Commission Implementing Regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II)

COMMISSION IMPLEMENTING REGULATION (EU) No 447/2014

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on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II)[(1)] and in particular Article 12 thereof,

Whereas:

(1) Regulation (EU) No 236/2014 of the European Parliament and of the Council[(2)] lays down rules and procedures for the implementation of assistance which are common to all nine instruments for external action. Additional specific rules should be laid down for addressing the specific situations in particular for indirect management, for cross-border cooperation programmes financed under the policy area 'regional and territorial cooperation' and rural development programmes financed under the policy area 'agriculture and rural development'.

(2) In order to ensure that pre-accession assistance is implemented in all beneficiaries listed in Annex I to the Regulation (EU) No 231/2014 (hereafter 'the IPA II beneficiaries') in the same way and respecting the principles of sound financial management, the Commission and the IPA II beneficiaries should conclude arrangements in the form of framework and sector-specific agreements laying down the principles for their cooperation under this Regulation.

(3) The Commission should support the IPA II beneficiaries in their efforts to develop their capacity to manage Union funds according to the principles and rules provided for in Union legislation. To this effect and where appropriate, the Commission should entrust budget implementation tasks to the IPA II beneficiaries.

(4) The ownership of the programming and implementation of IPA II assistance should primarily lay with the IPA II beneficiaries which should establish the required structures and authorities and submit requests to the Commission to be entrusted with budget implementation tasks.

(5) It is therefore necessary to set out specific rules for entrusting budget implementation tasks to the IPA II beneficiaries in accordance with Regulation (EU, Euratom) No

966/2012 of the European Parliament and of the Council[3] and Commission Delegated Regulation (EU) No 1268/2012[4].

(6) The conditions that need to be met by an acceding country are incumbent to ensure an overall quality of public financial management.

(7) It is necessary to define specific rules for establishing financial corrections and the procedure to be applied towards the IPA II beneficiaries when implementing Union assistance under indirect management.

(8) In order to ensure the effectiveness, efficiency, coherence and coordination of the implementation of Union pre-accession financial assistance provided under Regulation (EU) No 231/2014 (hereinafter referred to as 'IPA II assistance'), Regulation (EU) No 236/2014 should be complemented by detailed rules on monitoring and evaluation.

(9) Specific rules for reporting are necessary in order to further detail the reporting requirements to be complied with by the IPA II beneficiary.

(10) Specific rules concerning the transparency and visibility of IPA II assistance should be defined in order to comply effectively with Regulation (EC) No 45/2001 of the European Parliament and of the Council[5], Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

(11) IPA II assistance should be used, inter alia, to promote cross-border cooperation between IPA II beneficiaries as well as between IPA II beneficiaries and Member States or countries falling within the scope of the European Neighbourhood Instrument established by Regulation (EU) No 232/2014 of the European Parliament and of the Council[6]. The roles and responsibilities of the intervening actors need to be specified, taking into account the different situations in particular as regards cross-border cooperation between IPA II beneficiaries and Member States.

(12) IPA II assistance under rural development programmes in the policy area 'agriculture and rural development' should promote a gradual alignment with the *acquis* on the Common Agricultural Policy. Specific rules are necessary to finance operations of a similar nature to those under the European Agriculture Fund for Rural Development, through management and control systems resembling the respective structures with functions of a similar nature in the Member States.

(13) In order to allow for timely programming and implementation of the IPA II 2014 programmes, this Regulation should enter into force on the third day following its publication in the *Official Journal of the European Union*.

(14) The measures provided for in this Regulation are in accordance with the opinion of the IPA II Committee,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 447/2014. (See end of Document for details)*

TITLE I

SUBJECT MATTER AND GENERAL FRAMEWORK FOR IMPLEMENTATION OF IPA ASSISTANCE

CHAPTER I

Subject matter and definitions

Article 1

Subject matter

This Regulation lays down specific rules establishing uniform conditions for implementing Regulation (EU) No 231/2014 and detailed rules implementing Regulation (EU) No 236/2014 with regards to methods of implementation, financial management, monitoring, evaluation and reporting, transparency and visibility of IPA II assistance as well as specific rules for cross-border cooperation in the policy area 'regional and territorial cooperation' and assistance under rural development programmes in the policy area 'agriculture and rural development'.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) 'IPA II beneficiary' means one of the beneficiaries listed in Annex I to Regulation (EU) No 231/2014;

(b) 'programme' means an action programme, individual, special or support measures provided for in Articles 2 and 3 of Regulation (EU) No 236/2014;

(c) 'framework agreement' means an arrangement concluded between the Commission and an IPA II beneficiary applying to all IPA II policy areas and laying down the principles of the financial cooperation between the IPA II beneficiary and the Commission under this Regulation;

(d) 'sectoral agreement' means an arrangement concluded between the Commission and an IPA II beneficiary relating to a specific IPA II policy area or programme, setting out the rules and procedures to be respected which are not contained in the framework agreement or financing agreements;

(e) 'policy area(s)' means the main areas of cooperation addressed by actions funded by IPA II assistance, as provided for in Article 3(1) of Regulation (EU) No 231/2014;

(f) 'authorities' means public entities or bodies of an IPA II beneficiary or a Member State at national, regional or local level;

(g) 'major project' means a project comprising of a series of works, activities or services which is intended, in itself, to accomplish a definite and indivisible task of a precise economic or technical nature, which has clearly identified goals and whose total cost exceeds that which is specified in the Framework Agreement;

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 447/2014. (See end of Document for details)*

(h) 'participating countries' means the IPA II beneficiaries alone or the IPA II beneficiaries together with the Member State(s) or with the countries falling within the scope of the European Neighbourhood Instrument participating in a multi-annual programme for cross-border cooperation jointly drawn up by the participating countries;

(i) 'financing agreement' means an annual or multi-annual agreement concluded between the Commission and an IPA II beneficiary, for implementing the Union's financial assistance through an action falling within the scope of this Regulation.

CHAPTER II

General Framework for Implementation of IPA II Assistance

Article 3

Principles of Union financing

1 IPA II assistance shall support the implementation of the IPA II beneficiaries' reform efforts as referred to in Article 1 of Regulation (EU) No 231/2014. Specific programmes and stand-alone actions may require both IPA II beneficiary and Union financial contributions.

2 An expenditure item financed under Regulation (EU) No 231/2014 shall not be subject to any other financing under the Union budget.

Article 4

Principle of ownership

1 The ownership of the programming and implementation of IPA II assistance lays primarily with the IPA II beneficiary.

2 The IPA II beneficiary shall appoint a National IPA Coordinator (NIPAC), who shall be the main counterpart of the Commission for the overall process of: strategic planning, coordination of programming, monitoring of implementation, evaluation and reporting of IPA II assistance.

The NIPAC shall:

a ensure coordination within the IPA II beneficiary's administration and with other donors and a close link between the use of IPA II assistance and the general accession process;

b coordinate the participation of IPA II beneficiaries in the relevant territorial cooperation programmes, in particular cross-border cooperation programmes referred to in points (a) to (c) of Article 27 and, if appropriate, transnational or interregional cooperation programmes established and implemented under Regulation (EU) No 1299/2013. The NIPAC may delegate this coordination task to a territorial cooperation coordinator or operating structure as appropriate;

c ensure that the objectives set out in the actions or programmes proposed by the IPA II beneficiaries are coherent with the objectives in the Country Strategy Papers and take due account of the relevant macro-regional and sea basin strategies;

d endeavour that the IPA II beneficiary's administration takes all necessary steps to facilitate the implementation of the related programmes.

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The NIPAC shall be a high-ranking representative of the government or the national administration of the IPA II beneficiary with the appropriate authority.

3 To provide a strengthened basis for the management of pre-accession assistance and national funds, the Commission and the IPA II beneficiary shall engage in a dialogue on public financial management. In this respect, the Commission shall assess the level of compliance of the administration of the IPA II beneficiary with the principles of an open and orderly public financial management system. Where the administration complies with those requirements only in part, the IPA II beneficiary and the authorising officer responsible shall agree on the necessary measures to address the identified deficiencies.

Article 5

Framework agreements and sectoral agreements

1 The Commission and the IPA II beneficiary shall conclude a framework agreement setting out specific arrangements for the management, control, supervision, monitoring, evaluation, reporting and audit of IPA II assistance committing the IPA II beneficiary to transpose into its legal order the relevant Union regulatory requirements. The framework agreement may be complemented by sectoral agreements setting out specific provisions for the management and implementation of IPA II assistance in specific policy areas or programmes.

2 IPA II assistance shall only be granted to the IPA II beneficiary after the framework agreement referred to in paragraph 1 has entered into force. Where sectoral agreements are concluded, IPA II assistance under the policy area or programme concerned shall be granted after the entry into force of both the framework agreement and the applicable sectoral agreement.

3 The framework agreement shall apply to all financing agreements referred to in Article 6. Sectoral agreements, where relevant, shall apply to all financing agreements concluded in relation to the policy area or programme covered by the sectoral agreement.

4 The framework agreement and, where relevant, sectoral agreements shall lay down, in particular, detailed provisions concerning:

a the structures and authorities needed for the management, control, supervision, monitoring, evaluation, reporting and audit of IPA II assistance, as well as their functions and responsibilities;

b conditions and control requirements for:

(i) the establishment of the required structures and authorities by the IPA II beneficiary in order to allow for entrusting budget implementation tasks of IPA II assistance;

(ii) the monitoring, suspension or termination of the budget implementation tasks entrusted;

c programming and implementation of IPA II assistance and in particular provisions concerning aid intensities, rates of Union contribution and eligibility;

d procurement, grant and other award procedures, in accordance with Articles 1(3), 8 and 10 of Regulation (EU) No 236/2014;

e rules on taxes, customs duties and other fiscal charges in accordance with Article 5 of Regulation (EU) No 236/2014;

f requirements for payments, examination and acceptance of accounts and financial corrections procedures and de-commitment of unused funds;