



EUROPEAN COMMISSION

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COM(2011) 753 final

2011/0368 (COD)

Proposal for a

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

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

{SEC(2011) 1358 final}

{SEC(2011) 1359 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

The policies relating to the area of Freedom, Security and Justice have been steadily growing in importance over the last years. These policies are at the heart of the European project to create an area without internal borders where EU citizens and third-country nationals may enter, circulate, live and work, bringing new ideas, capital, knowledge and innovation or filling gaps in the national labour markets, confident that their rights are fully respected and their security assured. The growing importance of home affairs policies has been confirmed by the 2009 Stockholm Programme<sup>1</sup>, and it is also one of the areas which have seen important changes under the Lisbon Treaty.

In the field of Internal Security, key documents such as the Commission's Communication on the Internal Security Strategy<sup>2</sup> have provided clear guidance on the direction of activities in the years to come. Internal security is an area where the Union will be facing important challenges. Terrorism and organised crime, drug trafficking, corruption, cyber crime, trafficking in human beings and arms will continue to pose serious threats. Aggregate levels of crime are anticipated 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. Further actions will also have to be taken to protect Union critical infrastructure more effectively notably against terrorist attacks and develop an integrated Union approach to risk and crisis management. To tackle all these future challenges, enhanced actions at Union level are essential to succeed in protecting the citizens from increasingly trans-national threats and support the operational work carried out by Member States' competent authorities, including through adequate Union funding. In this context the Stockholm Programme explicitly called for the creation of a Fund to support the implementation of the Internal Security Strategy and a coherent and comprehensive approach to law enforcement cooperation, including the management of the Union's external borders.

Against this background, in its proposal of 29 June 2011 on the next multi-annual financial framework for the period 2014-2020<sup>3</sup>, the Commission suggested to set up an Internal Security Fund, as part of a simplified two-Fund structure for future expenditure in the home affairs area which also includes an Asylum and Migration Fund. The Internal Security Fund will have a global budget of EUR 4,648 million (in current prices) to support the implementation of the five strategic objectives set by the Internal Security Strategy: disrupting international crime networks; preventing terrorism and addressing radicalisation and recruitment; raising the levels of security for citizens and businesses in cyberspace; strengthening security through border management; and increasing Europe's resilience to crises and disasters.

Due to the different Treaty bases for the broad range of strategic objectives to be covered, it is not legally possible to establish the Internal Security Fund as a single financial instrument. It

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<sup>1</sup> OJ C 115 of 4.5.2010, p. 1.

<sup>2</sup> COM (2010) 673 final.

<sup>3</sup> COM (2011) 500 final.

is therefore proposed to establish the Fund as a comprehensive financing framework, comprising two sector-specific proposals – of which this is one –, complemented by a horizontal instrument laying down common provisions. .

The legal architecture is explained in more detail under section 3.

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

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

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

In accordance with the greater emphasis placed on evaluation as a tool to inform policy making, this legislative proposal took also full account of the formal mid-term evaluation of the General Programme Security and Safeguarding Liberties<sup>4</sup>, covering the implementation of the ISEC (Prevention of and Fight against Crime) and CIPS (Prevention, Preparedness and Consequence Management of Terrorism and other Security-related risks) programmes between 2007 and 2009. In its report of 16 June 2011, the Commission assessed the quantitative and qualitative aspects of the implementation of the Programmes and the results obtained, including an accurate mapping of the programme activities, analysis of the performance of the projects financed, and a review of the instruments and implementation mechanisms in order to identify possible corrective measures.

The results of a dedicated on-line public consultation on the future of home affairs funding<sup>5</sup>, which ran from 5 January to 20 March 2011 and was open to stakeholders from within the Union and from third countries, have all been taken into consideration in the preparation of this proposal. A total of 115 responses were received from individuals and on behalf of organisations, including 8 position papers. Respondents from all Member States contributed to the consultation as well as respondents in some third countries.

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

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<sup>4</sup> COM(2011)318 final of 16 June 2011: Communication on the mid-term evaluation of the Framework Programme "Security and Safeguarding Liberties" (2007-2013).

<sup>5</sup> The consultation documents and report on the results of the consultation are available on the DG Home Affairs website: [http://ec.europa.eu/home-affairs/news/consulting\\_public/consulting\\_0020\\_en.htm](http://ec.europa.eu/home-affairs/news/consulting_public/consulting_0020_en.htm)

The future of EU funding for home affairs was raised and discussed with institutional stakeholders on numerous occasions, including at an informal lunch discussion during the JHA Council on 21 January 2011, an informal breakfast with the political coordinators of the European Parliament on 26 January 2011, at the hearing of Commissioner Malmström before the Parliament's SURE Committee on 10 March 2011 and during an exchange of views between the Director-General of DG Home Affairs and the Parliament's LIBE Committee on 17 March 2011.

Specific expert advice on the future financial instruments in the area of Internal Security was provided through discussions that took place at the COSI meeting on 5 October 2010 where a preliminary exchange of views was made with representatives of the Member States and representatives of agencies (Eurojust, Europol, CEPOL and Frontex) and during the EOS Conference on Industry and Security on 9 February 2011. Moreover, technical aspects linked to the implementation of the future financial instrument in the area of Internal Security were also discussed with Member States' experts at the meetings on 15 February and 18 July 2011 of the two committees for the General Programme on Security and Safeguarding Liberties (ISEC and CIPS).

These consultations, conferences and expert discussions confirmed that there is an overall consensus among key stakeholders on the need to broaden the scope of action for Union funding in the field of internal security, including as regards its external dimension, and a need to work towards more simplification in the delivery mechanisms and greater flexibility, notably to respond to emergencies. In order to add value, Union spending should reflect better Union level priorities and strategic commitments and should support the implementation of the Union's home affairs acquis. In the area of internal security, stakeholders considered that the broad thematic priorities have already been fixed by the 2009 Stockholm Programme and the 2010 Internal Security Strategy. A future funding mechanism should therefore be defined comprehensively, comprising law enforcement, border guards and customs communities. The need to make greater use of relevant Union agencies, such as Europol and Frontex was also considered important. There was broad support to reduce the number of financial instruments to a two-Fund structure on the condition that this leads to simplification. Stakeholders also agreed on the need for a flexible emergency response mechanism. Shared management with a move to multi-annual programming was generally seen as the appropriate management mode for home affairs spending. Non-governmental organisations, however, were of the view that direct management should also be continued.

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

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

Union action is justified on the grounds of the objectives laid out in Article 67 of the Treaty on the Functioning of the Union (TFEU), hereafter "the Treaty", setting out the means to constitute an area of freedom, security and justice.

The Regulation is based on multiple legal bases in Title V of the Treaty in the area of freedom, security and justice (Articles 82(1), 84 and 87(2) TFEU). These articles constitute

compatible legal bases in the light of the legal particularities that apply to decision-making under this Title.

Due to different voting rules in the Council stemming from variable geometry pursuant to Protocols 19 (on the Schengen acquis), 21 (the position of the UK and Ireland in respect of the area of Freedom, Security and Justice) and 22 (the position of Denmark, including in relation to Title V, part three of the Treaty) it is not legally possible to draw up one single comprehensive legislative proposal for an Internal Security Fund, despite the coherence of the policy objectives to be addressed.

The Internal Security Fund is therefore created as a comprehensive financing framework which is composed of two separate acts, setting up the different components of the Fund and laying down the objectives, the eligible actions and the envelopes of each component:

- A Regulation setting up, as part of the Fund, the component for police co-operation, preventing and combating crime, and crisis management;
- A Regulation setting up, as part of the Fund, the border management and common visa policy component.

Within the comprehensive framework of the Internal Security Fund, this Regulation shall provide financial support to police cooperation, exchange and access to information, crime prevention and the fight against cross-border as well as serious and organised crime, including terrorism, the protection of people and critical infrastructure against security-related incidents and the effective management of security-related risks and crisis, taking into account common Union policies (strategies, programmes and action plans), legislation, practical co-operation and threat and risk assessments. Consequently, the two programmes which currently provide financial support for this policy area (ISEC, CIPS) should be repealed with effect from 1 January 2014, subject to transitional rules. As far as the CIPS programme is concerned (Council Decision 2007/124/EC, EURATOM), this is not possible within the framework of this Regulation but requires a separate legal act, due to the different voting rules under its double legal base (EC/Euratom).

Overall, this is an area where there is a clear added value in Union interventions compared to Member States acting alone. The European Union is in a better position than Member States to address cross-border situations and to provide a platform for common approaches, financial support provided under this Regulation contributes in particular to strengthening national and European capabilities as well as cross-border cooperation and coordination, facilitated and secure communication, networking, mutual trust and the exchange of information and best practices. However, it is fully acknowledged that interventions should take place at an appropriate level and the role of the Union should not go beyond what is necessary. As the Budget Review has highlighted, the "EU budget should be used to finance EU public goods, actions that Member States and regions cannot finance themselves, or where it can secure better results".<sup>6</sup>

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<sup>6</sup> "The EU Budget Review", COM (2010) 700, 19.10.2010.

#### 4. BUDGETARY IMPLICATION

The Commission's proposal for the next multi-annual framework includes a proposal of EUR 4.648 million (in current prices) for the Internal Security Fund for the period 2014-2020. Within this global envelope, the resources indicatively available for the implementation of this Specific Regulation amount to EUR 1,128 million. Indicatively, 50% of this amount (EUR 564 million) should be used for national programmes of Member States while the other 50% (EUR 564 million) should be centrally managed to fund Union actions, emergency actions and technical assistance.

EUR million

<b>Internal Security Fund</b>		<b>4,648</b>
<i>including new IT systems</i>		
- Police cooperation instrument		1,128
- Border instrument		3,520

#### 5. MAIN ELEMENTS OF THE PROPOSAL

- **Clear focus on strategic priorities**

In order to ensure that a sufficient and demonstrable impact can be achieved, this regulation proposes for the period 2014-2020 to concentrate Union financial support on five key strategic priorities (as identified by the Union's Internal security strategy):

- preventing and fighting against cross-border, serious and organised crime;
- raising the levels of security for citizens and business in cyberspace;
- preventing terrorism and addressing radicalisation and recruitment;
- raising capabilities to protect critical infrastructure in all economic sectors; and
- increasing Europe's resilience to crisis and disaster.

These strategic priorities, which are laid down in more detail in the annex to this Regulation, have to be taken into account by Member States when drafting their multi-annual national programmes. They can be amended at any time in a simplified procedure through delegated act in the event of newly emerging risks or threats. Moreover, to provide additional incentives, the EU co-financing rate for national measures implementing any of these Union strategic priorities can be increased up to 90%, in accordance with the Horizontal Regulation, instead of 75%.

The concrete measures supported by this Regulation cover primarily actions strengthening Member States operational capacities, such as joint cross-border operations, exchange of best practices, testing and validating of new methodologies and technologies (to close the gap to

Union funded security research), the acquisition of technical equipment and infrastructures, training and exchange of staff, analytical activities such as risk and threat assessments as well as networking.

To use more effectively the competence and expertise of relevant Union agencies in the home affairs field, the Commission also envisages to make use of the possibility offered by the Financial Regulation<sup>7</sup> to entrust, within the resources available under this regulation, the implementation of specific tasks to such agencies in the framework of their missions and in complementary with their work programmes. For the tasks covered by this Instrument this concerns in particular the European Police Office (Europol), e.g. for the organisation of joint investigation teams or a Prüm helpdesk function, and the European Training College (Cepol), e.g. for the development and implementation of European Training schemes, common thematic curricula and modules including for staff from law enforcement authorities from appropriate third-countries.

- **Distribution of available resources**

The total amount for this Instrument for the period 2014-2020 consists of two parts: the Union budget (EUR 1,128 million in current prices) and the – not yet known – contributions by the countries associated with the implementation, application and development of the Schengen acquis (Norway, Iceland, Switzerland, Liechtenstein), which shall participate in this Instrument. From the Member States, Denmark will not participate in this Regulation and Ireland and the UK may opt-in to it, in accordance with their respective Protocols.

The total amount of EUR 1,128 million is evenly divided (50/50 ratio): Member States will obtain an indicative amount of EUR 564 million (in current prices) for their national programmes (shared management) and for Union actions, emergency assistance and technical assistance, the Commission will implement the same indicative amount under direct and indirect management.

The criteria chosen for the allocation of available funds to Member States relate to the main goods that Member States have to protect: their population, their territory, persons and cargo processed through their air and seaports and European critical infrastructure designated in accordance with Union law. As, in this context, account has also been taken of Member States' different financial capacities, their Gross Domestic Product (in inverse proportion) has been added as a fifth allocation criteria.

- **Emergency assistance and actions in or in relation to third-countries**

Specific provisions are introduced in this regulation and in the Horizontal Regulation to enable the Union to take rapid and effective actions in the event of 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 (emergency situation). Such emergency assistance is always decided upon by the Commission but can also be proposed by Member States, Union Agencies, International Organisations or the Article 71 committee (COSI) represented by the Member State holding the Presidency of the Council. Emergency

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<sup>7</sup> Commission proposal – Regulation on the financial rules applicable to the annual budget of the Union (COM (2010) 815 final of 22.12.2010). This proposal constitutes a formal withdrawal by the Commission of the previous legislative proposals COM (2010) 71 final and COM (2010) 260 final.

assistance is not limited to the Union and may also include measures in or in relation to third-countries.

Generally the list of actions in or in relation to third-countries eligible under this Regulation focuses on short-term operational actions having a direct impact on the Union's internal security, such as joint cross-border operations, the acquisition of technical equipment, exchange and training measures, threat and risk assessments as well as funding support to awareness-raising and communication activities. Actions in third-countries are primarily implemented by the Commission through direct or indirect management in accordance with the Financial Regulation. Such actions shall not be directly development oriented and shall complement, as appropriate, the financial assistance provided through the Union's external aid instruments, which remain the main source of funding to help third-countries build their relevant capacities. In implementing such actions, full coherence will 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. Complementarity will be ensured through enhanced coordination with the European External Action Service and relevant Commission services.



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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission<sup>8</sup>,

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

Having regard to the opinion of the European Economic and Social Committee<sup>9</sup>,

Having regard to the opinion of the Committee of the Regions<sup>10</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union's objective of ensuring a high level of security within an area of Freedom, Security and Justice (Article 67(3) of the Treaty on the Functioning of the Union) should be achieved, inter alia, through measures to prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities of Member States and with relevant third-countries.
- (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' competent authorities. Terrorism and organised crime, drug trafficking, corruption, cyber crime, 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, adopted by the Council in February 2010<sup>11</sup>, constitutes a shared agenda for tackling these common security challenges. The Commission's Communication of November 2010 "The EU Internal Security Strategy in Action"<sup>12</sup> translates the strategy's principles and guidelines into

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

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

<sup>10</sup> OJ C ...

<sup>11</sup> Council doc. 7120/10.

<sup>12</sup> COM (2010) 673 final.

concrete actions by identifying five strategic objectives: 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 to crises and disasters.

- (4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and the rule of law as well as a strong focus on the global perspective and the inextricable link 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 an Internal Security Fund.
- (6) Due to the legal particularities applicable to Title V of the Treaty, it is not possible to establish the Internal Security Fund as a single financial instrument.
- (7) The Fund should therefore be established as a comprehensive framework for EU financial support in the field of internal security comprising the instrument established by this Regulation as well as the Instrument set up by Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa<sup>13</sup>. The comprehensive framework should be complemented by Regulation (EU) No XXX/2012<sup>14</sup> 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.
- (8) The global resources for this Regulation and for Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa should jointly establish the financial envelope for the entire duration of the Fund, which should constitute the prime reference for the budgetary authority during the annual budgetary procedure in accordance with Point 17 of the Inter-institutional Agreement.
- (9) Within the comprehensive framework of the Internal Security Fund, the financial assistance provided under this Instrument should support police cooperation, exchange of and access to information, crime prevention, the fight against cross-border, serious and organised crime including terrorism, the protection of people and critical infrastructure against security related incidents and the effective management of security related risks and crisis, taking into account common policies (strategies, programmes and action plans), legislation and practical co-operation.
- (10) 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, awareness raising activities, testing and validation of new technology, forensic science research and the acquisition of technical interoperable equipment.

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<sup>13</sup> OJ L ....

<sup>14</sup> OJ L ....

- (11) Measures in and in relation to third countries supported through this Instrument should be taken in synergy and coherence with other actions outside the Union supported through Union external assistance instruments, both geographic and thematic. In particular, in implementing such actions full coherence should be sought with the principles and general objectives of the Union external action and foreign policy related to the country or region in question. They should not be intended to support actions directly development-oriented and they should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence will also be sought with the Union humanitarian policy, in particular as regards the implementation of emergency measures.
- (12) This Instrument should be implemented in full respect with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union.
- (13) To ensure a uniform implementation of the Internal Security Fund, the Union budget allocated to this financial instrument should be implemented by shared management, with the exception of actions of particular interest to the Union (Union actions), emergency assistance and technical assistance, which are implemented in direct and indirect management.
- (14) The resources allocated to Member States for implementation through their national programmes should be distributed on the basis of clear and objective criteria relating 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, the number of passengers and cargo processed through international air and seaports, the number of European critical infrastructure and their gross domestic product.
- (15) To reinforce solidarity and responsibility sharing for common Union policies, strategies and programmes, Member States should be encouraged to use the part of the global resources available for the national programmes to address the strategic Union priorities set out in the annex to this Regulation. For projects addressing these priorities, the Union contribution to their total eligible cost should be increased to 90%, in accordance with Regulation (EU) No XXX/2012 [Horizontal Regulation].
- (16) The ceiling for resources which remain at the disposal of the Union should be equal to the resources allocated to Member States for the implementation of their national programmes. This 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.
- (17) To strengthen the EU's capacity to react immediately to security-related incidents or newly emerging threats for the Union, it should be possible to provide emergency assistance, in accordance with the rapid response mechanism set out in Regulation (EU) No XXX/2012 [Horizontal Regulation].

- (18) Funding from the Union budget should concentrate on activities where the Union intervention can bring additional value compared to action of 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.
- (19) In order to supplement or amend provisions in this Instrument regarding the definition of strategic Union priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission which should 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 Council.
- (20) In order to ensure a uniform, efficient and timely application of the provisions 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 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission exercise of implementing powers.
- (21) 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'<sup>15</sup> should be repealed, subject to the transitional provisions set out in this Regulation.
- (22) 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 crisis, cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (23) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis which falls within the areas referred to in Article 1, Point H of 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<sup>16</sup>.

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<sup>15</sup> OJ L 58 of 24.2.2007, p. 7.

<sup>16</sup> OJ L 176 of 10.7.1999, p. 31.

- (25) 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 latter's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement<sup>17</sup>.
- (26) 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 which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU on the conclusion, on behalf of the Union, of the Protocol<sup>18</sup>.
- (27) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (28) In accordance with Article 3 of the Protocol 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 and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland [*is not taking part in the adoption of this Regulation and is not bound by it or subject to its application / has notified its wish to take part in the adoption and application of this Regulation*].
- (29) In accordance with Article 3 of the Protocol 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 and to the Treaty on the Functioning of the European Union, 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 / has notified its wish to take part in the adoption and application of this Regulation*],

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

#### **Purpose and scope**

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<sup>17</sup> OJ L 53 of 27.2.2008, p. 1.

<sup>18</sup> OJ L 160 of 18.6.2011, p. 1.

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

Jointly with Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, this Regulation establishes for the period from 1 January 2014 to 31 December 2020 the Internal Security Fund.

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 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 XXX/2012 [Horizontal Regulation].

4. The Instrument shall not apply to matters that are covered by the Justice programme, as set out in Regulation (EU) No XXX/2012<sup>19</sup>. However this Instrument may cover actions which aim at encouraging cooperation between judicial authorities and law enforcement authorities.

## *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 as defined in Article 87 of the Treaty on the Functioning of the European Union.
- (b) 'exchange of and access to information' means the collection, storage, processing, analysis and exchange of information relevant to law enforcement authorities in relation to the prevention, detection, investigation, and prosecution of criminal offences, in particular cross-border, serious and organised crimes.
- (c) 'crime prevention' means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, as defined in Council Decision 2009/902/JHA of 30 November 2009 setting-up a European Crime Prevention Network (EUPCN)<sup>20</sup>.

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<sup>19</sup> OJ L ...

<sup>20</sup> OJ L 321 of 8.12.2009, p. 44.

- (d) 'organised crime' means a punishable conduct committed by a structured group of three or more persons, existing for a period of time and acting in concert in order to obtain, directly or indirectly, a financial or other material benefit.
- (e) 'terrorism' means any of the intentional acts and offences as defined in Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism<sup>21</sup>, as amended by Framework Decision 2008/919/JHA of 28 November 2008<sup>22</sup>.
- (f) 'risk and crisis management' means any measure relating to the assessment, prevention, preparedness and consequence management of terrorism 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 measures taken in order to react to and to reduce the impact of the effects of a terrorist attack or any other security related incident in order to ensure an effective coordination of actions at national and/or EU level.
- (i) 'critical infrastructure' means any physical resources, services, information technology facilities, networks and infrastructure assets which, if disrupted or destroyed, would have a serious impact on critical societal functions, including the supply chain, health, safety, security, economic or social well-being of people or of the functioning of the Union or its Member States.
- (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 European Union.

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

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

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<sup>21</sup> OJ L 64 of 22.6.2002, p. 3.

<sup>22</sup> OJ L 330 of 9.12.2008, p. 21.

The achievement of this objective shall be measured against indicators such as, *inter alia*, the number of cross-border-joint operations and the number of best practice documents and events organised.

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

The achievement of this objective shall be measured against indicators such as, *inter alia*, the number of tools put in place and/or further upgraded to facilitate the protection of critical infrastructure by Member States in all sectors of the economy and the number of threat and risk assessments produced at the level of the Union.

3. To achieve these objectives, the Instrument shall contribute to the following operational objectives by promoting and developing:

- (a) measures (methodologies, tools, structures) strengthening Member States' capability to prevent and combat cross-border, serious and organised crime including terrorism, in particular through public-private partnerships, the exchange of information and best practices, access to data, interoperable technologies, comparable statistics, applied criminology, public communication and awareness raising.
- (b) administrative and operational coordination, cooperation, mutual understanding and the exchange of information among Member States' law enforcement authorities, other national authorities, relevant Union bodies and, where appropriate, with third-countries.
- (c) training schemes 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) measures and best practices for the protection and support of witnesses and victims of crime.
- (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 (methodologies, tools and structures) strengthening the administrative and operational capacity of the Member States and the Union to develop comprehensive threat and risk assessments 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.

#### *Article 4*

##### **Eligible actions**

1. Within the objectives defined in Article 3, and in the light of the agreed conclusions of the policy dialogue as provided for in Article 13 of Regulation (EU) No XXX/2012 [Horizontal Regulation], this Instrument shall support actions in Member States, and in particular the following:

- (a) actions improving police cooperation and coordination between law enforcement authorities, including joint investigation teams and any other form of cross-border joint operation, the 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 good 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;
- (d) awareness raising, dissemination and communication activities;
- (e) acquisition and/or further upgrading of technical equipment, secure facilities, infrastructures, related buildings and systems, especially ICT systems and their components, including for the purpose of European cooperation on 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 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, including joint investigation teams and any other form of cross-border joint operation, the 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 good practices, information sharing, shared situation awareness and foresight, contingency planning and interoperability;
- (c) acquisition 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.

#### *Article 5*

### **Global resources and implementation**

1. The global resources for the implementation of this Regulation shall be EUR 1,128 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Framework.
3. The global resources shall be implemented through the following means:
  - (a) national programmes, in accordance with Article 6;
  - (b) Union actions, in accordance with Article 7;
  - (c) technical assistance, in accordance with Article 8;
  - (d) emergency assistance, in accordance with Article 9;
4. The budget allocated under the Instrument shall be implemented under shared management in accordance with Article 55(1)(b) of Regulation (EU) No XXXX/2012 [New Financial Regulation]<sup>23</sup>, with the exception of the Union actions referred to in Article 7, the technical assistance referred to in Article 8(1) and the emergency assistance referred to in Article 9.
5. The global resources shall be used indicatively as follows:
  - (a) EUR 564 million for the national programmes of Member States;
  - (b) EUR 564 million for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

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<sup>23</sup> OJ L ....

6. Jointly with the global resources established for Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, the global resources available for this Regulation as established in paragraph 1 constitute the financial envelope for the Internal Security Fund and serve as the prime reference for the budgetary authority during the annual budgetary procedure within the meaning of Point 17 of the Inter-institutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management.<sup>24</sup>

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

8. Arrangements shall be concluded on the financial contributions by these 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 these countries shall be added to the global resources available from the Union budget referred to in paragraph 1.

#### *Article 6*

### **National Programmes**

1. The national programme to be prepared under the Instrument and the one to be prepared under Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa shall be drawn up jointly by Member States and proposed to the Commission as one single national programme for the Fund, in accordance with Article 14 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

2. Under the national programmes to be examined and approved by the Commission pursuant to Article 14 of Regulation (EU) No XXX/2012 [Horizontal Regulation], Member States shall focus on projects addressing the strategic Union priorities listed in the annex to this Regulation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 11 to amend the annex referred to in paragraph 2 by amending, adding or deleting strategic Union priorities.

#### *Article 7*

### **Union actions**

1. At the Commission's initiative, this 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 set out in Article 3.

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<sup>24</sup> COM(2011)403 final.

2. To be eligible for funding, Union actions shall be in line with the priorities identified in relevant Union strategies, programmes, threat and risk assessments, and support in particular:

- (a) preparatory, monitoring, administrative and technical support, 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 and projects monitoring the implementation of Union law and Union policy objectives in the Member States;
- (d) projects promoting networking, mutual confidence, understanding and learning, identification and dissemination of good 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 and/or further upgrading of technical equipment, 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 crime, notably a 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;
- (j) 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 7 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

#### *Article 8*

#### **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 Internal Security Fund, in accordance with Article 10 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

2. At the initiative of a Member State, the Instrument may contribute up to 5% of the total amount allocated to the Member State to technical assistance under the national programme, in accordance with Article 20 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

#### *Article 9*

##### **Emergency assistance**

1. This 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 the mechanism laid down in Article 8 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

#### *Article 10*

##### **Resources for eligible actions in the Member States**

1. EUR 564 million shall be allocated to the Member States indicatively as follows:

- (a) 30% in proportion of the size of their total population;
- (b) 10% in proportion to the size of their territory;
- (c) 10% in proportion to the number of passengers and the tons of cargo processed through their international air and sea ports;
- (d) 10% in proportion to the number of European Critical Infrastructure designated in accordance with Directive 2008/114/EC;
- (e) 40% 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, as well as data provided to the Commission by the Member States in accordance with Directive 2008/114/EC. The reference date is 30 June 2013.

#### *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 delegation of powers referred to in this Regulation shall be conferred on the Commission for a period of 7 years from [*date of entry into force of this Regulation*]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the

European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in this Regulation may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to this Regulation shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 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 2 months at the initiative of the European Parliament or the Council.

#### *Article 12*

#### **Committee procedure**

1. The Commission shall be assisted by the common committee 'Asylum, Migration and Security' established by Article 55(1) of Regulation (EU) No XXX/2012 [Horizontal Regulation].

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

#### *Article 13*

#### **Applicability of Regulation (EU) No XXX/2012**

The provisions of Regulation (EU) No XXX/2012 [Horizontal Regulation] shall apply to the Instrument.

#### *Article 14*

#### **Repeal**

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

#### *Article 15*

#### **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 Council 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 Council Decision 2007/125/JHA before [date of publication in the Official Journal] 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 2013 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 Commission 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 suspensory effect shall be disregarded in calculating the amount to be automatically decommitted.

4. Member States shall submit to the Commission by 30 June 2015 an evaluation report on the results and impacts of actions co-financed by Council Decision 2007/125/JHA for the period 2011 to 2013.

5. The Commission shall submit to the European Parliament and the Council, by 31 December 2015, a report on the results achieved and on qualitative and quantitative aspects of implementation of Council Decision 2007/125/JHA for the period 2011 to 2013.

#### *Article 16*

##### **Review**

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

#### *Article 17*

##### **Entry into force and application**

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,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX

### List of Strategic Union Priorities (Article 6 (2))

- Measures preventing and **fighting cross-border, serious and organised crime**, in particular drug trafficking, trafficking in human beings, sexual exploitation of children and projects identifying and dismantling criminal networks, protecting the economy against criminal infiltration and reducing financial incentives by seizing, freezing and confiscating criminal assets.
- Measures **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 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 CBRN materials.
- Measures designed to raise Member States' administrative and operational capability to protect **critical infrastructure** in all economic sectors including those covered by Directive 2008/114, 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 good practices among public and private actors.
- Measures increasing **Europe'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 and situation awareness centres, including those for health, civil protection and terrorism.



## LEGISLATIVE FINANCIAL STATEMENT

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

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

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
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### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

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

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

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

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

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

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

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

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>25</sup>

Currently Heading 3, Title 18 – Home Affairs

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

Nature of the proposal/initiative

- The proposal/initiative relates to **a new action** (home affairs funding for the period 2014-2020)
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>26</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.3. Objectives

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

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

<sup>25</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

<sup>26</sup> As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

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

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

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

#### **INTERNAL SECURITY FUND**

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

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

- (a) preventing and combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities of Member States and with relevant third-countries;
- (c) enhancing the capacity of Member States and the Union for managing effectively security-related risks and crisis, and preparing for and protecting people and critical infrastructure against terrorist attacks and other security related incidents.

Current ABB activities concerned: 18.05

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

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

- (a) supporting a common visa policy to facilitate legitimate travel, ensure equal treatment of third country nationals and tackle irregular migration;
- (b) supporting borders management, to ensure, on one hand, a high level of protection of external borders and, on the other hand, the smooth crossing of the external borders in conformity with the Schengen acquis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- with regard to **police cooperation and the prevention and combating of crime**, indicators would include the number of cross-border-joint operations and the number of best practice documents and events organised. Indicators for **crisis management** and the protection of critical infrastructure would include the number of tools put in place and/or further upgraded to facilitate the protection of critical infrastructure by Member States in all sectors of the economy and the number of threat and risk assessments produced at the level of the Union.

- in the area of **borders and visa** indicators would include the number of consular posts equipped, secured and/or enhanced to ensure the efficient processing of visa applications and provide quality of service to visa applicants, and the development of equipment for border control and the apprehensions of irregular third-country nationals at the external border in correspondence with the risk of the relevant section of the external border. Impact indicators will measure the increase in border security, visa issuing capacity and the capacity to handle safely and smoothly the traffic of travellers across borders.

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

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

The EU will continue to face important challenges in the home affairs area in the period 2014-2020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The external dimension components of the Internal Security Fund will support actions in and in relation to third countries which cater primarily for EU interests and objectives, have a direct impact in the EU and its Member States and ensure continuity with activities implemented in the territory of the EU. This funding will be designed and implemented in coherence with EU external action and foreign

policy. It is not intended to support actions which are development oriented and will complement, when appropriate, the financial assistance provided through external aid instruments. In this context, the successor to the Thematic Programme Migration & Asylum and the Instrument for Stability will be of particular interest for the home affairs area. While external aid instruments either support beneficiary countries' development needs or support general EU political interests with strategic partners, home affairs funds will support specific actions in third countries in the interest of EU internal security objectives. They will therefore fill a specific gap and will contribute to completing the toolbox at the disposal of the EU.

### 1.5. Duration and financial impact

Proposal/initiative of **limited duration**

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

Proposal/initiative of **unlimited duration**

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

### 1.6. Management mode(s) envisaged<sup>27</sup>

Centralised direct management by the Commission

Centralised indirect management with the delegation of implementation tasks to:

- executive agencies
- bodies set up by the Communities<sup>28</sup>
- national public-sector bodies/bodies with public-service mission
- persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

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

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

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<sup>27</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

<sup>28</sup> As referred to in Article 185 of the Financial Regulation.



Comments:

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

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

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

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

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

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

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

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

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

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

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

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

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

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

## 2.2. Management and control system

### 2.2.1. Risk(s) identified

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

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

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

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

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

These elements will be changed significantly in this proposal:

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

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

In centralised management, the main risks are the following:

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

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

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

#### Shared management:

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

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

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

The following proposals will increase the costs of control:

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

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

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

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

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

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

### Centralised management

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

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

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

### New strands

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

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

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

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

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

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

*Specify existing or envisaged prevention and protection measures.*

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

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

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

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

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

- Existing expenditure budget lines

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

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff. <sup>(29)</sup>	from EFTA <sup>30</sup> countries	from candidate countries <sup>31</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3		Diff	NO	NO	NO	NO

- New budget lines requested

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

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

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

The criteria and the method to calculate these contributions are to be negotiated between the EU and the Associated States on the basis of a separate procedure. Assuming percentages similar to those currently used under the EBF, the Associated States would be called upon to contribute with about

<sup>29</sup> Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

<sup>30</sup> EFTA: European Free Trade Association.

<sup>31</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.



EUR 210 million to the Borders and Visa component and with about EUR 50 million to the Police cooperation component.

### 3.2. Estimated impact on expenditure

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

EUR million (to 3 decimal places)

<b>Heading of multiannual financial framework:</b>	<b>Number 3</b>	Security and Citizenship
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DG HOME			2014	2015	2016	2017	2018	2019	2020	After 2020	TO
<b>• Operational appropriations (current prices)</b>											
18 02 bb Internal Security Fund – Police and Crime	Commitments	(1a)	135.076	143.047	151.283	159.791	168.578	177.653	187.022		1,1
	Payments	(2a)	15.714	43.881	71.419	111.709	147.854	156.248	164.918	<b>410.707</b>	1,1
18 02 cc Internal Security Fund - Borders & Visas	Commitments	(1a)	422.310	447.186	472.886	499.435	526.856	555.173	584.412	-	3,5
	Payments	(2a)	59.999	120.794	223.204	350.813	461.098	487.256	514.275	<b>1,290.818</b>	3,5
<b>Appropriations of an administrative nature financed from the envelope for specific programmes<sup>32</sup></b>											
18 01 04 bb Internal Security Fund– Police and Crime			0.800	0.800	0.800	0.800	0.800	0.800	0.800		
18 01 04 cc Internal Security Fund - Borders & Visas			1.700	1.700	1.700	1.700	1.700	1.700	1.700		

<sup>32</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

<b>TOTAL appropriations for DG HOME</b>	Commitments	=1+1 a +3	559,886	592,733	626,669	661,726	697,934	735,326	773,934		4.6
	Payments	=2+2 a +3	78,213	167,174	297,123	465,023	611,452	646,004	681,693	1.701,525	4.6

<b>Heading of multiannual financial framework:</b>	<b>5</b>	<b>" Administrative expenditure "</b>
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As there are common elements in the implementation of the Asylum and Migration Fund and the Internal Security Fund such as a policy dialogue with each Member States and given that the internal organisation of DG HOME in order to ensure the management of the new Funds (as well as the closure of the programmes currently managed) may evolve, it is not possible to split the Administrative expenditure between the Asylum and Migration Fund and the Internal Security Fund.

Therefore the figures related to Heading 5 below correspond to the total administrative expenditure deemed necessary to ensure management of both Funds by DG and there is no total of appropriations.

EUR million (to 3 decimal places)

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

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)	<b>20.997</b>	<b>21.000</b>	<b>21.003</b>	<b>21.006</b>	<b>21.009</b>	<b>21.013</b>	<b>21.016</b>		<b>1</b>
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EUR million (to 3 decimal places)

		2014	2015	2016	2017	2018	2019	2020		TO
<b>TOTAL appropriations</b>	Commitments	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	

<b>under HEADINGS 1 to 5</b> of the multiannual financial framework	Payments										
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3.2.2. *Estimated impact on operational appropriations*

–  The proposal/initiative does not require the use of operational appropriations

–  The proposal requires the use of operational appropriations, as explained below:

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

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

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs			Year N		Year N+1		Year N+2		Year N+3		... enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
			OUTPUTS															
↓	Type of output <sup>33</sup>	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost
SPECIFIC OBJECTIVE No 1 <sup>34</sup> ...																		
- Output																		
- Output																		

<sup>33</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>34</sup> As described in Section 1.4.2. "Specific objective(s)..."

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

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

#### 3.2.3.1. Summary

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

As there are common elements in the implementation of the Asylum and Migration Fund and the Internal Security Fund such as a policy dialogue with each Member States and given that the internal organisation of DG HOME in order to ensure the management of the new Funds (as well as the closure of the programmes currently managed) may evolve, it is not possible to split the Administrative expenditure between the Asylum and Migration Fund and the Internal Security Fund.

Therefore the figures related to Heading 5 below correspond to the total administrative expenditure deemed necessary to ensure management of both Funds by DG and there is no total of appropriations.

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

<b>HEADING 5 of the multiannual financial framework<sup>35</sup></b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Human resources HOME	20.841	20.841	20.841	20.841	20.841	20.841	20.841	<b>145,887</b>
Other administrative expenditure	0,156	0,159	0,162	0,165	0,168	0,172	0,175	<b>1,157</b>
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<b>20.997</b>	<b>21.000</b>	<b>21.003</b>	<b>21.006</b>	<b>21.009</b>	<b>21.013</b>	<b>21.016</b>	<b>147.044</b>

<b>Outside HEADING 5<sup>36</sup> of the multiannual financial framework<sup>37</sup></b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Human resources HOME	0.640	0.640	0.640	0.640	0.640	0.640	0.640	<b>4.480</b>
Other expenditure of an administrative nature	1.860	1.860	1.860	1.860	1.860	1.860	1.860	<b>13.020</b>

<sup>35</sup> Global envelope, based on the 2011 Final Allocation for Human Resources, including officials and external staff

<sup>36</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

<sup>37</sup> External staff financed from former BA lines, based on the 2011 Final Allocation for Human Resources, including external staff at Headquarters and in Delegations



<b>Subtotal outside HEADING 5 of the multiannual financial framework</b>	<b>2.500</b>	<b>2.500</b>	<b>2.500</b>	<b>2.500</b>	<b>2.500</b>	<b>2.500</b>	<b>2.500</b>	<b>17.500</b>
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<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
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### 3.2.3.2. Estimated requirements of human resources

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

As there are common elements in the implementation of the Asylum and Migration Fund and the Internal Security Fund such as a policy dialogue with each Member States and given that the internal organisation of DG HOME in order to ensure the management of the new Funds (as well as the closure of the programmes currently managed) may evolve, it is not possible to split the Administrative expenditure between the Asylum and Migration Fund and the Internal Security Fund.

Therefore the figures related to Heading 5 below correspond to the total administrative expenditure deemed necessary to ensure management of both Funds by DG and there is no total of appropriations.

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

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6
<b>• Establishment plan posts (officials and temporary agents) HOME</b>							
18 01 01 01 (Headquarters and Commission's Representation Offices)	136	136	136	136	136	136	136
XX 01 01 02 (Delegations)	15	15	15	15	15	15	15
18 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
<b>• External personnel (in Full Time Equivalent unit: FTE)<sup>38</sup></b>							
18 02 01 (CA, INT, SNE from the "global envelope")	16	16	16	16	16	16	16
XX 02 02 (CA, INT, JED, LA and SNE in the delegations)	10	10	10	10	10	10	10
<b>18 01 04 bb</b> <sup>39</sup>	- at Headquarters <sup>40</sup>	4	4	4	4	4	4
	- in delegations	*	*	*	*	*	*
<b>18 01 04</b>	- at Headquarters <sup>41</sup>	6	6	6	6	6	6
	- in delegations	*	*	*	*	*	*

<sup>38</sup> CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

<sup>39</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>40</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

<sup>41</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>42</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

XX 01 05 02 (CA, INT, SNE - Indirect research)							
10 01 05 02 (CA, INT, SNE - Direct research)							
Other 13 01 04 02)							
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

XX is the policy area or budget title concerned.

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

Description of tasks to be carried out:

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

3.2.4. *Compatibility with the current multiannual financial framework*

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

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

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>43</sup>.

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

3.2.5. *Third-party contributions*

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

Appropriations in EUR million (to 3 decimal places)

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

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<sup>43</sup> See points 19 and 24 of the Interinstitutional Agreement.

### 3.3. Estimated impact on revenue

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

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative <sup>44</sup>							
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)			
Article .....									

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

Specify the method for calculating the impact on revenue.

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<sup>44</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.