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

REGULATION (EU) No 516/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 April 2014

establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

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

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) The Union's objective to constitute an area of freedom, security and justice should be achieved, inter alia, through common measures framing a policy on asylum and immigration, based on solidarity between Member States, which is fair towards third countries and their nationals. The European Council of 2 December 2009 recognised that financial resources within the Union should be made increasingly flexible and coherent, in terms of both scope and applicability, to support policy developments in the field of asylum and migration.

(2) In order to contribute to the development of the common Union policy on asylum and immigration and to the strengthening of the area of freedom, security and justice in the light of the application of the principles of solidarity and responsibility-sharing between the Member States and cooperation with third countries, this Regulation should establish the Asylum, Migration and Integration Fund ('the Fund').

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

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 516/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

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

(6) The Fund should create a flexible framework allowing Member States to receive financial resources under their national programmes to support the policy areas under the Fund according to their specific situation and needs, and in the light of the general and specific objectives of the Fund, for which the financial support would be the most effective and appropriate.

(7) The Fund should express solidarity through financial assistance to Member States. It should enhance the effective management of migration flows to the Union in areas where the Union adds maximum value, in particular by sharing responsibility between Member States and by sharing responsibility and strengthening cooperation with third countries.

(8) In order to contribute to the achievement of the general objective of the Fund, Member States should ensure that their national programmes include actions addressing the specific objectives of this Regulation, and that the allocation of resources between objectives ensures that the objectives can be met. In the unusual event that a Member State wishes to derogate from the minimum percentages laid down in this Regulation, the Member State concerned should provide a detailed justification within its national programme.

(9) To ensure a uniform and high-quality asylum policy and apply higher standards of international protection, the Fund should contribute to the effective functioning of the Common European Asylum System, which encompasses measures relating to policy, legislation, and capacity-building, while acting in cooperation with other Member States, Union agencies and third countries.

(10) It is appropriate to support and improve the efforts made by Member States to fully and properly implement the Union asylum *acquis*, in particular to grant appropriate reception conditions to displaced persons and applicants for, and beneficiaries of, international protection, to ensure the correct determination of status, in accordance with Directive 2011/95/EU of the European Parliament and of the Council[(4)], to apply fair and effective asylum procedures and to promote good practice in the field of asylum, so as to protect the rights of persons requiring international protection and enable Member States' asylum systems to work efficiently.

(11) The Fund should offer adequate support to joint efforts by Member States to identify, share and promote best practices and establish effective cooperation structures in order

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 516/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

to enhance the quality of decision-making in the framework of the Common European Asylum System.

(12) The Fund should complement and reinforce the activities undertaken by the European Asylum Support Office ('EASO') established by Regulation (EU) No 439/2010 of the European Parliament and of the Council[(5)], with a view to coordinating practical cooperation between Member States on asylum, supporting Member States subject to particular pressure on their asylum systems and contributing to the implementation of the Common European Asylum System. The Commission may make use of the possibility offered by Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(6)] to entrust EASO with the implementation of specific, ad hoc tasks, such as the coordination of Member States' actions on resettlement in accordance with Regulation (EU) No 439/2010.

(13) The Fund should support the efforts by the Union and the Member States relating to the enhancement of the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under existing Union law.

(14) The Fund should support the efforts made by Member States to provide international protection and a durable solution in their territories to refugees and displaced persons identified as eligible for resettlement by the United Nations High Commissioner for Refugees ('UNHCR'), such as the assessment of the resettlement needs and transfer of the persons concerned to their territories, with a view to granting them a secure legal status and to promoting their effective integration.

(15) The Fund should provide support for new approaches concerning access to asylum procedures in a safer manner, in particular by targeting main countries of transit such as protection programmes for particular groups or certain procedures for examination of applications for asylum.

(16) It is in the nature of the Fund that it should be able to provide support to voluntary burden-sharing operations agreed between Member States and consisting of the transfer of beneficiaries of international protection, and of applicants for international protection, from one Member State to another.

(17) Partnerships and cooperation with third countries to ensure the adequate management of inflows of persons applying for asylum or other forms of international protection are an essential component of Union asylum policy. With the aim of providing access to international protection and durable solutions at the earliest possible stage, including in the framework of Regional Protection Programmes, the Fund should include a strong Union resettlement component.

(18) To improve and reinforce the integration process in European societies, the Fund should facilitate legal migration to the Union in accordance with the economic and social needs of Member States and anticipate the preparation of the integration process already in the country of origin of the third-country nationals coming to the Union.

(19) In order to be efficient and achieve the greatest added value, the Fund should pursue a more targeted approach, in support of consistent strategies specifically designed to promote the integration of third-country nationals at national, local

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 516/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

and/or regional level, where appropriate. Those strategies should be implemented mainly by local or regional authorities and non-state actors, while not excluding national authorities, in particular where the specific administrative organisation of a Member State would so require, or where, in a Member State, integration actions fall within a competence shared between the State and decentralised administration. The implementing organisations should choose the measures most appropriate to their particular situation from a range of measures available.

(20) The implementation of the Fund should be consistent with the Union's Common Basic Principles on Integration, as specified in the Common Programme for Integration.

(21) The scope of the integration measures should also include beneficiaries of international protection in order to ensure a comprehensive approach to integration, taking into account the specificities of those target groups. Where integration measures are combined with reception measures, actions should, where appropriate, also allow applicants for international protection to be included.

(22) To ensure the consistency of the Union's response to the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund. In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to establish cooperation and coordination mechanisms with the authorities designated by Member States for the purpose of the management of the interventions of the European Social Fund.

(23) For practical reasons, some actions may concern a group of people which can be more efficiently addressed as a whole, without distinguishing between its members. It would therefore be appropriate to provide for the possibility for those Member States that would so wish to provide in their national programmes that integration actions may include immediate relatives of third-country nationals, to the extent that it is necessary for the effective implementation of such actions. The term 'immediate relative' would be understood as meaning spouses, partners, and any person having direct family links in descending or ascending line with the third-country national targeted by the integration action, and who would otherwise not be covered by the scope of the Fund.

(24) The Fund should support Member States in setting up strategies organising legal migration, enhancing their capacity to develop, implement, monitor and evaluate in general all immigration and integration strategies, policies and measures for third-country nationals, including Union legal instruments. The Fund should also support the exchange of information, best practices and cooperation between different departments of administration as well as with other Member States.

(25) The Union should continue and expand the use of Mobility Partnerships as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries. The Fund should support activities in the framework of Mobility Partnerships taking place either in the Union or in third countries and aimed at pursuing Union needs and priorities, in particular actions ensuring the continuity of funding encompassing both the Union and third countries.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 516/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(26) It is appropriate to continue supporting and encouraging efforts by the Member States to improve the management of the return of third-country nationals in all its dimensions, with a view to the continuous, fair and effective implementation of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council[(7)]. The Fund should promote the development of return strategies at national level within the concept of integrated return management, and also measures supporting their effective implementation in third countries.

(27) As regards the voluntary return of persons, including persons who wish to be returned even though they are under no obligation to leave the territory, incentives for such returnees, such as preferential treatment in the form of enhanced return assistance, should be envisaged. This kind of voluntary return is in the interests of both returnees and the authorities in terms of its cost-effectiveness. Member States should be encouraged to give preference to voluntary return.

(28) However, from a policy point of view, voluntary and enforced return are interlinked and have a mutually reinforcing effect, and Member States should therefore be encouraged in their return management to reinforce the complementarities of the two forms. There is a need to carry out removals in order to safeguard the integrity of the immigration and asylum policy of the Union and the immigration and asylum systems of the Member States. Thus, the possibility of removals is a prerequisite for ensuring that this policy is not undermined and for enforcing the rule of law, which itself is essential to the creation of an area of freedom, security and justice. The Fund should therefore support actions of Member States to facilitate removals in accordance with the standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.

(29) It is essential for the Fund to support specific measures for returnees in the country of return, in order to ensure their effective return to their town or region of origin under good conditions and to enhance their durable reintegration into their community.

(30) Union readmission agreements are an integral component of the Union return policy and a central tool for the efficient management of migration flows, as they facilitate the swift return of irregular migrants. Those agreements are an important element in the framework of the dialogue and cooperation with third countries of origin and transit of irregular migrants, and their implementation in third countries should be supported in the interests of effective return strategies at national and Union level.

(31) The Fund should complement and reinforce the activities undertaken by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, established by Council Regulation (EC) No 2007/2004[(8)], part of the tasks of which are to provide Member States with the necessary support for organising joint return operations and identifying best practices on the acquisition of travel documents and the removal of illegally staying third-country nationals in the territories of the Member States, as well as to assist Member States in circumstances requiring increased technical and operational assistance at the external borders, taking into account that some situations may involve humanitarian emergencies and rescue at sea.