Internal Security Fund: instrument for financial support for external borders and visa 2014-2020

2011/0365(COD) - 15/11/2011 - Legislative proposal

PURPOSE: to establish, as part of the Internal Security Fund, **the instrument for financial support for external borders and visa**. This Fund will take over from the External Borders Fund 2007-2013 which shall be repealed with effect from 1 January 2014.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the policies related 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 Union citizens and third-country nationals may enter, circulate, live and work.

In the field of Internal Security, key documents such as the Commission's Communication on the Internal Security Strategy have provided clear guidance on the direction of activities in the years to come.

For border management and visa policy, the Communication on Migration outlined in more detail the challenges ahead in relation to border security and the development of an area without internal borders. The Communication on the Schengen governance presented proposals to strengthen the Schengen acquis by means of a governance system capable of responding effectively, and in a timely and coordinated Union-wide way, to exceptional circumstances and challenges which might put the overall functioning of Schengen at stake. The Communication on smart borders – options and the way ahead outlines how new IT systems such as an Entry/exit system and a Registered Traveller Programme can contribute to a better management of migration flows in the Union.

A key component in the common integrated border management system has been the **development of Union solidarity mechanisms**, supporting a uniform and high-quality application of the Union standards on border management and the common visa policy. Enhancing the coordination of operational co-operation by the Member States on border control through the Frontex Agency constitutes an important step towards the development of the system. Moreover, with the External Borders Fund, the Union expresses solidarity through **financial assistance to those Member States that apply the Schengen provisions on external borders and visa**.

It is against this background that the Commission, in its proposal on the next multi-annual financial framework for the period 2014-2020, 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 the creation of an Asylum and Migration Fund**.

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. It 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.

On the basis of this study, the Commission drafted an **impact assessment report**. The main conclusion may be summarised as follows:

- to **broaden the scope of action for Union funding in the field of asylum and migration**, including as regards its external dimension,

- to work towards more **simplification of delivery mechanisms and greater flexibility**, notably to respond to emergencies.

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.

LEGAL BASIS: Article 77 (2) of the Treaty on the Functioning of the European Union (TFEU). The creation of the Internal Security Fund requires the adoption of **two legislative instruments which jointly constitute the Fund**. This overall structure was chosen in light of the Treaty obligations. 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 financial 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;

- This Regulation setting up, as part of the Fund, the border management and common visa policy component.

CONTENT: with this proposal, the Commission proposes to establish the instrument for financial support for the management of external borders and the common visa policy as part of the Internal Security Fund.

Jointly with the future Regulation establishing as part of the Internal Security Fund, the instrument for financial support for police co-operation, preventing and combating crime, and crisis management, this Regulation establishes for the period from 1 January 2014 to 31 December 2020 the Internal Security Fund.

Main objectives: the general objective of the Instrument shall be to contribute to ensuring a high level of security in the European Union.

Within the general objective, the Instrument shall contribute - in line with the priorities identified in relevant EU Strategies, programmes, threat and risk assessments - to the following **specific objectives**:

- **supporting a common visa policy** to facilitate legitimate travel, ensure equal treatment of third country nationals and tackle irregular migration;
- **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.

To achieve these objectives, the instrument shall contribute to the following operational objectives:

- **support and reinforce the national capabilities in the area of border control and visa policy** and thus expressing financial solidarity with the tasks entrusted to individual Member States at external borders and in consulates in the interest of the border-free area as a public service provided to the Union (national programmes, including "operating support");
- **finance the development of the smart border package**, i.e. the setting up of an EU Entry Exit System (EES) and an EU Registered Traveller Programme (RTP);
- **finance the introduction and operation of the European Border Surveillance System, EUROSUR**, notably through the purchase of equipment, infrastructure and systems in Member States;
- **reinforce the Schengen governance** and the evaluation and monitoring mechanism to verify the application of the Schengen acquis by (a) funding the operation of that mechanism under direct management; (b) introducing conditionalities based on compliance with the Schengen acquis for the disbursement of operating support to Member States and (c) requiring Member States to (re)allocate resources received for programmes under this instrument with priority to remedy weaknesses if these have been identified under the mechanism;
- **boost the operational potential of the Frontex Agency** by inviting Member States to earmark additional resources under their programmes for specialised equipment which can be put at the disposal of the Agency for its joint operations;
- support the development and implementation of the relevant Union policies in the EU, in and with third countries under "Union actions", thus improving the overall management of migration flows to the Union (projects managed either directly, such as studies or pilot projects to reinforce co-operation with third countries, or indirectly, in accordance with the Financial Regulation;
- have readily available adequate resources to provide emergency assistance in case of situations of urgent or exceptional migratory pressure;
- **continue support for the functioning of the Specific Transit Scheme for Lithuania**, in accordance with the obligations of the EU10, providing support to compensate for foregone fees from transit visas and additional costs incurred by Lithuania in implementing the Facilitated Transit Document (FTD) and Facilitated Rail Transit Document (FRTD) scheme, such as replacing and upgrading equipment, IT systems, training and operational costs.

For each of these objectives, key indicators are defined.

It should be noted that **actions related to the temporary and exceptional reintroduction of border control at internal borders as referred to in the Schengen Borders Code are not eligible**.

Implementation: the Commission envisages to give the implementation tasks of this programme to the Agency for the Operational Management of Large-Scale IT-Systems in the area of Freedom, Security and Justice (IT Agency). This Regulation would in this case be amended at the appropriate time to include the tasks specifically in the mission of the Agency.

Allocation of Funds: in view of the above, the allocation of funding under **shared management** is based on a combination of:

- a **basic amount allocated to the Member States** at the start of the next Multi-annual Financial Framework (MFF);
- a **flexible amount** to be added to the basic amount, allocated in two phases.

(1) The basic amount is allocated to the Member States at the start of the next MFF and calculated on the basis of objective criteria and needs. It is 60% of the overall envelope for national programmes and the allocations are laid down per Member State in Annex I of this Regulation. They are based on the 2010-2012 calculations under the External Borders Fund, whilst incorporating a minimum amount for each

Member State. This will ensure some continuity with the current MFF and give the Member States financial stability to plan their national multiannual programmes.

(2) The flexible amount will be added to the basic amount depending on the willingness of each Member State to finance under its national programme actions that respond to specific Union priorities. These specific actions are defined in Annex II and can be amended. In principle, it would be allocated in two phases: at the start of the MFF, as part of the policy dialogue and negotiations on the national programmes of the relevant Member States, and during a mid-term review in 2017.

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Mid-term review: this mid-term review would be the occasion to re-examine the situation in Member States and to allocate new resources for the remaining years of the MFF (2018-2020). These risk/needs assessments could be produced with the help of the Frontex Agency. Member States who, on the basis of these assessments, have more needs or face increased risks will receive an additional amount, thereby giving tangible expression to the principle of solidarity and responsibility-sharing.

Union agencies: to use more effectively the competences 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 to entrust, with the resources available under this Regulation, the implementation of specific tasks to such agencies, in the framework of their missions and in complementarity to their work programmes.

For the tasks covered under this Instrument this concerns in particular: (i) the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex Agency), for activities in and outside the Union requiring operational expertise on border control;(ii) the European Asylum Support Office (EASO), for activities such as training on asylum addressed to border guards; (iii) the European Police Office (Europol) and the European Police College (CEPOL) in the light of interagency co-operation of law enforcement authorites with border guards; (iv) the Agency for the Operational Management of Large-Scale IT-Systems in the Area of Freedom Security and Justice (IT Agency) insofar as the development of new IT systems is concerned.

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 available for the implementation of this specific Regulation amount to EUR 3,520 million.

Indicatively:

- about 61% of this amount (EUR 2 150 million) should be used for national programmes of Member States and the support to the Special Transit Scheme implemented by Lithuania;
- 31% (EUR 1 100 million) should be dedicated to the development of the smart border package and the remainder should then be available to fund Union actions, emergency actions and technical assistance, whilst taking into account also the contributions expected from the Schengen associated countries, which would be added to the total envelope.

Moreover, outside the scope of the Internal Security Fund, a separate envelope of EUR 822 million (current prices) is set aside for the management of existing large scale-IT systems (Schengen Information System II, Visa Information System and Eurodac). The management of these systems will gradually be transferred from the Commission to the future Agency for the Operational Management of Large-Scale IT-Systems in the Area of Freedom Security and Justice (IT Agency) after it begins operations in late 2012.

DELEGATED ACTS: in order to supplement or amend provisions in this instrument regarding the **definition of specific actions under the national programmes** 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. 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.