Commission Delegated Regulation (EU) 2018/1728 of 13 July 2018 supplementing Regulation (EU) No 515/2014 with regard to the allocation of extra funding from the EU budget to the implementation of the Entry Exit System

COMMISSION DELEGATED REGULATION (EU) 2018/1728

of 13 July 2018

supplementing Regulation (EU) No 515/2014 with regard to the allocation of extra funding from the EU budget to the implementation of the Entry Exit System

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC[(1)], and in particular the second subparagraph of Article 15 thereof,

Whereas:

(1) Article 5(5)(b) of Regulation (EU) No 515/2014 allocates EUR 791 million for developing IT systems supporting the management of migration flows across the external borders, subject to the adoption of the relevant Union legislative acts.

(2) Article 15 of Regulation (EU) No 515/2014 empowers the Commission to adopt a delegated act establishing the breakdown of the amount referred to in Article 5(5)(b) of Regulation (EU) No 515/2014 for developing IT systems, in the case where the breakdown of such amount is not made in the relevant Union legislative acts.

(3) Regulation (EU) 2017/2226 of the European Parliament and of the Council[(2)] establishes the Entry/Exit System (EES). The EES is a central component of the IT systems referred to in recitals 1 and 2. In addition, it is crucial that the implementation of Regulation (EU) 2017/2226 starts without further delay, so that the system is fully operational by 2020, as planned.

(4) Article 64 of Regulation (EU) 2017/2226 specifies the costs incurred in connection with the implementation of the EES that would be borne by the general budget of the Union thereby supporting these costs at a 100 % rate. However, that provision determines neither the size of extra funding that will be dedicated to cover those costs, nor its breakdown per type of costs and beneficiaries.

(5) From the financial envelope provided for in Article 5(5)(b) of Regulation (EU) No 515/2014, an overall allocation of EUR 480 241 000 should be made available to cover the costs linked to the application of Article 64(1) and (2) of Regulation (EU) 2017/2226.

(6) Of that overall allocation, an amount of EUR 287 863 000 should be made available to the European Agency for the operational management of large scale information

systems in the area of freedom, security and justice ('eu-LISA') to cover in accordance with Article 37 of Regulation (EU) 2017/2226, the costs related to the establishment and operation of the EES Central System, the Communication Infrastructure, the National Uniform Interface (NUI), the web service and the data repository referred to in Article 63(2) of Regulation (EU) 2017/2226, as provided in Article 64(1) of that Regulation.

(7) Of that overall allocation, an amount of EUR 192 378 000 should be made available to the Member States to cover the costs incurred in connection with the integration of the existing national border infrastructure and its connection to the NUI, as well as in connection with hosting the NUI, as provided for in Article 64(2) of Regulation (EU) 2017/2226. In addition, that amount should cover the costs linked to the establishment and operation of the NUI as referred to in Article 64(1) of Regulation (EU) 2017/2226, as those costs are incurred both by eu-LISA and the Member States.

(8) In accordance with the second subparagraph of Article 64(2) of Regulation (EU) 2017/2226, the amount of EUR 192 378 000 cannot be used to support the costs listed in that subparagraph. However those costs would be eligible for funding under the national programmes in the Internal Security Fund established by Regulation (EU) No 515/2014 at the co-financing rate referred to in Article 16(3), (4) and (5) of Regulation (EU) No 514/2014.

(9) Given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, decided to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law.

(10) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC[(3)]; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. This Regulation should therefore not be addressed to the United Kingdom.

(11) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[(4)]; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. This Regulation should therefore not be addressed to Ireland.

(12) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*[(5)] which falls within the areas referred to in Article 1, Points A and B of Council Decision 1999/437/EC[(6)].

(13) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's

association with the implementation, application and development of the Schengen *acquis*[7] which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[8].

(14) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*[9] which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[10].

(15) In order to allow for the prompt application of the measures provided for in this Regulation, the Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(16) The measures provided for in this Regulation are in accordance with the opinion expressed by experts from all Member States consulted specifically for that purpose.

(17) Regulation (EU) No 515/2014 should therefore be supplemented accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

1 A total amount of EUR 480 241 000 shall be allocated from the general budget of the Union to cover the costs of implementation of Regulation (EU) 2017/2226 in accordance with Article 64 of that Regulation.

2 The amount referred to in paragraph 1 shall be taken from the amount of EUR 791 000 000 earmarked for the development of IT systems referred to in Article 5(5)(b) of Regulation (EU) No 515/2014.

Article 2

The amount referred to in Article 1(1) shall be used as follows:

(a) EUR 287 863 000 shall be allocated to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 to cover the costs referred to in Article 64(1) of Regulation (EU) 2017/2226;

(b) EUR 192 378 000 shall be allocated to the Member States to cover the costs referred to in Article 64(2) of Regulation (EU) 2017/2226 as well as the costs incurred in connection with the establishment and operation of the National Uniform Interface as referred to in Article 64(1) of Regulation (EU) 2017/2226. In accordance with Article 64(1) and (2) of Regulation (EU) 2017/2226, the contribution from the Union budget to the costs incurred shall amount to 100 % of the total eligible expenditure. Such contribution shall be allocated in equal shares to the Member States.