Commission Implementing Decision (EU) 2020/1567 of 26 October 2020 on the financial support for the development of the European Border and Coast Guard standing corps in accordance with Article 61 of Regulation (EU) 2019/1896 of the European Parliament and of the Council

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on the financial support for the development of the European Border and Coast Guard standing corps in accordance with Article 61 of Regulation (EU) 2019/1896 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624[(1)], and in particular Article 61(4) thereof,

Whereas:

(1) Regulation (EU) 2019/1896 provides for the strengthening of the mandate of the European Border and Coast Guard Agency ('the Agency') and for the provision of the necessary capabilities in the form of a European Border and Coast Guard standing corps (the 'standing corps').

(2) The standing corps is to include operational staff contributed by Member States. In order to ensure Member States are in a position to contribute such staff, it is appropriate to establish a financial system intended to support the development of relevant human resources.

(3) Financial support should be provided in the form of an annual payment made by the Agency to the Member States after the end of year N. It should also be possible for the Agency to grant an advance payment before the end of year N upon the request of a Member State.

(4) Article 61(1), points (a), (b) and (c), of Regulation (EU) 2019/1896 lays down the calculation formulas for the annual payment corresponding to different categories of operational staff of the standing corps. The financial support to be granted is to be determined largely by reference to the level of Member States' involvement in the standing corps for staff categories 2 and 3. A mechanism for compensating, in certain cases, the national services of Member States from where the Agency's statutory staff is to be recruited ('financing for category 1') should also be included in the financial support system.

(5) The calculation formulas for the annual payment should be based on the reference amount set out in Article 61(2) of Regulation (EU) 2019/1896.

(6) In the interest of simplification and effective coordination, each Member State should designate one central national authority responsible for the management of financial support. A national contact point designated in accordance with Article 13 of Regulation (EU) 2019/1896 may also be designated as a central national authority.

(7) In order to facilitate the preparation of requests for payments, the Agency should provide relevant information to the Member States, in particular information on the reference amounts and the number of persons recruited by the Agency from the national services.

(8) In order to compensate training investments of the Member States for new personnel replacing staff departing from the national services, the Agency should only consider personnel who terminated their institutional relationship with the national authorities concerned permanently or suspended it during the period of their employment by the Agency.

(9) For the fulfilment of the conditions related to financing for category 2 of the operational staff, the effective increase of the overall national border guard staffing should be measured against the situation on 30 April 2019, the day after the European Parliament and the Council reached political agreement on the text which became Regulation (EU) 2019/1896. The calculation should take into account the overall staffing of all the main authorities contributing systematically to the European Border and Coast Guard standing corps via secondments or, in the case of authorities having a wider mandate than the Agency's operational activities supported via the standing corps, the staffing of the relevant entities within those authorities contributing via secondments.

(10) The Member States should have in place mechanisms and procedures to avoid irregularities and fraud within the financial support system. In order to limit the administrative burden and the associated costs to the extent possible, such procedures and mechanisms should be targeted in the light of risk assessments.

(11) With regard to the objective of supporting the preparation of Member States to contribute to the standing corps, it is important to make the financial support effectively available as soon as possible. Therefore, this Decision should enter into force already one day after its publication in the *Official Journal of the European Union*.

(12) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[(2)]; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(13) As regards Iceland and Norway, this Decision 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*, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC[(3)].

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2020/1567. (See end of Document for details)*

(14) As regards Switzerland, this Decision 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*, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC[(4)].

(15) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol 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, point A of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[(5)].

(16) This Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.

(17) The measures provided for in this Decision are in accordance with the opinion of the European Border and Coast Guard Committee,

HAS ADOPTED THIS DECISION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this Decision, the following definitions apply:

(1) 'correction coefficient' means the percentage applied to remuneration of expatriate officials to adjust for differences in price level of consumer goods and services in the duty station by reference to base city, as established by Eurostat[(6)];

(2) 'year N' means the year from 1 January until 31 December in which a Member State needs to fulfil conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 in order to be entitled to receive financial support;

(3) 'annual payment' means a payment made by the Agency to the Member State concerned after the end of year N;

(4) 'advance payment' means a payment made by the Agency to the Member State concerned before the end of year N in advance of the annual payment;

(5) 'overall national border guard staffing' means the overall staffing of the specific entities within the main national authorities or, where applicable, of all main national authorities contributing systematically to the European Border and Coast Guard standing corps via secondments in accordance with Article 56 of Regulation (EU) 2019/1896.

Article 2

Information by the Agency

1 By 31 January of year N, the Agency shall inform the Member States about the reference amounts for that year per Member State, taking into account the respective correction coefficient.

2 For the calculation of the reference amounts, the Agency shall take into account the latest available relevant values for the salary of a contractual agent in function group III, grade 8, step 1, adjusted with the correction coefficient.

Article 3

Arrangements in Member States

1 The Member States shall designate one central national authority responsible for the management of financial support in accordance with Article 61 of Regulation (EU) 2019/1896. The Member State shall notify the designated central national authority to the Agency before the first payment is requested in accordance with Articles 5 (1), 6 (1) or 15 (2).

2 The central national authority shall be responsible for:

a liaising with the Agency on the monitoring of the applicable conditions laid down in Article 61(3) of Regulation (EU) 2019/1896;

b ensuring the provision of all the relevant information to the Agency to manage the financial support referred to in Article 61 of Regulation (EU) 2019/1896;

c managing the matters related to the payment of the financial support, including requests for advance payment or payment to the Agency and reception of the corresponding payments from the Agency;

d redistributing payments to national authorities proportionately to their staff contributions to the standing corps, where provided for in the national arrangements.

Article 4

Currency

The financial support shall be paid in euro.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2020/1567. (See end of Document for details)*

CHAPTER 2

DETAILED ARRANGEMENTS FOR PAYMENTS

Article 5

Detailed arrangements for annual payment

1 A Member State may request an annual payment between 1 January and 30 June of the year N+1.

2 The annual payment shall be payable if the conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 were fulfilled in year N. The central national authority may request financing for category 2 of operational staff only if the Member State concerned provided the complete reporting to the Agency for the purpose of verifying the amounts due in accordance with Article 61 of Regulation (EU) 2019/1896.

3 The annual payment shall include one or more of the following:

a amounts laid down in Article 61(1)(a) of Regulation (EU) 2019/1896, calculated as 100 % of the reference amount multiplied by the number of operational staff indicated for the year N+2 for secondment in accordance with Annex II to Regulation (EU) 2019/1896 (‘financing for category 2’);

b amounts laid down in Article 61(1)(b) of Regulation (EU) 2019/1896, calculated as 37 % of the reference amount multiplied by the number of operational staff effectively deployed in accordance with Article 57 within the limit set in Annex III and in accordance with Article 58 within the limit set in Annex IV, as applicable (‘financing for categories 3 and 4’);

c amounts laid down in Article 61(1)(c) of Regulation (EU) 2019/1896, calculated as a one-off payment of 50 % of the reference amount multiplied by the number of operational staff recruited by the Agency as statutory staff who departed from national services (‘financing for category 1’).

Article 6

Detailed arrangements for advance payment

1 A Member State may request the Agency an advance payment for the year N in order to support the development of human resources before the corresponding annual payment is made. The request shall clearly identify the categories of staff to which it relates. For financing for category 2, it shall include proof of the corresponding effective increase of staff in accordance with the template set out in Annex II. Such a request may be made between 1 July and 15 September of year N.

2 The Agency shall make an advance payment if the conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 were fulfilled for the period between 1 January and the date of the request for an advance payment.

3 The request for an advance payment shall concern an amount of minimum EUR 50 000.