exchange system established by Article 2 of Commission Implementing Regulation (EU) No 802/2014 ⁽³⁾.

⁽³⁾ Commission Implementing Regulation (EU) No 802/2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (OJ L 219, p22)

⁽¹⁾ OJ L 150, 20.5.2014, p. 168.

⁽²⁾ OJ L 150, 20.5.2014, p. 112.

5. Regulation (EU) No 516/2014 provides that the additional amounts for resettlement are to be allocated to the Member States for the first time in the individual financing decisions approving the national programmes referred to in Article 14 of Regulation (EU) No 514/2014. For the resettlement period covering the years 2014 and 2015, the national programmes to be submitted to the Commission should therefore contain an estimate of the number of persons the Member State plans to resettle during that period. For the other resettlement periods, each Member State should submit an estimate by 15 September of the year preceding the resettlement period concerned.

6. The additional amount for resettlement allocated to each Member State is based on an estimate of the number of persons it plans to resettle. To qualify for payment of the additional amount, the persons concerned should have been effectively resettled from the beginning of the period concerned and up to six months following the end of that period.

7. In order to be paid the additional amount, which is based on a lump sum for each resettled person, Member States should report to the Commission the number of persons qualifying for payment. They should keep the evidence of these persons qualifying for payment.

8. The United Kingdom and Ireland are bound by Regulation (EU) No 516/2014 and are as a consequence bound by this Regulation.

9. Denmark is not bound by Regulation (EU) No 516/2014 nor by this Regulation.

10. In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval of the

national programmes, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

ARTICLE 1 ALLOCATION OF AN ADDITIONAL AMOUNT FOR RESETTLED PERSONS

1. In order to be allocated an additional amount for resettled persons as provided for in Article 17(1) of Regulation (EU) No 516/2014, each Member State shall provide the Commission with an estimate of the number of persons that it plans to resettle in any of the following periods:

- (a) the years 2014 and 2015,
- (b) the years 2016 and 2017,
- (c) the years 2018, 2019 and 2020.

2. The estimates shall include the number of persons falling within any of the priority categories and groups of persons defined in Article 17(2) of Regulation (EU) No 516/2014. They shall be submitted through the electronic data exchange system established by Article 2 of Commission Implementing Regulation (EU) No XXX/2014, as follows:

- (a) the estimate for the years 2014 and 2015 shall be included in the Member State's national programme submitted in accordance with Article 14 of Regulation (EU) No 514/2014;
- (b) the estimate for the years 2016 and 2017 shall be submitted by 15 September 2015;

(c) the estimate for the years the years 2018 to 2020 shall be submitted by 15 September 2017.

3. The Commission shall examine the estimates and, as soon as possible, decide on the additional amounts to be allocated to each Member State, as provided for in Article 17(9) of Regulation (EU) No 516/2014.

ARTICLE 2 QUALIFICATION FOR THE ADDITIONAL AMOUNT FOR RESETTLED PERSONS AND REPORTING

1. In order to qualify for the additional amount, the persons concerned shall be effectively resettled from the beginning of the period concerned and up to six months following the end of that period.

The Member States shall keep the information necessary to allow proper identification of the resettled persons and of the date of their resettlement.

For persons falling within any of the priority categories and groups of persons referred to in Article 17(2) of Regulation (EU) No 516/2014, Member States shall also keep the

evidence that they belong to the relevant priority category or group of persons.

2. Each Member State which has been allocated an additional amount for resettlement shall include in the annual accounts provided for in Article 39 of Regulation (EU) No 514/2014, the number of resettled persons qualifying for the additional amount, of which the number of persons falling within any of the priority categories and groups of persons defined in Article 17(2) of Regulation (EU) No 516/2014. Each resettled person may be counted only once.

ARTICLE 3 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 in accordance with the Treaties.

Done at Brussels,

For the Commission,
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1020 OF 13 JULY 2020 AMENDING IMPLEMENTING REGULATION (EU) NO 801/2014

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund ⁽¹⁾, in particular Article 17(8) thereof,

After consulting the Asylum, Migration and Integration and Internal Security Funds Committee,

Whereas:

(1) Article 2(1) of Commission Implementing Regulation (EU) No 801/2014 ⁽²⁾ provides that in order to qualify for the additional amount for resettled persons, the persons concerned need to be effectively resettled from the beginning of the period concerned and up to six months following the end of that period.

(2) However, the Union resettlement efforts carried out by Member States have been affected by the COVID-19 pandemic in an unprecedented manner. The crisis has required Member States to put on hold their resettlement operations and impose restrictions on the entry to their territory.

(3) Moreover, the United Nations Refugee Agency (UNHCR) and the International Organisation for Migration (IOM), the Member States' key partners for resettlement, have suspended their operations temporarily in the light of the COVID-19 pandemic. Moreover, due to the travel bans issued by many countries of first asylum, resettlement selection missions are not possible for the Member States under the current circumstances.

(4) The impact of the COVID-19 pandemic has serious implications not only on the implementation of the resettlement pledges, but also on the absorption capacity under the Asylum, Migration and Integration Fund.

(5) In order to honour Member States' strong commitment to resettlement actions, it is necessary to ensure that the corresponding financial support is used flexibly and effectively.

(6) To this end, it is appropriate to extend the deadline of implementation for the resettlement period covering the years 2018, 2019 and 2020 from 30 June 2021 to 31 December 2021.

(7) Ireland is bound by Regulation (EU) No 516/2014 and is as a consequence bound by this Regulation.

(8) The United Kingdom is bound by Regulation (EU) No 516/2014 and is as a consequence bound by this Regulation. In accordance with Article 138 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European

⁽¹⁾ OJ L 150, 20.5.2014, p. 168.

⁽²⁾ Commission Implementing Regulation (EU) No 801/2014 of 24 July 2014 setting out the timetable and other implementing conditions related to the mechanism for the allocation of resources for the Union Resettlement Programme under the Asylum, Migration and Integration Fund (OJ L 219, 25.7.2014, p. 19).

Atomic Energy Community ⁽³⁾, applicable Union law, including the rules on financial corrections and on clearance of accounts, will continue to apply to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities.

(9) Denmark is not bound by Regulation (EU) No 516/2014 or by this Regulation.

(10) Given the urgency of the situation related to the COVID-19 pandemic, it is appropriate that this Regulation enters into force on the day following that of its publication in the *Official Journal of the European Union*.

(11) Implementing Regulation (EU) No 801/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

In Article 2 of Implementing Regulation (EU) No 801/2014, paragraph 1 is replaced by the following:

‘1. In order to qualify for the additional amount, the persons concerned shall be effectively resettled from the beginning of the period concerned and up to six months following the end of that period. However, for

the resettlement period referred to in Article 1(1)(c), the persons concerned shall be effectively resettled from the beginning of that period and up to 12 months following the end of that period.

The Member States shall keep the information necessary to allow proper identification of the resettled persons and of the date of their resettlement.

For persons falling within any of the priority categories and groups of persons referred to in Article 17(2) of Regulation (EU) No 516/2014, Member States shall also keep the evidence that they belong to the relevant priority category or group of persons.’

ARTICLE 2

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 in accordance with the Treaties.

Done at Brussels, 13 July 2020.

For the Commission
The President
 Ursula VON DER LEYEN

⁽³⁾ OJ C 384 I, 12.11.2019, p. 1.

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/377
OF 2 MARCH 2015 ESTABLISHING THE MODELS
FOR THE DOCUMENTS REQUIRED FOR THE PAYMENT
OF THE ANNUAL BALANCE PURSUANT TO REGULATION
(EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL LAYING DOWN GENERAL PROVISIONS
ON THE ASYLUM, MIGRATION AND INTEGRATION FUND
AND ON THE INSTRUMENT FOR FINANCIAL SUPPORT FOR
POLICE COOPERATION, PREVENTING AND COMBATING CRIME,
AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾ and in particular Article 44(3) thereof,

Whereas:

(1) Article 44(1) of Regulation (EU) No 514/2014 requires each Member State to submit the documents required under Article 59(5) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ to serve as the request for payment of the annual balance. For this purpose,

it is necessary to establish models according to which documents should be drawn up by the Member States.

(2) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the preparation of any request for payment by the Member States, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(3) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(4) Without prejudice to recital 47 of Regulation (EU) No 514/2014, Denmark is not bound by Regulation (EU) No 514/2014 or by this Regulation.

(5) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee,

HAS ADOPTED THIS REGULATION:

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

ARTICLE 1 MODELS FOR THE REQUEST FOR PAYMENT OF THE ANNUAL BALANCE

The models to be used for presenting the request for payment of the annual balance shall be as set out in Annexes I to IV.

ARTICLE 2

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 Member States in accordance with the Treaties.

Done at Brussels, 2 March 2015

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I ACCOUNTS

CCI	<0.1 type='S' maxlength='15' mput='G'>
Title	The national programme of the Fund for [Member State]
Version	<0.3 type='N' input='G'>
First Year	<0.4 type='N' maxlength='4' mput='M'>
Last Year	2020
Eligible From	1 January 2014
EC Decision Number	<0.8 type='S' input='G'>>
EC Decision Date	<0.8 type='D' mput='G'>> 1
Project and accounts submission date:	<type = date, input M>
Financial Year	<type = year, input G>

SECTION A1: PROJECT INFORMATION (a project may be a single event or over multiple years) (the basic information needs only to be completed once but can be up-dated annually)

Project reference: [MS/start YEAR/PR/number] (20 characters unique number)		Specific Objective/national objective or specific action: [drop menu]	
Project title: [10 word title/90 characters]			
Project summary: [900 characters]			
Beneficiary name: official [90 characters]		Beneficiary name: short name [20 characters]	Type of beneficiary [drop menu]
Reference to selection procedure: (including the year) [50 characters]		Type of procedure [drop box: Open, restricted negotiated]	
% of Fund's co-financing: %		Justification for > 75 % co-financing: [250 characters] e.g <i>specific actions maximum of >= 90 %;</i>	

SECTION A2: SPECIAL CASES

Pledging (Union Priorities): Project reference: [MS/start YEAR/RP/number] (20 characters)							
Union Priority	Country of asylum:	Country of origin:	Number of adults:	Number of adult females:	Number of unaccompanied minors	Total number	Total number x lump sum
[Drop Box]	[Drop Box]	[Drop Box]	number	number	number	number generated	Euro generated
TOTALS			generated	generated	generated	generated	generated

Pledging (Others) Project reference: [MS/YEAR/RO/number] (20 characters)						
Country of asylum:	Country of origin:	Number of adults	Number of adult females	Number of unaccompanied minors	Total number	Total number × lump sum
[drop box]	[drop box]	number	number	number	number generated	Euro generated
TOTALS		generate	generate	generate	generated	generated

Other Pledges Project reference: [MS/year/ST/number] (20 character)							
MS from which the beneficiaries of international protection have been transferred	Country of origin:	Number of adults	Number of adult females:	Number of unaccompanied minors	Total number	Total number × lump sum	
[drop box]	[drop box]	number	number	number	number generated	Euro generated	
TOTALS		Generate	generated	generated	generated	generated	

SECTION A3: OPERATING SUPPORT PROJECTS

national Objective:		Project reference: [MS/start Year/O[v/b]/number] (20 character)		
Project name		[90 characters]		
Beneficiary name: official		[90 characters]		Beneficiary name: short name] [20 characters]
		Unit of measure	Number	Annual Union contribution
1.1	Staff costs, including for training	1 FTE		
1.2	Service costs (subcontracts) such as maintenance and repair	Number of contracts		
1.3	Upgrading/replacement of equipment	Number of items		
1.4	Real estate (depreciation or refurbishment)	Number of buildings concerned		
1.5	IT systems (operational management of VIS, SIS and new IT systems, rental and refurbishment of premises, communication infrastructure and security)	/		
1.6	Operations (costs not covered by the previous above categories)	/		
Total:				
Provide a description for each				

1.1	Staff costs, including for training (Indicate the services and tasks concerned and the main locations of assignment)	[1 000 characters]
1.2	Service costs, such as maintenance and repair (Subcontracts) (Detail the 10 biggest contracts, with the indication of the scope and the period concerned)	[1 500 characters]
1.3	Upgrading/replacement of equipment	[500 characters]
1.4	Real estate (depreciation or refurbishment)	[500 characters]
1.5	IT systems (operational management of VIS, SIS and new IT systems, rental and refurbishment of premises, communication infrastructure and security); IT systems (not included in any other category)	[1 000 characters]
1.6	Operations (costs not covered by the previous above categories)	[1 500 characters]

SECTION A4: SPECIAL TRANSIT SCHEME PROJECTS

Project reference: [LT/start YEAR/TS/number] (20 characters)				
Project name [90 characters]		Beneficiary name: [90 characters]		
Project summary:		[350 characters]		
		Unit of measure	Number	Annual Union contribution (EUR)
1.1	Investment in infrastructure	Number of buildings concerned		
1.2	Training of staff implementing the Scheme	Number of training		
1.3	Additional operational costs, including salaries of staff specifically implementing the Scheme	1 FTE etc.		
1.4	Visa foregone fees	Number of visa		
Total:				generated

SECTION B: ACCOUNTING DATA

Financial data may be completed at any time to record the events of a single financial year. The financial year consists of 16/10/N-1 to 15/10/N. Once the data has been entered, validated (signed) and sent to the Commission each year (by 15 February or extended to 1 March), the data and the summaries will be fixed and can no longer be changed.

The Responsible Authority of the Member States which have not adopted the euro shall keep accounts covering the amounts expressed in the currency in which the expenditure was incurred and the revenue received. However, to enable all their expenditure and revenue to be consolidated, they shall be able to provide the corresponding data in national currency and in euro in accordance with Article 43(2) of Regulation (EU) No 514/2014.

There is a line for each payment made. There should not be more than 13 payments per year per project. If necessary payments may be grouped in monthly batches to limit the total number of payments made in a year.

For pledges, payments should be recorded in monthly batches (i.e. all the payments made during a month are recorded in SFC2014 as a one single payment made at the end of the month).

Recovery orders or financial penalties are to be recorded as negative payments.

Some closure payments may also be made as zero payments.

Project reference:	[MS/...]	MS accounting reference	Is this a final payment?
Union contribution payments in financial year N	EUR	[15 characters]	Y/N
Total Union contribution paid in financial year N.	generated		
For multiannual projects: Cumulated Union contribution paid since the start of the project:			generated
Amount of the cumulative total Union contribution paid to this project for the maintenance of Union or national IT systems: (if applicable).			Amount
This project is in relation to or in third-countries which implement the strategic Union priorities			[Yes/No]
(If appropriate) In the case of final payments: Is the purchase of equipment (total value of > 10 000 EUR each piece) included in this project?			Y/N (If YES go to inventory)
(If appropriate) In the case of final payments: Is the purchase of infrastructure costs (of a total value of > 100 000 EUR) included in this project?			Y/N (If YES go to inventory)
Is a Union contribution recovery planned?	Amount of Union contribution to be recovered:		
Without prejudice to any other enforcement action provided for by national law, the Responsible Authority or the Delegated Authority shall off-set any outstanding debt of a beneficiary established in accordance with national law against any future payments to be made by the Responsible Authority or Delegated Authority for the recovery of the debt to that beneficiary			
Y/N	EUR		
Operational/financial on-the-spot control for this project:	Y/N (if YES link to Section C)		
TECHNICAL ASSISTANCE			
For TA, payments should be recorded in batches (e.g all the payments made during a month are recorded in SFC2014 as a single payment made at the end of the month or all the payments made in a set number of cost categories over the year).			
Reference for Technical assistance:	[MS/YEAR/TA-AMIF/ TA-ISF-B/ TA-ISF-P]	MS accounting reference	[15 characters]
TA Union contribution paid in financial year N		Euro	
TA Total Union contribution paid in financial year N		[generated]	

INVENTORY (if appropriate) for equipment with a total value of > 10 000 EUR and infrastructure costs > 100 000 EUR					
FUND	Project reference	Total value of the item (in Euro)	Serial number (for equipment)	Location/ Address where the equipment/ infrastructure can be found	Date of purchase/ completion
ISF B/P	[MS/...]	Euro	[35 characters]	[200 characters]	date
Description of equipment/describe infrastructure costs			[350 characters]		
Comments (optional) e.g. types of irregularities and corrective measures) [2 500 characters]					

SECTION C — ON THE SPOT CONTROLS (completed by the RA)

Project reference:	Type of on the spot control	Dates of on the spot control:		Date of final report:
		from	to	
[MS/.]	[drop box: operational — financial]	[Date]	[date]	[date]
A: Total Union contribution controlled:		B: Amount of error detected in Union contribution:		% of error detected
[Euro]		[Euro]		% (generated: B/A)
Case reported Irregularity Management System?				Yes/No
Comments (optional) e.g. types of irregularities and corrective measures) [2 500 characters]				

SECTION D: DATA SUMMARY

Table FUND Financial Year N		
Specific objectives	Total Union contribution paid in financial year N	%
1.1: National Objective ...	[generated]	[generated]/Sp Ob
1.2: National Objective ...	[generated]	[generated] Sp Ob
n.n: National Objective	[generated]	[generated]/Sp Ob
Subtotal of National Objectives	Total generated	[generated]/Total Sp Ob
SA1: Specific Action	[generated]	[generated]
SAn. Specific Actions	[generated]	[generated]
Total S01: ...	Total generated	[Sp Ob/TOTAL]
2.1:	[generated]	[generated]/Sp Ob]
Subtotal of National Objectives	Total generated	[generated]
Total S0n:	Total generated	[generated]

SECTION D: DATA SUMMARY

Table FUND Financial Year N

Specific objectives	Total Union contribution paid in financial year N	%
Pledges	[generated]	[generated]
Other pledges	[generated]	[generated]
Support	[generated]	[generated]
Schemes	[generated]	[generated]
Total Special cases	Total generated	[generated]
Technical assistance	Total generated	[generated]
Total Union contribution paid in year N for the national programme (EUR)	Total generated	
% of specific objective allocation		[generated]
% of specific objective n/basic allocation		[generated]

ACCOUNT DECLARATION OF PAYMENTS MADE (UNION CONTRIBUTION ONLY) FOR [MEMBER STATE] IN FINANCIAL YEAR N FOR THE NATIONAL PROGRAMME

Project reference number	Total Union contribution paid in financial year N (in EUR)	Is there a final payment in financial year N? Y/N	If this project was not accepted in any previous annual account submissions
[generated]	[generated]	[generated]	[generate years]
[generated]	[generated]	[generated]	[generate years]
[generated]	[generated]	[generated]	[generate years]
[generated]	[generated]	[generated]	[generate years]
[generated]	[generated]	[generated]	[generate years]
Sum of total Union contribution paid in year N (EUR) on projects		[Total generated]	
Total Union contribution paid in year N on TA (EUR)		[generated]	
A: Total Union contribution paid in year N for the national programme (EUR)		[Total generated][a]	
B: If applicable — Member State financial corrections		[+/- manual][b]	
C: Payment requested		[generated]	

Member State financial corrections description

[2 000 characters]

ANNEX II MANAGEMENT DECLARATION

Based on my own judgment and on all information available to me, including the results from all controls performed by or under the responsibility of the Responsible Authority (administrative, financial and operational on-the spot controls) in relation to the Union expenditure of the financial year [yyyy] and taking into account my obligations under Regulation (EU) No 514/2014, I declare that:

— *the* information in the accounts is properly presented, complete and accurate;

— *the Union* expenditure was used for its intended purpose in line with the national programme and in accordance with the principle of sound financial management;

Furthermore, I confirm that I am not aware of any undisclosed matter which could be damaging to the financial interest of the Union.

Name of Official: [50 characters]

Title, Organisation: [90 characters]

Submission date: [date]

(Signature = validation and date of submission to the Commission)

One document may be attached to describe the remedial action plan and timetable for any reservations made.

ANNEX III: ANNUAL SUMMARY OF FINAL AUDIT REPORTS AND of CONTROLS CARRIED OUT

A. FINAL AUDIT REPORT SUMMARIES

Auditing body:	Drop box: AA, COM, ECOA, MSCOA, other Year of audit [year]		
Audit reference	[25 characters]	Type of audit	[drop menu: System: financial, re-performance or other]
Scope of audit [90 characters]			
Overall summary of very important and critical findings, together with recommendations to the Responsible Authority.		[900 characters]	
Overall audit conclusion, including identification of problems with a systemic character		[500 characters]	
Estimated financial and operational impact of the weaknesses identified		[500 characters]	
Corrective measures for the functioning of the system (action plan)		[900 characters]	
State of implementation of corrective measures (including outstanding issues from audits previously submitted)		Drop box: planned, in progress, implemented in full	
If applicable amount of financial correction made or planned		Amount Euro	

B: SUMMARY OF THE ADMINISTRATIVE CONTROLS CARRIED OUT DURING FINANCIAL YEAR N

Provide:

- A summary of the control strategy adopted e.g. by type of Union expenditure, type of mode (executing and awarding mode);
- A description of the main results and of the type of errors detected;
- Conclusions drawn from these controls and, consequently, the corrective measures adopted or planned regarding the functioning of the system.

[2 500 characters]

C: SUMMARY OF THE ON-THE-SPOT CONTROLS CARRIED OUT DURING FINANCIAL YEAR N

Provide:

- A summary of the control strategy adopted e.g. by type of Union expenditure, type of mode (executing and awarding mode);
- A description of the main results and of the type of errors detected; and
- Conclusions drawn from these controls and, consequently, the corrective measures adopted or planned regarding the functioning of the system.

[2 500 characters]

List of financial on-the-spot controls carried out in financial year N					
Financial year	Project reference	Total Union contribution controlled (EUR)	Total Union contribution affected by error (%)	Union contribution recovered	Union contribution to be recovered (EUR)
generated	generated	generated	generated	Manual	Manual
generated	generated	generated	generated	Manual	Manual
Total		Total generated	Total generated	Total generated	Total generated

Summary of operational on-the-spot controls carried out in financial year N				
Total number of on-the- spot Operational controls in financial year (a)	Number of projects not finalised at the start of the financial year (b)	Number of projects started in the financial year (c)	Total number of projects being implemented during the financial year (d = b + c)	% of operational on the spot controls (a/d)
generated	generated	generated	generated	generated

Overall summary of financial on-the-spot controls					
Financial Year	Total Union contributions controlled by financial controls (a)	Total Amount of error detected in Union contribution (b)	% of error detected (c = b/a)	Cumulated Union contribution declared for the projects finalised (d)	% of financial on-the- spot controls carried out (e = a/d)
2014	generated	generated	generated	Generated	generate
2015	generated	generated	generated	Generated	generate
Total	Total generated	Total generated	Total generated	Total generated	Total generated

ANNEX IV OPINIONS OF THE AUDIT AUTHORITY

Please provide a brief description of the Audit Strategy, including the sampling methodology which enables the Audit Authority to draw valid conclusions on the whole population

[2 500 characters]

: AUDIT OPINION ON THE ANNUAL ACCOUNTS

To the European Commission, Directorate-General for Home Affairs

I, the undersigned, representing the [name of the authority], Audit Authority for the Asylum, Migration and Integration Fund/Internal Security Fund in [Member State] have examined the functioning of the management and control systems of the [AMIF/ISF] as well as the documents and information drawn-up by the Responsible Authority under Article 44 of Regulation (EU) No 514/2014 and Article 59(5) of Regulation (EU, Euratom) No 966/2012 that serve as the request for payment of the annual balance for the financial year N in order to issue an audit opinion in

accordance with Article 29 of Regulation (EU) No 514/2014 and Article 59(5) of Regulation (EU, Euratom) No 966/2012. I have reached the following conclusions here-below.

A: OPINION: UNQUALIFIED, QUALIFIED OR ADVERSE (SELECT 1 OPINION)

Unqualified opinion on the validation of the accounts

Based on the examination referred to above, it is my opinion that the accounts for financial year N give a true and fair view and the Union expenditure for which reimbursement has been requested from the Commission is legal and regular.

Qualified opinion on the validation of the accounts

Based on the examination referred to above, it is my opinion that the accounts for financial year N give a true and fair view and the Union expenditure for which reimbursement has been requested from the Commission is legal and regular, except with regard to the following points:

A	[500 characters]
B	[500 characters]
C	[500 characters]
D	[500 characters]
E	[500 characters]

Therefore I estimate the impact of the qualification(s) is [limited]/[significant]. This impact corresponds to [amount in EUR] and [%] of the total Union contribution declared.

Adverse opinion on the validation of the accounts

Based on the examination referred to above, it is my opinion that the accounts for financial year N do not give a true and fair view and the Union expenditure for which reimburse-

ment has been requested from the Commission is not legal and regular.

This adverse opinion is based on:

[900 characters]

OPINION ON THE FUNCTIONING OF THE MANAGEMENT AND CONTROL SYSTEMS

Scope of the examination

The examination in respect of this programme was carried out in accordance with my audit strategy in respect of this national programme and taking into account internationally accepted auditing standards, with reference to the financial year N, and reported in the audit report [include reference — do not attach].

B: OPINION: UNQUALIFIED, QUALIFIED OR ADVERSE (SELECT 1 OPINION)

Unqualified opinion

Based on the examination referred to above and with regard to the programme, I have reasonable assurance that the management and control systems put in place function properly.

Qualified opinion

Based on the examination referred to above and with regard to the programme, I have reasonable assurance that the management and control systems put in place function properly except in the following respect(s):

A	[500 characters]
B	[500 characters]
C	[500 characters]
D	[500 characters]
E	[500 characters]

In case the management and control systems are affected, indicate the body or bod-

ies and the aspect(s) of their systems that did not comply with requirements and did not operate effectively.

My reasons for considering that this (these) aspect(s) of the systems did not comply with the requirements or did not operate effectively are as follows:

A	[500 characters]
B	[500 characters]
C	[500 characters]
D	[500 characters]
E	[500 characters]

Therefore I estimate the impact of the qualification(s) is [limited]/[significant]. This impact corresponds to [amount in EUR] and [%] of the total Union expenditure declared.

Adverse opinion

Based on the examination referred to above and with regard to the programme, I do not have reasonable assurance that the management and control systems put in place comply with the requirements of Articles 21, 24 and 27 of Regulation (EU) No 514/2014 and function properly.

This adverse opinion is based on:
[900 characters]

My reasons for considering that this (these) aspect(s) of the systems did not comply with the requirements or did not operate effectively are as follows:

[900 characters]

Therefore I estimate the impact of the qualification(s) is [limited]/[significant]. This impact corresponds to [amount in EUR] and [%] of the total Union contribution declared.

The Audit Authority may also include emphasis of subject matter, not affecting their opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be foreseen in exceptional cases. These exceptional cases should be related to unforeseeable, external factors outside the remit of the Audit Authority.

[500 characters]

C. VALIDATION OF THE MANAGEMENT DECLARATION OF THE RESPONSIBLE AUTHORITY

As an overall opinion, based on the examinations referred to above points A and B it is my opinion that the audit work carried out: [select one]

Does not put in doubt the assertions made in the management declaration.

OR

Puts in doubt the assertions made in the management declaration for the following aspects:

A	[500 characters]
B	[500 characters]
C	[500 characters]
D	[500 characters]
E	[500 characters]

Date of validation [date]

Full name and authority

(By validating and sending this it is deemed signed.) [90 characters]

1) OJ L 150, 20.5.2014, p. 112.

**COMMISSION IMPLEMENTING REGULATION (EU) NO 799/2014
OF 24 JULY 2014 ESTABLISHING MODELS FOR ANNUAL
AND FINAL IMPLEMENTATION REPORTS PURSUANT
TO REGULATION (EU) NO 514/2014 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL LAYING DOWN GENERAL
PROVISIONS ON THE ASYLUM, MIGRATION AND INTEGRATION
FUND AND ON THE INSTRUMENT FOR FINANCIAL SUPPORT
FOR POLICE COOPERATION, PREVENTION AND COMBATING
CRIME AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 54(8) thereof,

After consulting the Asylum, Migration and Integration and Internal Security Funds Committee established by Article 59(1) of Regulation (EU) No 514/2014,

Whereas:

(1) Regulation (EU) No 514/2014 together with the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014, constitute a framework for Union funding to support the development of the area of freedom, security and justice.

(2) Regulation (EU) No 514/2014 requires Member States to submit an annual implementation report to the Commission for each national programme. Member States must also submit a final report on the implementation of their national programmes by the end of 2023. To ensure that the information provided to the Commission is consistent and comparable, it is necessary to establish a model for the annual and final implementation reports.

(3) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval of the national programmes, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(4) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(5) Denmark is not bound by Regulation (EU) No 514/2014 nor by this Regulation.

(6) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee.

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

HAS ADOPTED THIS REGULATION:

ARTICLE 1 MODELS FOR IMPLEMENTATION REPORTS

The model for annual and final implementation reports is set out in the Annex.

They shall be submitted to the Commission through the electronic data exchange system established by Article 2 of Commission Implementing Regulation (EU) No 802/2014 ⁽²⁾.

ARTICLE 2

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 Member States in accordance with the Treaties.

Done at Brussels, 24 July 2014.

For the Commission,
The President
José Manuel BARROSO

⁽²⁾ Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (see page 22 of this Official Journal).

ANNEX 1: MODEL FOR ANNUAL AND FINAL IMPLEMENTATION REPORTS

Section 1: programme objectives (Article 54(2) of Regulation (EU) No 514/2014)

Specific objective (as laid down in the Specific Regulations): provide a summary of the progress made in implementing the strategy and achieving the national objectives over the financial year.

Provide any changes to the strategy or national objectives or any factors that may lead to changes in the future.

Set out any significant issues which affect the performance of the national programme.

National objective: list the main actions supported and carried out over the financial year, successes and problems identified (and resolved).

Specific action (as laid down in the Specific Regulations): list the main actions sup-

ported and carried out over the financial year, successes and problems identified (and resolved).

The information in the boxes must be self-contained and cannot refer to information in any attached document or contain hyperlinks.

SPECIFIC OBJECTIVE N: Title (input='F')
type='S' maxlength='3000' input='M'>
National objective n: title (input='F')
type='S' maxlength='2500' input='M'>
Specific action n: title (input='F')
type='S' maxlength='2500' input='M'>

Reporting on the indicative timetable

Indicate any changes to the indicative timetable as set out in the national programme..

Indicative timetable				
	Name of action	Start of planning	Start of implementing	Closing
Specific objective n: title (input='F')				
National objective n: (input='F')	type='S' maxlength='80' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>
	type='S' maxlength='80' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>
	type='S' maxlength='80' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>	type='N' maxlength='4' input='G/M'>

Section 2: Special Cases

Provide the results (numbers for each category) of the pledging exercise

Pledging plan			
Categories (input='F')	Pledging period (input='F')	Pledging period (input='F')	Pledging period (input='F')
(input='F')	type='N' input='M'	type='N' input='M'	type='N' input='M'
Total	type='N' input='G'	type='N' input='G'	type='N' input='G'

Section 3: Common indicators and programme specific indicators (Article 14(2)(f) of Regulation (EU) No 514/2014)

Provide the data for each indicator for the respective financial year.

Indicator ID	Indicator description	Measurement unit	Baseline value	Target value	Source of data	Financial year n	Financial year n+1	Cumulative total
SPECIFIC OBJECTIVE: n: title (input='F')								
Common <5.1.1.n type='S' input='G'> Specific <5.2.1.n type='S' input='S'>	Common < type 5.1.2.n ='S' maxlength='255' input='G'> Specific <5.2.2.n type='S' maxlength='250' input='M'>	Common <5.1.3.n type='S', input='G'> Specific <5.2.3.n type='S', maxlength='30' input='M'>	Common <5.1.4.n type='S' input='G'> Specific <5.2.4.n type='N', maxlength='30' input='G'>	Common <5.1.5.n type='N' input='M'> Specific <5.2.5.n type='N' input='M'>	Common <5.1.6.n type='S' maxlength='50' input='M'> Specific <5.2.6.n type='S' maxlength='50' input='M'>	Common <5.1.5.n type='N' input='M'> Specific <5.2.5.n type='N' input='M'>	Common <5.1.5.n type='N' input='M'> Specific <5.2.5.n type='N' input='M'>	Common <5.1.5.n type='N' input='G'> Specific <5.2.5.n type='N' input='G'>

Provide an explanation of any indication that may have a significant impact on the achievement of any targets, in particular a lack of progress.

For each financial year, a document may be attached to explain significant lack of progress or the potential to exceed the target of one or more indicators.

Section 4: Framework for the implementation of the programme by the Member State

4.1 MONITORING COMMITTEE (ARTICLE 12(4) OF REGULATION (EU) NO 514/2014)

Provide a list of the main decisions taken and issues pending before the monitoring committee.

type='S' maxlength='2800' input='M'>

4.2 COMMON MONITORING AND EVALUATION FRAMEWORK (ARTICLE 14(2)(F) OF REGULATION (EU) NO 514/2014)

Monitoring and evaluation measures taken by the Responsible Authority, including data collection arrangements, evaluation activities, difficulties encountered and steps taken to resolve them.

type='S' maxlength='4000' input='M'>

4.3 PARTNERSHIP INVOLVEMENT IN THE IMPLEMENTATION, MONITORING AND EVALUATION OF THE NATIONAL PROGRAMME (ARTICLE 12(3) OF REGULATION (EU) NO 514/2014)

Provide a brief description of the main input and opinions given by partners during the financial year.

type='S' maxlength='2800' input='M'>

4.4 INFORMATION AND PUBLICITY (ARTICLE 53 OF REGULATION (EU) NO 514/2014)

Provide a link to the web site of the programme.

Provide a list of the main information and publicity activities carried out over the financial year. Examples of material should be attached.

type='S' maxlength='2800' input='M'>

4.5 COMPLEMENTARITY WITH OTHER UNION INSTRUMENTS (ARTICLE 14(2)(E) AND 14(5)(F) OF REGULATION (EU) NO 514/2014)

Briefly describe the main actions and consultations that were carried out to ensure coordination with other Union instruments, namely the following ones:

- European Structural and Investment Funds (European Regional Development Fund, European Social Fund, Cohesion Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund);
- Other EU Funds or programmes (e.g. Life-long Learning Programme, Culture Programme, Youth in Action Programme);
- EU external relations instruments (e.g. Instrument for Pre-accession Assistance, European Neighbourhood and Partnership Instrument, Instrument for Stability), as far as actions in or in relation with third countries are concerned.

type='S' maxlength='3000' input='M'>

4.6 DIRECT AWARD

Provide a justification for each occasion when direct award was carried out.

type='S' maxlength='3000' input='M'>

Section 5: The financial report (Article 54(2)(a) of Regulation (EU) No 514/2014)

Table 5.1 Financial report by specific objectives (in Euro)

Specific objective: n title (input='F')	
National objective n (input='F')	type='N' input='G'>
Subtotal of national objectives (input='F')	type='N' input='G'>
Specific action n (input='F')	type='N' input='G'>
Total 1 SO (input='F')	type='N' input='G'>
National objective n+1 (input='F')	type='N' input='G'>
Subtotal of national objectives (input='F')	type='N' input='G'>
Specific action n+1 (input='F')	type='N' input='G'>
Total n (input='F')	type='N' input='G'>
Special cases (input='F')	type='N' input='G'>
Total special cases (input='F')	type='N' input='G'>
Technical assistance: (Maximum = fixed amount + (Total allocation) *5 or 5.5 % in accordance with the Specific Regulations)	type='N' input='G'>
TOTAL	type='N' input='G'>

Implementation of the financing plan of the national programme specifying the total EU contribution for each financial year

Table 5.2 Financing plan by financial year (in Euro)

YEAR	2014	2015	2016	2017	2018	2019	2020	TOTAL
Total programmed	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>
Total committed	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>	type='N' input='G'>

5.3 JUSTIFICATION FOR ANY DEVIATION FROM THE MINIMUM SHARES SET IN THE SPECIFIC REGULATION.

(Only required if the situation is not the same as in the approved national programme, Article 14(5)(b) of Regulation (EU) No 514/2014)

Provide a detailed explanation for derogating from the minimum shares as set out in the Specific Regulations.

type='S' maxlength='1300' input='M'>

**COMMISSION IMPLEMENTING REGULATION (EU) NO 800/2014
OF 24 JULY 2014 ESTABLISHING REPORTING PROCEDURES
AND OTHER PRACTICAL ARRANGEMENTS ON THE FINANCING OF
OPERATING SUPPORT UNDER NATIONAL PROGRAMMES AND IN
THE FRAMEWORK OF THE SPECIAL TRANSIT SCHEME PURSUANT
TO REGULATION (EU) NO 515/2014 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL ESTABLISHING, AS PART
OF THE INTERNAL SECURITY FUND, THE INSTRUMENT FOR
FINANCIAL SUPPORT FOR EXTERNAL BORDERS AND VISA**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa ⁽¹⁾, and in particular Articles 10(6) and 11(6) thereof,

Whereas:

(1) Pursuant to Article 19 of Regulation (EU) No 515/2014, Regulation (EU) No 514/2014 of the European Parliament and of the Council ⁽²⁾ is applicable to the instrument for financial support for external borders and visa. Therefore any Commission delegated and implementing Regulations adopted on the basis of Regulation (EU) No 514/2014 is applicable to the instrument for financial support for external borders and visa.

⁽¹⁾ OJ L 150, 20.5.2014, p. 143.

⁽²⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

(2) Commission Implementing Regulations (EU) No 802/2014 ⁽³⁾ and (EU) No 799/2014 ⁽⁴⁾ in particular set out conditions and terms of the electronic data exchange system between the Commission and Member States, models for national programmes and models for annual and final implementation reports.

(3) Article 10(1) of Regulation (EU) No 515/2014 allows Member States to allocate up to 40 % of the amount granted under the instrument for financial support for external borders and visa to finance operating sup-

⁽³⁾ Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (OJ L 219, 25.07.2014, p.22).

⁽⁴⁾ Commission Implementing Regulation (EU) No 799/2014 of 24 July 2014 establishing models for annual and final implementation reports pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management. (OJ L 219, 25.07.2014, p.4).

port to the public authorities responsible for accomplishing the tasks and services which constitutes a public service for the Union. Before the approval of the national programme, the Member State that wishes to finance operating support under its national programme should be required to provide specific information notably in order to enable the Commission to assess the conditions laid down in Article 10(2) of Regulation (EU) No 515/2014. Likewise additional reporting requirements in respect of operating support should be laid down.

(4) Article 11(2) of Regulation (EU) No 515/2014 allocates resources to Lithuania as additional specific operating support in the context of the Special Transit Scheme between Lithuania and the Commission. Lithuania should be required to provide specific information in that regard notably in order to enable the Commission to assess the eligibility of the costs referred to in Article 11(3) of Regulation (EU) No 515/2014 that Lithuania plans to charge under the instrument. Likewise additional reporting requirements regarding operating support for the Special Transit Scheme should be laid down.

(5) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and 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. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement this Regulation in its national law.

(6) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the

Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾ which falls within the areas referred to in Article 1, Points A and B of Council Decision 1999/437/EC ⁽⁶⁾.

(7) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁸⁾.

(8) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between

⁽⁵⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁶⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁷⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁸⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁹⁾ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽¹⁰⁾.

(9) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the approval of the national programmes, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(10) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee.

HAS ADOPTED THIS REGULATION:

ARTICLE 1 PRACTICAL ARRANGEMENTS ON OPERATING SUPPORT FINANCED UNDER THE NATIONAL PROGRAMME AND UNDER THE SPECIAL TRANSIT SCHEME

1. Where a Member State decides to request operating support pursuant to Article 10 of

Regulation (EU) No 515/2014, it shall provide the Commission with the information listed in Annex I to this Regulation in addition to the ones required in the Annex to Implementing Regulation (EU) No 802/2014.

The Member State shall also provide the Commission with an indicative planning form drawn up in accordance with the model set out in Annex II to this Regulation.

2. If Lithuania decides to make use of the operating support available for the Special Transit Scheme pursuant to Article 11 of Regulation (EU) No 515/2014, it shall provide the Commission with the information listed in Annex III to this Regulation in addition to the ones required in the Annex to Implementing Regulation (EU) No 802/2014.

(1) The information and forms referred to in this article shall be sent to the Commission via the electronic data exchange system established by Article 2 of Implementing Regulation (EU) No 802/2014.

ARTICLE 2 MODEL FOR REPORTING ON OPERATING SUPPORT FINANCED UNDER THE NATIONAL PROGRAMME AND UNDER THE SPECIAL TRANSIT SCHEME

1. Where operating support is financed under the national programme, the Member State concerned shall report on its implementation in the implementation report referred to in Article 54 of Regulation (EU) No 514/2014 drawn up in accordance with the model set out in the Annex to Implementing Regulation (EU) No 799/2014.

In addition when submitting its implementation report to the Commission, the Member State shall provide the information listed in Annex IV to this Regulation.

⁽⁹⁾ OJ L 160, 18.6.2011, p. 21.

⁽¹⁰⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

2. Where operating support for the Special Transit Scheme is financed under the national programme of Lithuania, it shall report on its implementation in the implementation report referred to in Article 54 of Regulation (EU) No 514/2014 drawn up in accordance with the model set out in the Annex to Implementing Regulation (EU) No 799/2014.

In addition, when submitting its implementation report to the Commission, Lithuania shall provide the information listed in Annex V to this Regulation.

3. The information referred to in this article shall be sent to the Commission via the electronic data exchange system established by

Article 2 of Implementing Regulation (EU) No 802/2014.

ARTICLE 3

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 Member States in accordance with the Treaties.

Done at Brussels, 24 July 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX 1: Programming of operating support under the national programme

Each Member State must confirm their compliance with the conditions set out in Article 10(2) of Regulation (EU) No 515/2014 when operating support is included in the national programme.

National objective: provide a general indication for the use of Operating Support, including objectives and targets to be achieved as well as indication of the services and tasks that will be financed under the Operating Support mechanism.

Further where the national programme includes operating support Visa or Borders, the “Indicative planning form” must be completed and attached. The “Indicative planning

form” will not form part of the Commission decision approving the national programme.

SPECIFIC OBJECTIVE: Operating Support / Article 10(2) Regulation (EU) No 515/2014
Member State hereby confirms its compliance with the Union <i>acquis</i> on borders and visa.
Member State hereby confirms its compliance with Union Standards and guidelines for good governance on borders and visa, in particular the Schengen catalogue for external border control, the Practical Handbook for borders guards and the Handbook on visa.
National Objective: Operating support for VISA
<i>type="S" maxlength="3000" input="M"></i>
National Objective: Operating Support for Borders
<i>type="S" maxlength="3000" input="M"></i>

ANNEX 2: Indicative planning form for operating support under national programme

This form will not form part of the Commission decision approving the national programme.

For each type of operating support (visa or borders) provide:

(i) An indicative list of beneficiary:

- name of the beneficiary (e.g. Ministry of Foreign Affairs, immigration section of the police, coast guard, port authority, immigration section of the police, armed forces) and its legal status (e.g. Public authority, public liability company, etc.)

- with their statutory responsibilities

- the main types of tasks performed in relation to border management / visas, including tasks expected to be supported;

Add more rows as necessary.

(ii) an indicative list of tasks: describe the main types of tasks performed by the beneficiary in relation to:

- visa issuance, including tasks expected to be supported under article 10 of Regulation (EU) No 515/2014; or.

- border management, which are expected to be supported under article 10 of Regulation (EU) No 515/2014. It is not necessary to describe all tasks performed by a beneficiary but only those that are linked to border man-

agement and immigration control (e.g. Armed Forces performing surveillance at sea to prevent illegal entries).

The tasks must be aggregated by geographical location where they will be performed (e.g. Consulate General in Beijing or Ministry of Foreign Affairs or Slovakian-Ukrainian border). To the extent possible provide the border section for each task described under operating support for borders.

(iii) an indicative number of staff: If applicable, please indicate the number of staff concerned and expected to be supported for each beneficiary and task (as full-time equivalent for the total duration of the operational support.

(iv) an indicative budget breakdown by type of beneficiary in the following cost categories:

Staff costs, including for training

Service costs, such as maintenance and repair

Upgrading / replacement of equipment

Real estate (depreciation, refurbishment)

IT systems (operational management of VIS, SIS and new IT systems, rental and Refurbishment of premises, communication infrastructure and security)

Operations (costs not covered by the previous above categories)

Indicative Planning Form I: Operating support for VISA		
Part I.1: Indicative list of tasks		
Tasks	Beneficiary	Staff
1. Consulates and other entities located in other countries		
1.1		
1.n		
2. Central and other entities (centralised specialised services in visa issuance and whose delivery is not linked to any specific location(e.g. Ministry of Foreign Affairs – Visa Affairs Department))		
2.1		
2.n		
Part I.2: Indicative budget breakdown		Total per beneficiary
Beneficiary:		
1.1	staff costs, including for training	
1.2	service costs, such as maintenance and repair	
1.3	upgrading / replacement of equipment	
1.4	real estate (depreciation, refurbishment)	
1.5	IT systems (operational management of VIS, SIS and new IT systems, rental and refurbishment of premises, communication infrastructure and security)	
1.6	Operations (costs not covered by the previous above categories)	
Total:		

Indicative Planning Form II: Operating support for Borders			
Part II.1: Indicative list of tasks			
Task	Beneficiary	Staff	
1. Land Borders			
1.1			
1.n			
2. Sea Borders			
2.1			
2.n			
3. Air Borders			
3.1			
3.n			
4. Central and other services (centralised specialised services in border management and whose delivery is not linked to any specific location(e.g. risk analysis performed at Border Guard's headquarters, training activities))			
4.1			
4.n			
Part II.2: Indicative budget breakdown			Total per beneficiary
1. Beneficiary:			
1.1	staff costs, including for training		
1.2	service costs, such as maintenance and repair		
1.3	upgrading / replacement of equipment		
1.4	real estate (depreciation, refurbishment)		
1.5	IT systems (operational management of VIS, SIS and new IT systems, rental and refurbishment of premises, communication infrastructure and security)		
1.6	Operations (costs not covered by the previous above categories)		
Total:			

ANNEX 3: Programming of operating support under the Special Transit Scheme

Operating support for the Special Transit Scheme (Lithuania): provide the national strategy for the implementation of Special Transit Scheme, the requirements from that strategy and the national objectives designed to meet those requirements. Provide the results and desired outcome with this strategy.

Types of additional costs: provide an indication of the types of additional costs to be supported in relation to the implementation of the Special Transit Scheme.

Special Case: Operating support for the Special Transit Scheme (Lithuania)
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Types of additional costs

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ANNEX 4: Reporting on operating support

Summary: Provide a summary of the progress made in implementing the operating support over the financial year in relation to the baseline situation, the objectives and targets accomplished.

SPECIFIC OBJECTIVE: Operating support summary

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Operating Support for VISA actions

<i>type="S" maxlength="2500" input="M"></i>
--

Operating Support for Borders

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Actions: List the main actions carried out over the financial year, successes and problems identified (and resolved).

ANNEX 5: Reporting on operating support under the Special Transit Scheme (STS)

Special Transit Scheme (as laid down in the Specific Regulations): provide an overview of the implementation of the STS.

National objectives: List the main actions carried out over the year, successes and problems identified (and resolved).

Provide any changes to the strategy or national objectives or any factors that may lead to changes in the future.

SPECIFIC OBJECTIVE: Operating support for the Special Transit Scheme (Lithuania) summary
--

<i>type="S" maxlength="3000" input="M"></i>
--

National objective: STS Actions

<i>type="S" maxlength="2500" input="M"></i>
--

Set out any significant issues which affect the performance of the STS.

COMMISSION IMPLEMENTING REGULATION (EU) 378/2015 OF 2 MARCH 2015 LAYING DOWN RULES FOR THE APPLICATION OF REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH REGARD TO THE IMPLEMENTATION OF THE ANNUAL CLEARANCE OF ACCOUNTS PROCEDURE AND THE IMPLEMENTATION OF THE CONFORMITY CLEARANCE

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Articles 45(2) and 47(6) thereof,

Whereas:

1) The Commission should decide on the clearance of the annual accounts for each national programme and on the conformity clearance. Therefore arrangements for the implementation of those tasks should be laid down including on the exchanges of information between the Commission and the Member States and the deadlines to be respected in each case.

2) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

3) Without prejudice to recital 47 of Regulation (EU) No 514/2014, Denmark is not bound by Regulation (EU) No 514/2014 or by this Regulation.

4) In order to allow for the prompt application of the measures provided for in this Regulation and not delay the preparation of any request for payment by the Member States, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

5) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee,

HAS ADOPTED THIS REGULATION:

ARTICLE 1 ANNUAL CLEARANCE OF ACCOUNTS

1. The Commission shall assess the eligibility of each project reported in the request for the payment of the annual balance referred to in Article 1 of Commission Implementing Regulation (EU) 2015/377 ⁽²⁾ in relation to the objectives of the Specific Regulations defined in Regulation (EU) No 514/2014 and those of the national programme approved in accordance with Article 14 of Regulation (EU) No 514/2014.

⁽²⁾ Commission Implementing Regulation (EU) 2015/377 of 2 March 2015 establishing the models for the documents required for the payment of the annual balance pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (L 64, 7.3.2015, p17).

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

When deciding on the payment of the annual balance, the Commission shall also take into consideration the information provided in:

(a) the annual implementation report referred to in Article 54 of Regulation (EU) No 514/2014;

(b) the request for payment of the annual balance in Article 1 of Implementing Regulation (EU) 2015/377.

2. The Commission shall clear all amounts declared in the accounts where there is no doubt on the completeness, accuracy and veracity in the accounts submitted

3. The Commission may require further information because of incomplete or unclear information provided, disagreements, differences of interpretation or any other inconsistency relating to a request for payment.

4. The Member State concerned shall, upon request by the Commission, provide additional information by the deadline set in that request. In justified cases, on request by the Member State before the expiry of the deadline, the Commission may accept a request for late submission of information and set a new deadline.

Where the Member State concerned fails to provide the additional information by the deadline or if the response is unsatisfactory the Commission may proceed with the clearance decision on the basis of the information in its possession.

5. The Commission shall inform the Member State of its decision on the payment of the annual balance, including the reasons for any accounts or amounts in the accounts not paid.

Where accounts or amounts in the accounts are not paid by the Commission, the Member State may submit additional information for the accounts or amounts to be reconsidered in subsequent financial years.

6. Where the payment made by the Commission is lower than the annual pre-financing amount paid to the Member State in accordance with Article 35(2) of Regulation (EU) No 514/2014, the annual pre-financing shall be cleared to the extent of the corresponding amount. Any outstanding pre-financing amount shall only be recovered during the following annual clearance exercises.

7. Only if the Member State does not submit a request for payment of the annual balance according to Article 44 of Regulation (EU) No 514/2014, the outstanding annual pre-financing payment shall be recovered within the same clearance exercise.

8. Paragraphs 1 to 5 of this Article shall apply, *mutatis mutandis*, to amounts recovered.

ARTICLE 2 CONFORMITY CLEARANCE AND FINANCIAL CORRECTIONS BY THE COMMISSION

1. When the Commission considers that expenditure was not in compliance with Union and national rules, it shall notify its findings to the Member State concerned, specifying the corrective measures needed in order to ensure future compliance, and indicating the level of financial correction it considers to correspond to its findings.

That notification shall be made in accordance with Article 47(5) of Regulation (EU) No 514/2014 and make a reference to this Article.

2. The Member State shall reply within two months of receipt of the notification. In its reply the Member State shall have the opportunity, in particular, to:

(a) demonstrate to the Commission that the project(s) is(are) eligible;

(b) demonstrate to the Commission that the extent of the non-compliance or the risk for the Union contribution to the national programme is less than what was indicated by the Commission;

(c) inform the Commission of the corrective measures it has undertaken to ensure compliance with Union and national rules and the effective date of their implementation; and

(d) inform the Commission whether a bilateral meeting would be considered useful.

In justified cases, the Commission may, upon reasoned request of the Member State, authorise an extension of the two month-period by a maximum of two months. The request shall be addressed to the Commission before the expiry of the initial two months.

3. The Commission shall formally communicate its findings to the Member State on the basis of the information received in the framework of the conformity clearance procedure.

4. After having communicated its findings to the Member State, the Commission shall adopt, where appropriate, one or more deci-

sions under Article 47 of Regulation (EU) No 514/2014 in order to exclude from Union financing any expenditure affected by the non-compliance with Union rules.

The Commission may pursue consecutive conformity clearance procedures until the Member State has implemented the corrective measures.

ARTICLE 3 DECISION NOT TO START OR PURSUE A CONFORMITY CLEARANCE PROCEDURE

The Commission may decide not to start or pursue a conformity clearance procedure in accordance with Article 47 of Regulation (EU) No 514/2014 where it expects that the possible financial correction, for the non-compliance identified, would not exceed EUR 50 000 and 2 % of the specific expenditure deemed non-complaint.

ARTICLE 4 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 in accordance with the Treaties.

Done at Brussels, 2 March 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/646 OF 5 APRIL 2017 AMENDING IMPLEMENTING REGULATION (EU) 2015/378 LAYING DOWN RULES FOR THE APPLICATION OF REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH REGARD TO THE IMPLEMENTATION OF THE ANNUAL CLEARANCE OF ACCOUNTS PROCEDURE AND THE IMPLEMENTATION OF THE CONFORMITY CLEARANCE

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime and crisis management ⁽¹⁾, and in particular Article 47(6) thereof,

Whereas:

(1) The first annual accounts clearance exercise carried out pursuant to Article 1 of Commission Implementing Regulation (EU) 2015/378 ⁽²⁾ highlighted the need to clarify the situation of annual pre-financing amounts that are not fully cleared by the annual accounts submitted.

(2) It is necessary to establish arrangements for the implementation of the conformity clearance and in particular rules on criteria for determining the level of financial correction that the Commission can apply pursuant to Article 47 of Regulation (EU) No 514/2014 following the completion of that procedure.

(3) To ensure legal certainty and equal treatment of all Member States, it is essential to clarify the criteria for determining deficiencies in the effective functioning of the management and control systems, define the main types of such deficiencies and set out the criteria for determining the level of financial correction.

(4) Implementing Regulation (EU) 2015/378 should therefore be amended.

(5) The measures provided for in this Regulation are in accordance with the opinion of the 'Asylum, Migration and Integration and Internal Security Funds' Committee,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

Implementing Regulation (EU) 2015/378 is amended as follow:

(1) Article 1 is amended as follows:

(a) paragraph 6 is replaced by the following:

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

⁽²⁾ Commission Implementing Regulation (EU) 2015/378 of 2 March 2015 laying down rules for the application of Regulation (EU) No 514/2014 of the European Parliament and of the Council with regard to the implementation of the annual clearance of accounts procedure and the implementation of the conformity clearance (OJ L 64, 7.3.2015, p. 30).

'6. Where the amount accepted by the Commission in the decision on the clearance of annual accounts for financial year N is lower than the annual pre-financing amount for financial year N, the latter amount shall be cleared against the former. Any outstanding pre-financing amount shall be cleared in the course of subsequent clearance exercises.

The first subparagraph shall apply also in cases where a Member State submits annual accounts reporting zero payment.:'

(b) paragraph 7 is deleted;

(2) the following articles are inserted:

'ARTICLE 3A

Criteria for determining deficiencies in the effective functioning of the management and control system

1. The Commission shall base its assessment of the effective functioning of the management and control system on the results of all available audits carried out by the Member States, the Commission services and the Court of Auditors, the results of investigations carried out by European Anti-Fraud Office or any other information on compliance with the designation criteria referred to in Article 2(1) of Commission Delegated Regulation (EU) No 1042/2014 ⁽³⁾.

The Commission's assessment shall cover the internal control environment of the national programme, the management and control

activities of the Responsible Authority, and the control and audit activities of the Audit Authority and shall be based on verification of compliance with the key requirements set out in Table 1 of the Annex.

2. Compliance with the key requirements referred to in paragraph 1 according to the categories set out in Table 2 of the Annex shall be used to assess the effective functioning of each competent authority and to reach an overall conclusion on the management and control system. Any mitigating or aggravating factors shall be taken into account in the overall conclusion on the management and control system.

3. Wherever it is assessed that any of the key requirements 2, 4, 5, 8, 11, 12 or 14 in Table 1 of the Annex, or two or more of the other key requirements in that Table fall into categories 3 or 4 set out in Table 2 of the Annex, it shall be considered as a type of serious deficiency in the effective functioning of the management and control system.

ARTICLE 3B

Criteria for applying and determining the level of financial corrections

1. The Commission shall apply financial corrections where it identifies one or more individual or systemic irregularities or one or more deficiencies in the effective functioning of the management and control system ('system deficiencies').

For the purpose of this Regulation, an irregularity means any infringement of Union or national law or any infringement of national rules resulting from an act or omission by a beneficiary or beneficiaries which has, or would have, the effect of prejudicing the general budget of the European Union by charging to it an unjustified item of expenditure.

⁽³⁾ Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities (OJ L 289, 3.10.2014, p. 3).;

The amount of the financial correction shall be determined on a case-by-case basis whenever possible and shall be equal to the exact amount of expenditure wrongly charged to the general budget of the Union.

Where the Commission identifies irregularities in a representative sample of expenditure in all or part of a national programme, but it is not cost-effective to verify the regularity of the other expenditure, the correction may be determined by extrapolating the results of the examination of the sample to the rest of the population from which it was drawn.

Where the Commission identifies systemic irregularities or system deficiencies but where it is not possible, even by extrapolation, to quantify the correction precisely, a flat-rate financial correction shall be applied to the expenditure declared for the part of the system affected in accordance with the indicative criteria and scales set out in paragraphs 2 and 3.

Flat-rate corrections may also be applied in respect of individual irregularities.

2. The level of flat-rate correction shall be determined taking into account the following factors:

(a) the degree of seriousness of the irregularity or of the system deficiency in relation to the overall system or part of it, or to the types of expenditure declared;

(b) the degree of risk of loss to which the Union budget was exposed as a result of the irregularity or system deficiency;

(c) the vulnerability of the expenditure to fraud due to the irregularity or system deficiency;

(d) any mitigating or aggravating factors.

3. The level of correction shall be determined as follows:

(a) where the irregularity or irregularities or the system deficiency or deficiencies is/are so fundamental, frequent or widespread that it/they represent(s) a complete failure of the system that puts at risk the legality and regularity of all the expenditure concerned, a flat rate of 100 % shall be applied;

(b) where the irregularity or irregularities or the system deficiency or deficiencies is/are so frequent and widespread that it/they represent(s) an extremely serious failure of the system that puts at risk the legality and regularity of a very high proportion of the expenditure concerned, a flat rate of 25 % shall be applied;

(c) where the irregularity or irregularities or the system deficiency or deficiencies is/are due to the system functioning partially, poorly or infrequently so as to put at risk the legality and regularity of a high proportion of the expenditure concerned, a flat rate of 10 % shall be applied;

(d) where the irregularity or irregularities or the system deficiency or deficiencies is/are due to the system functioning inconsistently so as to put at risk the legality and regularity of a significant proportion of the expenditure concerned, a flat rate of 5 % shall be applied.

In accordance with the principle of proportionality, the rate may be reduced to 2 % where the nature and gravity of the irregularity or system deficiency are not considered to justify a 5 % correction rate.

4. Where, due to a competent authority's failure to take adequate corrective measures following the application of a finan-

cial correction in a financial year, the same irregularity or irregularities or deficiency or deficiencies is/are identified in a subsequent financial year, the rate of flat rate correction may, due to the persistence of the irregularity or irregularities or deficiency or deficiencies, be raised to a level not exceeding the next level in the scale set out in paragraph 3.”

(3) a new annex is added as set out in the Annex to this Regulation.

ARTICLE 2

This Regulation shall enter into force on the twentieth 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 in accordance with the Treaties.

Done at Brussels, 5 April 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Key requirements of the management and control systems and their classification with regard to their effective functioning (referred to in Article 3a of Implementing Regulation (EU) 2015/378)

Table 1			
Key requirements			
	Key requirements of the management and control systems	Bodies/authorities concerned	Scope
1	Adequate description and separation of functions and adequate systems for reporting and monitoring where the Responsible Authority entrusts execution of tasks to another body	Responsible Authority/ Delegated Authority	Internal environment
2	<i>Appropriate selection of projects</i>	Responsible Authority/ Delegated Authority	Control activities
3	Adequate information to beneficiaries, potential beneficiaries and the public	Responsible Authority/ Delegated Authority	Internal information and communication
4	<i>Adequate controls</i>	Responsible Authority/ Delegated Authority	Control activities
5	<i>Effective systems and procedures to ensure that all the documents regarding expenditure and controls are held to ensure an adequate audit trail</i>	Responsible Authority/ Delegated Authority	Control activities
6	Reliable computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting	Responsible Authority/ Delegated Authority	Control activities/Internal information and communication
7	Effective implementation of procedures for the prevention, detection and correction of irregularities including proportionate anti-fraud measures	Responsible Authority/ Delegated Authority	Control activities
8	<i>Appropriate procedures for drawing up the annual accounts, the management declaration and the annual summary of final audit reports and of controls carried out</i>	Responsible Authority/ Delegated Authority	Control activities
9	Appropriate and complete account of amounts recoverable, recovered and cancelled	Responsible Authority/ Delegated Authority	Control activities
10	Adequate description and separation of functions, functional independence from the Responsible Authority and adequate systems for ensuring that any other body that carries out audits has the necessary functional independence and takes accounts of internationally accepted audit standards	Audit Authority	Internal environment
11	<i>Adequate system audits</i>	Audit Authority	Control activities
12	<i>Adequate audits of expenditure</i>	Audit Authority	Control activities
13	Adequate audits of accounts	Audit Authority	Control activities
14	<i>Adequate procedures for providing reliable audit opinions and audit reports</i>	Audit Authority	Control activities

Table 2***Classification of key requirements for the management and control systems with regard to their functioning***

Category 1	Works well. No, or only minor improvement(s) needed
Category 2	Works. Some improvement(s) needed
Category 3	Works partially. Substantial improvements needed
Category 4	Essentially does not work

COUNCIL DECISION (EU) 2015/1523 OF 14 SEPTEMBER 2015 ESTABLISHING PROVISIONAL MEASURES IN THE AREA OF INTERNATIONAL PROTECTION FOR THE BENEFIT OF ITALY AND OF GREECE

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) According to Article 78(3) of the Treaty on the Functioning of the European Union ('TFEU'), in the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State(s) concerned.

(2) According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to this principle.

(3) The recent crisis situation in the Mediterranean prompted the Union institutions to immediately acknowledge the exceptional migratory flows in this region and call for concrete measures of solidarity towards the

frontline Member States. In particular, at a joint meeting of Foreign and Interior Ministers on 20 April 2015, the Commission presented a ten-point plan of immediate action to be taken in response to this crisis, including a commitment to consider options for an emergency relocation mechanism.

(4) At its meeting of 23 April 2015, the European Council decided, *inter alia*, to reinforce internal solidarity and responsibility and committed itself in particular to increasing emergency assistance to frontline Member States and to considering options for organising emergency relocation between Member States on a voluntary basis, as well as to deploying European Asylum Support Office (EASO) teams in frontline Member States for the joint processing of applications for international protection, including registration and fingerprinting.

(5) In its resolution of 28 April 2015, the European Parliament reiterated the need for the Union to base its response to the latest tragedies in the Mediterranean on solidarity and fair sharing of responsibility and to step up its efforts in this area towards those Member States which receive the highest number of refugees and applicants for international protection in either absolute or relative terms.

(6) At its meeting of 25 and 26 June 2015, the European Council decided, *inter alia*, that three key dimensions should be advanced in parallel: relocation/resettlement, return/readmission/reintegration, and cooperation with countries of origin and transit. The European

Council agreed in particular, in the light of the current emergency situation and the commitment to reinforce solidarity and responsibility, on the temporary and exceptional relocation, over two years, from Italy and from Greece to other Member States of 40000 persons in clear need of international protection. It called on the rapid adoption of a Council decision to that effect and concluded that, to that end, Member States should agree by consensus on the distribution of such persons, reflecting the specific situations of Member States.

(7) The specific situations of the Member States result in particular from migratory flows in other geographical regions, such as the Western Balkans migratory route.

(8) Several Member States were confronted with a significant increase in the total number of migrants, including applicants for international protection, arriving on their territories in 2014 and some continue to be so in the first months of 2015. Emergency financial assistance by the Commission and operational support by EASO were provided to several Member States to help them cope with this increase.

(9) Among the Member States witnessing situations of considerable pressure and in light of the recent tragic events in the Mediterranean, Italy and Greece in particular have experienced unprecedented flows of migrants, including applicants for international protection who are in clear need of international protection, arriving on their territories, generating a significant pressure on their migration and asylum systems.

(10) According to data of the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), the Central and Eastern Mediterranean routes were the main areas for irregular border crossing into the Union in 2014. In

2014, more than 170000 migrants arrived in Italy alone in an irregular manner, representing an increase of 277 % compared to 2013. A steady increase was also witnessed by Greece with more than 50000 irregular migrants reaching the country, representing an increase of 153 % compared to 2013. The overall numbers further increased in the course of 2015. In the first six months of 2015, Italy witnessed a 5 % increase of irregular border crossings as compared to the same period last year. Greece faced a sharp increase in the number of irregular border crossings during the same period, corresponding to a six-fold increase over the first six months of 2014 (over 76000 in the period January-June 2015 compared to 11336 in the period January-June 2014). A significant proportion of the total number of irregular migrants detected in these two regions included migrants of nationalities which, based on the Eurostat data, meet a high Union-level recognition rate.

(11) According to Eurostat, 64625 persons applied for international protection in Italy in 2014, compared to 26920 in 2013 (which represents an increase of 143 %). A lesser increase in the number of applications was witnessed by Greece with 9430 applicants (which represents an increase of 15 %). In the first quarter of 2015, 15250 persons applied for international protection in Italy (which represents an increase of 47 % compared to the first quarter of 2014) and 2615 persons applied in Greece (which represents an increase of 28 % compared to the first quarter of 2014).

(12) Many actions have been taken so far to support Italy and Greece in the framework of the migration and asylum policy, including by providing them with substantial emergency assistance and EASO operational support. Italy and Greece were the second and third largest beneficiaries of funding disbursed

during the period 2007-2013 under the General Programme 'Solidarity and Management of Migration Flows' (SOLID) and, in addition, received substantial emergency funding. Italy and Greece will likely continue to be the main beneficiaries of the Asylum, Migration and Integration Fund (AMIF) over 2014-2020.

(13) Due to the ongoing instability and conflicts in the immediate neighbourhood of Italy and Greece, it is very likely that a significant and increased pressure will continue to be put on their migration and asylum systems, with a significant portion of the migrants who may be in need of international protection. This demonstrates the critical need to show solidarity towards Italy and Greece and to complement the actions taken so far to support them with provisional measures in the area of asylum and migration.

(14) At the same time, Italy and Greece should provide structural solutions to address exceptional pressures on their asylum and migration systems. The measures laid down in this Decision should therefore go hand in hand with the establishment by Italy and by Greece of a solid and strategic framework for responding to the crisis situation and intensifying the ongoing reform process in these areas. In this respect, Italy and Greece should, on the date of entry into force of this Decision, each present a roadmap to the Commission which should include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of their systems in these areas, as well as measures to ensure appropriate implementation of this Decision with a view to allowing them to better cope, after the end of the application of this Decision, with a possible increased inflow of migrants on their territories.

(15) Bearing in mind that the European Council agreed on a set of interlinked measures,

the Commission should be entrusted with the power to suspend, where appropriate and having given the State concerned the opportunity to present its views, the application of this Decision for a limited period where Italy or Greece does not respect its commitments in this regard.

(16) If any Member State should be confronted with a similar emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, on the basis of Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

(17) In accordance with Article 78(3) TFEU, the measures envisaged for the benefit of Italy and of Greece should be of a provisional nature. A period of 24 months is reasonable in view of ensuring that the measures provided for in this Decision have a real impact in respect of supporting Italy and Greece in dealing with the significant migration flows on their territories.

(18) The measures to relocate from Italy and from Greece, as set out in this Decision, entail a temporary derogation from the rule laid down in Article 13(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council ⁽¹⁾ according to which Italy and Greece would have been otherwise

⁽¹⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

responsible for the examination of an application for international protection based on the criteria set out in Chapter III of that Regulation, as well as a temporary derogation from the procedural steps, including the time-limits, laid down in Articles 21, 22 and 29 of that Regulation. The other provisions of Regulation (EU) No 604/2013, including the implementing rules laid down in Commission Regulation (EC) No 1560/2003 ⁽²⁾ and Commission Implementing Regulation (EU) No 118/2014 ⁽³⁾, remain applicable, including the rules contained therein on the obligation for the transferring Member States to meet the costs necessary to transfer an applicant to the Member State of relocation and on the cooperation on transfers between Member States, as well as on transmission of information through the DublinNet electronic communication network.

This Decision also entails a derogation from the consent of the applicant for international protection as referred to in Article 7(2) of

Regulation (EU) No 516/2014 of the European Parliament and of the Council ⁽⁴⁾.

(19) Relocation measures do not absolve Member States from applying in full Regulation (EU) No 604/2013, including the provisions related to family reunification, special protection of unaccompanied minors, and the discretionary clause on humanitarian grounds.

(20) A choice had to be made in respect of the criteria to be applied when deciding which and how many applicants are to be relocated from Italy and from Greece, without prejudice to decisions at national level on asylum applications. A clear and workable system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance, as defined by Eurostat, out of the total number at Union level of decisions on asylum applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants in clear need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would have to prevent, to the maximum extent possible, applicants who are likely to receive a negative decision on their application from being relocated to another Member State, and therefore from prolonging unduly their stay in the Union. A threshold of 75 %, based on the latest available updated Euro-

⁽²⁾ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 222, 5.9.2003, p. 3).

⁽³⁾ Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 39, 8.2.2014, p. 1).

⁽⁴⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decision No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

stat quarterly data for first instance decisions, should be used in this Decision.

(21) The provisional measures are intended to relieve the significant asylum pressure on Italy and on Greece, in particular by relocating a significant number of applicants in clear need of international protection who have arrived in the territory of Italy or Greece following the date on which this Decision becomes applicable. Based on the overall number of third-country nationals who have entered irregularly Italy or Greece in 2014 and the number of those who are in clear need of international protection, a total of 40000 applicants in clear need of international protection should be relocated from Italy and from Greece. This number corresponds to approximately 40 % of the total number of third-country nationals in clear need of international protection who have entered irregularly in Italy or Greece in 2014. Thus, the relocation measure proposed in this Decision constitutes fair burden sharing between Italy and Greece on the one hand and the other Member States on the other. Based on the same overall available figures in 2014 and in the first four months of 2015, in Italy compared to Greece, 60 % of these applicants should be relocated from Italy and 40 % from Greece.

(22) On 20 July 2015, reflecting the specific situations of Member States, a Resolution of the representatives of the Governments of the Member States, meeting within the Council, on relocating from Italy and from Greece 40000 persons in clear need of international protection, was adopted by consensus. Over a period of two years, 24000 persons should be relocated from Italy and 16000 persons should be relocated from Greece.

(23) The Asylum, Migration and Integration Fund (AMIF) set up by Regulation (EU) No 516/2014 provides support to burden-

sharing operations agreed between Member States and is open to new policy developments in that field. Article 7(2) of Regulation (EU) No 516/2014 provides for the possibility for Member States to implement actions related to the transfer of applicants for international protection as part of their national programmes, while Article 18 of Regulation (EU) No 516/2014 provides for the possibility of a lump sum of EUR 6000 for the transfer of beneficiaries of international protection from another Member State.

(24) With a view to implementing the principle of solidarity and fair sharing of responsibility, and taking into account that this Decision constitutes a further policy development in this field, it is appropriate to ensure that the Member States that relocate applicants who are in clear need of international protection from Italy or Greece pursuant to this Decision receive a lump sum for each relocated person which is identical to the lump sum foreseen in Article 18 of Regulation (EU) No 516/2014, namely EUR 6000, and implemented by applying the same procedures. This entails a limited, temporary derogation from Article 18 of Regulation (EC) No 516/2014 because the lump sum should be paid in respect of relocated applicants rather than beneficiaries of international protection. Such a temporary extension of the scope of potential recipients of the lump sum appears indeed to be an integral part of the emergency scheme set up by this Decision.

(25) It is necessary to ensure that a swift relocation procedure is put in place and to accompany the implementation of the provisional measures by close administrative cooperation between Member States and operational support provided by EASO.

(26) National security and public order should be taken into consideration throughout the relocation procedure, until the transfer of

the applicant is implemented. In full respect to the fundamental rights of the applicant, including the relevant rules on data protection, where a Member State has reasonable grounds for regarding an applicant as a danger to its national security or public order, it should inform the other Member States thereof.

(27) When deciding which applicants in clear need of international protection should be relocated from Italy and from Greece, priority should be given to vulnerable applicants within the meaning of Articles 21 and 22 of Directive 2013/33/EU of the European Parliament and of the Council ⁽⁵⁾. In this respect, any special needs of applicants, including health, should be of primary concern. The best interests of the child should always be a primary consideration.

(28) In addition, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the specific qualifications and characteristics of the applicants concerned, such as their language skills and other individual indications based on demonstrated family, cultural or social ties which could facilitate their integration into the Member State of relocation. In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants and to the necessity of ensuring a fair distribution of those applicants among Member States. With due respect for the principle of non-discrimination, Member States of relocation may indicate their preferences for applicants based on the above information on the basis of which Italy and

Greece, in consultation with EASO and, where applicable, liaison officers, may compile lists of possible applicants identified for relocation to that Member State.

(29) The appointment by Member States of liaison officers in Italy and in Greece should facilitate the effective implementation of the relocation procedure, including the appropriate identification of the applicants who could be relocated, taking into account in particular their vulnerability and qualifications. As regards both the appointment of liaison officers in Italy and in Greece and the fulfilment of their tasks, the Member State of relocation and Italy and Greece should exchange all relevant information and continue cooperating closely throughout the relocation procedure.

(30) The legal and procedural safeguards set out in Regulation (EU) No 604/2013 remain applicable in respect of applicants covered by this Decision. In addition, applicants should be informed of the relocation procedure set out in this Decision and be notified with the relocation decision which constitutes a transfer decision within the meaning of Article 26 of Regulation (EU) No 604/2013. Considering that an applicant does not have the right under EU law to choose the Member State responsible for his or her application, the applicant should have the right to an effective remedy against the relocation decision in line with Regulation (EU) No 604/2013, only in view of ensuring respect for his or her fundamental rights. In line with Article 27 of that Regulation, Member States may provide in their national law that the appeal against the transfer decision does not automatically suspend the transfer of the applicant but that the person concerned has the opportunity to request a suspension of the implementation of the transfer decision pending the outcome of his or her appeal.

⁽⁵⁾ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).

(31) Before and after being transferred to the Member States of relocation, applicants enjoy the rights and guarantees set up in Directive 2013/32/EU of the European Parliament and of the Council ⁽⁶⁾ and Directive 2013/33/EU, including in relation to their special reception and procedural needs. In addition, Regulation (EU) No 603/2013 of the European Parliament and of the Council ⁽⁷⁾ remains applicable in respect of applicants covered by this Decision.

(32) Measures should be taken in order to avoid secondary movements of relocated persons from the Member State of relocation to other Member States which could hamper the efficient application of this Decision. In particular, applicants should be informed of the consequences of onward irregular movement within the Member States and of the fact that, if the Member State of relocation grants them international protection, in principle, they are only entitled to the rights attached to international protection in that Member State.

(33) Additionally, in line with the objectives set out in Directive 2013/33/EU, the harmonisation of reception conditions amongst Member States should help to limit secondary movements of applicants for international protection influenced by the variety of conditions for their reception. With a view to reaching the same objective, Member States should consider imposing reporting obligations and providing applicants for international protection with material reception conditions that include housing, food and clothing only in kind, as well as, where appropriate, ensuring that applicants are directly transferred to the Member State of relocation. Likewise, during the period of the examination of applications for international protection, as provided in the asylum and Schengen *acquis*, except for serious humanitarian reasons, Member States should neither provide applicants with national travel documents, nor give them other incentives, such as financial ones, which could facilitate their irregular movements to other Member States. In the event of irregular movements to other Member States, applicants should be sent back to the Member State of relocation pursuant to the rules set out in Regulation (EU) No 604/2013.

(34) In order to avoid secondary movements of beneficiaries of international protection, Member States should also inform the beneficiaries about the conditions under which they may legally enter and stay in another Member State and should be able to impose reporting obligations. Pursuant to Directive 2008/115/EC of the European Parliament and of the Council ⁽⁸⁾, Member States should require a beneficiary of international protec-

⁽⁶⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

⁽⁷⁾ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

⁽⁸⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

tion who is staying irregularly on their territories to go back immediately to the Member State of relocation. In case the person refuses to return voluntarily, return to the Member State of relocation should be enforced.

Furthermore, if provided for in national law, in the case of enforced return to the Member State of relocation, the Member State which enforced the return may decide to issue a national entry ban that would prevent the beneficiary, for a certain period of time, from re-entering the territory of that specific Member State.

(35) As the purpose of this Decision is to address an emergency situation and to support Italy and Greece in reinforcing their asylum systems, it should allow them to make, with the assistance of the Commission, bilateral arrangements with Iceland, Liechtenstein, Norway and Switzerland on the relocation of persons falling within the scope of this Decision. Such arrangements should also reflect the core elements of this Decision, in particular those relating to the relocation procedure and the rights and obligations of applicants as well as those relating to Regulation (EU) No 604/2013.

(36) The specific support provided to Italy and to Greece through the relocation scheme should be complemented by additional measures, from the arrival of third-country nationals on the territory of Italy or of Greece until the completion of all applicable procedures, coordinated by EASO and other relevant Agencies, such as Frontex coordinating the return of third-country nationals not having the right to remain on the territory, in accordance with Directive 2008/115/EC.

(37) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, 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 ('TEU'). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

(38) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.

(39) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.

(40) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(41) In view of the urgency of the situation, this Decision should enter into force on the date following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

ARTICLE 1 SUBJECT-MATTER

This Decision establishes provisional measures in the area of international protection for the benefit of Italy and of Greece in view of supporting them in better coping with an emergency situation characterised by a sud-

den inflow of nationals of third countries in those Member States.

ARTICLE 2 DEFINITIONS

For the purposes of this Decision, the following definitions apply:

(a) ‘application for international protection’ means an application for international protection as defined in point (h) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council ⁽⁹⁾;

(b) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

(c) ‘international protection’ means refugee status and subsidiary protection status as defined in points (e) and (g), respectively, of Article 2 of Directive 2011/95/EU;

(d) ‘family members’ means family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013 of the European Parliament and of the Council;

(e) ‘relocation’ means the transfer of an applicant from the territory of the Member State which the criteria laid down in Chapter III of Regulation (EU) No 604/2013 indicate as responsible for examining his or her application for international protection to the territory of the Member State of relocation;

(f) ‘Member State of relocation’ means the Member State which becomes responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013 of an applicant following his or her relocation in the territory of that Member State.

ARTICLE 3 SCOPE

1. Relocation pursuant to this Decision shall only take place in respect of an applicant who has lodged his or her application for international protection in Italy or in Greece and for whom those States would have otherwise been responsible pursuant to the criteria for determining the Member State responsible set out in Chapter III of Regulation (EU) No 604/2013.

2. Relocation pursuant to this Decision shall only be applied in respect of an applicant belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall only be taken into account in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.

ARTICLE 4 RELOCATION OF APPLICANTS TO MEMBER STATES

Following agreement reached between Member States through the Resolution of 20 July 2015 of the Representatives of the Governments of the Member States meeting within the Council on relocating from Italy and from

⁽⁹⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

Greece 40000 persons in clear need of international protection:

(a) 24000 applicants shall be relocated from Italy to the territory of the other Member States;

(b) 16000 applicants shall be relocated from Greece to the territory of the other Member States.

ARTICLE 5 RELOCATION PROCEDURE

1. For the purpose of the administrative cooperation required to implement this Decision, each Member State shall appoint a national contact point, whose address it shall communicate to the other Member States and to EASO. Member States shall, in liaison with EASO and other relevant agencies, take all the appropriate measures to establish direct cooperation and an exchange of information between the competent authorities, including about the grounds referred to in paragraph 7.

2. Member States shall, at regular intervals, and at least every three months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information.

3. Based on this information, Italy and Greece shall, with the assistance of EASO and, where applicable, of Member States' liaison officers referred to in paragraph 8 of this Article, identify the individual applicants who could be relocated to the other Member States and, as soon as possible, submit all relevant information to the contact points of those Member States. Priority shall be given for that purpose to vulnerable applicants within the meaning of Articles 21 and 22 of Directive 2013/33/EU.

4. Following approval of the Member State of relocation, Italy and Greece shall, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member State of relocation, in consultation with EASO, and shall notify the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article.

5. Applicants whose fingerprints are required to be taken pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may only be proposed for relocation if their fingerprints have been taken and transmitted to the Central System of Eurodac, pursuant to that Regulation.

6. The transfer of the applicant to the territory of the Member State of relocation shall take place as soon as possible following the date of the notification to the person concerned of the transfer decision referred to in Article 6(4). Italy and Greece shall transmit to the Member State of relocation the date and time of the transfer as well as any other relevant information.

7. Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order or where there are serious reasons for applying the exclusion provisions set out in Articles 12 and 17 of Directive 2011/95/EU.

8. For the implementation of all aspects of the relocation procedure described in this Article, Member States may, after exchanging all relevant information, decide to appoint liaison officers to Italy and to Greece.

9. In line with the EU *acquis*, Member States shall fully implement their obligations. Accordingly, identification, registration and fingerprinting for the relocation procedure shall be guaranteed by Italy and by Greece and the necessary facilities shall be put in place. Applicants that elude the relocation procedure shall be excluded from relocation.

10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and not later than two months from the time of the indication given by the Member State of relocation as referred to in paragraph 2, unless the approval by the Member State of relocation referred to in paragraph 4 takes place less than two weeks before the expiry of this two-month period. In such case, the time-limit for completing the relocation procedure may be extended for a period not exceeding a further two weeks. In addition, this time-limit may also be extended, for a further four-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.

Where the relocation procedure is not completed within these time-limits and unless Italy and Greece agree with the Member State of relocation to a reasonable extension of the time-limit, Italy and Greece shall remain responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013.

11. Following the relocation of the applicant, the Member State of relocation shall take, and transmit to the Central System of Eurodac, the fingerprints of the applicant in accordance with Article 9 of Regulation (EU) No 603/2013 and update the data sets in accordance with Article 10 of, and where applicable, Article 18 of, that Regulation.

ARTICLE 6 RIGHTS AND OBLIGATIONS OF APPLICANTS FOR INTERNATIONAL PROTECTION COVERED BY THIS DECISION

1. The best interests of the child shall be a primary consideration for Member States when implementing this Decision.

2. Member States shall ensure that family members who fall within the scope of this Decision are relocated to the territory of the same Member State.

3. Prior to the decision to relocate an applicant, Italy and Greece shall inform the applicant in a language which the applicant understands or is reasonably supposed to understand of the relocation procedure as set out in this Decision.

4. When the decision to relocate an applicant has been taken and before the actual relocation, Italy and Greece shall notify the person concerned of the decision to relocate him in writing. That decision shall specify the Member State of relocation.

5. An applicant or beneficiary of international protection who enters the territory of a Member State other than the Member State of relocation without fulfilling the conditions for stay in that other Member State shall be required to return immediately. The Member State of relocation shall take back the person.

ARTICLE 7 OPERATIONAL SUPPORT TO ITALY AND TO GREECE

1. In order to support Italy and Greece to better cope with the exceptional pressure on their asylum and migration systems caused by the current increased migratory pressure at their external borders, Member States shall increase their operational support in cooperation with Italy and Greece in the area

of international protection through relevant activities coordinated by EASO, Frontex and other relevant Agencies, in particular by providing, as appropriate, national experts for the following support activities:

(a) the screening of the third-country nationals arriving in Italy and in Greece, including their clear identification, fingerprinting and registration, and, where applicable, the registration of their application for international protection and, upon request by Italy or Greece, their initial processing;

(b) the provision to applicants or potential applicants that could be subject to relocation pursuant to this Decision of information and specific assistance that they may need;

(c) the preparation and organisation of return operations for third-country nationals who either did not apply for international protection or whose right to remain on the territory has ceased.

2. In addition to the support provided under paragraph 1 and for the purpose of facilitating the implementation of all steps of the relocation procedure, specific support shall be provided, as appropriate, to Italy and to Greece through relevant activities coordinated by EASO, Frontex and other relevant Agencies.

ARTICLE 8 COMPLEMENTARY MEASURES TO BE TAKEN BY ITALY AND BY GREECE

1. Italy and Greece shall each, on 16 September 2015, present a roadmap to the Commission which shall include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of their systems in these areas, as well as measures to ensure appropriate

implementation of this Decision. Italy and Greece shall fully implement this roadmap.

2. If Italy or Greece does not comply with the obligations referred to in paragraph 1 of this Article, the Commission may decide, having given the State concerned the opportunity to present its views, to suspend the application of this Decision with regard to that Member State for a period of up to three months. The Commission may decide once to extend such suspension for a further period of up to three months. Such suspension shall not affect the transfers of applicants that are pending following approval of the Member State of relocation pursuant to Article 5(4).

ARTICLE 9 FURTHER EMERGENCY SITUATIONS

In the event of an emergency situation characterised by a sudden inflow of nationals of third countries in a Member State, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the participation of that Member State to the relocation as provided for in this Decision as well as possible compensatory measures for Italy and for Greece.

ARTICLE 10 FINANCIAL SUPPORT

The Member State of relocation shall receive a lump sum of EUR 6000 for each relocated person pursuant to this Decision. This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

ARTICLE 11 COOPERATION WITH ASSOCIATED STATES

With the assistance of the Commission, bilateral arrangements may be made between Italy and, respectively, Iceland, Liechtenstein, Norway and Switzerland, and between Greece and, respectively, Iceland, Liechtenstein, Norway and Switzerland, on the relocation of applicants from the territory of Italy and of Greece to the territory of the latter States. The core elements of this Decision, in particular those relating to the relocation procedure and the rights and obligations of applicants, shall be duly taken into account in those arrangements.

ARTICLE 12 REPORTING

On the basis of the information provided by the Member States and by the relevant agencies, the Commission shall report to the Council every six months on the implementation of this Decision.

On the basis of the information provided by Italy and by Greece, the Commission shall also report to the Council every six months on the implementation of the roadmaps, referred to in Article 8.

ARTICLE 13 ENTRY INTO FORCE

1. This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply until 17 September 2017.
3. It shall apply to persons arriving on the territory of Italy or Greece as from 16 September 2015 until 17 September 2017, as well as to applicants having arrived on the territory of those Member States from 15 August 2015 onwards.

Done at Brussels, 14 September 2015.

For the Council
The President
J. ASSELBORN

COMMISSION RECOMMENDATION OF 8.6.2015 ON A EUROPEAN RESETTLEMENT SCHEME

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 292 fourth sentence thereof,

Whereas:

(1) The European Council meeting in extraordinary session on 23 April 2015 recalled the seriousness of the situation in the Mediterranean and expressed its determination that the Union should mobilise all efforts at its disposal to prevent further loss of life at sea and to tackle the root causes of the humanitarian emergency. The European Council further committed to set up a first voluntary pilot project on resettlement across the Union, offering places to persons qualifying for protection ⁽¹⁾.

(2) In its resolution of 29 April 2015, the European Parliament called upon the Member States to make greater contributions to existing resettlement programmes and stressed the need to ensure safe and legal access to the Union asylum system ⁽²⁾.

(3) There is currently a significant imbalance between Member States as regards the commitment to resettle persons. Only fifteen Member States and three Associated States have a resettlement programme (with one further Member State announcing the start of a resettlement programme), three Member States and one Associated State have carried out resettlement on an ad hoc basis,

while the others do not engage in resettlement at all.

(4) In 2014, the number of asylum applicants in the Union reached a peak of 626 000, while 6 380 third country nationals in need of international protection were resettled in the Union ⁽³⁾. The number of refugees, asylum-seekers and internally displaced people worldwide in 2013 exceeded 50 million people, for the first time since World War II ⁽⁴⁾.

(5) The Justice and Home Affairs Council Conclusions of 10 October 2014 acknowledged that “[...] while taking into account the efforts carried out by Member States affected by migratory flows, all Member States should give their contribution to [resettlement] in a fair and balanced manner.” ⁽⁵⁾

(6) On 13 May 2015, the Commission presented a comprehensive European Agenda on Migration ⁽⁶⁾ that, inter alia, defines a set of immediate measures tailored to respond to the human tragedy in the whole of the Mediterranean.

(7) To avoid displaced persons in need of protection having to resort to the criminal networks of smugglers and traffickers, the Agenda calls the European Union to step up its resettlement efforts. Accordingly, the

⁽³⁾ Source: Eurostat.

⁽⁴⁾ Source: Global Trend 2013 Report, UNHCR.

⁽⁵⁾ Council conclusions on “Taking action to better manage migratory flows”, Justice and Home Affairs Council meeting, 10 October 2014.

⁽⁶⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a European Agenda on Migration, 13 May 2015, COM(2015) 240 final.

⁽¹⁾ Point 3, q), European Council Statement, 23 April 2015, EUCO 18/15.

⁽²⁾ Points 8 and 10, European Parliament Resolution, 29 April 2015, 2015/2660(RSP).

Commission is making this Recommendation proposing for an EU-wide resettlement scheme to offer 20 000 places on the basis of a distribution key.

(8) In case Associated States decide to participate, the distribution key and allocations per each Member State and participating Associated State would be adapted accordingly.

(9) In the light of previous discussions during a dedicated meeting of the Resettlement and Relocation Forum on 25 November 2014, the distribution key should be based on a) the size of the population (40% weighting), b) the total GDP (40% weighting), c) the average number of spontaneous asylum applications and the number of resettled refugees per one million inhabitants over the period 2010-2014 (10% weighting), and d) the unemployment rate (10% weighting).

(10) A total of 20 000 persons should be admitted to the Union during a two-year period of implementation of this scheme by the Member States. The responsibility for hosting such persons should lie solely with the participating States, in line with the relevant Union and international rules. This corresponds to the call by the United Nations High Commissioner for Refugees (UNHCR) who urged European countries to make larger commitments to receive refugees through sustainable resettlement programmes, endorsing the campaign led by the International Organisation for Migration and five non-governmental organisations.

(11) In identifying the priority regions, the situation in the neighbourhood and the current migratory flows should be taken into account, in particular the link with the Regional Development and Protection Programmes in the Middle East, North Africa and the Horn of Africa.

(12) The experience and expertise of the UNHCR and other relevant bodies, including the European Asylum Support Office, should be called upon to assist in the implementation of the resettlement scheme.

(13) Measures should be taken in order to avoid secondary movements of resettled persons from the State of resettlement to other Member States and participating Associated States.

(14) The Commission envisages contributing to the scheme by making available an extra EUR 50 million in the years 2015 and 2016 under the Union Resettlement Programme, set out in Article 17 of Regulation (EU) No 516/2014 of the European Parliament and of the Council⁽⁷⁾. In order to optimise the use of the financial incentives, the Commission will adjust the lump sums and resettlement priorities provided for in that programme through a delegated act, in accordance with Article 17 (4) and (10) of Regulation (EU) No 516/2014. In case the Associated States decide to participate in the resettlement scheme, they could not benefit from lump sums under Regulation (EU) No 516/2014 in compensation for their pledges.

HAS ADOPTED THIS RECOMMENDATION:

EUROPEAN RESETTLEMENT SCHEME

1. The Commission recommends that Member State resettle 20 000 people in need of international protection on the basis of the conditions and the distribution key laid down in this Recommendation.

⁽⁷⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

DEFINITION AND SCOPE OF THE RESETTLEMENT SCHEME

2. 'Resettlement' means the transfer of individual displaced persons in clear need of international protection, on request of the United Nations High Commissioner for Refugees, from a third country to a Member State, in agreement with the latter, with the objective of protecting against refoulement and admitting and granting the right to stay and any other rights similar to those granted to a beneficiary of international protection.

3. The European resettlement scheme should cover all Member States.

CONTENT OF THE RESETTLEMENT SCHEME

4. The scheme should consist of a single European pledge of 20 000 resettlement places for persons to be resettled. The duration of the scheme should be two years from the date of the adoption of the Recommendation.

5. The overall pledged resettlement places should be allocated to Member States in accordance with the distribution key in the Annex. In case Associated States decide to participate in the scheme, the distribution key would be adapted accordingly.

6. The priority regions for resettlement should include North Africa, the Middle East, and the Horn of Africa, focusing in particular on the countries where the Regional Development and Protection Programmes are implemented.

7. Member States and the participating Associated States should remain responsible for individual admission decisions, following adequate medical and security checks, while the United Nations High Commissioner

for Refugees should be responsible for the assessment of candidates for resettlement in the priority regions and submitting proposals for resettlement to the Member States and the participating Associated States.

8. When a resettled person is admitted to the territory of a Member State or a participating Associated State, that State should conduct a formal procedure for international protection, including the taking of fingerprints, in a swift manner and in accordance with the applicable legislation, in particular Regulation (EU) No 603/2013 of the European Parliament and of the Council ⁽⁸⁾, Directive 2011/95/EU of the European Parliament and of the Council ⁽⁹⁾, Council Directive 2005/85/EC ⁽¹⁰⁾, Council Directive 2003/9/EC ⁽¹¹⁾, and, as from 20 July 2015 Directives

⁽⁸⁾ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ L 180, 29.6.2013, p.1.

⁽⁹⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011, p.9.

⁽¹⁰⁾ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, OJ L 326, 13.12.2005, p.13.

⁽¹¹⁾ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers OJ L 31, 6.2.2003, p. 18.

2013/32/EU⁽¹²⁾ and 2013/33/EU of the European Parliament and of the Council⁽¹³⁾.

9. After this process, where international protection or national protection status is granted by a Member State to a resettled person, that person should enjoy, in the resettling Member State, the rights guaranteed to beneficiaries of international protection by Directive 2011/95/EU or similar rights guaranteed by national law. In that context, free movement within the Union should be submitted to the same conditions and restrictions applicable to other third country nationals legally resident in the Member States. In the case of participating Associated States, equivalent national legislation should apply.

10. Candidates for resettlement should be informed of their rights and obligations, under the resettlement scheme as well as under relevant Union and national asylum legislation, prior to their admission to the territory of the Member States or of participating Associated States, in particular of the consequences of onward movement within the Union and/or participating Associated States and of the fact that they are only entitled to the rights attached to international protection or national protection status in the State of resettlement.

11. Resettled persons who enter into the territory of a Member State or of a participating Associated State other than the State of

resettlement without authorisation, either pending the completion of the formal international protection procedure or after granting of international protection, should be sent back to the State of resettlement, pursuant to the rules laid down in Regulation (EU) No 604/2013 and Directive 2008/115/EC of the European Parliament and of the Council⁽¹⁴⁾.

12. Practical involvement of the European Asylum Support Office in the implementation of the scheme should be ensured, in particular, to provide special support to Member States and to participating Associated States, especially those which have no prior experience with resettlement. The European Asylum Support Office should monitor the implementation of the scheme and report regularly on the implementation.

13. Member States should be entitled to receive a financial allocation in proportion of the number of persons resettled in their territory in accordance with the lump sums set out in Article 17 of Regulation (EU) No 516/2014, as adjusted by Commission Delegated Regulation (EU) No xxx/2015⁽¹⁵⁾.

ADDRESSEES

14. This Recommendation is addressed to the Member States.

Done at Brussels, 8.6.2015

For the Commission
Dimitris AVRAMOPOULOS
Member of the Commission

⁽¹²⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection OJ L 180, 29.6.2013, p. 60.

⁽¹³⁾ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, p. 96.

⁽¹⁴⁾ Article 6(2) of Directive 2008/115/EC, of 16 December 2008, on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

⁽¹⁵⁾ Still to be tabled.

ANNEX to the Commission resettlement scheme

Member States	Key	Allocation
Austria	2,22%	444
Belgium	2,45%	490
Bulgaria	1,08%	216
Croatia	1,58%	315
Cyprus	0,34%	69
Czech Republic	2,63%	525
Denmark	1,73%	345
Estonia	1,63%	326
Finland	1,46%	293
France	11,87%	2 375
Germany	15,43%	3 086
Greece	1,61%	323
Hungary	1,53%	307
Ireland	1,36%	272
Italy	9,94%	1 989
Latvia	1,10%	220
Lithuania	1,03%	207
Luxembourg	0,74%	147
Malta	0,60%	121
Netherlands	3,66%	732
Poland	4,81%	962
Portugal	3,52%	704
Romania	3,29%	657
Slovakia	1,60%	319
Slovenia	1,03%	207
Spain	7,75%	1 549
Sweden	2,46%	491
United Kingdom	11,54%	2 309

The key is based on the following criteria ⁽¹⁶⁾ ⁽¹⁷⁾:

a) The size of the population (2014 figures, 40% weighting). This criterion reflects the capacity of a Member State to absorb a certain number of refugees;

b) Total GDP (2013 figures, 40% weighting). This criterion reflects the absolute wealth of country and is indicative for the capacity of an economy to absorb and integrate refugees;

c) Average number of spontaneous asylum applications and the number of resettled refugees per 1 million inhabitants over the period 2010-2014 (10% weighting). This criterion reflects the efforts made by Member States in the recent past;

d) Unemployment rate (2014 figures, 10% weighting). This criterion reflects the capacity to integrate refugees.

⁽¹⁶⁾ Calculations are based on statistical information provided by Eurostat (consulted on 8 April 2015).

⁽¹⁷⁾ The percentage calculations were made to five decimal places and rounded up or down to two decimal places for presentation in the table; allocations of persons were made on the basis of the full figures to five decimal places.

COUNCIL DECISION (EU) 2015/1601 OF 22 SEPTEMBER 2015 ESTABLISHING PROVISIONAL MEASURES IN THE AREA OF INTERNATIONAL PROTECTION FOR THE BENEFIT OF ITALY AND GREECE

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) According to Article 78(3) of the Treaty on the Functioning of the European Union (TFEU), in the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State(s) concerned.

(2) According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to this principle.

(3) The recent crisis situation in the Mediterranean prompted the Union institutions to immediately acknowledge the exceptional migratory flows in that region and call for concrete measures of solidarity towards the frontline Member States. In particular, at a joint meeting of Foreign and Interior Ministers on 20 April 2015, the Commission presented a ten-point plan of immediate action to be taken in response to the crisis, including a commitment to consider options for an emergency relocation mechanism.

(4) At its meeting of 23 April 2015, the European Council decided, *inter alia*, to reinforce internal solidarity and responsibility and committed itself in particular to increasing emergency assistance to frontline Member States and to considering options for organising emergency relocation between Member States on a voluntary basis, as well as to deploying European Asylum Support Office (EASO) teams in frontline Member States for the joint processing of applications for international protection, including registration and fingerprinting.

(5) In its resolution of 28 April 2015, the European Parliament reiterated the need for the Union to base its response to the latest tragedies in the Mediterranean on solidarity and fair sharing of responsibility and to step up its efforts in this area towards those Member States which receive the highest number of refugees and applicants for international protection in either absolute or relative terms.

⁽¹⁾ Opinion of 17 September 2015 (not yet published in the Official Journal).

(6) Besides measures in the area of asylum, Member States at the frontline should increase their efforts to set up measures to cope with mixed migration flows at the external borders of the European Union. Such measures should safeguard the rights of those in need of international protection and prevent irregular migration.

(7) At its meeting of 25 and 26 June 2015, the European Council decided, *inter alia*, that three key dimensions should be advanced in parallel: relocation/resettlement, return/readmission/reintegration and cooperation with countries of origin and transit. The European Council agreed in particular, in the light of the current emergency situation and the commitment to reinforce solidarity and responsibility, on the temporary and exceptional relocation over 2 years, from Italy and from Greece to other Member States of 40000 persons in clear need of international protection, in which all Member States would participate.

(8) The specific situations of the Member States result in particular from migratory flows in other geographical regions, such as the Western Balkans migratory route.

(9) Several Member States were confronted with a significant increase in the total number of migrants, including applicants for international protection, arriving on their territories in 2014 and some continue to be so confronted in 2015. Emergency financial assistance by the Commission and operational support by EASO were provided to several Member States to help them cope with this increase.

(10) Among the Member States witnessing situations of considerable pressure and in light of the recent tragic events in the Mediterranean, Italy and Greece in particular have experienced unprecedented flows

of migrants, including applicants for international protection who are in clear need of international protection, arriving on their territories, generating significant pressure on their migration and asylum systems.

(11) On 20 July 2015, reflecting the specific situations of Member States, a Resolution of the representatives of the Governments of the Member States meeting within the Council on relocating from Greece and Italy 40000 persons in clear need of international protection was adopted by consensus. Over a period of 2 years, 24000 persons will be relocated from Italy and 16000 persons will be relocated from Greece. On 14 September 2015, the Council adopted Decision (EU) 2015/1523 ⁽²⁾, which provided for a temporary and exceptional relocation mechanism from Italy and Greece to other Member States of persons in clear need of international protection.

(12) During recent months, the migratory pressure at the southern external land and sea borders has again sharply increased, and the shift of migration flows has continued from the central to the eastern Mediterranean and towards the Western Balkans route, as a result of the increasing number of migrants arriving in and from Greece. In view of the situation, further provisional measures to relieve the asylum pressure from Italy and Greece should be warranted.

(13) According to data of the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), the central and eastern Mediterranean routes were the main areas for irregular border crossing into the Union in the first 8 months of 2015. Since the beginning of 2015,

⁽²⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

approximately 116000 migrants arrived in Italy in an irregular manner, (including approximately 10000 irregular migrants who have been registered by local authorities, but have yet to be confirmed in Frontex data). During May and June 2015, 34691 irregular border crossings were detected by Frontex and during July and August, 42356, an increase of 20 %. A strong increase was also witnessed by Greece in 2015, with more than 211000 irregular migrants reaching the country (including approximately 28000 irregular migrants who have been registered by local authorities, but have yet to be confirmed in Frontex data). During May and June 2015, 53624 irregular border crossings were detected by Frontex and during July and August 137000, an increase of 250 %. A significant proportion of the total number of irregular migrants detected in those two regions included migrants of nationalities which, based on the Eurostat data, meet a high Union-level recognition rate.

(14) According to Eurostat and EASO figures, 39183 persons applied for international protection in Italy between January and July 2015, compared to 30755 in the same period of 2014 (an increase of 27 %). A similar increase in the number of applications was witnessed by Greece with 7475 applicants (an increase of 30 %).

(15) Many actions have been taken so far to support Italy and Greece in the framework of the migration and asylum policy, including by providing them with substantial emergency assistance and EASO operational support. Italy and Greece were the second and third largest beneficiaries of funding disbursed during the period 2007-2013 under the General Programme 'Solidarity and Management of Migration Flows' (SOLID), and, in addition, received substantial emergency funding. Italy and Greece will likely continue to be the

main beneficiaries of the Asylum, Migration and Integration Fund (AMIF) in 2014-2020.

(16) Due to the ongoing instability and conflicts in the immediate neighbourhood of Italy and Greece, and the repercussions in migratory flows on other Member States, it is very likely that a significant and increased pressure will continue to be put on their migration and asylum systems, with a significant proportion of the migrants who may be in need of international protection. This demonstrates the critical need to show solidarity towards Italy and Greece and to complement the actions taken so far to support them with provisional measures in the area of asylum and migration.

(17) On 22 September 2015, the Council noted the willingness and readiness of Member States to take part, in accordance with the principles of solidarity and fair sharing of responsibility between the Member States, which govern the Union policy on asylum and migration, in the relocation of 120000 persons in clear need of international protection. The Council therefore decided to adopt this Decision.

(18) It should be recalled that Decision (EU) 2015/1523 sets out an obligation for Italy and Greece to provide structural solutions to address exceptional pressures on their asylum and migration systems, by establishing a solid and strategic framework for responding to the crisis situation and intensifying the ongoing reform process in these areas. The roadmaps which Italy and Greece have presented to that end should be updated to take this Decision into account.

(19) Bearing in mind that the European Council agreed on a set of interlinked measures, the Commission should be entrusted with the power to suspend, where appropriate and having given the Member State con-

cerned the opportunity to present its views, the application of this Decision for a limited period where Italy or Greece does not respect its commitments in this regard.

(20) As of 26 September 2016, 54000 applicants should be proportionally relocated from Italy and Greece to other Member States. The Council and the Commission should keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission should submit, as appropriate, proposals to amend this Decision in order to address the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States. In doing so, it should take into account the views of the likely beneficiary Member State.

Should this Decision be amended for the benefit of another Member State, that Member State should, on the date of entry into force of the relevant Council amending Decision, present a roadmap to the Council and the Commission which should include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in those areas, as well as measures to ensure appropriate implementation of this Decision with a view to allowing it better to cope, after the end of the application of this Decision, with a possible increased inflow of migrants on its territory.

(21) If any Member State should be confronted with a similar emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, on the basis

of Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the obligations of that Member State provided for in this Decision.

(22) In accordance with Article 78(3) TFEU, the measures envisaged for the benefit of Italy and of Greece should be of a provisional nature. A period of 24 months is reasonable in view of ensuring that the measures provided for in this Decision have a real impact in respect of supporting Italy and Greece in dealing with the significant migration flows on their territories.

(23) The measures to relocate from Italy and from Greece, provided for in this Decision, entail a temporary derogation from the rule set out in Article 13(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council ⁽³⁾ according to which Italy and Greece would otherwise have been responsible for the examination of an application for international protection based on the criteria set out in Chapter III of that Regulation, as well as a temporary derogation from the procedural steps, including the time limits, laid down in Articles 21, 22 and 29 of that Regulation. The other provisions of Regulation (EU) No 604/2013, including the implementing rules set out in Commis-

⁽³⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

sion Regulation (EC) No 1560/2003 ⁽⁴⁾ and Commission Implementing Regulation (EU) No 118/2014 ⁽⁵⁾, remain applicable, including the rules contained therein on the obligation for the transferring Member States to meet the costs necessary to transfer an applicant to the Member State of relocation and on the cooperation on transfers between Member States, as well as on transmission of information through the DubliNet electronic communication network. This Decision also entails a derogation from the consent of the applicant for international protection as referred to in Article 7(2) of Regulation (EU) No 516/2014 of the European Parliament and of the Council ⁽⁶⁾.

(24) Relocation measures do not absolve Member States from applying Regulation (EU) No 604/2013 in full, including the provisions related to family reunification, the special protection of unaccompanied minors, and the discretionary clause on humanitarian grounds.

(25) A choice had to be made in respect of the criteria to be applied when deciding which and how many applicants are to be relocated from Italy and from Greece, without prejudice to decisions at national level on asylum applications. A clear and workable system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance, as defined by Eurostat, out of the total number at Union level of decisions on applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants in clear need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would have to prevent, to the maximum extent possible, applicants who are likely to receive a negative decision on their application from being relocated to another Member State, and therefore from prolonging unduly their stay in the Union. A threshold of 75 %, based on the latest available updated Eurostat quarterly data for decisions at first instance, should be used in this Decision.

(26) The provisional measures are intended to relieve the significant asylum pressure on Italy and on Greece, in particular by relocating a significant number of applicants in clear need of international protection who will have arrived in the territory of Italy or Greece following the date on which this Decision becomes applicable. Based on the overall number of third-country nationals who have entered Italy and Greece irregularly in 2015, and the number of those who are in clear need of international protection, a total of 120000 applicants in clear need of international protection should be relocated from Italy and Greece. This number corresponds to approximately 43 % of the total

⁽⁴⁾ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 222, 5.9.2003, p. 3).

⁽⁵⁾ Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 39, 8.2.2014, p. 1).

⁽⁶⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decision No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

number of third-country nationals in clear need of international protection who have entered Italy and Greece irregularly in July and August 2015. The relocation measure foreseen in this Decision constitutes fair burden sharing between Italy and Greece on the one hand and the other Member States on the other, given the overall available figures on irregular border crossings in 2015. Given the figures at stake, 13 % of these applicants should be relocated from Italy, 42 % from Greece and 45 % should be relocated as provided for in this Decision.

(27) Within 3 months of the entry into force of this Decision, a Member State may, in exceptional circumstances and giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union, notify the Council and the Commission that it is unable to take part in the relocation process of up to 30 % of applicants allocated to it in accordance with this Decision. Such exceptional circumstances include, in particular, a situation characterised by a sudden and massive inflow of nationals of third countries of such a magnitude as to place extreme pressure even on a well prepared asylum system otherwise functioning in line with the relevant Union *acquis* on asylum or a risk of sudden and massive inflow of nationals of third countries of such a high probability that it warrants an immediate action. Following an assessment, the Commission should submit proposals to the Council for an implementing decision regarding a temporary suspension of the relocation of up to 30 % of applicants allocated to the Member State concerned. Where justified, the Commission may propose to extend the time limit for relocation of the remaining allocation by up to 12 months beyond the duration of this Decision.

(28) In order to ensure uniform conditions for the implementation of the relocation in

the case of proportional relocation of 54000 applicants from Italy and Greece to the other Member States, in the case where the participation of one or more Member States in the relocation of applicants should be suspended, or in the case where, following relevant notifications to the Council, other Member State(s) or Associated States take part in the relocation, implementing powers should be conferred on the Council.

The conferral of those powers upon the Council is justified in view of the politically sensitive nature of such measures, which touch on national powers regarding the admission of third country nationals on the territory of the Member States and the need to be able to adapt swiftly to rapidly evolving situations.

(29) The Asylum, Migration and Integration Fund (AMIF) set up by Regulation (EU) No 516/2014 provides support to burden-sharing operations agreed between Member States, and is open to new policy developments in that field. Article 7(2) of Regulation (EU) No 516/2014 provides for the possibility for Member States to implement actions related to the transfer of applicants for international protection as part of their national programmes, while Article 18 of that Regulation provides for the possibility of a lump sum payment of EUR 6000 for the transfer of beneficiaries of international protection from another Member State.

(30) With a view to implementing the principle of solidarity and fair sharing of responsibility, and taking into account that this Decision constitutes a further policy development in this field, it is appropriate to ensure that the Member States that relocate, pursuant to this Decision, applicants from Italy and Greece who are in clear need of international protection, receive a lump sum for each relocated person which is identical to the lump sum provided for in Article 18 of Regulation

(EU) No 516/2014, namely EUR 6000, and is implemented by applying the same procedures. This entails a limited, temporary derogation from Article 18 of that Regulation because the lump sum should be paid in respect of relocated applicants rather than in respect of beneficiaries of international protection. Such a temporary extension of the scope of potential recipients of the lump sum appears indeed to be an integral part of the emergency scheme set up by this Decision. Moreover, with regard to the costs for the transfer of persons relocated pursuant to this Decision, it is appropriate to provide that Italy and Greece receive a lump sum of at least EUR 500 for each person relocated from their respective territories, taking into account the actual costs necessary to transfer an applicant to the Member State of relocation. Member States should be entitled to receive additional pre-financing to be paid in 2016 following the revision of their national programmes under the Asylum, Migration and Integration Fund to implement actions under this Decision.

(31) It is necessary to ensure that a swift relocation procedure is put in place and to accompany the implementation of the provisional measures by close administrative cooperation between Member States and operational support provided by EASO.

(32) National security and public order should be taken into consideration throughout the relocation procedure, until the transfer of the applicant is implemented. In full respect of the fundamental rights of the applicant, including the relevant rules on data protection, where a Member State has reasonable grounds for regarding an applicant as a danger to its national security or public order, it should inform the other Member States thereof.

(33) When deciding which applicants in clear need of international protection should be relocated from Italy and from Greece, priority should be given to vulnerable applicants within the meaning of Articles 21 and 22 of Directive 2013/33/EU of the European Parliament and of the Council ⁽⁷⁾. In this respect, any special needs of applicants, including health, should be of primary concern. The best interests of the child should always be a primary consideration.

(34) The integration of applicants in clear need of international protection into the host society is the cornerstone of a properly functioning Common European Asylum System. Therefore, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the specific qualifications and characteristics of the applicants concerned, such as their language skills and other individual indications based on demonstrated family, cultural or social ties which could facilitate their integration into the Member State of relocation. In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants and to the necessity of ensuring a fair distribution of those applicants among Member States. With due respect for the principle of non-discrimination, Member States of relocation may indicate their preferences for applicants based on the above information on the basis of which Italy and Greece, in consultation with EASO and, where applicable, liaison officers, may compile lists of possible applicants identified for relocation to that Member State.

⁽⁷⁾ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).

(35) The legal and procedural safeguards set out in Regulation (EU) No 604/2013 remain applicable in respect of applicants covered by this Decision. In addition, applicants should be informed of the relocation procedure set out in this Decision and be notified with the relocation decision which constitutes a transfer decision within the meaning of Article 26 of Regulation (EU) No 604/2013. Considering that an applicant does not have the right under Union law to choose the Member State responsible for his or her application, the applicant should have the right to an effective remedy against the relocation decision in line with Regulation (EU) No 604/2013, only in view of ensuring respect for his or her fundamental rights. In line with Article 27 of that Regulation, Member States may provide in their national law that the appeal against the transfer decision does not automatically suspend the transfer of the applicant but that the person concerned has the opportunity to request a suspension of the implementation of the transfer decision pending the outcome of his or her appeal.

(36) Before and after being transferred to the Member States of relocation, applicants enjoy the rights and guarantees provided for in Directive 2013/32/EU ⁽⁸⁾ and Directive 2013/33/EU ⁽⁹⁾ of the European Parliament and of the Council, including in relation to their special reception and procedural needs. In addition, Regulation (EU) No 603/2013 of the European Parliament

and of the Council ⁽¹⁰⁾ remains applicable in respect of applicants covered by this Decision, and Directive 2008/115/EC of the European Parliament and of the Council ⁽¹¹⁾ is applicable for the returning of third-country nationals not having the right to remain on the territory. The above is subject to the limitations in the application of those Directives.

(37) In line with the Union *acquis*, a robust mechanism of identification, registration and fingerprinting for the relocation procedure should be ensured by Italy and Greece so as to quickly identify the persons in need of international protection who are eligible for relocation and to identify the migrants who do not qualify for international protection and should therefore be returned. This should also apply to persons who arrived on the territory of Italy or Greece between 24 March and 25 September 2015 in order for them to be eligible for relocation. When voluntary return is not practicable and other measures provided for in Directive 2008/115/EC are not adequate to prevent secondary movements, detention measures in line with Chapter IV of that Directive should be applied urgently and

⁽⁸⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

⁽⁹⁾ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (OJ L 180, 29.6.2013, p. 96).

⁽¹⁰⁾ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

⁽¹¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

effectively. Applicants that elude the relocation procedure should be excluded from relocation.

(38) Measures should be taken in order to avoid secondary movements of relocated persons from the Member State of relocation to other Member States which could hamper the efficient application of this Decision. In particular, Member States should take the necessary preventive measures in the field of access to social benefits and legal remedies, in accordance with Union law. In addition, applicants should be informed of the consequences of irregular onward movement within the Member States and of the fact that, if the Member State of relocation grants them international protection, they are entitled to the rights attached to international protection only in that Member State.

(39) Additionally, in line with the objectives set out in Directive 2013/33/EU, the harmonisation of reception conditions amongst Member States should help to limit secondary movements of applicants for international protection influenced by the variety of conditions for their reception. With a view to reaching the same objective, Member States should consider imposing reporting obligations, and providing applicants for international protection with material reception conditions that include housing, food and clothing only in kind, as well as, where appropriate, ensuring that applicants are directly transferred to the Member State of relocation. Likewise, during the period of the examination of applications for international protection, as provided for in the asylum and Schengen *acquis*, except for serious humanitarian reasons, Member States should neither provide applicants with national travel documents, nor give them other incentives, such as financial ones, which could facilitate their irregular movements to other Member States. In case of irregular movements to

other Member States, applicants for or beneficiaries of international protection should be required to go back to the Member State of relocation, and that Member State should take those persons back without delay.

(40) In order to avoid secondary movements of beneficiaries of international protection, Member States should also inform the beneficiaries about the conditions under which they may legally enter and stay in another Member State, and should be able to impose reporting obligations. Pursuant to Directive 2008/115/EC, Member States should require a beneficiary of international protection who is staying irregularly on their territories to go back immediately to the Member State of relocation. In case the person refuses to return voluntarily, return to the Member State of relocation should be enforced.

(41) Furthermore, if provided for in national law, in the case of enforced return to the Member State of relocation, the Member State which enforced the return may decide to issue a national entry ban that would prevent the beneficiary, for a certain period of time, from re-entering the territory of that specific Member State.

(42) As the purpose of this Decision is to address an emergency situation and to support Italy and Greece in reinforcing their asylum systems, it should allow them to make, with the assistance of the Commission, bilateral arrangements with Iceland, Liechtenstein, Norway and Switzerland on the relocation of persons falling within the scope of this Decision. Such arrangements should also reflect the core elements of this Decision, in particular those relating to the relocation procedure and the rights and obligations of applicants as well as those relating to Regulation (EU) No 604/2013.

(43) The specific support provided to Italy and to Greece through the relocation scheme should be complemented by additional measures, from the arrival of third-country nationals on the territory of Italy or of Greece until the completion of all applicable procedures, coordinated by EASO and other relevant Agencies, such as Frontex coordinating the return of third-country nationals not having the right to remain on the territory, in accordance with Directive 2008/115/EC.

(44) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, 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 (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

(45) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.

(46) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(47) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking

part in the adoption of this Decision and is not bound by it or subject to its application.

(48) In case where, following a notification made pursuant to Article 4 of Protocol No 21 by a Member State covered by that Protocol, the Commission confirms in accordance with Article 331(1) TFEU the participation of that Member State in this Decision, the Council should fix the number of applicants to be relocated to that Member State. The Council should also accordingly adapt the allocations of other Member States by reducing them in proportion.

(49) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(50) In view of the urgency of the situation, this Decision should enter into force on the date following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

ARTICLE 1 SUBJECT MATTER

1. This Decision establishes provisional measures in the area of international protection for the benefit of Italy and of Greece, in view of supporting them in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries in those Member States.

2. The Commission shall keep under constant review the situation regarding massive inflows of third country nationals into Member States.

The Commission will submit, as appropriate, proposals to amend this Decision in order to

take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.

ARTICLE 2 DEFINITIONS

For the purposes of this Decision, the following definitions apply:

(a) ‘application for international protection’ means an application for international protection as defined in point (h) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council ⁽¹²⁾;

(b) ‘applicant’ means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

(c) ‘international protection’ means refugee status and subsidiary protection status as defined in points (e) and (g), respectively, of Article 2 of Directive 2011/95/EU;

(d) ‘family members’ means family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013;

(e) ‘relocation’ means the transfer of an applicant from the territory of the Member State which the criteria laid down in Chapter III of Regulation (EU) No 604/2013 indicate as responsible for examining his or her application for international protec-

tion to the territory of the Member State of relocation;

(f) ‘Member State of relocation’ means the Member State which becomes responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013 of an applicant following his or her relocation in the territory of that Member State.

ARTICLE 3 SCOPE

1. Relocation pursuant to this Decision shall take place only in respect of an applicant who has lodged his or her application for international protection in Italy or in Greece and for whom those States would have otherwise been responsible pursuant to the criteria for determining the Member State responsible set out in Chapter III of Regulation (EU) No 604/2013.

2. Relocation pursuant to this Decision shall be applied only in respect of an applicant belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council ⁽¹³⁾ is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.

⁽¹²⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

⁽¹³⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

ARTICLE 4 RELOCATION OF 120000 APPLICANTS TO MEMBER STATES

1. 120000 applicants shall be relocated to the other Member States as follows:

(a) 15600 applicants shall be relocated from Italy to the territory of the other Member States in accordance with the table set out in Annex I;

(b) 50400 applicants shall be relocated from Greece to the territory of the other Member States in accordance with the table set out in Annex II;

(c) 54000 applicants shall be relocated to the territory of the other Member States, proportionally to the figures laid down in Annexes I and II, either in accordance with paragraph 2 of this Article or through an amendment of this Decision, as referred to in Article 1(2) and in paragraph 3 of this Article.

2. As of 26 September 2016, 54000 applicants, referred to in point (c) of paragraph 1, shall be relocated from Italy and Greece, in proportion resulting from points (a) and (b) of paragraph 1, to the territory of other Member States and proportionally to the figures laid down in Annexes I and II. The Commission shall submit a proposal to the Council on the figures to be allocated accordingly per Member State.

3. If by 26 September 2016, the Commission considers that an adaptation of the relocation mechanism is justified by the evolution of the situation on the ground or that a Member State is confronted with an emergency situation characterised by a sudden inflow of nationals of third countries due to a sharp shift of migration flows and taking into account the views of the likely beneficiary Member State, it may submit, as appro-

priate, proposals to the Council, as referred to in Article 1(2).

Likewise, a Member State may, giving duly justified reasons, notify the Council and the Commission that it is confronted with a similar emergency situation. The Commission shall assess the reasons given and submit, as appropriate, proposals to the Council, as referred to in Article 1(2).

4. In case where, following a notification made pursuant to Article 4 of Protocol No 21 by a Member State covered by that Protocol, the Commission confirms in accordance with Article 331(1) TFEU the participation of that Member State in this Decision, the Council shall, on a proposal from the Commission, fix the number of applicants to be relocated to the Member State concerned. In the same implementing decision, the Council shall also accordingly adapt the allocations of other Member States by reducing them in proportion.

5. A Member State may, in exceptional circumstances, by 26 December 2015, notify the Council and the Commission that it is temporarily unable to take part in the relocation process of up to 30 % of applicants allocated to it in accordance with paragraph 1, giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union.

The Commission shall assess the reasons given and submit proposals to the Council regarding a temporary suspension of the relocation of up to 30 % of applicants allocated to the Member State concerned in accordance with paragraph 1. Where justified, the Commission may propose to extend the time limit for relocating the applicants in the remaining allocation by up to 12 months beyond the date referred to in Article 13(2).

6. The Council shall, within 1 month, decide on the proposals referred to in paragraph 5.

7. For the purpose of application of paragraphs 2, 4 and 6 of this Article, and of Article 11(2), the Council shall, on a proposal from the Commission, adopt an implementing decision.

ARTICLE 5 RELOCATION PROCEDURE

1. For the purpose of the administrative cooperation required to implement this Decision, each Member State shall appoint a national contact point, whose address it shall communicate to the other Member States and to EASO. Member States shall, in liaison with EASO and other relevant agencies, take all the appropriate measures to establish direct cooperation and an exchange of information between the competent authorities, including about the grounds referred to in paragraph 7.

2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information.

3. Based on this information, Italy and Greece shall, with the assistance of EASO and, where applicable, of Member States' liaison officers referred to in paragraph 8, identify the individual applicants who could be relocated to the other Member States and, as soon as possible, submit all relevant information to the contact points of those Member States. Priority shall be given for that purpose to vulnerable applicants within the meaning of Articles 21 and 22 of Directive 2013/33/EU.

4. Following approval of the Member State of relocation, Italy and Greece shall, as soon

as possible, take a decision to relocate each of the identified applicants to a specific Member State of relocation, in consultation with EASO, and shall notify the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article.

5. Applicants whose fingerprints are required to be taken pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may be proposed for relocation only if their fingerprints have been taken and transmitted to the Central System of Eurodac, pursuant to that Regulation.

6. The transfer of the applicant to the territory of the Member State of relocation shall take place as soon as possible following the date of the notification to the person concerned of the transfer decision referred to in Article 6(4) of this Decision. Italy and Greece shall transmit to the Member State of relocation the date and time of the transfer as well as any other relevant information.

7. Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order or where there are serious reasons for applying the exclusion provisions set out in Articles 12 and 17 of Directive 2011/95/EU.

8. For the implementation of all aspects of the relocation procedure described in this Article, Member States may, after exchanging all relevant information, decide to appoint liaison officers to Italy and to Greece.

9. In line with the Union *acquis*, Member States shall fully implement their obligations. Accordingly, identification, registration

and fingerprinting for the relocation procedure shall be guaranteed by Italy and by Greece. To ensure that the process remains efficient and manageable, reception facilities and measures shall be duly organised so as to temporarily accommodate people, in line with the Union *acquis*, until a decision is quickly taken on their situation. Applicants that elude the relocation procedure shall be excluded from relocation.

10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and not later than 2 months from the time of the indication given by the Member State of relocation as referred to in paragraph 2, unless the approval by the Member State of relocation referred to in paragraph 4 takes place less than 2 weeks before the expiry of that 2-month period. In such case, the time limit for completing the relocation procedure may be extended for a period not exceeding a further 2 weeks. In addition, the time limit may also be extended, for a further 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.

Where the relocation procedure is not completed within these time limits and unless Italy and Greece agree with the Member State of relocation to a reasonable extension of the time limit, Italy and Greece shall remain responsible for examining the application for international protection pursuant to Regulation (EU) No 604/2013.

11. Following the relocation of the applicant, the Member State of relocation shall take and transmit to the Central System of Eurodac the fingerprints of the applicant in accordance with Article 9 of Regulation (EU) No 603/2013 and update the data sets in accordance with Article 10 of, and, where applicable, Article 18 of that Regulation.

ARTICLE 6 RIGHTS AND OBLIGATIONS OF APPLICANTS FOR INTERNATIONAL PROTECTION COVERED BY THIS DECISION

1. The best interests of the child shall be a primary consideration for Member States when implementing this Decision.
2. Member States shall ensure that family members who fall within the scope of this Decision are relocated to the territory of the same Member State.
3. Prior to the decision to relocate an applicant, Italy and Greece shall inform the applicant in a language which the applicant understands or is reasonably supposed to understand of the relocation procedure as set out in this Decision.
4. When the decision to relocate an applicant has been taken and before the actual relocation, Italy and Greece shall notify the person concerned of the decision to relocate him in writing. That decision shall specify the Member State of relocation.

5. An applicant or beneficiary of international protection who enters the territory of a Member State other than the Member State of relocation without fulfilling the conditions for stay in that other Member State shall be required to return immediately. The Member State of relocation shall take back the person without delay.

ARTICLE 7 OPERATIONAL SUPPORT TO ITALY AND TO GREECE

1. In order to support Italy and Greece better to cope with the exceptional pressure on their asylum and migration systems caused by the current increased migratory pressure at their external borders, Member States shall increase their operational support in

cooperation with Italy and Greece in the area of international protection through relevant activities coordinated by EASO, Frontex and other relevant Agencies, in particular by providing, as appropriate, national experts for the following support activities:

(a) the screening of the third-country nationals arriving in Italy and Greece, including their clear identification, fingerprinting and registration, and, where applicable, the registration of their application for international protection and, upon request by Italy or Greece, their initial processing;

(b) the provision to applicants or potential applicants that could be subject to relocation pursuant to this Decision of information and specific assistance that they may need;

(c) the preparation and organisation of return operations for third-country nationals who either did not apply for international protection or whose right to remain on the territory has ceased.

2. In addition to the support provided under paragraph 1, and for the purpose of facilitating the implementation of all steps of the relocation procedure, specific support shall be provided as appropriate to Italy and to Greece through relevant activities coordinated by EASO, Frontex and other relevant Agencies.

ARTICLE 8 COMPLEMENTARY MEASURES TO BE TAKEN BY ITALY AND GREECE

1. Italy and Greece, shall, bearing in mind the obligations set out in Article 8(1) of Decision (EU) 2015/1523, and by 26 October 2015, notify to the Council and the Commission an updated roadmap taking into account the need to ensure appropriate implementation of this Decision.

2. Should this Decision be amended for the benefit of another Member State in accordance with Article 1(2) and Article 4(3), that Member State shall, on the date of entry into force of the relevant Council amending decision, present a roadmap to the Council and the Commission which shall include adequate measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in these areas as well as measures to ensure appropriate implementation of this Decision. That Member State shall fully implement that roadmap.

3. If Italy or Greece does not comply with the obligations referred to in paragraph 1, the Commission may decide, having given the Member State concerned the opportunity to present its views, to suspend the application of this Decision with regard to that Member State for a period of up to 3 months. The Commission may decide once to extend such suspension for a further period of up to 3 months. Such suspension shall not affect the transfers of applicants that are pending following approval of the Member State of relocation pursuant to Article 5(4).

ARTICLE 9 FURTHER EMERGENCY SITUATIONS

In the event of an emergency situation characterised by a sudden inflow of nationals of third countries in a Member State, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the participation of that Member State in the relocation as provided for in this Decision, as well as possible compensatory measures for Italy and for Greece.

ARTICLE 10 FINANCIAL SUPPORT

1. For each person relocated pursuant to this Decision:

(a) the Member State of relocation shall receive a lump sum of EUR 6000;

(b) Italy or Greece shall receive a lump sum of at least EUR 500.

2. This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014. By way of exception from the pre-financing arrangements set out in that Regulation, Member States shall, in 2016, be paid a pre-financing amount of 50 % of their total allocation pursuant to this Decision.

ARTICLE 11 COOPERATION WITH ASSOCIATED STATES

1. With the assistance of the Commission, bilateral arrangements may be made between, Italy and, respectively Iceland, Liechtenstein, Norway and Switzerland, and between Greece and, respectively, Iceland, Liechtenstein, Norway and Switzerland, on the relocation of applicants from the territory of Italy and of Greece to the territory of those latter States. The core elements of this Decision, in particular those relating to the relocation procedure and the rights and obligations of applicants, shall be duly taken into account in those arrangements.

2. In case such bilateral arrangements are made, Italy or Greece shall notify to the Council and the Commission the number of

applicants who are to be relocated to the associated States. The Council shall accordingly adapt, on a proposal from the Commission, the allocations of Member States by reducing them in proportion.

ARTICLE 12 REPORTING

On the basis of the information provided by the Member States and by the relevant agencies, the Commission shall report to the Council every 6 months on the implementation of this Decision.

On the basis of the information provided by Italy and by Greece, the Commission shall also report to the Council every 6 months on the implementation of the roadmaps referred to in Article 8.

ARTICLE 13 ENTRY INTO FORCE

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

2. It shall apply until 26 September 2017.

3. It shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards.

Done at Brussels, 22 September 2015.

For the Council
The President
 J. ASSELBORN

ANNEX I Allocations from Italy

	Allocation per Member State (15600 applicants relocated)
Austria	462
Belgium	579
Bulgaria	201
Croatia	134
Cyprus	35
Czech Republic	376
Estonia	47
Finland	304
France	3064
Germany	4027
Hungary	306
Latvia	66
Lithuania	98
Luxembourg	56
Malta	17
Netherlands	922
Poland	1201
Portugal	388
Romania	585
Slovakia	190
Slovenia	80
Spain	1896
Sweden	567

ANNEX II Allocations from Greece

	Allocation per Member State (50400 applicants relocated)
Austria	1491
Belgium	1869
Bulgaria	651
Croatia	434
Cyprus	112
Czech Republic	1215
Estonia	152
Finland	982
France	9898
Germany	13009
Hungary	988
Latvia	215
Lithuania	318
Luxembourg	181
Malta	54
Netherlands	2978
Poland	3881
Portugal	1254
Romania	1890
Slovakia	612
Slovenia	257
Spain	6127
Sweden	1830

COUNCIL DECISION (EU) 2016/1754 OF 29 SEPTEMBER 2016 AMENDING DECISION (EU) 2015/1601 ESTABLISHING PROVISIONAL MEASURES IN THE AREA OF INTERNATIONAL PROTECTION FOR THE BENEFIT OF ITALY AND GREECE

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) On the basis of Article 78(3) of the Treaty on the Functioning of the European Union (TFEU), the Council adopted two Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Under Council Decision (EU) 2015/1523 ⁽²⁾, 40000 applicants for international protection are to be relocated from Italy and Greece to the other Member States. Under Council Decision (EU) 2015/1601 ⁽³⁾, 120000 applicants for international protection are to be relocated from Italy and Greece to other Member States.

(2) In accordance with Article 4(2) of Decision (EU) 2015/1601, from 26 September

2016, 54000 applicants are to be relocated from Italy and Greece to the territory of other Member States, unless, pursuant to Article 4(3) of that Decision, by that date the Commission makes a proposal to allocate them to a particular beneficiary Member State confronted with an emergency situation characterised by a sudden inflow of persons.

(3) Article 1(2) of Decision (EU) 2015/1601 provides that the Commission is to keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission is to submit, as appropriate, proposals to amend that Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.

(4) With the aim of ending irregular migration from Turkey to the EU, on 18 March 2016 ⁽⁴⁾, the EU and Turkey agreed on a number of action points, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. Resettlement under that mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015. Any further need for resettlement is to be carried out through a similar

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

⁽³⁾ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).

⁽⁴⁾ EU-Turkey Statement of 18 March 2016.

voluntary arrangement up to a limit of an additional 54000 persons by allowing for any resettlement commitment undertaken in the framework of that arrangement to be offset against non-allocated places under Decision (EU) 2015/1601.

(5) Resettlement, humanitarian admission or other forms of legal admission from Turkey under national and multilateral schemes can be expected to relieve the migratory pressure on Member States which are beneficiaries of relocation under Decision (EU) 2015/1601 by providing a legal and safe pathway to enter the Union and by discouraging irregular entries. Therefore, the solidarity efforts of Member States consisting in voluntarily admitting to their territory Syrian nationals present in Turkey who are in clear need of international protection should be taken into account in relation to the 54000 applicants for international protection referred to above. The number of persons so admitted from Turkey by a Member State should be deducted from the number of persons to be relocated to that Member State under Decision (EU) 2015/1601 in relation to those 54000 applicants.

(6) Mechanisms for admission may include resettlement, humanitarian admission or other legal pathways for admission of Syrian nationals present in Turkey who are in clear need of international protection, such as humanitarian visa programmes, humanitarian transfer, family reunification programmes, private sponsorship projects, scholarship programmes, labour mobility schemes, and others.

(7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision

and should not count towards meeting the obligations under Decision (EU) 2015/1601. Therefore, a Member State which chooses to meet its obligations under Decision (EU) 2015/1601 by admitting Syrians present in Turkey through resettlement, should not be able to count that effort as constituting part of its commitment under the 20 July 2015 resettlement scheme.

(8) To ensure a proper monitoring of the situation, a Member State should, once it chooses to use this option, report on a monthly basis to the Commission on Syrians present in Turkey admitted to its territory under the option provided for in this amendment specifying under which scheme, national or multilateral, the person has been admitted and the form of legal admission.

(9) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, 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 (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

(10) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.

(11) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Deci-

sion and is not bound by it or subject to its application.

(12) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Articles 4 and 4a of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(14) In view of the urgency of the situation, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

ARTICLE 1

In Article 4 of Decision (EU) 2015/1601, the following paragraph is inserted:

‘3a. In relation to the relocation of applicants referred to in point (c) of paragraph 1, Member States may choose to meet their obligation by admitting to their territory Syrian nationals present in Turkey under national or multilateral legal admission schemes for persons in clear need of international protection, other than the resettlement scheme which was the subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015. The number of persons so admitted by a Member State shall lead to

a corresponding reduction of the obligation of the respective Member State.

Article 10 shall apply *mutatis mutandis* for every such legal admission leading to a reduction of the relocation obligation.

Member States, which choose to use the option provided in this paragraph, shall report monthly to the Commission on the number of persons legally admitted for the purposes of this paragraph, indicating the type of scheme under which the admission has taken place and the form of legal admission used.’

ARTICLE 2

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

2. This Decision shall apply until 26 September 2017.

3. This Decision shall apply to all the persons who, for the purposes of paragraph 3a of Article 4 of Decision (EU) 2015/1601, have been admitted from the territory of Turkey by the Member States as from 1 May 2016.

Done at Brussels, 29 September 2016.

For the Council
The President
 P. ŽIGA

**COMMISSION DELEGATED REGULATION (EU) 2017/207
OF 3 OCTOBER 2016 ON THE COMMON MONITORING AND
EVALUATION FRAMEWORK PROVIDED FOR IN REGULATION (EU)
NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL LAYING DOWN GENERAL PROVISIONS ON THE ASYLUM,
MIGRATION AND INTEGRATION FUND AND ON THE INSTRUMENT
FOR FINANCIAL SUPPORT FOR POLICE COOPERATION,
PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 55(4) thereof,

Whereas:

(1) In order to support the Commission in the monitoring and evaluation of Regulation (EU) No 514/2014 and the Specific Regulations referred to in its Article 2, and to enable an integrated analysis at Union level, Member States should follow a uniform approach, to the extent possible, when undertaking the monitoring and evaluation activities.

(2) Monitoring and evaluation experts from Member States have cooperated with the Commission in the development of the common result and impact indicators, which should be used to assess the implementation of Regulation (EU) No 514/2014 and the Specific Regu-

lations. These indicators complement the list of common indicators referred to in Annex II to Regulation (EU) No 513/2014 of the European Parliament and of the Council ⁽²⁾, Annex IV to Regulation (EU) No 515/2014 of the European Parliament and of the Council ⁽³⁾, and Annex IV to Regulation (EU) No 516/2014 of the European Parliament and of the Council ⁽⁴⁾.

(3) Monitoring and evaluation experts from Member States have cooperated with the Commission in the development of common evaluation questions to evaluate the implementation of national programmes by Member States. The evaluation questions comply

⁽²⁾ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

⁽³⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

⁽⁴⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

with the requirements set out in Article 55(3) and (6) of Regulation (EU) No 514/2014.

(4) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are, as a consequence, bound by this Regulation.

(5) Denmark is bound neither by Regulation (EU) No 514/2014 nor by this Regulation, and is not subject to their application,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

Each Member State shall designate, within the Responsible Authority, a coordinator in charge of monitoring and evaluation and shall define their tasks.

The monitoring and evaluation coordinators shall, through networking facilitated by the Commission:

- (a) exchange expertise on best practices for monitoring and evaluation;
- (b) contribute to implementing the common monitoring and evaluation framework, as set out in Article 55 of Regulation (EU) No 514/2014 and complemented by this Regulation;
- (c) facilitate the evaluation of implementing national programmes, as set out in Articles 56 and 57 of Regulation (EU) No 514/2014 and complemented by this Regulation; and
- (d) collaborate with the Commission to develop a document providing guidance on how to carry out the evaluation referred to in Article 56(3) of Regulation (EU) No 514/2014.

Article 2

1. The evaluation reports referred to in Article 57(1) of Regulation (EU) No 514/2014 shall follow the template to be developed by the Commission, which will include the evaluation questions provided for in Annex I and Annex II to this Regulation.

2. The evaluation reports shall use the indicators set out in Annexes III and IV. The Commission shall set out the definition, source and baseline of the indicators listed in Annexes III and IV in the document providing guidance on how to carry out evaluations referred to in Article 56(3) of Regulation (EU) No 514/2014.

3. The Member States shall submit the evaluation reports using the electronic data exchange system ('SFC 2014') established by Article 2 of Commission Implementing Regulation (EU) No 802/2014⁽⁵⁾.

4. In accordance with Article 12(3) and (4) of Regulation (EU) No 514/2014, the Responsible Authority shall consult the monitoring committee on the annual implementation reports, and on the follow up to the conclusions and recommendations made in the evaluation reports, before the documents are submitted to the Commission.

ARTICLE 3

This Regulation shall enter into force on the twentieth 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 in accordance with the Treaties.

Done at Brussels, 3 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

⁽⁵⁾ Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and the Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (OJ L 219, 25.7.2014, p. 22).

ANNEX I LIST OF EVALUATION QUESTIONS FOR THE EVALUATION REPORTS BY MEMBER STATES AND THE COMMISSION, FOR THE ASYLUM, MIGRATION AND INTEGRATION FUND, AS REFERRED TO IN ARTICLES 56 AND 57 OF REGULATION (EU) NO 514/2014

EFFECTIVENESS

(1) To what extent has the Asylum, Migration and Integration Fund ('Fund') reached the objectives defined in Regulation (EU) No 516/2014?

(a) How did the Fund contribute to strengthening and developing all aspects of the Common European Asylum System, including its external dimension?

(i) What progress was made towards strengthening and developing the asylum procedures, and how did the Fund contribute to achieving this progress?

(ii) What progress was made towards strengthening and developing the reception conditions, and how did the Fund contribute to achieving this progress?

(iii) What progress was made towards the achievement of a successful implementation of the legal framework of the qualification directive (and its subsequent modifications), and how did the Fund contribute to achieving this progress?

(iv) What progress was made towards enhancing Member State capacity to develop, monitor and evaluate their asylum policies and procedures, and how did the Fund contribute to achieving this progress?

(v) What progress was made towards the establishment, development and implemen-

tation of national resettlement programmes and strategies, and other humanitarian admission programmes, and how did the Fund contribute to achieving this progress?

(b) How did the Fund contribute to supporting legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, while safeguarding the integrity of the immigration systems of Member States, and to promoting the effective integration of third-country nationals?

(i) What progress was made towards supporting legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, and how did the Fund contribute to achieving this progress?

(ii) What progress was made towards promoting the effective integration of third-country nationals, and how did the Fund contribute to achieving this progress?

(iii) What progress was made towards supporting cooperation among the Member States, with a view to safeguarding the integrity of the immigration systems of Member States, and how did the Fund contribute to achieving this progress?

(iv) What progress was made towards building capacity on integration and legal migration within the Member States, and how

did the Fund contribute to achieving this progress?

(c) How did the Fund contribute to enhancing fair and effective return strategies in the Member States which contribute to combating illegal immigration, with an emphasis on sustainability of return and effective readmission in the countries of origin and transit?

(i) What progress was made towards supporting the measures accompanying return procedures, and how did the Fund contribute to achieving this progress?

(ii) What progress was made towards effective implementation of return measures (voluntary and forced), and how did the Fund contribute to achieving this progress?

(iii) What progress was made towards enhancing practical cooperation between Member States and/or with authorities of third countries on return measures, and how did the Fund contribute to achieving this progress?

(iv) What progress was made towards building capacity on return, and how did the Fund contribute to achieving this progress?

(d) How did the Fund contribute to enhancing solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows, including through practical cooperation?

(i) How did the Fund contribute to the transfer of asylum applicants (relocation as per

Council Decisions (EU) 2015/1523 ⁽⁶⁾ and (EU) 2015/1601 ⁽⁷⁾)?

(ii) How did the Fund contribute to the transfer between Member States of beneficiaries of international protection?

(e) How did the Fund contribute to supporting the Member States in duly substantiated emergency situations requiring urgent action?

(i) What type of emergency actions was implemented?

(ii) How did the emergency actions implemented under the Fund contribute to addressing the urgent needs of the Member State?

(iii) What were the main results of the emergency actions?

Efficiency (*Were the general objectives of the Fund achieved at reasonable cost?*)

(2) To what extent were the results of the Fund achieved at reasonable cost in terms of deployed financial and human resources? What measures were put in place to prevent, detect, report and follow up on cases of fraud and other irregularities, and how did they perform?

Relevance (*Did the objectives of the interventions funded by the Fund correspond to the actual needs?*)

⁽⁶⁾ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

⁽⁷⁾ Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).

(3) Did the objectives set by the Member State in the National Programme respond to the identified needs? Did the objectives set in the Annual Work Programme (Union actions) address the actual needs? Did the objectives set in the Annual Work Programme (Emergency Assistance) address the actual needs? Which measures did the Member State put in place to address changing needs?

Coherence (Were the objectives set in the national programme Fund coherent with the ones set in other programmes funded by EU resources and applying to similar areas of work? Was the coherence ensured also during the implementation of the Fund?)

(4) Was an assessment of other interventions with similar objectives carried out and taken into account during the programming stage? Were coordination mechanisms between the Fund and other interventions with similar objectives established for the implementing period? Were the actions implemented through the Fund coherent with and non-contradictory to other interventions with similar objectives?

Complementarity (Were the objectives set in the national programme and the corresponding implemented actions complementary to those set in the framework of other policies, in particular those pursued by the Member State?)

(5) Was an assessment of other interventions with complementary objectives carried out and taken into account during the programming stage? Were coordination mechanisms between the Fund and other interventions with similar objectives established to ensure their complementarity for the implementing period? Were mechanisms aimed to prevent overlapping of financial instruments put in place?

EU added value (Was any value added brought about by the EU support?)

(6) What are the main types of added value resulting from the Fund support (volume, scope, role, process)? Would the Member State have carried out the actions required to implement the EU policies in the Fund areas without the financial support of the Fund? What would be the most likely consequences of an interruption of the support provided by the Fund? To which extent have actions supported by the Fund resulted in a benefit at the Union level?

Sustainability (Are the positive effects of the projects supported by the Fund likely to last when the support from FUND will be over?)

(7) What were the main measures adopted by the Member State to ensure the sustainability of the results of the projects implemented with the Fund support (both at programming and implementation stage)? Were mechanisms put in place to ensure a sustainability check at programming and implementation stage? To what extent are the outcomes/benefits of the actions sustained by the Fund expected to continue thereafter?

Simplification and reduction of administrative burden (Were the Fund management procedures simplified and the administrative burden reduced for its beneficiaries?)

(8) Did the innovative procedures introduced by the Fund (simplified cost option, multiannual programming, national eligibility rules, more comprehensive national programmes allowing for flexibility) bring about simplification for the beneficiaries of the Fund?

ANNEX II LIST OF EVALUATION QUESTIONS FOR THE EVALUATION REPORTS BY MEMBER STATES AND THE COMMISSION, FOR THE INTERNAL SECURITY FUND, AS REFERRED TO IN ARTICLES 56 AND 57 OF REGULATION (EU) NO 514/2014

EFFECTIVENESS

(1) How did the Internal Security Fund ('Fund') contribute to the achievement of the general objective defined in the Regulation (EU) No 515/2014?

(a) How did the Fund contribute to the achievement of the following specific objectives:

Support a common visa policy to facilitate legitimate travel;

Provide a high quality of service to visa applicants;

Ensure equal treatment of third-country nationals and

Tackle illegal migration?

(i) What progress was made towards promoting the development and implementation of the common visa policy to facilitate legitimate travel, and how did the Fund contribute to achieving this progress?

(ii) What progress was made towards ensuring better consular coverage and harmonised practices on visa issuance between Member States, and how did the Fund contribute to achieving this progress?

(iii) What progress was made towards ensuring the application of the Union's *acquis* on visas and how did the Fund contribute to achieving this progress?

(iv) What progress was made towards Member States' contribution to strengthening the cooperation between Member States operating in third countries as regards the flows of third-country national into the territory of Member States, including prevention and tackling of illegal immigration, as well as the cooperation with third countries, and how did the Fund contribute to achieving this progress?

(v) What progress was made towards supporting the common visa policy by setting up and running IT systems, their communication infrastructure and equipment, and how did the Fund contribute to achieving this progress?

(vi) How did the operating support provided for in Article 10 of the Regulation (EU) No 515/2014 contribute to the achievement of the specific objective on common visa policy?

(b) How did the Fund contribute to the following specific objectives:

Supporting integrated border management, including promoting further harmonisation of border management-related measures in accordance with common Union standards and through the sharing of information between Member States and between Member States and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union?

Ensuring, on one hand, a uniform and high level of control and protection of the external borders, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*, while guaranteeing access to international protection for those needing it, in accordance with the obligations contracted by the Member States in the field of human rights, including the principle of non-refoulement?

(i) What progress was made towards promoting the development, implementation and enforcement of policies with a view to ensure the absence of any controls on persons when crossing the internal borders, and how did the Fund contribute to achieving this progress?

(ii) What progress was made towards carrying out checks on persons and monitoring efficiently the crossing of external borders, and how did the Fund contribute to achieving this progress?

(iii) What progress was made towards establishing gradually an integrated management system for external borders, based on solidarity and responsibility, and how did the Fund contribute to achieving this progress?

(iv) What progress was made towards ensuring the application of the Union's *acquis* on border management, and how did the Fund contribute to achieving this progress?

(v) What progress was made towards contributing to reinforcing situational awareness at the external borders and the reaction capabilities of Member States, and how did the Fund contribute to achieving this progress?

(vi) What progress was made towards setting up and running IT systems, their communica-

tion infrastructure and equipment that support border checks and border surveillance at the external borders, and how did the Fund contribute to achieving this progress?

(vii) What progress was made towards supporting services to Member States in duly substantiated emergency situations requiring urgent action at the external borders, and how did the Emergency Assistance contribute to achieving this progress? What type of emergency actions was implemented? How did the emergency actions implemented under the Fund contribute to addressing the urgent needs of the Member State? What were the main results of the emergency actions?

(viii) How did the operating support provided for in Article 10 of the Regulation (EU) No 515/2014 contribute to the achievement of the specific objective on border management?

(2) How did the Fund contribute to the achievement of the general objective defined in Regulation (EU) No 513/2014?

(a) How did the Fund contribute to the following specific objectives:

Prevention of cross-border, serious and organised crime, including terrorism?

Reinforcement of the coordination and cooperation between law enforcement authorities and other national authorities of Member States, including with Europol or other relevant Union bodies, and with relevant third countries and international organisations?

(i) What progress was made towards the achievement of the expected results of strengthening Member States' capacity to combat cross-border, serious and organised crime, including terrorism and to reinforce

their mutual cooperation in this field, and how did the Fund contribute to the achievement of this progress?

(ii) What progress was made towards developing administrative and operational coordination and cooperation among Member States' public authorities, Europol or other relevant Union bodies and, where appropriate, with third Countries and international organisations, and how did the Fund contribute to the achievement of this progress?

(iii) What progress was made towards developing training schemes, such as those regarding technical and professional skills and knowledge of obligations on human rights and fundamental freedoms, in implementation of EU training policies, including through specific Union law enforcement exchange programmes, and how did the Fund contribute to the achievement of this progress?

(iv) What progress was made towards putting in place measures, safeguard mechanisms and best practices for the identification and support of witnesses and victims of crime, including victims of terrorism, and how did the Fund contribute to the achievement of this progress?

(b) How did the Fund contribute to improve the capacity of Member States to manage effectively security-related risks and crises, and protecting people and critical infrastructure against terrorist attacks and other security-related incidents?

(i) What progress was made towards reinforcing Member States' administrative and operational capability to protect critical infrastructure in all sectors of economic activity, including through public-private partnerships and improved coordination, cooperation, exchange and dissemination of know-how and experience within the Union

and with relevant third Countries, and how did the Fund contribute to the achievement of this progress?

(ii) What progress was made towards establishing secure links and effective coordination between existing sector-specific early warning and crisis cooperation actors at Union and national level, and how did the Fund contribute to the achievement of this progress?

(iii) What progress was made towards improving the administrative and operational capacity of the Member States and the Union to develop comprehensive threat and risk assessments, and how did the Fund contribute to the achievement of this progress?

Efficiency (*Were the results of the Fund achieved at reasonable cost?*)

(3) To what extent were the expected results of the Fund achieved at reasonable cost in terms of deployed financial and human resources? What measures were put in place to prevent, detect, report and follow up on cases of fraud and other irregularities, and how did they perform?

Relevance (*Did the objectives of the interventions funded by the Fund correspond to the actual needs?*)

(4) Did the objectives set by the Member State in their National Programmes respond to the identified needs? Did the objectives set in the Annual Work Programme (Union actions) address the actual needs? Did the objectives set in the Annual Work Programme (Emergency assistance) address the actual needs? Which measures did the Member State put in place to address changing needs?

Coherence (*Were the objectives set in the national programme coherent with the ones set in other programmes funded by EU*

resources and applying to similar areas of work? Was the coherence ensured also during the implementation of the Fund?)

(5) Was an assessment of other interventions with similar objectives carried out and taken into account during the programming stage? Were coordination mechanisms between the Fund and other interventions with similar objectives established for the implementing period? Were the actions implemented through the Fund coherent with and non-contradictory to other interventions with similar objectives?

Complementarity *(Were the objectives set in the national programme and the corresponding implemented actions complementary to those set in the framework of other policies — in particular those pursued by the Member State?)*

(6) Was an assessment of other interventions with complementary objectives carried out and taken into account during the programming stage? Were coordination mechanisms between the Fund and other interventions with similar objectives established for the implementing period to ensure their complementarity for the implementing period? Were mechanisms aimed to prevent overlapping of financial instruments put in place?

EU added value *(Was any added value brought about by the EU support?)*

(7) What are the main types of added value resulting from the support of the Fund (volume, scope, role, process)? Would the Member State have carried out the actions required to implement the EU policies in the areas supported by the Fund without its financial support? What would be the most likely consequences of an interruption of the support provided by the Fund? To which extent have actions supported by the Fund resulted in

a benefit at the Union level? What was the added value of the operating support?

Sustainability *(Are the positive effects of the projects supported by the Fund likely to last when its support will be over?)*

(8) What were the main measures adopted by the Member State to ensure the sustainability of the results of the projects implemented with support of the Fund (both at programming and implementation stage)? Were mechanisms put in place to ensure a sustainability check at programming and implementation stage? To what extent are the outcomes/benefits of the actions sustained by the Fund expected to continue thereafter? What measures were adopted to ensure the continuity of the activities carried out thanks to the operating support?

Simplification and reduction of administrative burden *(Were the management procedures of the Fund simplified and the administrative burden reduced for its beneficiaries?)*

(9) Did the innovative procedures introduced by the Fund (simplified cost option, multiannual programming, national eligibility rules, more comprehensive national programmes allowing for flexibility, operating support and Special Transit Scheme for Lithuania) lead to simplification for the beneficiaries of the Fund?

ANNEX III LIST OF COMMON RESULT AND IMPACT INDICATORS FOR THE EVALUATION REPORTS BY MEMBER STATES AND THE COMMISSION, AS REFERRED TO IN ARTICLES 56 AND 57 OF REGULATION (EU) NO 514/2014

INDICATORS FOR THE EVALUATION OF THE SPECIFIC OBJECTIVES OF REGULATION (EU) NO 516/2014

1. Indicators by specific objectives

(a) To strengthen and develop all aspects of the Common European Asylum System, including its external dimension:

(i) number of places adapted for unaccompanied minors supported by the Asylum, Migration and Integration Fund ('Fund') as compared to the total number of places adapted for unaccompanied minors;

(ii) stock of pending cases at first instance, by duration;

(iii) share of final positive decisions at the appeal stage;

(iv) number of persons in the reception system (stock at end of the reporting period);

(v) number of persons in the reception system as compared to the number of asylum applicants;

(vi) number of accommodation places adapted for unaccompanied minors as compared to the number of unaccompanied minors;

(vii) convergence of first instance/final instance recognition rates by Member States for asylum applicants from a same third country.

(b) To support legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, while safeguarding the integrity of the immigration systems of Member States, and to promote the effective integration of third-country nationals:

(i) share of third-country nationals having received long-term residence status out of all third-country nationals;

(ii) employment rate: gap between third-country nationals and host-country nationals;

(iii) unemployment rate: gap between third-country nationals and host-country nationals;

(iv) activity rate: gap between third-country nationals and host-country nationals;

(v) share of early leavers from education and training: gap between third country nationals and host-country nationals;

(vi) share of 30 to 34-years-olds with tertiary educational attainment: gap between third country nationals and host-country nationals;

(vii) share of population at risk of social poverty or social exclusion: gap between third-country nationals and host-country nationals.

(c) To enhance fair and effective return strategies in the Member States supporting the fight against illegal immigration with an emphasis on sustainability of return and

effective readmission in the countries of origin and transit:

(i) numbers of removals supported by the Fund, as compared to the total number of returns following an order to leave;

(ii) number of persons returned in the framework of the joint return operations supported by the Fund as compared to the total number of returns supported by the Fund;

(iii) number of returnees who have received pre or post return reintegration assistance co-financed by the Fund, as compared to the total number of voluntary returns supported by the Fund;

(iv) number of places in detention centres created/renovated with support from the Fund, as compared to the total number of places in detention centres;

(v) number of returns following an order to leave compared to the number of third-country nationals ordered to leave;

(vi) return decisions issued to rejected asylum applicants;

(vii) effective returns of rejected asylum applicants.

2. Indicators on efficiency, added value and sustainability, as foreseen in Regulation (EU) No 514/2014

(d) To measure and evaluate efficiency, added value and sustainability:

(i) number of Full Time Equivalent in the Responsible Authority, the Delegated Authority and the Audit Authority working on the implementation of AMIF and paid by the technical assistance or national budgets as compared to the number of projects implemented and to the amount of the funds claimed for the financial year;

(ii) technical assistance plus the administrative (indirect) cost of projects as compared to the amount of funds claimed for the financial year;

(iii) absorption rate of the Fund.

ANNEX IV LIST OF COMMON RESULT AND IMPACT INDICATORS FOR THE EVALUATION REPORTS BY MEMBER STATES AND THE COMMISSION, AS REFERRED TO IN ARTICLES 56 AND 57 OF REGULATION (EU) NO 514/2014

Indicators for the evaluation of the specific objectives of Regulation (EU) No 513/2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and Regulation (EU) No 515/2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa

1. Indicators by specific objectives

- (a) Supporting a common visa policy to facilitate legitimate travel, provide a high quality of service to visa applicants and ensure equal treatment of third-country nationals and tackle illegal migration:
 - (i) number of Schengen Evaluations missions in the area of visa carried out with support of the Internal Security Fund ('Fund');
 - (ii) number of Schengen Evaluations recommendations in the area of visa addressed with the support of the Fund, as compared to the total number of recommendations issued;
 - (iii) number of persons using fraudulent travel documents detected at consulates supported by the Fund;
 - (iv) number of visa applicants having to apply for a Schengen visa outside of their country of residence;
 - (v) number of visa required countries in the world where the number of Member States present or represented has increased.
- (b) Supporting integrated border management, including promoting further harmonisation of border management-related measures in accordance with common Union standards and through the sharing of information between Member States and between Member States and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('Frontex'), to ensure, on one hand, a uniform and high level of control and protection of the external borders, including by the tackling of illegal immigration and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen *acquis*, while guaranteeing access to international protection for those needing it, in accordance with the obligations contracted by the Member States in the field of human rights, including the principle of non-refoulement:
 - (i) number of Schengen Evaluations missions in the area of borders carried out with the support of the Fund;
 - (ii) number of Schengen Evaluations recommendations in the area of borders addressed with the support of the Fund, as compared to the total number of recommendations issued;
 - (iii) number of equipment items used during Frontex Coordinated Operations which were

purchased with support of the Fund as compared to the total number of equipment items used for Frontex Coordinated Operations;

(iv) number of irregular border crossings detected at the EU external borders a) between the border crossing points; b) at the border crossing points;

(v) number of searches in Schengen Information System (SIS) II;

(vi) number of persons using fraudulent travel documents detected at the border crossing points.

(c) Crime prevention, combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities and other national authorities of Member States, including with Europol or other relevant Union bodies, and with relevant third countries and international organisations:

(i) results of actions supported by the Fund leading to the disruption of organised crime groups;

(ii) number/value of frozen, seized and confiscated criminal assets as a result of actions within the scope of Regulation (EU) No 513/2014;

(iii) number of police-recorded offences, suspects, prosecutions and convictions resulting from actions falling within the scope of Regulation (EU) No 513/2014;

(iv) quantity of drugs seizure within the scope of the Fund on organised crime;

(v) number of protected or assisted crime victims;

(vi) volume of exchange of information in the Prüm framework (based on the measurement of total number of DNA matches per year; total number of fingerprint matches per year; total number of vehicle registration data matches per year);

(vii) volume of exchange of information in the Secure Information Exchange Network Application (SIENA) framework (based on the measurement of SIENA cases initiated per year by Member States, Europol and third parties; SIENA messages exchanged per year by Member States, Europol and third parties);

(viii) volume of sharing of data via the Europol Information System (EIS) (based on the measurement of number of persons and objects inserted in the EIS by Member States per year; number of person and objects inserted in the EIS by Member States per year (suspects, convicts); number of EIS searches performed by Member States per year).

(d) Enhancing the capacity of Member States and the Union for managing effectively security-related risks and crises, and preparing for and protecting people and critical infrastructure against terrorist attacks and other security-related incidents:

(i) volume of terrorist attacks (based on the measurement of failed, foiled and completed terrorist attacks; number of casualties resulting from terrorist attacks).

2. Indicators on efficiency, added value and sustainability, as foreseen in Regulation (EU) No 514/2014

(e) To measure and evaluate efficiency, added value and sustainability:

(i) number of Full Time Equivalent in the Responsible Authority, the Delegated Authority and the Audit Authority working on the

implementation of the Fund and paid by the technical assistance or national budgets as compared to the number of projects implemented and to the amount of the funds claimed for the financial year;

(ii) technical assistance plus the administrative (indirect) cost of projects as compared to the amount of funds claimed for the financial year;

(iii) absorption rate of the Fund;

(iv) number of equipment in use 2 years after their acquisition/number of equipment acquired under the Fund (> than EUR 10000);

(v) share of the maintenance cost of acquired equipment under the Fund in the total Union contribution to actions co-financed by the Fund.

**COMMISSION DELEGATED REGULATION (EU) 2018/1728
OF 13 JULY 2018 SUPPLEMENTING REGULATION (EU)
NO 515/2014 WITH REGARD TO THE ALLOCATION OF EXTRA
FUNDING FROM THE EU BUDGET TO THE IMPLEMENTATION
OF THE ENTRY EXIT SYSTEM**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC ⁽¹⁾, and in particular the second subparagraph of Article 15 thereof,

Whereas:

(1) Article 5(5)(b) of Regulation (EU) No 515/2014 allocates EUR 791 million for developing IT systems supporting the management of migration flows across the external borders, subject to the adoption of the relevant Union legislative acts.

(2) Article 15 of Regulation (EU) No 515/2014 empowers the Commission to adopt a delegated act establishing the breakdown of the amount referred to in Article 5(5)(b) of Regulation (EU) No 515/2014 for developing IT systems, in the case where the breakdown of such amount is not made in the relevant Union legislative acts.

(3) Regulation (EU) 2017/2226 of the European Parliament and of the Council ⁽²⁾ establishes the Entry/Exit System (EES). The EES is a central component of the IT systems referred to in recitals 1 and 2. In addition, it is crucial that the implementation of Regulation (EU) 2017/2226 starts without further delay, so that the system is fully operational by 2020, as planned.

(4) Article 64 of Regulation (EU) 2017/2226 specifies the costs incurred in connection with the implementation of the EES that would be borne by the general budget of the Union thereby supporting these costs at a 100 % rate. However, that provision determines neither the size of extra funding that will be dedicated to cover those costs, nor its breakdown per type of costs and beneficiaries.

(5) From the financial envelope provided for in Article 5(5)(b) of Regulation (EU) No 515/2014, an overall allocation of EUR 480241000 should be made available to cover the costs linked to the application of Article 64(1) and (2) of Regulation (EU) 2017/2226.

⁽²⁾ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

⁽¹⁾ OJ L 150, 20.5.2014, p. 143.

(6) Of that overall allocation, an amount of EUR 287863000 should be made available to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice ('eu-LISA') to cover in accordance with Article 37 of Regulation (EU) 2017/2226, the costs related to the establishment and operation of the EES Central System, the Communication Infrastructure, the National Uniform Interface (NUI), the web service and the data repository referred to in Article 63(2) of Regulation (EU) 2017/2226, as provided in Article 64(1) of that Regulation.

(7) Of that overall allocation, an amount of EUR 192378000 should be made available to the Member States to cover the costs incurred in connection with the integration of the existing national border infrastructure and its connection to the NUI, as well as in connection with hosting the NUI, as provided for in Article 64(2) of Regulation (EU) 2017/2226. In addition, that amount should cover the costs linked to the establishment and operation of the NUI as referred to in Article 64(1) of Regulation (EU) 2017/2226, as those costs are incurred both by eu-LISA and the Member States.

(8) In accordance with the second subparagraph of Article 64(2) of Regulation (EU) 2017/2226, the amount of EUR 192378000 cannot be used to support the costs listed in that subparagraph. However those costs would be eligible for funding under the national programmes in the Internal Security Fund established by Regulation (EU) No 515/2014 at the co-financing rate referred to in Article 16(3), (4) and (5) of Regulation (EU) No 514/2014.

(9) Given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of Protocol (No 22) on the position of Denmark, annexed

to the Treaty on European Union and to the Treaty on the Functioning of the European Union, decided to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law.

(10) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁽³⁾; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. This Regulation should therefore not be addressed to the United Kingdom.

(11) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁽⁴⁾; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. This Regulation should therefore not be addressed to Ireland.

(12) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*⁽⁵⁾ which falls within the areas

⁽³⁾ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

⁽⁴⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽⁵⁾ OJ L 176, 10.7.1999, p. 36.

referred to in Article 1, Points A and B of Council Decision 1999/437/EC ⁽⁶⁾.

(13) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁸⁾.

(14) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁹⁾ which fall within the area referred to in Article 1, Points A and B of Deci-

sion 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽¹⁰⁾.

(15) In order to allow for the prompt application of the measures provided for in this Regulation, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(16) The measures provided for in this Regulation are in accordance with the opinion expressed by experts from all Member States consulted specifically for that purpose.

(17) Regulation (EU) No 515/2014 should therefore be supplemented accordingly,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

1 A total amount of EUR 480241000 shall be allocated from the general budget of the Union to cover the costs of implementation of Regulation (EU) 2017/2226 in accordance with Article 64 of that Regulation.

The amount referred to in paragraph 1 shall be taken from the amount of EUR 791000000 earmarked for the development of IT systems referred to in Article 5(5)(b) of Regulation (EU) No 515/2014.

⁽⁶⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁷⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁸⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽⁹⁾ OJ L 160, 18.6.2011, p. 21.

⁽¹⁰⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

ARTICLE 2

The amount referred to in Article 1(1) shall be used as follows:

(a) EUR 287863000 shall be allocated to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 to cover the costs referred to in Article 64(1) of Regulation (EU) 2017/2226;

(b) EUR 192378000 shall be allocated to the Member States to cover the costs referred to in Article 64(2) of Regulation (EU) 2017/2226 as well as the costs incurred in connection with the establishment and operation of the National Uniform Interface as referred to in Article 64(1) of Regulation (EU) 2017/2226. In accordance with Article 64(1) and (2) of Regulation (EU) 2017/2226, the contribution from the Union budget to the costs incurred shall amount to 100 % of the total eligible expenditure. Such contribution shall be allocated in equal shares to the Member States.

ARTICLE 3

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 in accordance with the Treaties.

Done at Brussels, 13 July 2018.

For the Commission

The President

Jean-Claude JUNCKER

ABRIDGED

**REGULATION (EU) 2018/1240 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL of 12 September 2018
establishing a European Travel Information and Authorisation
System (ETIAS) and amending Regulations (EU) No 1077/2011,
(EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624
and (EU) 2017/2226**

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the Function-
ing of the European Union, and in particular
points (b) and (d) of Article 77(2) and point (a)
of Article 87(2) thereof,

Having regard to the proposal from the Euro-
pean Commission,

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

Having regard to the opinion of the European
Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legis-
lative procedure ⁽²⁾,

Whereas:

(1) The Communication of the Commission of
6 April 2016 entitled ‘Stronger and Smarter
Information Systems for Borders and Secu-
rity’ outlined the need for the Union to
strengthen and improve its IT systems, data
architecture and information exchange in the
area of border management, law enforce-
ment and counter-terrorism. It emphasises

the need to improve the interoperability of
information systems. Importantly, it sets out
possible options for maximising the benefits
of existing information systems and, if nec-
essary, developing new and complementary
ones to address still existing information
gaps.

(2) Indeed, the Communication of 6 April
2016 identified a series of information gaps.
Among them are the fact that border author-
ities at external Schengen borders have no
information on travellers exempt from the
requirement of being in possession of a visa
when crossing the external borders (‘the
visa requirement’). The Communication of 6
April 2016 announced that the Commission
was to launch a study on the feasibility of
establishing a European Travel Information
and Authorisation System (ETIAS). The fea-
sibility study was completed in November
2016. The system would determine the eli-
gibility of visa-exempt third-country nationals
prior to their travel to the Schengen Area, and
whether such travel poses a security, illegal
immigration or high epidemic risk.

(3) The Communication of 14 September
2016 ‘Enhancing security in a world of mobil-
ity: improved information exchange in the
fight against terrorism and stronger exter-
nal borders’ confirms the priority of secur-
ing external borders and presents concrete
initiatives to accelerate and broaden the

⁽¹⁾ OJ C 246, 28.7.2017, p. 28.

⁽²⁾ Position of the European Parliament of 5 July 2018
(not yet published in the Official Journal) and deci-
sion of the Council of 5 September 2018.

Union's response in continuing to strengthen the management of external borders.

.....

(14) ETIAS should consist of a large-scale information system, the ETIAS Information System, the ETIAS Central Unit and the ETIAS National Units.

(15) The ETIAS Central Unit should be part of the European Border and Coast Guard Agency. The ETIAS Central Unit should be responsible for verifying, in cases where the automated application process has reported a hit, whether the applicant's personal data correspond to the personal data of the person having triggered that hit. Where a hit is confirmed or where doubts remain, the ETIAS Central Unit should initiate the manual processing of the application. It should ensure that the data it enters in the applications files are up to date and define, establish, assess *ex ante*, implement, evaluate *ex post*, revise and delete the specific risk indicators, ensuring that the verifications that are performed and their results are recorded in the application files. It should also carry out regular audits of the processing of applications and of the implementation of the ETIAS screening rules, including by regularly assessing their impact on fundamental rights, in particular with regard to privacy and personal data protection. It should furthermore be responsible for fulfilling a number of support tasks such as ensuring the necessary notifications are sent and providing information and support. It should be operational 24 hours a day, 7 days a week.

(16) Each Member State should establish an ETIAS National Unit responsible for examining applications and deciding whether to issue or refuse, annul or revoke travel authorisations. The ETIAS National Units should cooperate with each other and with the European

Union Agency for Law Enforcement Cooperation (Europol) for the purpose of assessing applications. The ETIAS National Units should be provided with adequate resources to fulfil their tasks in accordance with the deadlines set out in this Regulation. In order to facilitate the decision-making process and the exchange of information between Member States and to reduce translation costs and response times, it is preferable that all ETIAS National Units communicate in a single language.

(17)

(20) In order to finalise the application, applicants should be required to pay a travel authorisation fee. The payment should be managed by a bank or a financial intermediary. The data required for securing the electronic payment should only be provided to the bank or financial intermediary operating the financial transaction and not form part of data stored in ETIAS.

(21)

(51) Precise rules should be laid down as regards the responsibilities of eu-LISA for the design, development and technical management of the ETIAS Information System. Rules should also be laid down governing the responsibilities of the European Border and Coast Guard Agency, the responsibilities of the Member States and the responsibilities of Europol as regards ETIAS. eu-LISA should pay particular attention to the risk of cost increases and ensure sufficient monitoring of contractors.

.....

(61) In order to establish the technical measures needed for the application of this Regulation, the power to adopt acts in

accordance with Article 290 TFEU should be delegated to the Commission:

- to define the requirements of the secure account service,

- to lay down the predetermined list of job groups used in the application form,

- to specify the content and format of questions to applicants relating to convictions for criminal offences, stays in war or conflict zones and decisions to leave the territory or return decisions,

- to specify the content and format of additional questions to applicants who reply affirmatively to one of the questions relating to convictions for criminal offences, stays in war or conflict zones and decisions to leave the territory or return decisions, and to set out a predetermined list of answers,

- to lay down the payment methods and process for collecting the travel authorisation fee and any changes to the amount of that fee to reflect any increase in the costs of ETIAS,

- to lay down the content and format of a predetermined list of options for applicants requested to provide additional information or documentation,

- to further define the verification tool,

- to further define the security, illegal immigration or high epidemic risks to be used to establish the specific risk indicators,

- to define the type of additional information related to flags that may be added in the ETIAS application file, its formats, language and the reasons for the flags,

- to establish adequate safeguards by providing rules and procedures to avoid conflicts with alerts in other information systems and to define the conditions, the criteria and the duration of the flagging,

- to further define the tool to be used by applicants to give and withdraw their consent,

- to extend the duration of the transitional period during which no travel authorisation is required and the duration of the grace period during which border guards will allow third-country nationals requiring a travel authorisation but not in possession of one exceptionally to enter subject to certain conditions,

- to define the financial support for Member States for expenses they incur to customise and automate border checks when implementing ETIAS.

(62) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽³⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(63) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt detailed rules on:

⁽³⁾ OJ L 123, 12.5.2016, p. 1.

- a form allowing the reporting of abuses by commercial intermediaries authorised by applicants to submit applications on their behalf,
- the conditions for operation of the public website and the app for mobile devices, and detailed rules on data protection and security applicable to the public website and the app for mobile devices,
- the requirements governing the format of the personal data to be inserted in the application form and the parameters and verifications to be implemented for ensuring the completeness of the application and the coherence of these data,
- the requirements, testing and operation of the means of audio and video communication relied on for applicant interviews, and detailed rules on data protection, security and confidentiality applicable to such communication,
- the security, illegal immigration and high epidemic risks on which specific risk indicators are to be based,
- the technical specifications of the ETIAS watchlist and of the assessment tool to be used to assess the potential impact of entering data into the ETIAS watchlist on the proportion of applications that are manually processed,
- a form for refusal, annulment or revocation of a travel authorisation,
- the conditions for ensuring secure access to the ETIAS Information System by carriers, and the data protection and security rules applicable to this access,
- an authentication scheme for access to the ETIAS Information System for duly authorised members of carrier staff,
- the fall-back procedures to be followed in the case of a technical impossibility for carriers to query the ETIAS Information System,
- model contingency plans in the case of a technical impossibility for border authorities to consult the ETIAS Central System or in case of a failure of ETIAS,
- a model security plan and a model business continuity and disaster recovery plan concerning the security of processing of personal data,
- access to the data in the ETIAS Information System,
- amendment, erasure and advance erasure of data,
- the keeping of logs and access to them,
- performance requirements,
- specifications for technical solutions to connect central access points to the ETIAS Central System,
- a mechanism, procedures and interpretations of data quality compliance for the data contained in the ETIAS Central System,
- common leaflets to inform travellers of the requirement to be in possession of a valid travel authorisation,
- the operation of a central repository containing data solely for the purpose of reporting and statistics, and the data protection and security rules applicable to the repository, and

- the specifications of a technical solution for the purpose of facilitating the collection of statistical data necessary to report on the effectiveness of access to data stored in the ETIAS Central System for law enforcement purposes.

Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁴⁾.

.....

(65) The operational and maintenance costs of the ETIAS Information System, of the ETIAS Central Unit and of the ETIAS National Units should be covered entirely by the revenues generated by the travel authorisation fees. The fee should therefore be adjusted as necessary in light of the costs incurred.

(66) The revenue generated by the payment of travel authorisation fees should be assigned to cover the recurring operational and maintenance costs of the ETIAS Information System, of the ETIAS Central Unit and of the ETIAS National Units. In view of the specific character of the system, it is appropriate to treat the revenue as internal assigned revenue. Any revenue remaining after covering these costs should be assigned to the Union budget.

....

(69) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this

Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

....

(71) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽⁵⁾; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(72) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽⁶⁾ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC ⁽⁷⁾.

(73) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of

⁽⁴⁾ 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁵⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽⁶⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁷⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁸⁾ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁹⁾ and with Article 3 of Council Decision 2008/149/JHA ⁽¹⁰⁾.

(74) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽¹¹⁾ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision

2011/350/EU ⁽¹²⁾ and with Article 3 of Council Decision 2011/349/EU ⁽¹³⁾.

(75) In order to determine the modalities relating to the financial contribution of third countries associated with the implementation, application and development of the Schengen *acquis*, further arrangements should be concluded between the Union and those countries under the relevant provisions of their association agreements. Such arrangements should constitute international agreements within the meaning of Article 218 TFEU.

(76) In order to integrate this Regulation into the existing legal framework and to reflect the necessary operational changes for eu-LISA and the European Border and Coast Guard Agency, Regulations (EU) No

⁽⁸⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁹⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽¹⁰⁾ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

⁽¹¹⁾ OJ L 160, 18.6.2011, p. 21.

⁽¹²⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

⁽¹³⁾ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

1077/2011 ⁽¹⁴⁾, (EU) No 515/2014 ⁽¹⁵⁾, (EU) 2016/399, (EU) 2016/1624 ⁽¹⁶⁾ and (EU) 2017/2226 ⁽¹⁷⁾ of the European Parliament and of the Council should be amended.

.....

HAVE ADOPTED THIS REGULATION:

⁽¹⁴⁾ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

⁽¹⁵⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

⁽¹⁶⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

⁽¹⁷⁾ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 SUBJECT MATTER

to connect to the national border infrastructures and to the central access points in Member States referred to in Article 50(2) in a secure manner;

ARTICLE 2 SCOPE

ARTICLE 3 DEFINITIONS

(c) a communication infrastructure between the ETIAS Central System and the NUIs which shall be secure and encrypted;

ARTICLE 4 OBJECTIVES OF ETIAS

(d) a secure communication infrastructure between the ETIAS Central System and the information systems referred to in Article 11;

ARTICLE 5 GENERAL STRUCTURE OF ETIAS

ETIAS consists of:

(e) a public website and an app for mobile devices;

(a) the ETIAS Information System as referred to in Article 6;

(f) an email service;

(b) the ETIAS Central Unit as referred to in Article 7;

(g) a secure account service enabling applicants to provide any additional information or documentation required;

(c) the ETIAS National Units as referred to in Article 8.

(h) a verification tool for applicants;

ARTICLE 6 ESTABLISHMENT AND TECHNICAL ARCHITECTURE OF THE ETIAS INFORMATION SYSTEM

(i) a tool enabling applicants to give or withdraw their consent for an additional retention period of their application file;

1. The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice ('eu-LISA') shall develop the ETIAS Information System and ensure its technical management.

(j) a tool enabling Europol and Member States to assess the potential impact of entering new data into the ETIAS watchlist on the proportion of applications that are manually processed;

2. The ETIAS Information System shall be composed of:

(k) a carrier gateway;

(a) the ETIAS Central System, including the ETIAS watchlist referred to in Article 34;

(l) a secure web service enabling the ETIAS Central System to communicate with the public website, the app for mobile devices, the email service, the secured account service, the carrier gateway, the verification tool for applicants, the consent tool for appli-

(b) a national uniform interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the ETIAS Central System

cants, the payment intermediary and the Interpol databases;

(m) software enabling the ETIAS Central Unit and the ETIAS National Units to process applications and to manage consultations with other ETIAS National Units as referred to in Article 28 and with Europol as referred to in Article 29;

(n) a central repository of data for the purposes of reporting and statistics.

3. The ETIAS Central System, the NUIs, the web service, the carrier gateway and the communication infrastructure of ETIAS shall to the extent technically possible share and re-use the hardware and software components of the EES Central System, of the EES National Uniform Interfaces, of the EES web service and of the EES Communication Infrastructure referred to in Regulation (EU) 2017/2226.

4. The Commission shall adopt delegated acts in accordance with Article 89 in order to define the requirements of the secure account service referred to in point (g) of paragraph 2 of this Article.

ARTICLE 7 ETIAS CENTRAL UNIT

ARTICLE 8 ETIAS NATIONAL UNITS

ARTICLE 9 ETIAS SCREENING BOARD

ARTICLE 10 ETIAS FUNDAMENTAL RIGHTS GUIDANCE BOARD

ARTICLE 11 INTEROPERABILITY WITH OTHER EU INFORMATION SYSTEMS

1. Interoperability between the ETIAS Information System, other EU information systems and Europol data shall be established to enable the verification referred to in Article 20.

2. The amendments to the legal acts establishing the EU information systems that are necessary for establishing their interoperability with ETIAS as well as the addition of corresponding provisions in this Regulation shall be the subject of a separate legal instrument.

ARTICLE 12

ARTICLE 13 ACCESS TO DATA STORED IN ETIAS

ARTICLE 14 NON-DISCRIMINATION AND FUNDAMENTAL RIGHTS

CHAPTER II APPLICATION

ARTICLE 15 PRACTICAL ARRANGEMENTS FOR SUBMITTING AN APPLICATION

ARTICLE 16 THE PUBLIC WEBSITE AND THE APP FOR MOBILE DEVICES

ARTICLE 17 APPLICATION FORM AND PERSONAL DATA OF THE APPLICANT

ARTICLE 18 TRAVEL AUTHORISATION FEE

1. A travel authorisation fee of EUR 7 shall be paid by the applicant for each application.

2. The travel authorisation fee shall be waived for applicants under 18 years or above 70 years of age at the time of the application.

3. The travel authorisation fee shall be charged in euros.

4. The Commission shall adopt delegated acts in accordance with Article 89 on the payment methods and process for the travel authorisation fee and on changes to the amount of that fee. Changes to the amount shall take into account any increase in the costs referred to in Article 85.

CHAPTER III CREATION OF THE APPLICATION FILE AND EXAMINATION OF THE APPLICATION BY THE ETIAS CENTRAL SYSTEM

ARTICLE 19 ADMISSIBILITY AND CREATION OF THE APPLICATION FILE

ARTICLE 20 AUTOMATED PROCESSING

ARTICLE 21 RESULTS OF THE AUTOMATED PROCESSING

ARTICLE 22 VERIFICATION BY THE ETIAS CENTRAL UNIT

ARTICLE 23 SUPPORT OF THE OBJECTIVES OF SIS

ARTICLE 24 SPECIFIC RULES FOR FAMILY MEMBERS OF UNION CITIZENS OR OF OTHER THIRD-COUNTRY NATIONALS ENJOYING THE RIGHT OF FREE MOVEMENT UNDER UNION LAW

1. For third-country nationals referred to in point (c) of Article 2(1), the travel authori-

sation as defined in point 5 of Article 3(1) shall be understood as a decision issued in accordance with this Regulation indicating that there are no factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security or high epidemic risk in accordance with Directive 2004/38/EC.

2. When a third-country national referred to in point (c) of Article 2(1) applies for a travel authorisation, the following specific rules shall apply:

(a) the applicant shall not reply to the question referred to in point (c) of Article 17(4);

(b) the fee referred to in Article 18 shall be waived.

CHAPTER IV EXAMINATION OF THE APPLICATION BY THE ETIAS NATIONAL UNITS

**ARTICLE 25 MEMBER STATE
RESPONSIBLE**

**ARTICLE 28 CONSULTATION OF
OTHER MEMBER STATES**

**ARTICLE 26 MANUAL PROCESSING
OF APPLICATIONS BY THE ETIAS
NATIONAL UNITS**

**ARTICLE 29 CONSULTATION OF
EUROPOL**

**ARTICLE 27 REQUEST FOR
ADDITIONAL INFORMATION OR
DOCUMENTATION FROM THE
APPLICANT**

**ARTICLE 30 DEADLINES FOR
NOTIFICATION TO THE APPLICANT**

ARTICLE 31 VERIFICATION TOOL

**ARTICLE 32 DECISION ON THE
APPLICATION**

CHAPTER V THE ETIAS SCREENING RULES AND THE ETIAS WATCHLIST

**ARTICLE 33 THE ETIAS SCREENING
RULES**

ARTICLE 34 THE ETIAS WATCHLIST

**ARTICLE 35 RESPONSIBILITIES
AND TASKS REGARDING THE ETIAS
WATCHLIST**

CHAPTER VI ISSUE, REFUSAL, ANNULMENT OR REVOCATION OF A TRAVEL AUTHORISATION

ARTICLE 36 **ISSUE OF A TRAVEL
AUTHORISATION**

ARTICLE 41 **REVOCATION OF
A TRAVEL AUTHORISATION**

ARTICLE 37 **REFUSAL OF A TRAVEL
AUTHORISATION**

ARTICLE 42 **NOTIFICATION OF
THE ANNULMENT OR REVOCATION OF
A TRAVEL AUTHORISATION**

ARTICLE 38 **NOTIFICATION ON
THE ISSUE OR REFUSAL OF A TRAVEL
AUTHORISATION**

ARTICLE 43 **DATA TO BE ADDED
TO THE APPLICATION FILE FOLLOWING
THE DECISION TO ANNUL OR TO
REVOKE A TRAVEL AUTHORISATION**

ARTICLE 39 **DATA TO BE ADDED
TO THE APPLICATION FILE FOLLOWING
THE DECISION TO ISSUE OR TO REFUSE
A TRAVEL AUTHORISATION**

ARTICLE 44 **ISSUE OF A TRAVEL
AUTHORISATION WITH LIMITED
TERRITORIAL VALIDITY ON
HUMANITARIAN GROUNDS, FOR
REASONS OF NATIONAL INTEREST
OR BECAUSE OF INTERNATIONAL
OBLIGATIONS**

ARTICLE 40 **ANNULMENT OF
A TRAVEL AUTHORISATION**

CHAPTER VII USE OF ETIAS BY CARRIERS

ARTICLE 45 **ACCESS TO DATA FOR
VERIFICATION BY CARRIERS**

**A TECHNICAL IMPOSSIBILITY TO
ACCESS DATA BY CARRIERS**

ARTICLE 46 **FALL-BACK
PROCEDURES IN THE CASE OF**

CHAPTER VIII USE OF ETIAS BY BORDER AUTHORITIES AT THE EXTERNAL BORDERS

ARTICLE 47 **ACCESS TO DATA
FOR VERIFICATION AT THE EXTERNAL
BORDERS**

ARTICLE 48 **FALL-BACK
PROCEDURES IN THE CASE OF
A TECHNICAL IMPOSSIBILITY TO
ACCESS DATA AT THE EXTERNAL
BORDERS**

CHAPTER IX USE OF ETIAS BY IMMIGRATION AUTHORITIES

ARTICLE 49 ACCESS TO DATA BY IMMIGRATION AUTHORITIES

CHAPTER X PROCEDURE AND CONDITIONS FOR ACCESS TO THE ETIAS CENTRAL SYSTEM FOR LAW ENFORCEMENT PURPOSES

ARTICLE 50 MEMBER STATES' DESIGNATED AUTHORITIES

THE ETIAS CENTRAL SYSTEM BY DESIGNATED AUTHORITIES OF MEMBER STATES

ARTICLE 51 PROCEDURE FOR ACCESS TO THE ETIAS CENTRAL SYSTEM FOR LAW ENFORCEMENT PURPOSES

ARTICLE 53 PROCEDURE AND CONDITIONS FOR ACCESS TO DATA RECORDED IN THE ETIAS CENTRAL SYSTEM BY EUROPOL

ARTICLE 52 CONDITIONS FOR ACCESS TO DATA RECORDED IN

CHAPTER XI RETENTION AND AMENDMENT OF DATA

ARTICLE 54 DATA RETENTION

ARTICLE 55 AMENDMENT OF DATA AND ADVANCE DATA ERASURE

CHAPTER XII DATA PROTECTION

ARTICLE 56 DATA PROTECTION

ARTICLE 62 PENALTIES

ARTICLE 57 DATA CONTROLLER

ARTICLE 63 LIABILITY

ARTICLE 58 DATA PROCESSOR

ARTICLE 64 RIGHT OF ACCESS TO, OF RECTIFICATION, OF COMPLETION, OF ERASURE OF PERSONAL DATA AND OF RESTRICTION OF PROCESSING

ARTICLE 59 SECURITY OF PROCESSING

ARTICLE 60 SECURITY INCIDENTS

ARTICLE 65 COMMUNICATION OF PERSONAL DATA TO THIRD COUNTRIES, INTERNATIONAL ORGANISATIONS AND PRIVATE PARTIES

ARTICLE 61 SELF-MONITORING

ARTICLE 66 SUPERVISION BY THE SUPERVISORY AUTHORITY

ARTICLE 67 SUPERVISION BY THE EUROPEAN DATA PROTECTION SUPERVISOR

ARTICLE 68 COOPERATION BETWEEN SUPERVISORY AUTHORITIES AND THE EUROPEAN DATA PROTECTION SUPERVISOR

1. The supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their respective competences, cooperate actively within the framework of their respective responsibilities. They shall ensure coordinated supervision of ETIAS and of the national border infrastructures.

2. The supervisory authorities and the European Data Protection Supervisor shall exchange relevant information, assist each other in carrying out audits and inspections, examine any difficulties concerning the interpretation or application of this Regulation, assess problems in the exercise of independent supervision or in the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and

promote awareness of data protection rights, as necessary.

3. For the purpose of paragraph 2, the supervisory authorities and the European Data Protection Supervisor shall meet at least twice a year within the framework of the European Data Protection Board established by Regulation (EU) 2016/679. The costs of those meetings shall be borne and their organisation shall be undertaken by that Board. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

4. A joint report of activities shall be sent by the European Data Protection Board to the European Parliament, to the Council, to the Commission, to the European Border and Coast Guard Agency and to eu-LISA every two years. That report shall include a chapter on each Member State prepared by the supervisory authority of that Member State.

ARTICLE 69 KEEPING OF LOGS

ARTICLE 70 KEEPING OF LOGS FOR REQUESTS FOR DATA CONSULTATION IN ORDER TO PREVENT, DETECT AND INVESTIGATE TERRORIST OFFENCES OR OTHER SERIOUS CRIMINAL OFFENCES

CHAPTER XIII PUBLIC AWARENESS

ARTICLE 71 INFORMATION TO THE GENERAL PUBLIC

ARTICLE 72 INFORMATION CAMPAIGN

CHAPTER XIV RESPONSIBILITIES

ARTICLE 73 RESPONSIBILITIES OF EU-LISA DURING THE DESIGNING AND DEVELOPMENT PHASE

1. The ETIAS Central System shall be hosted by eu-LISA in its technical sites and shall provide the functionalities laid down in this Regulation in accordance with the conditions of security, availability, quality and speed pursuant to paragraph 3 of this Article and to Article 74(1).

2. The infrastructures supporting the public website, the app for mobile devices, the email service, the secure account service, the verification tool for applicants, the consent tool for applicants, the assessment tool for the ETIAS watchlist, the carrier gateway, the web service, the software to process the applications, the central repository of data and the technical solutions referred to in Article 92(8) shall be hosted in eu-LISA sites or in Commission sites. These infrastructures shall be geographically distributed to provide the functionalities laid down in this Regulation in accordance with the conditions of security, data protection and data security, availability, quality and speed pursuant to paragraph 3 of this Article and to Article 74(1). The ETIAS watchlist shall be hosted in an eu-LISA site.

3. eu-LISA shall be responsible for the technical development of the ETIAS Information System, for any technical development required for establishing interoperability between the ETIAS Central System and the EU information systems referred to in Article 11 and for enabling querying of Interpol databases referred to in Article 12.

eu-LISA shall define the design of the physical architecture of the system including its

communication infrastructure as well as its technical specifications and their evolution and the NUIs. Those technical specifications shall be adopted by eu-LISA's Management Board, subject to a favourable opinion from the Commission. eu-LISA shall also implement any necessary adaptations to the EES, SIS, Eurodac or VIS deriving from the establishment of interoperability with ETIAS.

eu-LISA shall develop and implement the ETIAS Central System, including the ETIAS watchlist, the NUIs, and the communication infrastructure as soon as possible after the entry into force of this Regulation and the adoption by the Commission of:

(a) the measures provided for in Articles 6(4), 16(10), 17(9), Article 31, Articles 35(7), 45(2), 54(2), 74(5), 84(2), 92(8); and

(b) measures adopted in accordance with the examination procedure referred to in Article 90(2) necessary for the development and technical implementation of the ETIAS Central System, the NUIs, the communication infrastructure and the carrier gateway, in particular implementing acts for:

(i) accessing the data in accordance with Articles 22 to 29 and Articles 33 to 53;

(ii) amending, erasing and advance erasure of data in accordance with Article 55;

(iii) keeping and accessing the logs in accordance with Article 45 and Article 69;

(iv) performance requirements;

(v) specifications for technical solutions to connect central access points in accordance with Articles 51 to 53.

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination. In this regard, the tasks of eu-LISA shall also be to:

- (a) perform a security risk assessment;
- (b) follow the principles of privacy by design and by default during the entire lifecycle of the development of ETIAS; and
- (c) conduct a security risk assessment regarding the interoperability of ETIAS with the EU information systems and Europol data referred to in Article 11.

4. During the design and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of six members appointed by eu-LISA's Management Board from among its members or its alternates, the Chair of the EES-ETIAS Advisory Group referred to in Article 91, a member representing eu-LISA appointed by its Executive Director, a member representing the European Border and Coast Guard Agency appointed by its Executive Director and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from those Member States which are fully bound under Union law by the legislative instruments governing the development, establishment operation and use of all the large-scale IT systems managed by eu-LISA and which will participate in ETIAS. The Programme Management Board shall meet regularly and at least three times per quarter. It shall ensure the adequate management of the design and development phase of ETIAS. The Programme Management Board shall submit written reports every month to eu-LISA's Management Board on progress of the project. It shall have no decision-making power

nor any mandate to represent the members of eu-LISA's Management Board.

5. eu-LISA's Management Board shall establish the rules of procedure of the Programme Management Board which shall include in particular rules on:

- (a) chairmanship;
- (b) meeting venues;
- (c) preparation of meetings;
- (d) admission of experts to the meetings;
- (e) communication plans to ensure that non-participating members of eu-LISA's Management Board are fully informed.

The chairmanship shall be held by a Member State which is fully bound under Union law by the legislative instruments governing the development, establishment, operation and use of all the large-scale IT systems managed by eu-LISA.

All travel and subsistence expenses incurred by the members of the Programme Management Board shall be paid by eu-LISA. Article 10 of the eu-LISA Rules of Procedure shall apply *mutatis mutandis*. The Programme Management Board's secretariat shall be ensured by eu-LISA.

The EES-ETIAS Advisory Group shall meet regularly until the start of operations by ETIAS. It shall report after each meeting to the Programme Management Board. It shall provide the technical expertise to support the tasks of the Programme Management Board and shall follow-up on the state of preparation of the Member States.

ARTICLE 74 RESPONSIBILITIES OF EU-LISA FOLLOWING THE ENTRY INTO OPERATIONS OF ETIAS

1. Following the entry into operations of ETIAS, eu-LISA shall be responsible for the technical management of the ETIAS Central System and the NUIs. It shall also be responsible for any technical testing required for the establishment and update of the ETIAS screening rules. It shall ensure, in cooperation with the Member States that, at all times, the best available technology is used, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the technical management of the communication infrastructure between the ETIAS Central System and the NUIs as well as for the public website, the app for mobile devices, the email service, the secure account service, the verification tool for applicants, the consent tool for applicants, the assessment tool for the ETIAS watch-list, the carrier gateway, the web service, the software to process the applications and the central repository of data referred to in Article 6.

Technical management of ETIAS shall consist of all the tasks necessary to keep the ETIAS Information System functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of technical quality, in particular as regards the response time for consultation of the ETIAS Central System in accordance with the technical specifications.

2. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁸⁾, eu-LISA

shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff required to work with data stored in the ETIAS Central System. That obligation shall also apply after such staff leave office or employment or after the termination of their activities.

3. Where eu-LISA cooperates with external contractors in any ETIAS-related tasks, it shall closely monitor the activities of the contractors to ensure compliance with all provisions of this Regulation, including in particular security, confidentiality and data protection.

4. eu-LISA shall also perform tasks related to providing training on the technical use of the ETIAS Information System.

5. eu-LISA shall develop and maintain a mechanism and procedures for carrying out quality checks on the data in the ETIAS Central System and shall provide regular reports to the Member States and the ETIAS Central Unit. eu-LISA shall provide a regular report to the European Parliament, the Council and the Commission covering the issues encountered. The Commission shall, by means of implementing acts, lay down and develop that mechanism, the procedures and the appropriate requirements for data quality compliance. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

ARTICLE 75 RESPONSIBILITIES OF THE EUROPEAN BORDER AND COAST GUARD AGENCY

1. The European Border and Coast Guard Agency shall be responsible for:

(a) the setting up and operation of the ETIAS Central Unit and ensuring the conditions for

⁽¹⁸⁾ OJ L 56, 4.3.1968, p. 1.

the secure management of data stored in ETIAS;

(b) the automated processing of applications; and

(c) the ETIAS screening rules.

2. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS Central Unit having a right to access the ETIAS Central System shall be given appropriate training on data security and fundamental rights, in particular data protection. They shall also take part in training offered by eu-LISA on the technical use of the ETIAS Information System and on data quality.

ARTICLE 76 RESPONSIBILITIES OF MEMBER STATES

1. Each Member State shall be responsible for:

(a) the connection to the NUI;

(b) the organisation, management, operation and maintenance of the ETIAS National Units for the manual processing of applications for travel authorisation where the automated processing has reported a hit, as referred to in Article 26;

(c) the organisation of central access points and their connection to the NUI for the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences;

(d) the management and arrangements for access of duly authorised staff of the competent national authorities to the ETIAS Information System in accordance with this Regulation and to establish and regularly update a list of such staff and their profiles;

(e) the set up and operation of the ETIAS National Units;

(f) entering data into the ETIAS watchlist related to terrorist offences or other serious criminal offences pursuant to Article 34(2) and (3); and

(g) ensuring that each of its authorities entitled to access the ETIAS Information System takes the measures necessary to comply with this Regulation, including those necessary to ensure the respect of fundamental rights and data security.

2. Each Member State shall use automated processes for querying the ETIAS Central System at the external borders.

3. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS National Units having a right to access the ETIAS Information System shall be given appropriate training on data security and on fundamental rights, in particular data protection.

They shall also take part in trainings offered by eu-LISA on the technical use of the ETIAS Information System and on data quality.

ARTICLE 77 RESPONSIBILITIES OF EUROPOL

1. Europol shall ensure processing of the queries referred to in point (j) of Article 20(2) and in Article 20(4). It shall adapt its information system accordingly.

2. Europol shall have the responsibilities and tasks regarding the ETIAS watchlist laid down in Article 35(1) and (3) to (6).

3. Europol shall be responsible for providing a reasoned opinion following a consultation request pursuant to Article 29.

4. Pursuant to Article 34(2), Europol shall be responsible for entering data related to terrorist offences or other serious criminal offences obtained by Europol into the ETIAS watchlist.

5. Before being authorised to undertake any of the tasks referred to in Articles 34 and 35,

the staff of Europol shall be given appropriate training on data security and on fundamental rights, in particular data protection. They shall also take part in training offered by eu-LISA on the technical use of the ETIAS Information System and on data quality.

CHAPTER XV AMENDMENTS TO OTHER UNION INSTRUMENTS

ARTICLE 78 AMENDMENT TO REGULATION (EU) NO 1077/2011

The following article is inserted in Regulation (EU) No 1077/2011:

'Article 5b

TASKS RELATING TO ETIAS

In relation to ETIAS, the Agency shall perform the tasks conferred on it by Article 73 of Regulation (EU) 2018/1240 of the European Parliament and of the Council ⁽¹⁹⁾.

ARTICLE 79 AMENDMENT TO REGULATION (EU) NO 515/2014

In Article 6 of Regulation (EU) No 515/2014, the following paragraph is inserted:

'3a. During the development phase of the European Travel Information and Authorisation System (ETIAS), Member States shall receive an additional allocation of EUR 96,5 million to their basic allocation and

shall devote this funding entirely to ETIAS to ensure its quick and effective development consistent with the implementation of the ETIAS Central System, as established in Regulation (EU) 2018/1240 of the European Parliament and of the Council ⁽²⁰⁾.'

ARTICLE 80 AMENDMENTS TO REGULATION (EU) 2016/399

Regulation (EU) 2016/399 is amended as follows:

(1) Article 6(1) is amended as follows:

(a) point (b) is replaced by the following:

'(b) they are in a possession of a valid visa if required pursuant to Council Regulation (EC) No 539/2001 ⁽²¹⁾ or of a valid travel authorisation if required pursuant to Regulation (EU) 2018/1240 of the European Parliament and

⁽¹⁹⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1)..

⁽²⁰⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1)..

⁽²¹⁾ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

of the Council ⁽²²⁾, except where they hold a valid residence permit or a valid long-stay visa;'

(b) the following subparagraphs are added:

'For a transitional period established pursuant to Article 83(1) and (2) of Regulation (EU) 2018/1240, the use of the European Travel Information and Authorisation System (ETIAS) shall be optional and the requirement to be in possession of a valid travel authorisation set out in point (b) of the first subparagraph of this paragraph shall not apply. Member States shall inform third-country nationals subject to the travel authorisation requirement crossing the external borders of the requirement to have a valid travel authorisation from the expiry of the transitional period. For this purpose, Member States shall distribute a common leaflet to this category of travellers as referred to in Article 83(2) of Regulation (EU) 2018/1240.

During a grace period established pursuant to Article 83(3) of Regulation (EU) 2018/1240 the border authorities shall exceptionally allow third-country nationals subject to the travel authorisation requirement who are not in possession of a travel authorisation to cross the external borders where they fulfil all the remaining conditions of this Article, provided that they are crossing the external borders of the Member States for the first time since the end of the transitional period referred to in Article 83(1) and (2) of Regulation (EU) 2018/1240. Border authorities shall inform such third-country nationals of the

requirement to be in possession of a valid travel authorisation in accordance with this Article. For this purpose, the border authorities shall distribute to these travellers a common leaflet as referred to in Article 83(3) of Regulation (EU) 2018/1240 informing them that they are exceptionally allowed to cross the external borders while not fulfilling the obligation to be in possession of a valid travel authorisation and explaining that obligation.'

(2) Article 8(3) is amended as follows:

(a) in point (a), point (i) is replaced by the following:

'(i) verification that the third-country national is in possession of a document which is valid for crossing the border and which has not expired, and that the document is accompanied, where applicable, by the requisite visa, travel authorisation or residence permit;'

(b) the following point is inserted:

'(ba) if the third-country national holds a travel authorisation referred to in point (b) of Article 6(1) of this Regulation the thorough checks on entry shall also comprise the verification of the authenticity, validity and status of the travel authorisation and, if applicable, of the identity of the holder of the travel authorisation through consultation of ETIAS in accordance with Article 47 of Regulation (EU) 2018/1240. Where it is technically impossible to proceed with the consultation or to perform the search that are referred to in Article 47(1) and (2) of Regulation (EU) 2018/1240, Article 48(3) of that Regulation shall apply.'

(3) In Annex V, Part B, in the standard form for refusal of entry at the border, point (C) in the list of reasons for refusal is replaced by the following:

⁽²²⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).;

‘(C) has no valid visa, travel authorisation or residence permit.’

ARTICLE 81 AMENDMENTS TO REGULATION (EU) 2016/1624

Regulation (EU) 2016/1624 is amended as follows:

(1) In Article 8(1), the following point is inserted:

‘(qa) fulfil the tasks and obligations entrusted to the European Border and Coast Guard Agency referred to in Regulation (EU) 2018/1240 of the European Parliament and of the Council ⁽²³⁾ and ensure the setting up and operation of the ETIAS Central Unit in accordance with Article 7 of that Regulation.’

(2) In Chapter II, the following Section is added:

‘SECTION 5 ETIAS

Article 33a

ESTABLISHMENT OF THE ETIAS CENTRAL UNIT

1. An ETIAS Central Unit is hereby established.

2. The European Border and Coast Guard Agency shall ensure the setting-up and operation of an ETIAS Central Unit pursuant to

Article 7 of Regulation (EU) 2018/1240 of the European Parliament and of the Council ⁽²⁴⁾.’

ARTICLE 82 AMENDMENT TO REGULATION (EU) 2017/2226

In Article 64 of Regulation (EU) 2017/2226, the following paragraph is added:

‘5. Funding to be mobilised from the envelope referred to in point (b) of Article 5(5) of Regulation (EU) No 515/2014 to cover the costs referred to in paragraphs 1 to 4 of this Article shall be implemented under indirect management for the costs incurred by eu-LISA and under shared management for the costs incurred by the Member States.’

⁽²³⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

⁽²⁴⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

CHAPTER XVI FINAL PROVISIONS

ARTICLE 83 TRANSITIONAL PERIOD AND TRANSITIONAL MEASURES

1. For a period of six months from the date on which ETIAS starts operations, the use of ETIAS shall be optional and the requirement to be in possession of a valid travel authorisation shall not apply. The Commission may adopt a delegated act in accordance with Article 89 to extend that period for a maximum of a further six months, renewable once.

2. During the period referred to in paragraph 1, Member States shall inform third-country nationals subject to the travel authorisation requirement crossing the external borders of the requirement to have a valid travel authorisation from the expiry of the six-month period. For this purpose, the Member States shall distribute a common leaflet to this category of travellers. The leaflet shall also be made available at the Member States' consulates in the countries whose nationals fall within the scope of this Regulation.

3. A grace period of six months shall apply following the end of the period referred to in paragraph 1 of this Article. During the grace period, the requirement to be in possession of a valid travel authorisation shall apply. During the grace period the border authorities shall exceptionally allow third-country nationals subject to the travel authorisation requirement who are not in possession of a travel authorisation to cross the external borders where they fulfil all the remaining conditions of Article 6(1) of Regulation (EU) 2016/399, provided that they are crossing the external borders of the Member States for the first time since the end of the period referred to in paragraph 1 of this Article. The

border authorities shall inform such third-country nationals of the requirement to be in possession of a valid travel authorisation in accordance with point (b) of Article 6(1) of Regulation (EU) 2016/399. For that purpose, the border authorities shall distribute to those travellers a common leaflet informing them that they are exceptionally allowed to cross the external borders while not fulfilling the obligation to be in possession of a valid travel authorisation and explaining that obligation. The Commission may adopt a delegated act in accordance with Article 89 of this Regulation to extend that period for a maximum of a further six months.

During the period of grace, entries into the territories of the Member States not operating the EES shall not be taken into consideration.

4. The Commission shall, by means of implementing acts, draw up the two common leaflets referred to in paragraphs 2 and 3 of this Article, containing at a minimum the information referred to in Article 71. The leaflets shall be clear and simple and available in at least one of the official languages of each country whose nationals fall within the scope of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

5. During the transitional period referred to in paragraphs 1 and 2 of this Article, the ETIAS Information System shall respond to the carriers' query referred to in Article 45(2) by providing the carriers with an 'OK' answer. During the period of grace referred to in paragraph 3 of this Article, the response sent by the ETIAS Information System to the carriers' query shall take into consideration whether the third-country national is crossing the external borders of the Member States for

the first time since the end of the period referred to in paragraph 1 of this Article.

ARTICLE 84 USE OF DATA FOR REPORTING AND STATISTICS

ARTICLE 85 COSTS

1. The costs incurred in connection with the development of the ETIAS Information System, with the integration of the existing national border infrastructure and the connection to the NUI, with the hosting of the NUI and with the establishment of the ETIAS Central Unit and the ETIAS National Units shall be borne by the general budget of the Union.

eu-LISA shall pay particular attention to the risk of costs increases and ensure sufficient monitoring of contractors.

2. ETIAS' operating costs shall be borne by the general budget of the Union. This shall include the operation and maintenance costs of the ETIAS Information System, including of the NUIs; the operating costs of the ETIAS Central Unit and the costs of staff and technical equipment (hardware and software) necessary for the fulfilment of the tasks of the ETIAS National Units; and translation costs incurred pursuant to Article 27(2) and (8).

The following costs shall be excluded:

- (a) Member States' project management office (meetings, missions, offices);
- (b) hosting of national IT systems (space, implementation, electricity, cooling);
- (c) operation of national IT systems (operators and support contracts);

(d) design, development, implementation, operation and maintenance of national communication networks.

3. ETIAS' operating costs shall also include financial support to Member States for expenses incurred to customise and automate border checks in order to implement ETIAS. The total amount of this financial support shall be limited to a maximum of EUR 15 million for the first year of operation, to a maximum of EUR 25 million for the second year of operation and to a maximum of EUR 50 million per year for the subsequent years of operation. The Commission shall adopt delegated acts in accordance with Article 89 to further define that financial support.

4. The European Border and Coast Guard Agency, eu-LISA and Europol shall receive appropriate additional funding and the staff necessary for the fulfilment of the tasks entrusted to them under this Regulation.

5. Funding to be mobilised from the envelope referred to in point (b) of Article 5(5) of Regulation (EU) No 515/2014 to cover the costs of implementation of this Regulation referred to in paragraphs 1 to 4 of this Article shall be implemented under indirect management for the costs incurred by eu-LISA and the European Border and Coast Guard Agency and under shared management for the costs incurred by the Member States.

ARTICLE 86 REVENUES

The revenues generated by the ETIAS shall constitute internal assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 of the European

Parliament and of the Council ⁽²⁵⁾. They shall be assigned to cover the costs of the operation and maintenance of ETIAS. Any revenue remaining after covering these costs shall be assigned to the Union budget.

ARTICLE 87 NOTIFICATIONS

ARTICLE 88 START OF OPERATIONS

ARTICLE 89 EXERCISE OF THE DELEGATION

ARTICLE 90 COMMITTEE PROCEDURE

ARTICLE 91 ADVISORY GROUP

ARTICLE 92 MONITORING AND EVALUATION

1. eu-LISA shall ensure that procedures are in place to monitor the development of the ETIAS Information System in light of objectives relating to planning and costs and to monitor the functioning of ETIAS in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.

2. By 10 April 2019 and every six months thereafter during the development phase of the ETIAS Information System, eu-LISA shall submit a report to the European Parliament and to the Council on the state of play of the development of the ETIAS Central System, the NUIs and the communication infrastructure between the ETIAS Central System and the NUIs. That report shall contain detailed

information about the costs incurred and information as to any risks which may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 85.

By 10 April 2019 and every six months thereafter during the development phase of the ETIAS Information System, Europol and the European Border and Coast Guard Agency shall submit a report to the European Parliament and to the Council on the state of preparation for the implementation of this Regulation including detailed information about the costs incurred and information as to any risks which may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 85.

Once the development is finalised, eu-LISA shall submit a report to the European Parliament and to the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.

3. For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the ETIAS Information System.

4. Two years after the start of operations of ETIAS and every two years thereafter, eu-LISA shall submit to the European Parliament, to the Council and to the Commission a report on the technical functioning of ETIAS Information System, including the security thereof, and statistical data concerning the ETIAS watchlist in accordance with the review procedure referred to in Article 35(5) and (6).

5. Three years after the start of operations of ETIAS and every four years thereafter, the Commission shall evaluate ETIAS and shall

⁽²⁵⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

make any necessary recommendations to the European Parliament and to the Council. That evaluation shall include:

- (a) the querying of Interpol SLTD and TDAWN databases through ETIAS, including information on the number of hits against those Interpol databases, the number of travel authorisations refused following such hits and information on any problems encountered, as well as, if appropriate, an assessment of the need for a legislative proposal amending this Regulation;
- (b) the results achieved by ETIAS having regard to its objectives, mandate and tasks;
- (c) the impact, effectiveness and efficiency of ETIAS' performance and its working practices in light of its objectives, mandate and tasks;
- (d) an assessment of the security of ETIAS;
- (e) the ETIAS screening rules used for the purpose of risk assessment;
- (f) the impact of the ETIAS watchlist including the number of travel authorisation applications which were refused for reasons that took into account a positive hit against the ETIAS watchlist;
- (g) the possible need to modify the mandate of the ETIAS Central Unit and the financial implications of any such modification;
- (h) the impact on fundamental rights;
- (i) the impact on diplomatic relations between the Union and the third countries involved;
- (j) the revenue generated through the travel authorisation fee, the costs incurred in connection with the development of ETIAS, the

costs for the operation of ETIAS, the costs incurred by eu-LISA, Europol and the European Border and Coast Guard Agency in relation to their tasks pursuant to this Regulation, as well as any revenue allocated in accordance with Article 86;

- (k) the use of ETIAS for law enforcement purposes on the basis of the information referred to in paragraph 8 of this Article;
- (l) the number of applicants being invited for an interview and the percentage it represents of the total number of applicants, the reasons for requesting an interview, the number of remote interviews, the number of decisions where the travel authorisation has been granted, has been granted with a flag or has been refused, and the number of applicants invited to an interview who did not attend it, and if appropriate, an assessment of the need for a legislative proposal amending this Regulation.

The Commission shall transmit the evaluation report to the European Parliament, the Council, the European Data Protection Supervisor and the European Agency for Fundamental Rights.

6. The Member States and Europol shall provide eu-LISA, the ETIAS Central Unit and the Commission with the information necessary to draft the reports referred to in paragraphs 4 and 5. This information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.

7. eu-LISA and the ETIAS Central Unit shall provide the Commission with the information necessary to produce the evaluations referred to in paragraph 5.

8. While respecting the provisions of national law on the publication of sensi-

tive information, each Member State and Europol shall prepare annual reports on the effectiveness of access to data stored in the ETIAS Central System for law enforcement purposes containing information and statistics on:

(a) the exact purpose of the consultation including the type of terrorist offence or other serious criminal offence;

(b) reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by this Regulation;

(c) the number of requests for access to the ETIAS Central System for law enforcement purposes;

(d) the number and type of cases which have resulted in hits;

(e) the number and type of cases in which the urgency procedure referred to in Article 51(4) was used, including those cases where that urgency was not accepted by the *ex post* verification carried out by the central access point.

A technical solution shall be made available to Member States in order to facilitate the collection of those data pursuant to Chapter X for the purpose of generating statistics referred to in this paragraph. The Commission shall, by means of implementing acts, adopt the specifications of the technical solution. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).

ARTICLE 93 PRACTICAL HANDBOOK

ARTICLE 94 CEUTA AND MELILLA

ARTICLE 95 FINANCIAL CONTRIBUTION OF THE COUNTRIES ASSOCIATED WITH THE IMPLEMENTATION, APPLICATION AND DEVELOPMENT OF THE SCHENGEN ACQUIS

Under the relevant provisions of their association agreements, arrangements shall be made in relation to the financial contributions of the countries associated with the implementation, application and development of the Schengen *acquis*.

ARTICLE 96 ENTRY INTO FORCE AND APPLICABILITY

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

This Regulation shall apply from the date determined by the Commission in accordance with Article 88, with the exception of Articles 6, 11, 12, 33, 34, 35, 59, 71, 72, 73, Articles 75 to 79, Articles 82, 85, 87, 89, 90, 91, Article 92(1) and (2), Articles 93 and 95, as well as the provisions related to the measures referred to in point (d) of Article 88(1), which shall apply from 9 October 2018.

The provisions relating to the consultation of Eurodac shall apply from the date the recast of Regulation (EU) No 603/2013 of the

European Parliament and of the Council ⁽²⁶⁾
becomes applicable.

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

Done at Strasbourg, 12 September 2018.

For the European Parliament

The President

A. TAJANI

For the Council

The President

K. EDTSTADLER

⁽²⁶⁾ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1977 OF 8 JULY 2015 SETTING OUT THE FREQUENCY AND THE FORMAT OF THE REPORTING OF IRREGULARITIES CONCERNING THE ASYLUM, MIGRATION AND INTEGRATION FUND AND THE INSTRUMENT FOR FINANCIAL SUPPORT FOR POLICE COOPERATION, PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT, UNDER REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 5(6) thereof,

Whereas:

(1) Member States are required to report irregularities pursuant to Article 5(2) of Regulation (EU) No 514/2014 and in accordance with the provisions of Commission Delegated Regulation (EU) 2015/1973 ⁽²⁾.

(2) Financial interests of the Union should be protected in the same way irrespective of the fund used to deliver the objectives for which it was established. To that end Regulation (EU) No 514/2014, as well as Regulations (EU) No 1303/2013 ⁽³⁾, (EU) No 1306/2013 ⁽⁴⁾ and (EU) No 223/2014 ⁽⁵⁾ of the European Parliament and of the Council, empower the Commission to adopt rules on the reporting of irregularities. To ensure that identical rules apply in respect of all the funds governed by those Regulations, it is necessary that this Regulation contains provisions identical to

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁽⁴⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

⁽⁵⁾ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

⁽²⁾ Commission Delegated Regulation (EU) 2015/1973 of 8 July 2015 supplementing Regulation (EU) No 514/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (see page 15 of this Official Journal).

those in Commission Implementing Regulations (EU) 2015/1974 ⁽⁶⁾, (EU) 2015/1975 ⁽⁷⁾ and (EU) 2015/1976 ⁽⁸⁾.

(3) In order to ensure an efficient analysis and overall management of cases of irregularity, Member States are required to submit to the Commission relevant information on detected irregularities on a regular and timely basis. In order to protect the Union's financial interests it is necessary to lay down uniform conditions for the submission of that information, in particular about its frequency and format.

(4) In order to avoid an irregularity having repercussions outside the territory of the reporting Member State, that Member State should report any such irregularity to the Commission without delay.

(5) In order to fully exploit the advantages derived from the use of electronic means for the exchange of information, while preserving the security of exchanges, Member

States should use the dedicated Irregularity Management System (IMS) provided on the Anti-Fraud Information System platform established by the Commission.

(6) Member States and the Commission should ensure that transfer of data through the Irregularity Management System is performed in a secure manner allowing for availability, integrity, authenticity and confidentiality of information.

(7) The use of the euro as the only currency for the reporting of irregularities is necessary to ensure the comparability of the information reported. For Member States which have not adopted the euro as their currency it is necessary to define the exchange rate to be used to convert the amounts concerned into euro and the exchange rate to be used to convert expenditure which has not been registered in the accounts of the responsible authority.

(8) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(9) Denmark is not bound by Regulation (EU) No 514/2014, or by this Regulation.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Asylum, Migration and Integration and Internal Security Funds Committee established by Article 59 of Regulation (EU) No 514/2014.

(11) As payments have already been made for the fund and irregularities could occur, the provisions of this Regulation should be applicable immediately. This Regulation should therefore enter into force on the day following that of its publication in the *Official Journal of the European Union*,

⁽⁶⁾ Commission Implementing Regulation (EU) 2015/1974 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund, under Regulation (EU) No 1303/2013 of the European Parliament and of the Council (see page 20 of this Official Journal).

⁽⁷⁾ Commission Implementing Regulation (EU) 2015/1975 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development, under Regulation (EU) No 1306/2013 of the European Parliament and of the Council (see page 23 of this Official Journal).

⁽⁸⁾ Commission Implementing Regulation (EU) 2015/1976 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the Fund for European Aid to the Most Deprived, under Regulation (EU) No 223/2014 of the European Parliament and of the Council (see page 26 of this Official Journal).

HAS ADOPTED THIS REGULATION:

ARTICLE 1 SUBJECT MATTER

This Regulation sets out the frequency and format of the reporting of irregularities referred to in Article 5(2) of Regulation (EU) No 514/2014.

ARTICLE 2 FREQUENCY OF THE REPORTING OF IRREGULARITIES

1. Within two months following the end of each quarter, Member States shall send to the Commission an initial report on irregularities referred to in Article 3 of Delegated Regulation (EU) 2015/1973.

2. Member States shall send to the Commission the follow-up report referred to in Article 4 of Delegated Regulation (EU) 2015/1973 as soon as possible after obtaining the relevant information.

3. A Member State shall immediately report to the Commission irregularities discovered or supposed to have occurred, indicating any other Member States concerned, where the irregularities may have repercussions outside its territory.

ARTICLE 3 REPORTING FORMAT

The information referred to in Articles 3 and 4 of Delegated Regulation (EU) 2015/1973 shall be sent by electronic means, using the Irregularity Management System, established by the Commission.

ARTICLE 4 USE OF THE EURO

1. The amounts reported by Member States shall be denominated in euro.

2. Member States which have not adopted the euro as their currency by the date when the report under Article 3(2) of Delegated

Regulation (EU) 2015/1973 is submitted shall convert amounts in national currency into euro in accordance with Article 43 of Regulation (EU) No 514/2014. Where the expenditure has not been registered in the accounts of the responsible authority, the most recent monthly accounting exchange rate, published electronically by the Commission at the moment of initial reporting, shall be used.

ARTICLE 5 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 in accordance with the Treaties.

Done at Brussels, 8 July 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2015/1973 OF 8 JULY 2015 SUPPLEMENTING REGULATION (EU) NO 514/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH SPECIFIC PROVISIONS ON THE REPORTING OF IRREGULARITIES CONCERNING THE ASYLUM, MIGRATION AND INTEGRATION FUND AND THE INSTRUMENT FOR FINANCIAL SUPPORT FOR POLICE COOPERATION, PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management ⁽¹⁾, and in particular Article 5(5) thereof,

Whereas:

(1) The purpose of this Regulation is to determine which irregularities Member States should report to the Commission. In order to allow the Commission to perform its tasks concerning the protection of the financial interests of the Union, in particular to allow the Commission to perform risk analysis, it should also be established which data are to be provided.

(2) Financial interests of the Union should be protected in the same way irrespective of the fund used to deliver the objectives for which it was established. To that end Regulation

(EU) No 514/2014, as well as Regulations (EU) No 1303/2013 ⁽²⁾, (EU) No 1306/2013 ⁽³⁾, and (EU) No 223/2014 ⁽⁴⁾ of the European Parliament and of the Council, empower the Commission to adopt rules on the reporting of irregularities. To ensure that identical rules apply in respect of all the funds governed by those Regulations, it is necessary that this Regulation contains provisions identical to those in Commission Delegated Regulations

⁽²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁽³⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

⁽⁴⁾ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most deprived (OJ L 72, 12.3.2014, p. 1).

⁽¹⁾ OJ L 150, 20.5.2014, p. 112.

(EU) 2015/1970 ⁽⁵⁾, (EU) 2015/1971 ⁽⁶⁾ and (EU) 2015/1972 ⁽⁷⁾.

(3) The definition of 'irregularity' used for the purposes of this Regulation should be that of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 ⁽⁸⁾. For the purposes of that definition, 'economic operator' should mean any natural or legal persons or other entity taking part in the implementation of assistance from the fund, with the exception of a Member State exercising its prerogatives as a public authority.

(4) To enable a coherent application of the reporting requirements across the Member States it is necessary to define the term 'suspected fraud', taking into account the definition of fraud contained in the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial

interests⁽⁹⁾, and the term 'primary administrative or judicial finding'.

(5) Regulations (EU) No 1303/2013 and (EU) No 223/2014 determine the reporting threshold below which irregularities do not need to be reported to the Commission and cases for which there is no need for reporting. In order to simplify and to align the provisions, and to strike a balance between the administrative burden on Member States and the common interest in the provision of accurate data for the purpose of analysis in the Union's fight against fraud, it is necessary to apply the same reporting threshold and the same derogations for the reporting of irregularities under Regulations (EU) No 1306/2013 and (EU) No 514/2014.

(6) In order to ensure consistency of reporting it is necessary to establish criteria for determining when irregularities are to be initially reported and the data to be provided in such initial reports.

(7) In order for the data provided to the Commission to be accurate, follow-up reporting is necessary. Member States should, therefore, provide the Commission with up-to-date information on any significant progress in the administrative and legal procedures or proceedings related to each initial report.

(8) In light of Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁰⁾ and Regulation (EC) No 45/2001 of the European

⁽⁵⁾ Commission Delegated Regulation (EU) 2015/1970 of 8 July 2015 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with specific provisions for the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund (see page 1 of this Official Journal).

⁽⁶⁾ Commission Delegated Regulation (EU) 2015/1971 of 8 July 2015 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development and repealing Commission Regulation (EC) No 1848/2006 (see page 6 of this Official Journal).

⁽⁷⁾ Commission Delegated Regulation (EU) 2015/1972 of 8 July 2015 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Fund for European Aid to the Most Deprived (See page 11 of this Official Journal).

⁽⁸⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995, p. 1).

⁽⁹⁾ OJ C 316, 27.11.1995, p. 49.

⁽¹⁰⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data (OJ L 281, 23.11.1995, p. 31).

Parliament and of the Council ⁽¹¹⁾ the Commission and the Member States should, in relation to the information provided pursuant to this Regulation, prevent any unauthorised disclosure of, or access to, personal data. In addition, this Regulation should specify the purposes for which the Commission and the Member States may process that data.

(9) The United Kingdom and Ireland are bound by Regulation (EU) No 514/2014 and are as a consequence bound by this Regulation.

(10) Denmark is not bound by Regulation (EU) No 514/2014, nor by this Regulation.

(11) As payments have already been made for the funds concerned and irregularities could occur, the provisions of this Regulation should apply immediately. This Regulation should therefore enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

ARTICLE 1 SUBJECT MATTER

This Regulation determines which irregularities are to be reported and establishes which data are to be provided by Member States to the Commission

ARTICLE 2 DEFINITIONS

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

(a) ‘suspected fraud’ means an irregularity that gives rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to in Article 1(1)(a) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests;

(b) ‘primary administrative or judicial finding’ means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure.

ARTICLE 3 INITIAL REPORTING

1. Member States shall report irregularities to the Commission which:

- (a) affect an amount that exceeds EUR 10000 in contribution from the funds;
- (b) have been the subject of a primary administrative or judicial finding.

2. In the initial report Member States shall provide the following information:

- (a) the name and the Common Identification Code (CCI) number of the national programme and the reference of the project;
- (b) the identity of the natural or legal persons concerned, or both, or of any other entity having a role in the commission of the irregularity and their role, except where that information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity concerned;

⁽¹¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(c) the region or area where the project has been carried out, identified using appropriate information such as the NUTS level;

(d) the provision or provisions which have been infringed;

(e) the date and source of the first information leading to the suspicion that an irregularity has been committed;

(f) the practices employed in committing the irregularity;

(g) where appropriate, whether the practice gives rise to suspected fraud;

(h) the manner in which the irregularity was discovered;

(i) where appropriate, the Member States and third countries involved;

(j) the period during which, or the date on which, the irregularity was committed;

(k) the date on which the primary administrative or judicial finding on the irregularity was established;

(l) the total amount of expenditure of the project expressed in terms of the Union's contribution, the national contribution and the private contribution;

(m) the amount affected by the irregularity, expressed in terms of the Union's contribution and the national contribution;

(n) in the case of suspected fraud, and where no payment of the public contribution has been made to the beneficiary, the amount which would have been unduly paid had the irregularity not been identified, expressed in terms of the Union's contribution and the national contribution;

(o) the nature of the irregular expenditure;

(p) the suspension of payments, where applicable, and the possibility of recovery of amounts paid.

3. By way of derogation from paragraph 1, the Member States shall not report to the Commission irregularities in relation to the following:

(a) cases where the irregularity consists solely of the failure to execute, in whole or in part, a project owing to the bankruptcy of the beneficiary;

(b) cases brought to the attention of the responsible authority or the audit authority by the beneficiary voluntarily and before detection by either authority, whether before or after the payment of the public contribution;

(c) cases which are detected and corrected by the responsible authority, or the audit authority, before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

In all other cases, in particular, those preceding a bankruptcy or in cases of suspected fraud, the detected irregularities and the associated preventive and corrective measures shall be reported to the Commission.

4. Where national provisions provide for the confidentiality of investigations, communication of the information shall be subject to the authorisation of the competent tribunal, court or other body in accordance with national rules.

ARTICLE 4 FOLLOW-UP REPORTING

1. Where some of the information referred to in Article 3(2), in particular information con-

cerning the practices employed in committing the irregularity and the manner in which it was discovered, is not available or needs to be rectified, Member States shall provide the missing or correct information in follow-up reports of irregularities to the Commission.

2. Member States shall keep the Commission informed on the initiation, conclusion or abandonment of any procedures or proceedings for imposing administrative measures, administrative penalties, or criminal penalties with regard to the reported irregularities, as well as the outcome of those procedures or proceedings. With regard to irregularities for which penalties have been imposed, Member States shall also indicate:

(a) whether the penalties are of an administrative or a criminal nature;

(b) whether the penalties result from a breach of Union or national law and details of the penalties;

(c) whether fraud was established.

3. At the Commission's written request the Member State shall provide information in relation to a specific irregularity or group of irregularities.

ARTICLE 5 USE AND PROCESSING OF INFORMATION

1. The Commission may use any information provided by Member States in accordance with this Regulation to perform risk analysis, using information technology support, and may, on the basis of the information obtained, produce reports and develop systems serving to identify risks more effectively.

2. Information provided under this Regulation shall be covered by professional confidentiality and protected in the same way as it would

be protected by the national legislation of the Member State that provided it and by the provisions applicable to the Union's institutions. Member States and the Commission shall take all necessary precautions to ensure that the information remains confidential.

3. The information referred to in paragraph 2 may not, in particular, be disclosed to persons other than those in the Member States or within the Union's institutions whose duties require that they have access to it, unless the Member State providing it has given its express consent.

4. The information referred to in paragraph 2 may not be used for any purposes other than the protection of the Union's financial interests unless the authorities that have provided it have given their express consent.

ARTICLE 6 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 in accordance with the Treaties.

Done at Brussels, 8 July 2015.

For the Commission
The President

Jean-Claude JUNCKER

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