Regulation (EU) No 513/2014 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 police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA

REGULATION (EU) No 513/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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,

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 of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the European Union (TFEU) 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 and other national authorities of Member States, including with Europol or other relevant Union bodies, and with relevant third countries and international organisations.

(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, organised crime, itinerant crime, drug trafficking, corruption, cybercrime, 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 ('Internal Security Strategy'), adopted by the Council in February 2010, constitutes a shared agenda for tackling these common security challenges. The Commission Communication of 22 November 2010 entitled 'The EU Internal Security Strategy in Action: Five steps toward a more secure Europe' translates the strategy's principles and guidelines into 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 in the face of crises and disasters.

(4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and freedoms and the rule of law, a strong focus on the global perspective and on the link and the necessary coherence 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 and managing an Internal Security Fund ('the Fund').

(6) 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.

(7) 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.

(8) In times of austerity for Union policies, overcoming economic problems requires renewed flexibility, innovative organisational measures, better use of existing structures, and coordination between the Union's institutions, agencies and national authorities and with third countries.

(9) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources.

(10) The EU policy cycle established by the Council on 8-9 November 2010 aims at tackling the most important serious and organised criminal threats to the Union in a coherent and methodical manner through optimum cooperation between the relevant services. In order to support an effective implementation of this multiannual cycle, funding under the instrument established by this Regulation (the 'Instrument') should make use of all possible methods of implementation as set out in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(4)], including, where appropriate, by indirect management, to ensure the timely and efficient delivery of the activities and projects.

(11) Due to the legal particularities applicable to Title V TFEU, it is not possible to establish the Fund as a single financial instrument. The Fund should therefore be established as a comprehensive framework for Union financial support in the field of internal security comprising the Instrument and the instrument for financial support for external borders and visa established by Regulation (EU) No 515/2014 of the European Parliament and of the Council[(5)]. That comprehensive framework should be complemented by Regulation (EU) No 514/2014 of the European Parliament and of the Council[(6)].

(12) Cross-border crime such as human trafficking and exploitation of illegal immigration by criminal organisations may be tackled effectively through police cooperation.

(13) The global resources for this Regulation and for Regulation (EU) No 515/2014 jointly lay down the financial envelope for the entire duration of the Fund, which is to constitute the prime reference amount within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[7], for the European Parliament and the Council during the annual budgetary procedure.

(14) The European Parliament resolution of 23 October 2013 on organised crime, corruption and money laundering recognised that the fight against organised crime is a European challenge and called for more cooperation between Member States in the law enforcement field, as tackling organised crime effectively is fundamental to protecting the lawful economy from typical criminal activities such as the laundering of the proceeds of crime.

(15) Within the comprehensive framework of the Fund, the financial assistance provided under the Instrument should support police cooperation, exchange of and access to information, crime prevention, the fight against cross-border, serious and organised crime including terrorism, corruption, drug trafficking, trafficking in human beings and arms, exploitation of illegal immigration, child sexual exploitation, distribution of child abuse images and child pornography, cybercrime, laundering of the proceeds of crime, the protection of people and critical infrastructure against security-related incidents and the effective management of security-related risks and crises, taking into account common policies (strategies, policy cycles, programmes and action plans), legislation and practical cooperation.

(16) 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 in accordance with the competencies set out in the TFEU, awareness raising activities, testing and validation of new technology, forensic science research, the acquisition of technical interoperable equipment and cooperation between Member States and relevant Union bodies, including Europol. Financial assistance in these areas should only support actions which are consistent with priorities and initiatives identified at Union level, in particular those that have been endorsed by the European Parliament and the Council.

(17) Within the comprehensive framework of the Union's anti-drugs strategy that advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under this Instrument should support all actions aimed at preventing and combating trafficking in drugs (supply reduction), and in particular measures targeting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including possession and purchase, with a view to engaging in drug trafficking activities.

(18) Measures in and in relation to third countries supported through the Instrument should be adopted 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 Union external action and foreign policy related to the country or region in question, democratic principles and values, fundamental liberties and rights, the rule of law and the sovereignty of third countries. The measures should not be intended to support directly development-oriented actions and should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence should also be sought with Union humanitarian policy, in particular as regards the implementation of emergency measures.

(19) The Instrument should be implemented in full respect for the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and for the Union's international obligations.

(20) Pursuant to Article 3 of the Treaty on European Union (TEU), the Instrument should support activities which ensure the protection of children against violence, abuse, exploitation and neglect. The Instrument should also support safeguards and assistance for child witnesses and victims, in particular those who are unaccompanied or otherwise in need of guardianship.

(21) The Instrument should complement and reinforce the activities undertaken to develop cooperation between Europol or other relevant Union bodies and Member States in order to achieve the objectives of the Instrument in the field of police cooperation, preventing and combating crime, and crisis management. This means, inter alia, that, when drawing up their national programmes, Member States should take into account the information database, analytical tools and operational and technical guidelines developed by Europol, in particular the Europol information system (EIS), the Europol Secure Information Exchange Network Application (SIENA) and the EU Serious and Organised Crime Threat Assessment (SOCTA).

(22) In order to ensure a uniform implementation of the Fund, the Union budget allocated to the Instrument should be implemented by direct and indirect management in respect of actions of particular interest to the Union ('Union actions'), emergency assistance and technical assistance, and by shared management in respect of national programmes and actions requiring administrative flexibility.

(23) For the resources implemented under shared management, it is necessary to ensure that the Member States' national programmes are consistent with Union priorities and objectives.

(24) The resources allocated to Member States for implementation through their national programmes should be established in this Regulation and distributed on the basis of clear, objective and measurable criteria. Those criteria should relate 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 and their gross domestic product. Moreover, since SOCTA of 2013 points out the

prevalent importance of sea and air ports as entry points for criminal organisations for trafficking in human beings and illegal commodities, specific vulnerabilities represented by crime routes at these external crossings should be reflected in the distribution of available resources for actions undertaken by Member States through criteria relating to the number of passengers and weight of cargo processed through international air and seaports.

(25) To reinforce solidarity and responsibility sharing for common Union policies, strategies and programmes, Member States should be encouraged to use a part of the global resources available for the national programmes to address the strategic Union priorities set out in Annex I to this Regulation. For projects addressing those priorities, the Union contribution to their total eligible cost should be increased to 90 %, in accordance with Regulation (EU) No 514/2014.

(26) The ceiling for resources which remain at the disposal of the Union should be complementary to the resources allocated to Member States for the implementation of their national programmes. That 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.

(27) In order to contribute to the achievement of the general objective of the Instrument, Member States should ensure that their national programmes include actions addressing all the specific objectives of the Instrument and that the allocation of resources between the objectives is proportionate to the challenges and needs and ensures that the objectives can be met. Where a national programme does not address one of the specific objectives or the allocation is below the minimum percentages set in this Regulation, the Member State concerned should provide a justification within the programme.

(28) In order to strengthen the Union's capacity to react immediately to security-related incidents or newly emerging threats to the Union, it should be possible to provide emergency assistance in accordance with the framework set out in Regulation (EU) No 514/2014.

(29) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared with action by 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.

(30) In order to supplement or amend provisions in this Regulation regarding the definition of strategic Union priorities, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, adding or deleting strategic Union priorities listed in this Regulation. It is of particular importance