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COMMISSION STAFF WORKING PAPER
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the documents

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

Proposal for a Regulation establishing the Asylum and Migration Fund

Proposal for a Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management

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

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

{COM(2011) 749 final}
{COM(2011) 750 final}
{COM(2011) 751 final}
{COM(2011) 752 final}
{COM(2011) 753 final}
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1. INTRODUCTION

Home affairs policies have steadily been growing in importance over the last years. These policies aim to create an area without internal borders where EU citizens and third-country nationals may enter, circulate, live and work, bringing new ideas, capital, knowledge and innovation or filling gaps in the national labour markets, confident that their rights are fully respected and their security assured. Cooperation with non-EU countries and international organisations is crucial to achieving this goal.

2. PROBLEM DEFINITION

2.1. Policy challenges

During the next Multiannual Financial Framework (2014-2020), the EU will be facing important challenges in the home affairs area. In the area of asylum, the factors that drive persons to seek asylum and international protection in the EU, such as wars, repressive regimes and political instability are expected to continue. Flows of people seeking asylum or some form of international protection can fluctuate considerably and be composed of many different groups with different needs and motivations. Dealing with these flows requires substantial resources and capabilities from Member States with some receiving disproportionate numbers of asylum seekers due to their geographic location.

The integration of legally residing third-country nationals is a key challenge for the EU. Lack of integration can lead to social difficulties, the cost of which is ultimately borne by society as a whole. Better integration allows legal migrants to take an active part in their receiving society and help the EU's economy meet the demographic challenge it is currently facing. The inflow of legal migrants is expected to increase gradually, especially labour migration. The need for the integration of third-country nationals is therefore also expected to grow.

Due to their geographic situation or attractive economic profile, some Member States receive disproportionate numbers of irregular migrants. Irregular immigration is costly not only for the target Member States but also for the migrants themselves. The numbers of new irregular migrants is likely to decrease although the stock of irregular migrants in the EU is unlikely to reduce markedly even if there were marked improvements in the detection and removal of irregular migrants. Consequently, return management is expected to remain a challenge.

Effective, efficient and secure border control is essential for the free movement of persons within the EU, as well as to maintain internal security. The length of the external border and the number and nature of border crossing points vary widely between Member States. As a result, some Member States bear a disproportionate share of the associated costs. Because persons with a valid visa or residence permit can move freely within the Schengen area, Member States have an interest in applying common standards. The number of border crossings is expected to increase, and with it the challenge of managing the EU borders.

Organised crime in its various forms, terrorism and other security-related risks (including their assessment and management) pose major problems for the EU. Aggregate levels of crime are anticipated to continue to remain stable but the nature of crime is expected to change with criminals using new technologies to commit crimes. Cross-border and organised crime can be expected to increase and become more sophisticated and international in nature.

Some types of crime such as fraud, money laundering and cybercrime, are expected to grow. Although the continued efforts of Member States and EU legislative action are likely to reduce terrorist activities, the transnational character of the terrorist threat remains acute and there is little prospect of the threat reducing substantially in the foreseeable future.

Recent events at the Greek/Turkish border and in the Southern Mediterranean also demonstrate how important it is for the EU to have a comprehensive approach to migration, covering various aspects such as strengthened border management and Schengen governance, better targeted legal migration, enhanced dissemination of best practices on integration, a reinforced Common European Asylum System, and a more strategic approach to relations with third countries on migration.

2.2. The current home affairs financial instruments do not adequately address future needs and priorities

Although the current home affairs financial instruments are generally considered to achieve their objectives and function effectively, they do not fully address the above challenges.

General Programme Solidarity and Management of Migration Flows (shared management)

The European Refugee Fund has insufficient resources to adequately support a comprehensive EU resettlement policy and to incentivise Member States to take part in resettlement operations through a pledging exercise. It also does not foresee any additional financial incentive for the intra-EU transfer of beneficiaries of international protection ("relocation").

The European Fund for the Integration of Third-Country Nationals addresses integration challenges through support for national strategies. However, the need for capacity building at national level is expected to decrease because some integration challenges are addressed more effectively at the regional and local level, i.e. at a level closer to the individual. Specific measures or groups of migrants who are not easily reached by mainstream instruments also need to be targeted more effectively.

The European Return Fund does not currently support pre-removal reception/detention conditions or more general measures to reduce irregular migration.

The External Borders Fund cannot provide support for measures regarding controls on the freedom of movement (in land) and flanking measures regarding the prevention of irregular immigration, document management (databases on residence permits) and false documents. It also does not support inter-agency co-operation and the building of connections across the different law enforcement authorities, including those working inside the EU territory.

General Programme Security and Safeguarding Liberties (centralised direct management)

The Specific Programmes ISEC (Prevention of and the fight against Crime) and CIPS (Prevention, Preparedness and consequence management of Terrorism and other Security-related risks) do not support the testing and validating of law enforcement equipment to close the gap between research and development and operational implementation/serial application or structural capacity building for law enforcement authorities through the purchase of equipment such as detection devices and IT systems. Some activities such as joint investigation teams or newer policies which require more flexibility, such as crisis management, are difficult to finance.

2.3. The external dimension of home affairs policies is not supported adequately

The existing external aid programmes are not designed to support the external dimension of home affairs policies but rather to cater mainly for other objectives, in particular enlargement, development and neighbourhood policy, aimed primarily at addressing the needs of the recipient country. While such assistance should be maintained, there is a manifest lack of EU leverage to allow the EU to pursue and achieve its own policy priorities and cater for direct EU interests, such as the management of migratory flows and security.

This problem is compounded by the fact that the current generation of home affairs financial programmes also do not cover the external dimension. Although it is possible at present to financially support some activities in third countries notably in order to ensure territorial continuity of financing, starting in the EU and continuing in third countries, these activities are very limited. As such, there is inadequate funding for the negotiation and implementation of readmission agreements, Mobility Partnerships and Regional Protection Programmes, to provide assistance to third countries to improve their border management or to cooperate with third countries in areas such as trafficking of human beings, drugs and weapons, dismantling international criminal networks and preventing terrorism and other security-related risks.

2.4. Operational limitations of the home affairs delivery mechanisms

The four shared management Funds each have their own legal basis and implementing rules. This leads to a duplication of efforts and a multiplication of rules which, in turn, results in additional workload, the risk of different interpretations and an increased risk of errors. The Funds combine a multiannual framework with annual programming which is complex, time-consuming and difficult to manage. In terms of financial management and management and control systems, they are similar yet different from other Funds under shared management, in particular the Structural Funds, which leads to confusion.

The grants provided under direct management (ISEC and CIPS) are generally small, preventing their strategic use, and there is a problem of underspending. Because the eligibility rules are complex, the overall error rate is relatively high in the cost claims submitted by the final beneficiaries, requiring reinforced ex-ante and ex-post controls, resulting in a high administrative workload. The grant application process is also too long, preventing law enforcement authorities from mounting operations quickly in response to emerging threats.

Recent events in the Southern Mediterranean have shown how important it is for the EU to be able to respond quickly and effectively to crisis situations. The current emergency response mechanism covers only asylum-related crises and fails to respond quickly and effectively to crisis situations. The available funding is also too limited.

3. ANALYSIS OF SUBSIDIARITY

3.1. The EU's right to act

The EU's right to act in the area of home affairs derives primarily from Title V of the Treaty on the Functioning of the European Union (TFEU), in particular Articles 77(2), 78(2), 79(2) and(4), 82(1), 84 and 87(2) TFEU. Cooperation with third countries and international organisations is covered by Article 212(3) TFEU.

3.2. Subsidiarity

The challenges facing the EU in the area of home affairs cannot be tackled by the Member States acting alone. Dealing with migration flows, the management of the EU's external borders and the security of the EU requires substantial resources and capabilities from the Member States. EU funding is the mechanism which gives effect to the financial implications of the principle of solidarity and the fair sharing of responsibilities between Member States and without which some would have to shoulder the disproportionate burden of long borders or surges in migration. Improved operational co-operation involving the pooling of resources creates economies of scale and synergies thereby ensuring a more efficient use of public funds and reinforcing solidarity and mutual trust between Member States. EU funding can also create the leverage necessary to convince third countries to engage with the EU on issues which are mostly of relevance to the EU and the Member States.

4. OBJECTIVES

The Communication "A Budget for Europe 2020"¹ announced the creation of two Funds:

Fund	Objective	Budget in 2011 prices (€million)
Migration and Asylum Fund	Support actions in relation to asylum and migration, the integration of third-country nationals and return	€3,433 m
Internal Security Fund	Provide financial assistance for initiatives in the areas of external borders and internal security	€4,113 m

The general and specific objectives of these Funds are to:

General objectives	Specific objectives
Enhance the effective management of migration flows to the EU in areas where the EU adds maximum value, in particular through solidarity, responsibility-sharing and cooperation with third countries	Facilitate legal migration to the EU in line with the economic and social needs of the Member States and support the integration of legally residing third-country nationals
	Support implementation of the Common European Asylum System
	Reduce irregular migration and promote voluntary return
	Support the external aspects of the EU's migration policy
Enhance the EU's internal security through management of the external borders and law enforcement, including by strengthening the preparedness and response activities that are best supported by EU financial resources, in particular through transnational cooperation, economies of scale, public-private partnerships and cooperation with third countries	Strengthen EU external borders
	Facilitate mobility across EU external borders
	Reduce the risk of and increase detection and successful prosecution of organised crime, terrorism and other security-related threats
	Support the external aspects of the EU's internal security policy

¹ COM(2011)500 final – Parts I and II of 29 June 2011

In achieving these specific policy objectives, due regard should also be given to the overall horizontal objective of simplification, and in particular the flexibility of the future Funds, the speedy release of funding in the event of crises and the reduction of administrative workload.

5. POLICY OPTIONS

Issue A – Funding priorities

Option A.1 – Continuation of the 2013 distribution of funding (status quo).

Option A.2 – Average 2007-2013 distribution of funding.

Option A.3 – Introduction of an external dimension component within the two Funds to fund actions in or in relation to third countries which cater primarily for EU interests and objectives, have a direct impact in the EU and its Member States and ensure continuity with activities implemented in the territory of the EU. This funding is not intended to support actions which are development-oriented and will complement, when appropriate, the financial assistance provided through EU external aid instruments. Reduction of funding across all policy areas but with more marked cuts in areas where the added value and impact of supporting external dimension activities is expected to be higher.

Issue B – Shared management

Option B.1 – A common multiannual framework in line with broadly defined political priorities set in EU strategic guidelines with national annual programmes (status quo).

Option B.2 – Multiannual programming only, as under the Structural Funds.

Option B.3 – A senior level, home affairs policy dialogue focused on home affairs objectives and funding with individual Member States to support the development and monitoring of their national multiannual programmes in line with EU priorities.

Issue C – Centralised management (direct and indirect)

Option C.1 – Implementation of a mixture of grants and procurement to provide financial support to transnational projects and non-state actors, promote policy-driven activities and procure services (status quo).

Option C.2 – Use of centralised management procurement only and discontinuation of grants.

Option C.3 – Improved and diversified centralised management through contribution agreements with international organisations, framework partnerships with civil society and the delegation of specific tasks to existing agencies (indirect management). A limited number of grants would still be awarded through calls for proposals. Procurement would be maintained.

Issue D – Emergency response mechanism

Option D.1 – Current emergency response mechanism under shared management in the area of asylum without covering other migration-related or security crises (status quo).

Option D.2 – Improvement of current emergency response mechanism by bringing it under centralised management and extending it to other migration-related and security crises. The duration of emergency measures would be extended from the current 6 to 18 months and the responsible Commissioner would be empowered to approve spending on emergency measures within days of an emergency occurring.

Option D.3 – Mechanism under Option D.2 extended to the area of migration but not to internal security. The latter would be included in the scope of the EU Solidarity Fund.

6. ASSESSMENT OF IMPACTS

Issue A – Funding priorities

Option A.1 – 2013 distribution (status quo): It will be more difficult for Member States' asylum systems to cope adequately with complex and fluctuating migration flows. Some Member States would have to bear disproportionate costs for hosting refugees and asylum seekers. There would be insufficient resources for resettlement operations or for additional support to Member States who have to cope with particular pressures on their asylum systems. Member States would continue setting-up national/regional integration strategies or strengthening the strategies already in place. This will improve the integration of third-country nationals and therefore have positive impacts on social cohesion and the EU economy, but the added value of funding for capacity building is likely to diminish over time. Return management capacity would continue to be built but support would be added for detention / reception capacity. Although Member States would be better equipped to return numbers of irregular migrants, the added value of further / continued capacity building is likely to diminish over time. The efforts of those Member States who carry out border control tasks on behalf of and in the interest of the EU as a whole would be supported systematically from the EU budget thereby giving concrete expression to the principles of solidarity and responsibility-sharing. The use of new technologies will improve border security and generate positive economic impacts as it would promote innovation, facilitate travel of bona fide travellers to and from the EU. A more consistent use of EU funding for consular co-operation on visa and support for local border traffic arrangements in particular border areas would allow for efficiency gains thereby having a positive impact on the EU economy. The creation of Eurosur would also lead to reductions in irregular migration, cross-border crime and the loss of migrants' lives at sea. The main priorities in the area of internal security would be catered for financially. This is expected to lead to an improvement of EU security in the long-term, although it would remain difficult to fund the activities of joint investigation teams or newer policies such as emergency support and crisis management where flexibility is essential. The external dimension of home affairs policies would remain unaddressed, with the consequences explained above.

Option A.2 – Average 2007-2013 distribution: There would be improvements to asylum standards and Member States would be able to address complex and fluctuating migration flows and deal with disproportionate pressures on their asylum systems. However, there would be insufficient support for setting-up an EU resettlement scheme or to incentivise Member States to participate in the intra-EU transfer of beneficiaries of international protection. Impacts regarding the integration of legally residing third-country nationals are expected to be similar to those under Option A.1. Reduced EU support for the return of irregular migrants is likely to decrease the number of returns and lead to an increased number of irregular migrants remaining in the EU. Member States may cooperate bilaterally with

countries encountering similar challenges or with third countries directly, to have some leverage over future migrant numbers and this may divert and increase flows to other Member States. The situation of irregular immigrants, who are often employed in the illicit economy, is expected to worsen. Reduced funding for the management of the external borders will necessitate a shift away from overall capacity building efforts towards specific projects such as the implementation of EUROSUR and/or the development of new IT systems. This would allow maintaining current levels of border security but would be insufficient to support the notion of border control as a "public service". Through increased financial support for the strengthening of practical cooperation between law enforcement authorities, Member States would be able to more effectively combat serious and organised crime in its many forms. The external dimension of home affairs would remain largely unaddressed. The EU would therefore not be able to increase its leverage with third countries to encourage them to engage with the EU on issues of relevance to the EU and the Member States and which might not be priority issues for the third countries themselves (readmission, fighting irregular migration, reinforcing border management etc.).

Option A.3 – Re-distribution with external dimension component: Asylum standards would be improved and the EU and the Member States would be able to address complex and fluctuating migration flows, deal with disproportionate pressures on national asylum systems, set-up an EU resettlement scheme and provide additional financial incentives for the intra-EU transfer of beneficiaries of international protection. Regional Protection Programmes would alleviate the burden on these countries and creating an equitable sharing between the EU and Member States in finding durable solutions within the international refugee protection system. The shift to support for more targeted strategies designed to promote the integration of third-country nationals at local level, implemented mainly by local or regional authorities and non-state actors, is expected to have beneficial impacts on social cohesion and the EU economy in general and third-country nationals' employment opportunities in particular. More comprehensive support for the implementation of Mobility Partnerships, coupled with strengthened collaboration and cooperation of the EU with international organisations, would help maximise the operational synergies and lead to greater effectiveness. The refocusing of return operations on assisted voluntary return, reintegration measures and improving the detention capacity of Member States will substantially improve the quality of case management by Member States, enable Member States to offer the means to provide a meaningful incentive for repatriation to all potential returnees and to ensure full compliance with the twin principles of the primacy of voluntary return under EU standards and the humane and dignified treatment of all potential returnees. Support for the implementation of readmission agreements would contribute significantly to fighting irregular migration. The cumulative impacts of the EU resettlement scheme, Regional Protection Programmes, Mobility Partnerships and readmission agreements could reduce the need for emergency funding for sudden migratory pressures, the need for international protection in the countries of origin and in Member States, the incidence of irregular entry into the EU and the need for funding return operations. The impacts on external borders are expected to be the same as those described under Option 1 but through the external dimension component, more efficient cooperation between Frontex and third countries on border management is likely to increase the detection rates of irregular migrants or prevent their entry into the EU. The main priorities in the area of internal security would be achieved, thereby improving EU security in the long-term. Support for the external dimension of internal security policies would increase understanding of the security threats originating in third countries. Coupled with cooperation with these countries in other domains such as migration management, this would increase the

effectiveness of interventions aimed at preventing and detecting potential terrorist and organised crime threats.

Issue B – Shared management

Option B.1 – Status quo: Maintaining annual programming within a multiannual framework would allow to choose and implement actions which are aligned more with evolving EU priorities. Although reducing the number of annual programmes by about 50% to around 392 constitutes an improvement, the system would remain complex, time-consuming and difficult to manage with a heavy administrative workload. The closure procedure would also be incompatible with the procedure foreseen in the revised version of the Financial Regulation.

Option B.2 – Multiannual programming: With a total of around 56 multiannual programmes to manage, the administrative workload for both the Commission and the Member States would be reduced significantly. Programming would be brought in line with other shared management instruments, increasing coherence and clarity for all stakeholders. Despite offering increased flexibility, multiannual programming does not adequately address the specificities of the home affairs area.

Option B.3 – Multiannual programming with policy dialogue: With a total of around 56 multiannual programmes to manage, the administrative workload for both the Commission and the Member States would be reduced significantly. The senior level policy dialogue would result in a more results-driven approach. Because of the combination of simplification and results-oriented programming, it constitutes a major improvement on the status quo.

Issue C – Centralised management (direct and indirect)

Option C.1 – Status quo: Significant amounts would be spent under centralised management, in particular in the area of internal security. Without efforts to simplify rules and streamline procedures, the administrative workload for both the Commission and final beneficiaries will increase, which is expected to result in an increased risk of errors.

Option C.2 – Procurement only: No resources would be needed to manage the implementation of grants. However, it will not be possible to support policy-led, innovative actions, stimulate transnational co-operation or support and reinforce civil society. There would be no improvement in the EU's ability to react quickly and effectively in case of crises.

Option C.3 – Improved and diversified centralised management: Grants, implemented more effectively and efficiently by the most appropriate actors in the field, will support policy-driven actions. Although this may initially lead to a moderate increase in administrative workload, in the long-term it will improve relations with key stakeholders and reduce overall workload. Recourse to a limited number of open calls for proposals will also decrease administrative workload. Delegating the implementation of specific tasks to home affairs agencies, including in third countries, is expected to improve synergies and coherence.

Issue D – Emergency response mechanism

Option D.1 – Status quo: The EU would not be able to react quickly and effectively to asylum-related crises or to react to other migration-related or security crises.

Option D.2 – Improved mechanism and extension to other migration-related and security crises: The EU would be able to react quickly and effectively to migration crises

(other than asylum) and security crises. Interventions would be more efficient as it would be possible to choose the most appropriate implementing partner for emergency funding, to release emergency funding more quickly and to extend the duration of emergency measures in order to address more completely the continuing needs arising from emergency interventions.

Option D.3 – Improved mechanism extended to other migration-related crises and inclusion of security under the EU Solidarity Fund: Impacts would be as described under Option D.2. The inclusion of man-made security crises in the scope of the EU Solidarity Fund is unlikely to lead to significant administrative workload savings and may lead to a loss in focus of the EU Solidarity Fund which is unlikely to be welcomed in Council.

7. COMPARISON OF OPTIONS

7.1. Comparative analysis of the options

Issue A – Funding priorities

Options A.1 and A.2 do not include a specific funding component for the external dimension of home affairs policies. Although more funding is therefore available for the "internal" aspects of these policies, this funding is not necessarily spent where it has the greatest effect. By contrast, the inclusion of a sizeable external dimension component in both Funds under Option A.3 would have a significant "preventive" impact on all home affairs policies and may therefore reduce the overall level of funding needed for the internal aspects of these policies. It will also ensure a better protection of EU interests outside the EU, notably through support to actions starting in the EU and continuing in third countries. This will allow the EU not just to address the consequences of migration flows and organised crime and terrorism but seeks also to take preventive action in third countries. The beneficial consequences of such action could include a reduction in the number of persons in need of asylum or other forms of international protection and in the number of irregular migrants crossing the EU external borders, and a reduction in cross-border crimes such as trafficking of human beings, drug and weapons trafficking. Increased cooperation with third countries would also allow better management of legal/labour immigration and thus better tackle labour shortages in the EU.

Issue B – Shared management

Option B.1 (status quo) would have a very negative impact on administrative workload and would not meet Member States' demands for simplification. The shift to multiannual programming proposed under Option B.2 would constitute a significant improvement on the status quo as it would reduce the number of programmes to be managed by the Commission and the Member States. Alignment with other EU instruments under shared management would also increase coherence and clarity for all stakeholders. Despite offering increased flexibility, Option B.2 would not address the continuous need to respond to changing situations in the Member States and third countries, typical of the home affairs area. The policy dialogue proposed under Option B.3 would address this need and would allow for a more results-driven shared management. It is also expected to result, after the first two years during which old and new instruments will overlap, in a more flexible approach to programming and a significantly reduced workload for all stakeholders.

Issue C – Centralised management (direct and indirect)

Of the three options considered in relation to the implementation of centralised management, Option C.1 (status quo) is the least attractive because it offers little or no prospect of simplification or reduction of administrative workload. In this respect, Option C.2 (procurement only) would constitute a significant improvement although it would eliminate completely the possibility of promoting policy-driven actions, stimulating transnational co-operation and supporting civil society through grants. Through recourse to framework partnerships, contribution agreements, indirect management and a limited use of open calls for proposals implemented by the most appropriate actors, Option C.3 would lead to a more targeted, diversified and less resource-intensive centralised management.

Issue D – Emergency response mechanism

Option D.1 (status quo) clearly does not meet the need for the EU to respond more quickly and effectively to crises in the areas of migration and security. Although Option D.3 constitutes an improvement on Option D.1 because it envisages a faster release of funds under centralised management in the area of migration, the extension of the scope of the EU Solidarity Fund to crises in the area of security is likely to meet opposition from Member States because of the risk that it would reduce the focus of the instrument. Option D.2 would also constitute a marked improvement on the status quo because it would allow for a rapid release of funding in case of migration-related emergencies and in addition, it would include a dedicated response mechanism in the Internal Security Fund.

7.2. Preferred option and organisational aspects

The preferred option is a combination of Options A.3, B.3, C.3 and D.2. Shared management will be the main management method for delivering home affairs funding although centralised management will be maintained and improved for transnational actions, innovative projects, support for civil society, IT systems, studies, events, and actions with an external dimension and/or requiring the quick mobilisation of EU funds. The agencies will be entrusted with the implementation of specific operational tasks in the framework of their missions and in complementarity with their work programmes.

The preferred option will be implemented in full coherence with the decision to reduce the number of financial instruments to two, thereby increasing the visibility of home affairs funding and making it easier to fund actions which at present are on the nexus between Funds. Another key feature of the future home affairs funding architecture will be the creation of a horizontal instrument, common to both Funds, which will include all rules on programming, reporting, financial management and controls. This presents two distinct advantages: first, it avoids duplication and reduces significantly the number of (otherwise identical parallel) provisions in the two Funds and second, it achieves simplification and consistency because the same rules will apply to all beneficiaries, regardless of which instrument their funding comes from, thereby facilitating their understanding of and access to the Funds.

8. MONITORING AND EVALUATION

Provision will be made for a mid-term review and the ex-post evaluation of both Funds. The timing of the mid-term review will not be fixed in advance to guarantee maximum flexibility. In order to monitor progress and in order to measure the results and impacts achieved by EU spending on home affairs, a set of indicators will be developed to track the performance of home affairs funding in terms of inputs, outputs and, where possible, outcomes.