Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC

REGULATION (EU) No 250/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 2014

establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/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 325 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 Court of Auditors[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The Union and the Member States have set themselves the objective of countering fraud, corruption and any other illegal activities affecting the financial interests of the Union, including cigarette smuggling and counterfeiting. In order to improve the long-term impact of spending and to avoid duplication, close and regular cooperation and coordination should be ensured at Union level and between Member States' authorities.

(2) Activities with the aim of providing better information, specialised training, including comparative law studies and technical and scientific assistance, help significantly to protect the financial interests of the Union and at the same time to attain an equivalent level of protection across the Union.

(3) Past support for such activities through Decision No 804/2004/EC of the European Parliament and of the Council[(3)] (Hercule programme), which was amended and extended by Decision No 878/2007/EC of the European Parliament and of the Council[(4)] (Hercule II programme), has made it possible to enhance the activities undertaken by the Union and the Member States in terms of countering fraud, corruption and any other illegal activities affecting the financial interests of the Union.

(4) The Commission has conducted a review of the achievements of the Hercule II programme which reports on its inputs and outputs.

(5) The Commission carried out an impact assessment in 2011, so as to evaluate the need to continue the programme.

(6) To continue and even develop the activities at Union and Member State levels to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting, also taking into account the new challenges in a context of budgetary austerity, a new programme ('the Programme') should be adopted.

(7) The Programme should be implemented taking into account the recommendations and measures listed in the Commission communication of 6 June 2013 entitled 'Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products — A comprehensive EU Strategy'.

(8) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(5)]. In accordance with that Regulation, a grant is meant to support financially an action intended to help achieve a Union policy objective and is not to have as its sole purpose the purchase of equipment.

(9) The Programme should be open to participation by acceding States, candidate countries and potential candidates benefiting from a pre-accession strategy, as well as partner countries under the European Neighbourhood Policy, provided that these countries have reached a sufficient level of alignment of the relevant legislation and administrative methods to those of the Union, in accordance with the general principles and general terms and conditions for the participation of those States and countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements, as well as the countries of the European Free Trade Association (EFTA) participating in the European Economic Area (EEA).

(10) The Commission should present to the European Parliament and to the Council an independent mid-term evaluation report on the implementation of the Programme, as well as a final evaluation report on the achievement of the objectives of the Programme. Furthermore, the Commission should provide, on an annual basis, the European Parliament and the Council with information on the annual implementation of the Programme, including results of the funded actions and information on the consistency and the complementarity with regard to other relevant programmes and actions at Union level.

(11) This Regulation complies with the principles of subsidiarity and proportionality. The Programme should facilitate cooperation between the Member States and between the Commission and the Member States in order to protect the financial interests of the Union, using resources more efficiently than could be done at national level. Action at Union level is necessary and justified as it clearly assists Member States collectively to protect the general budget of the Union and national budgets and encourages the use of common Union structures to increase cooperation and information exchange between competent authorities. The Programme should not, however, impinge on Member States' responsibilities.

(12) The Programme should run for a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU, Euratom) No 1311/2013[(6)].

(13) In order to provide for a degree of flexibility in the allocation of funds, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the indicative allocation of those funds. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. 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 to the Council.

(14) The Commission should adopt annual work programmes containing the actions financed, the selection and award criteria and the exceptional and duly justified cases, such as those concerning Member States exposed to a high risk in relation to the financial interests of the Union, in which the maximum co-financing rate of 90 % of the eligible costs is applicable. The Commission should discuss with the Member States the application of this Regulation in the framework of the Advisory Committee for the Coordination of Fraud Prevention set up by Commission Decision 94/140/EC[(7)].

(15) Member States should endeavour to enhance their financial contributions under the co-financing of grants awarded under the Programme.

(16) The Commission should undertake the necessary steps to ensure that the annual work programmes are consistent with and complementary to other relevant programmes funded by the Union, in particular in the area of customs, in order to strengthen the overall impact of the actions of the Programme and to avoid any overlapping of the Programme with other programmes.

(17) This Regulation lays down a financial envelope for the entire duration of the Programme 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[(8)] for the European Parliament and the Council during the annual budgetary procedure.

(18) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

(19) Decision No 804/2004/EC should be repealed. Transitional measures should be adopted to enable the completion of financial obligations relating to actions pursued under that Decision and of reporting obligations specified therein.

(20) It is appropriate to ensure a smooth transition without interruption between the Hercule II programme and the Programme and it is appropriate to align the duration of the

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 250/2014 of the European Parliament and of the Council. (See end of Document for details)*

Programme with Regulation (EU, Euratom) No 1311/2013. Therefore, the Programme should apply as from 1 January 2014,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The multiannual action programme to promote activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union 'Hercule III' ('the Programme') is hereby established for the period from 1 January 2014 to 31 December 2020.

Article 2

Added value

The Programme shall contribute to all of the following:

(a) the development of activities at Union level and the Member States to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting;

(b) increased transnational cooperation and coordination at Union level, between Member States' authorities, the Commission and the European Anti-Fraud Office (OLAF), and in particular with regard to the effectiveness and efficiency of cross-border operations;

(c) the effective prevention of fraud, corruption and any other illegal activities affecting the financial interests of the Union, by offering joint specialised training for staff of national and regional administrations, and for other stakeholders.

The Programme in particular shall create savings deriving from the collective procurement of specialised equipment and databases to be used by the stakeholders and those derived from specialised training.

Article 3

General objective

The general objective of the Programme shall be to protect the financial interests of the Union thus enhancing the competitiveness of the Union's economy and ensuring the protection of the taxpayers' money.

Article 4

Specific objective

The specific objective of the Programme shall be to prevent and combat fraud, corruption and any other illegal activities affecting the financial interests of the Union.

The specific objective shall be measured referring, inter alia, to target levels and baselines and through all of the following key performance indicators:

(a) the number of seizures, confiscations and recoveries following fraud cases detected by joint actions and cross-border operations;

(b) the added value and effective use of the co-financed technical equipment;

(c) the exchange of information among Member States on the results achieved with the technical material;

(d) the number and type of training activities, including the amount of specialised training.

Article 5

Operational objectives

The operational objectives of the Programme shall be all of the following:

(a) to improve the prevention and investigation of fraud and other illegal activities beyond current levels by enhancing transnational and multi-disciplinary cooperation;

(b) to increase the protection of the financial interests of the Union against fraud by facilitating the exchange of information, experiences and best practices, including staff exchanges;

(c) to strengthen the fight against fraud and other illegal activities by providing technical and operational support to national investigation, and in particular customs and law enforcement, authorities;

(d) to limit the currently known exposure of the financial interests of the Union to fraud, corruption and other illegal activities with a view to reducing the development of an illegal economy in key risk areas such as organised fraud, including cigarette smuggling and counterfeiting;

(e) to enhance the degree of development of the specific legal and judicial protection of the financial interests of the Union against fraud by promoting comparative law analysis.

Article 6

Bodies eligible for funding

Each of the following bodies shall be eligible for funding under the Programme:

(a) national or regional administrations of a participating country, as referred to in Article 7(1), which promote the strengthening of action at Union level to protect the financial interests of the Union;