Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011 amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network

REGULATION (EU) No 493/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 April 2011

amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network

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 79(2)(c) and Article 74 thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) Council Regulation (EC) No 377/2004[(2)] lays down the obligation to establish forms of cooperation among immigration liaison officers of Member States, the objectives of such cooperation, the functions and appropriate qualifications of such liaison officers, as well as their responsibilities vis-à-vis the host country and the posting Member State.

(2) Council Decision 2005/267/EC[(3)] established a secure web-based Information and Coordination Network for Member States' Migration Management Services for the exchange of information on irregular migration, illegal entry and immigration and the return of illegal residents. Under that Decision the elements for information exchange are to include the network of immigration liaison officers.

(3) Council Regulation (EC) No 2007/2004[(4)] established a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). Frontex is tasked with preparing general and tailored risk analyses to be submitted to the Council and the Commission.

(4) Immigration liaison officers are to collect information concerning illegal immigration for use either at operational level or at strategic level, or both. Such information could substantially contribute to the activities of Frontex relating to risk analysis, and closer cooperation between different immigration liaison officers networks and Frontex should be established to that effect.

(5) All Member States should be able to initiate meetings, when considered appropriate, between the immigration liaison officers posted in a particular third country or region in order to enhance cooperation between them. Representatives of the Commission and Frontex should participate in those meetings. It should be possible to invite other bodies

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and authorities, such as the European Asylum Support Office and the Office of the United Nations High Commissioner for Refugees.

(6) Decision No 574/2007/EC of the European Parliament and of the Council[(5)] establishes for the period from 1 January 2007 to 31 December 2013 the External Borders Fund as part of the General programme 'Solidarity and Management of Migration Flows', in order to contribute to strengthening the area of freedom, security and justice and applying the principle of solidarity between the Member States. It should be possible to use the available resources of the External Borders Fund to enhance the activities organised by the consular and other services of Member States in third countries and to support the reinforcement of the operational capacity of different immigration liaison officers networks, thereby promoting a more effective cooperation via those networks, between the Member States.

(7) The European Parliament, the Council and the Commission should be informed regularly about the activities of immigration liaison officers networks in specific countries and/or regions of particular interest to the Union and about the situation in those countries and/or regions in matters relating to illegal immigration. The selection of the specific countries and/or regions of particular interest to the Union should be based on objective migratory indicators, such as statistics on illegal immigration, and risk analyses and other relevant information or reports prepared by Frontex and the European Asylum Support Office, and should take into consideration the overall Union external relations policy.

(8) Regulation (EC) No 377/2004 should therefore be amended accordingly.

(9) Since the objective of this Regulation, namely adapting the current Union provisions on the creation and functioning of immigration liaison officers networks in order to take into account changes in Union law and practical experience gained in that context, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(10) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union and reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms, in accordance with Article 6 of the Treaty on European Union.

(11) The United Kingdom is taking part in this Regulation, in accordance with Article 5(1) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*[(6)].

(12) Ireland is taking part in this Regulation, in accordance with Article 5(1) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union, annexed

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to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*[(7)].

(13) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of 6 months after the Council has decided on this Regulation whether it will implement it in its national law.

(14) As regards Iceland and Norway, this Regulation constitutes a development of the provisions 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*[(8)] which fall within the area referred to in Article 1, points A and E of Council Decision 1999/437/EC[(9)] on certain arrangements for the application of that Agreement.

(15) As regards Switzerland, this Regulation constitutes a development of the 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*[(10)] which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[(11)].

(16) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol signed 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* which fall within the area referred to in Article 1, points A and E, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC[(12)],

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EC) No 377/2004 is amended as follows:

(1) Article 3 is amended as follows: