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2018/0247 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Instrument for Pre-accession Assistance (IPA III)

{SEC(2018) 310 final} - {SWD(2018) 337 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons and objectives

This proposal should be viewed as part of the multiannual financial framework outlined in the European Commission's Communication 'A modern Budget for a Union that Protects, Empowers and Defends – The Multiannual Financial Framework for 2021-2027'[1]. The Communication sets the main priorities and overall budgetary framework for EU external action programmes under the heading 'Neighbourhood and the World'. This includes the Instrument for Pre-Accession Assistance (IPA III).

This proposal provides for applying IPA III from 1 January 2021. It is put forward for a European Union of 27 Member States. This is in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union. The notification was received by the European Council on 29 March 2017.

Article 49 of the Treaty on European Union provides that any European state which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and that commits to promoting these values, may apply to become a member of the Union. A European state which has applied to join the Union can become a member only when it has been confirmed that it meets the membership criteria established at the Copenhagen European Council in June 1993 (the 'Copenhagen criteria'), and provided that the Union has the capacity to integrate the new member.

The Copenhagen criteria relate to:

- the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities:
- the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union; and
- the ability to assume not only the rights but also the obligations set out in the Treaties, including adherence to the aims of political, economic and monetary union.

The enlargement process is built on established criteria and fair and rigorous conditionality. Each candidate or potential candidate is assessed on its own merits. The assessment of progress achieved and the identification of shortcomings aim to provide incentives and guidance to the candidates or potential candidates to pursue the necessary far-reaching reforms. For the prospect of enlargement to become a reality, a firm commitment to the "fundamentals first"[2] approach remains essential. The enlargement process strengthens peace, democracy and stability in Europe and allows the Union to be better positioned to

[1] COM (2018) 321 final available at https://ec.europa.eu/commission/priorities/democratic-change/future-europe/eu-budget-future_en

[2] The 'fundamentals first' approach links rule of law and fundamental rights with the two other crucial areas of the accession process: economic governance – strengthened focus on economic development and improved competitiveness – and the strengthening of democratic institutions and public administration reform. Each of the three fundamentals is of crucial importance for the reform processes in the candidate countries and potential candidates and addresses key concerns of the citizens.

address global challenges. The transformative power of the enlargement process generates far-reaching political and economic reform in the enlargement partners which also benefits the Union as a whole. Progress towards accession depends on each applicant's respect for the Union's values and its capacity to undertake the reforms necessary to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices in the Union.

In November 2015, the European Commission set out a medium-term strategy for the Union's enlargement policy[3], which remains valid today. The current enlargement agenda covers the partners of the Western Balkans and Turkey. Accession negotiations have been opened with candidate countries Turkey (2005), Montenegro (2012), and Serbia (2014). The former Yugoslav Republic of Macedonia has been a candidate since 2005 and Albania obtained candidate status in 2014. Bosnia and Herzegovina (which submitted its application to join the EU in February 2016) and Kosovo[*] (with which a Stabilisation and Association Agreement entered into force in April 2016) are potential candidates. On 17 April 2018, the European Commission recommended to the Council the opening of accession negotiations with the former Yugoslav Republic of Macedonia and Albania in light of the progress achieved. This would maintain and deepen the current reform momentum.

The European Commission reaffirmed the firm, merit-based prospect of Union membership for the Western Balkans in its recent Communication 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans'[4]. This is a strong message of encouragement for the whole Western Balkans and a sign of the Union's commitment to their European future.

The Commission has maintained an open and constructive dialogue with Turkey and is using every opportunity to emphasise that Turkey's stated commitment to its EU accession needs to be matched with corresponding measures and reforms. It is also keen to continue engaging with Turkey in a number of key areas of shared interests. These include trade and economic relations, energy, transport, migration and asylum, foreign policy, security and counter-terrorism.

Three key elements have guided this proposal for a Regulation:

- For 2021-2027, IPA III should be clearly framed by the new Western Balkans strategy, and should reflect developments in relations with Turkey. IPA III reflects the objectives of that new strategy in order to:
  - maximise the impact of the flagship initiatives set forth in the strategy;
  - help the transformation process in the Western Balkans in the next period;
  - implement robust economic reform programmes ; and
  - renew the focus on reforms necessary for future membership.
- The Western Balkans strategy indicates a potential accession date for at least some candidates under the strict condition that all conditions should be met. Financial means must be available to support the preparations and investments required in the

[3] COM(2015) 611 final available at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20151110_strategy_paper_en.pdf

[*] This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

[4] COM(2018) 65 final available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0065

years before accession. This includes ensuring a gradual and seamless transition from pre-accession status to that of member state. It also requires partners to develop the necessary capacity to absorb EU funds, in particular to implement agricultural and cohesion policy.

- The implementation of IPA II is still under way and continuity should be preserved.

In terms of political priorities, IPA III will be shaped around the key ones laid down in the relevant enlargement policy and strategy documents. These are: the rule of law, fundamental rights and governance; socio-economic development; Union policies and *acquis*; people-to-people contacts and reconciliation, good neighbourly relations and regional cooperation. While these were already spelt out under IPA II, other key challenges such as migration, security, protection of the environment and climate change are taken on board more visibly in the proposal.

- **Consistency with existing policy provisions**

The Commission is simultaneously proposing a major streamlining of the external financing instruments. The objectives of the Instrument for Pre-Accession, however, remain substantially distinct from the general objectives of the Union's external action, as the IPA aims to prepare partners and support their accession process. It is therefore essential to maintain a dedicated instrument in support of enlargement policy, while ensuring that it complements the general objectives of Union's external action and in particular those of the Neighbourhood, Development and International Cooperation Instrument (NDICI)[5].

This proposal will allow the Union to continue delivering on the objectives of pre-accession. Like the current external financing instruments, IPA III should continue to be an enabling Regulation, which sets the objectives to be pursued in preparation for accession while facilitating the targeting of assistance to the needs of each candidate.

As pointed out in the mid-term review carried out for the external action instruments[6], IPA II has served its purpose and was considered relevant. Therefore only minimal changes are proposed. The main one is that the objectives should be restructured in line with the overall aim of measuring performance.

- **Consistency with other Union policies**

In the implementation of this Regulation, consistency with other relevant Union policies and programmes is to be ensured.

The proposal will continue to position pre-accession as a key component of the external action policy. IPA III will continue to be very linked to other external action programmes.

The enlargement process extends the internal policies of the EU to the enlargement partners. It contributes to, among other things:

- the expansion of the internal market, the European Area of Justice and Freedom and the trans-European energy and transport networks;

[5] C(2018) 460 final Proposal for a Regulation establishing the Neighbourhood, Development and International Cooperation Instrument.

[6] Mid-term review of the external financing instruments – https://ec.europa.eu/europeaid/evaluation-instrument-pre-accession-assistance-ipa-ii-draft-report_en

- job creation, skills development, education and social inclusion and poverty reduction;
- protection of the environment and reduction of trans-boundary pollution;
- alignment with the common agricultural policy and the common fisheries policy;
- efforts to diversify energy sources and ensure energy security, including the development of renewable energy and promotion of energy efficiency and the transition to a circular economy, improve disaster resilience, risk prevention and disaster management; and
- efforts to achieve a more integrated and strategic approach to maritime policies, scientific excellence and the digital agenda.

In addition, convergence with the Union's climate policy and legislation should bring significant benefits to the enlargement partners through low-carbon development and the creation of greener jobs in a region highly vulnerable to the impact of climate change.

The Commission proposal for the 2021-2027 Multiannual Financial Framework set a more ambitious goal for climate mainstreaming across all EU programmes, with an overall target of 25% of EU expenditure contributing to climate objectives. The contribution of IPA III to the achievement of this overall target will be tracked through an EU climate marker system at an appropriate level of disaggregation, including the use of more precise methodologies where these are available. The Commission will continue to present the information annually in terms of commitment appropriations in the context of the annual draft budget.

To support the full utilisation of the potential of the programme to contribute to climate objectives, the Commission will seek to identify relevant actions throughout the programme preparation, implementation, review and evaluation processes.

The programme will therefore seek complementarities with a wide range of Union programmes. These include:

- the internal policy programmes (synergies with the policies on security, migration, research and innovation, environment and climate action, connectivity and energy); and
- the Neighbourhood, Development and International Cooperation Instrument, by keeping a set of common rules applicable to all external financing instruments, keeping a common investment component and simplifying the contribution of the external financing instruments in support of the external dimension of Erasmus.

The beneficiary listed in Annex I should continue to benefit from thematic programmes of the Neighbourhood, Development and International Cooperation Instrument in particular in support of human rights.

IPA should also be part of the European Fund for Sustainable Development Plus set out in the NDICI Regulation and contribute to the provisioning needs of the External Action Guarantee for what concerns operations in the beneficiaries listed in Annex I. The External Action Guarantee, financed by this Regulation and NDICI, shall also cover the provisioning for macro-financial assistance to address balance of payments crises in beneficiaries listed in Annex I and other relevant countries. The provisioning of the External Action Guarantee for macro-financial assistance should be commensurate to address the political challenges and economic instability of these countries, taking as a reference point the annual lending volume agreed in the Mid-term Review of the Multiannual Financial Framework 2014-2020. This non-programmable support should be complementary to other assistance modalities laid down in this Regulation.

Through its Stabilisation and Association Agreements and other agreements with candidate countries and potential candidates, the Union actively encourages enlargement partners to establish competition regimes.

Making Europe a safer place is high on the Union's agenda. Improving the strategic orientation of financial assistance for pre-accession will help support enlargement partners in preventing and tackling organised crime and corruption and in strengthening their law enforcement and migration management capabilities including border management.

Enlargement gives the Union greater weight and strengthens its voice in international fora. The accession process with the Western Balkans and Turkey gives the Union a still greater interest and influence in the Mediterranean and Black Sea regions and in the Danube basin.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Enlargement policy is based on Article 21 of the Treaty on the European Union. This states that ‘the Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law’.

The legal basis for the Instrument for Pre-accession Assistance is Article 212(2) of the Treaty on the Functioning of the European Union.

• Subsidiarity

The Instrument for Pre-accession assistance is unique in addressing the objective of preparing candidate countries and potential candidates for Union membership. This objective can be adequately achieved at Union level only.

The added value of Pre-Accession assistance also rests on the scope of the instruments it employs. Intensive use of both the Twinning and TAIEX (Technical Assistance and Information Exchange instrument) initiatives brings the expertise of particular Member States to the IPA beneficiaries in order to help address their specific needs. Building long-term relations with similar counterpart institution in a Member State is a concrete outcome of Twinning.

The Instrument for Pre-accession Assistance actively promotes territorial cooperation, for example through cross-border programmes, transnational and inter-regional cooperation programmes and macro-regional strategies. The added value is obvious: reconciliation and confidence-building in the Western Balkans, the overcoming of geographical and cultural barriers and the development of good neighbourly relations. All these remain key aspects of the enlargement process that are addressed solely by Union programmes and not by other donors.

• Proportionality

In line with the principle of proportionality, the proposed Regulation does not go beyond what is necessary to achieve its objectives.

3. RESULTS OF RETROSPECTIVE EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Retrospective evaluations/fitness checks of existing legislation

A mid-term review of the Instrument for Pre-accession Assistance II (IPA II) was carried out at the end of 2016. While implementation was in its early stages the external evaluation concluded that IPA II has met its objectives in terms of Union priorities and the needs of beneficiaries. The evaluation report highlighted that IPA II has become more strategic than its predecessor. In terms of priorities, it increasingly focuses on:

- promoting key reforms, i.e. the three 'fundamentals' of the enlargement strategy (the rule of law and fundamental rights, strengthening democratic institutions and public administration reform, and economic governance); and
- the results of reforms, through the introduction of a performance framework.

It has also demonstrated its capacity to react flexibly to emerging crises and challenges (such as floods, migration and security issues).

IPA II has increased focus on performance and results, but there is room for improvement: in the quality of indicators, in the development of monitoring and evaluation frameworks at local level and in the quality of data collection in beneficiaries.

The report also underlined that IPA II has good complementarity with the actions of other instruments, notably the European Instrument for Democracy and Human Rights (EIDHR) and the Instrument contributing to Stability and Peace (IcSP). However, coordination during both the planning and programming phase should be improved.

To address the findings of the mid-term review, IPA III should put performance at the core of the instrument. Through a more strategic programming, the proposal is expected to allow a greater steer in overall funding allocations reflecting beneficiaries' commitments and progress towards reforms. It will also allow for more flexibility in responding to emerging challenges.

• Stakeholder consultations

Stakeholders were consulted within the broader consultation exercise that contributed to the mid-term review of all external action instruments. Three types of consultations with stakeholders took place. Evaluators carried out around 1,000 structured or semi-structured interviews with EU officials and representatives from EU institutions, Member States and partners. Several technical workshops to present and discuss the draft evaluations were held with participants from the European Parliament, Council working groups, Member States committees, civil society organisations and local authorities. An open public consultation was held in early 2017. It aimed at gathering feedback from stakeholders on the findings emerging from the evaluations of the instruments and on post-2020 external action instruments.

The main messages from the stakeholders consulted are the following.

- Flexibility: stakeholders agreed that the new financing instruments should be more flexible in order to respond to unforeseeable challenges and crises. In particular, they underlined the need to make it easier to shift funds across regions and between aid procedures. However, it was also underlined that increasing flexibility should not weaken predictability, partner ownership or the focus on achieving long-term development objectives. To ensure flexibility and predictability some respondents argued for having sufficient unallocated reserves.

- Coherence: stakeholders considered it necessary to ensure greater coherence between the internal and external policies of the Union, as well as between the external instruments themselves. Most recommended that the Union take a leading role in improving the complementarity between various stakeholders both inside and outside the Union.
- Simplification: the Union was strongly encouraged to further simplify the overall architecture of the instruments. The Union should also continue its efforts to simplify cumbersome administrative and financial procedures.
- Leverage: there was an agreement amongst stakeholders that innovative financing instruments can play an important role in leveraging public and private financing for Union external assistance.

This proposal for a Regulation establishing IPA III responds to most of the concerns expressed by the stakeholders consulted.

- It introduces more flexibility by not establishing partner allocations from the onset. The IPA programming framework should be based on evolving needs and ensure a balance between predictability and performance-based funding.
- The new architecture of the external action instruments will facilitate coherence and synergy between the IPA III and the Neighbourhood, Development and International Cooperation Instrument. This is the case particularly for the thematic and rapid reaction components, which should be deployed for initiatives whose objectives cannot be achieved effectively by the geographical programmes.
- IPA III should also further mobilise the leveraging potential of international financial institutions and other partners, including the private sector. Its overall performance framework will be strengthened and simplified.

• **External expertise**

The mid-term review report (published in December 2017) and associated staff working documents[7] covering the external action instruments were largely based on a set of independent evaluation reports conducted in 2016-2017 (One evaluation was performed for each instrument including the Instrument for Pre-Accession).

At the same time, the Commission also commissioned an independent report to look at the set of external action instruments covered by the mid-term review report and to draw key lessons and messages from them.[8]

• **Impact assessment**

In 2018 the Commission carried out an impact assessment that analysed which external action instruments could be streamlined into one broad instrument.

The impact assessment analysed the impacts of streamlining the current instruments Development Cooperation Instrument, European Development Fund, European Neighbourhood Instrument, European Instrument for Democracy and Human Rights,

[7] Mid-Term Review Report and associated Staff Working Documents available at: https://ec.europa.eu/europeaid/mid-term-review-report-external-financing-instruments_en

[8] Coherence Report available at: https://ec.europa.eu/europeaid/coherence-report-insights-external-evaluation-external-financing-instruments_en

Instrument contributing to Stability and Peace, Instrument for Nuclear Safety and Cooperation and Partnership Instrument. It concluded that the Instrument for Pre-accession assistance should remain a self-standing instrument.

The impact assessment received a positive opinion with reservations by the Regulatory Scrutiny Board on 27 April.2018.

The main reservations concerned the proposed Neighbourhood, Development and International Cooperation Instrument and in particular its governance structure, the justification for merging several instruments into one, the funding and policy implications of integrating EDF in the EU budget, the funding baseline, prioritisation and possible ring-fencing as well as the monitoring and evaluation framework. The Impact Assessment was modified accordingly to address the issues raised by the RSB. It should be noted that none of the reservations of the RSB concerned the proposed Regulation establishing IPA III or its interaction with the broader instrument.

• **Simplification**

This proposal makes minimal changes to the current Regulation. It contributes to the overall objective of simplification in the following ways.

- It will ensure coherence with the Neighbourhood, Development and International Cooperation Instrument. (The use of thematic programmes will be complementary to the geographical programmes, and it will draw on the Guarantee for external Actions established under that instrument).
- It will continue to apply a single set of rules for the external actions by using the financial rules set out in the Neighbourhood, Development and International Cooperation Instrument (previously included in a separate Regulation on common implementing rules for external actions). Whenever possible it will rely on the Financial Regulation.
- During implementation, the change of approach in programming will reduce the number of partner-based programmes adopted by the Commission. This will also result in simplification for beneficiaries, which will be able to respond to the priorities set with their own strategic documents and a larger ownership by the beneficiaries.

• **Fundamental rights**

The political priorities of IPA III will be shaped around the key ones laid down in the relevant enlargement policy and strategy documents, and in particular focus on the respect of the rule of law and fundamental rights.

4. BUDGETARY IMPLICATIONS

In its Communication of 2 May 2018[9] the European Commission proposed to allocate EUR 14 500 000 000 (current prices) to the new Programme for Pre-Accession Assistance for 2021-2027.

The detailed estimated financial impact of this proposal is presented in the Legislative Financial Statement enclosed with this proposal.

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9 COM (2018) 321 final, 2.5.2018

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Implementation will need to be accelerated, in particular in the early years, to prevent structural backlogs in contracting and implementation, and to progressively absorb current delays. The Commission will pay particular attention to indirect management with beneficiaries. The mid-term evaluation has shown that while the impact in terms of increased ownership is considered positive, contracting performance has been poor and there have been long delays in implementation, especially in Turkey.

Monitoring will be done on the basis of the indicators set out in the proposal. The relevant performance indicators will be defined and included in the IPA programming framework and proportionate reporting requirements imposed on recipients of EU funds. The enlargement reports will be taken as a point of reference in assessing the results of IPA III assistance. The performance reporting system should ensure that data for monitoring implementation and results are collected efficiently, effectively and on time.

The Commission will regularly monitor its actions and review progress made towards delivering results. In line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016[10], where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action, the Commission will carry out an interim and a final evaluation. The evaluations will assess the Instrument's effects on the ground based on the relevant indicators and targets and a detailed analysis of the degree to which the Instrument can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. The evaluations will include lessons learnt to identify any lacks/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact.

The conclusions of the evaluations accompanied by observations will be communicated to the European Parliament and to the Council.

• Detailed explanation of the specific provisions of the proposal

As far as possible this proposal follows a similar structure to the other Union programmes. It also gives priority to a single set of rules for external actions. This is currently achieved by the common implementing rules for external actions, which have been integrated in the Neighbourhood, Development and International Cooperation Instrument. To maintain the simplification gains, the proposal introduces cross references to the Neighbourhood, Development and International Cooperation Instrument to the maximum extent.

Chapter I defines the scope of the instrument and sets out definitions, objectives, the budget and a set of cross-programme provisions. The definitions are aligned with the Neighbourhood, Development and International Cooperation Instrument with due care given to avoid duplicating the Financial Regulation. The objectives remain broadly similar to those pursued by the previous IPA II, only they are structured in a more coherent way to reflect the overall intention of performance-based budgeting, in which specific objectives are aligned to budgetary allocations (Titles). The budget is indicated as an overall amount, the intention being to remain as flexible as possible. An exception to this rule is the indication of the

10 Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

maximum amount of spending envisaged in cross-border programmes to maintain the current volume of spending. The cross-programme provisions contribute to the overall objective of simplification by indicating clearly which single set of rules applies when the IPA III contributes to other programmes.

Chapter II ensures consistency with the overall policy framework. It also sets out the commitment to work closely with member states to ensure coherence and overall donor coordination.

Chapter III details the different steps of implementation, from setting out the IPA III programming framework to adopting annual and multi-annual action plans and measures. The IPA programming framework shifts the focus from partner allocations to performance in achieving the objectives. Assistance will continue to be targeted and adjusted to the specific situation of the beneficiaries. However, access to funds should, in addition to a principle of ‘fair share’, be based on criteria such as project/programme maturity, expected impact and progress on the rule of law, fundamental rights and governance. The performance reward mechanism is therefore embedded in the overall allocations.

The proposal keeps a single set of rules for adopting annual and multi-annual plans as defined in the Neighbourhood, Development and International Cooperation Instrument. There are no major changes to the rules which were previously part of the common implementing rules for external actions.

Chapter IV brings into the proposal eligibility rules which were previously set out in the common implementing rules for external actions.

Chapter V sets out that the budgetary guarantee provided under the Neighbourhood, Development and International Cooperation Instrument will also cover IPA III beneficiaries. The governance established for financial instruments under the IPA III, notably the Western Balkans Investment Framework, will continue to be responsible for the operations covered by the guarantee.

Chapter VI sets out monitoring, evaluation and reporting arrangements which should continue to be covered by a common set of rules as laid down in the [Neighbourhood, Development and International Cooperation Instrument].

Chapter VII sets out the final and transitional provisions. In particular, to avoid disruption, IPA II will continue to apply to the operations financed by that Regulation.

2018/0247 (COD)

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REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Instrument for Pre-accession Assistance (IPA III)

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 212 (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[11],

Having regard to the opinion of the Committee of the Regions[12],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No 231/2014[13] expires on 31 December 2020. In order to maintain the Union's effectiveness in external actions, a framework for planning and delivering external assistance should be maintained.

(2) The objectives of an instrument for pre-accession are substantially distinct from the general objectives of Union external action as this instrument aims to prepare the beneficiaries listed in Annex I for future membership of the Union and support their accession process. It is therefore essential to have a dedicated instrument in support of enlargement, while ensuring its complementarity with the general objectives of Union external action and in particular with the Neighbourhood, Development and International Cooperation Instrument (NDICI).

(3) Article 49 of the Treaty on European Union (TEU) provides that any European state which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and commits to promote these values, may apply to become a member of the Union. A European State which has applied to join the Union can become a member only when it has been confirmed that it meets the membership criteria established at the Copenhagen European Council in June 1993 (the 'Copenhagen criteria') and provided that the Union has the capacity to integrate the new member. The Copenhagen criteria relate to the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and the ability to assume not only the

11 OJ C , , p. .

12 OJ C , , p. .

13 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) (OJ L 77, 15.3.2014, p. 11).

rights but also the obligations under the Treaties, including adherence to the aims of political, economic and monetary union.

(4) The enlargement process is built on established criteria and fair and rigorous conditionality. Each beneficiary is assessed on the basis of its own merits. The assessment of progress achieved and the identification of shortcomings aim to provide incentives and guidance to the beneficiaries listed in Annex I to pursue the necessary far-reaching reforms. For the prospect of enlargement to become a reality, a firm commitment to the principle of the 'fundamentals first'[14] remains essential. Progression towards accession depends on each applicant's respect for the Union's values and its capacity to undertake the necessary reforms to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices in the Union.

(5) The enlargement policy of the Union is an investment in peace, security and stability in Europe. It provides increased economic and trade opportunities to the mutual benefit of the Union and the aspiring Member States. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.

(6) The European Commission reaffirmed the firm, merit-based prospect of EU membership for the Western Balkans in its Communication '*A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*'[15]. This is a strong message of encouragement for the whole Western Balkans and a sign of the EU's commitment to their European future.

(7) Assistance should also be provided in compliance with the agreements concluded by the Union with the beneficiaries listed in Annex I. Assistance should mainly focus on assisting the beneficiaries listed in Annex I to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights and promote gender equality, tolerance, social inclusion and non-discrimination. Assistance should also support the key principles and rights as defined in the European Pillar of Social Rights.[16] Assistance should continue to support their efforts to advance regional, macro-regional and cross-border cooperation as well as territorial development, including through implementation of Union macro-regional strategies. It should also enhance their economic and social development and economic governance, underpinning a smart, sustainable and inclusive growth agenda, including through implementation of regional development, agriculture and rural development, social and employment policies and the development of the digital economy and society, also in line with the flagship initiative Digital Agenda for the Western Balkans.

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[14] The 'fundamentals first' approach links rule of law and fundamental rights with the two other crucial areas of the accession process: economic governance – strengthened focus on economic development and improved competitiveness – and the strengthening of democratic institutions and public administration reform. Each of the three fundamentals is of crucial importance for the reform processes in the candidate countries and potential candidates and addresses key concerns of the citizens.

[15] COM(2018) 65 final available at https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

[16] European Pillar of Social Rights solemnly proclaimed by the European Parliament, the Council and the Commission at the Gothenburg Social Summit for Fair Jobs and Growth, Gothenburg 17 November 2017.

(8) The Union should provide support to the transition towards accession for the benefit of the beneficiaries listed in Annex I, based on the experience of its Member States. This cooperation should focus in particular on the sharing of experience acquired by the Member States in the reform process.

(9) Enhanced strategic and operational cooperation between the Union and the beneficiaries listed in Annex I on security is pivotal to addressing effectively and efficiently security and terrorism threats.

(10) It is essential to further step up cooperation on migration including border management, ensuring access to international protection, sharing relevant information, strengthening the development benefits of migration, facilitating legal and labour migration, enhancing border control and pursuing our effort in the fight against irregular migration, trafficking in human beings and migrant smuggling.

(11) Strengthening the rule of law, including the fight against corruption and organised crime, and good governance, including public administration reform, remain key challenges in most of the beneficiaries listed in Annex I and are essential in order for beneficiaries to come closer to the Union and later to fully assume the obligations of Union membership. In view of the longer-term nature of the reforms pursued in those areas and the need to build up track records, financial assistance under this Regulation should address the requirements placed on the beneficiaries listed in Annex I as early as possible.

(12) In accordance with the principle of participatory democracy, parliamentary oversight in each beneficiary listed in Annex I should be encouraged by the Commission.

(13) The beneficiaries listed in Annex I need to be better prepared to address global challenges, such as sustainable development and climate change, and align with the Union's efforts to address those issues. Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the Sustainable Development Goals (SDGs), this Programme should contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Actions under this Programme are expected to contribute 16 % of the overall financial envelope of the Programme to climate objectives. Relevant actions will be identified during the Programme's preparation and implementation, and the overall contribution from this Programme should be part of relevant evaluations and review processes.

(14) Actions under this Instrument should support implementation of the United Nations 2030 Agenda for Sustainable Development, as a universal agenda, to which the EU and its Member States are fully committed and which all beneficiaries listed in Annex I have endorsed.

(15) This Regulation lays down a financial envelope for its period of application which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: 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[17]], for the European Parliament and the Council during the annual budgetary procedure.

(16) The Commission and the Member States should ensure compliance, coherence, and complementarity of their assistance, in particular through regular consultations and frequent exchanges of information during the different phases of the assistance cycle. The necessary steps should also be taken to ensure better coordination and complementarity, including through regular consultations, with other donors. The role of civil society should be enhanced both in programmes implemented through government bodies and as a direct beneficiary of Union assistance.

(17) The priorities for action towards meeting objectives in the relevant policy areas which will be supported under this Regulation should be defined in a programming framework established by the Commission for the duration of the Union multiannual financial framework for the period from 2021 to 2027 in partnership with the beneficiaries listed in Annex I, based on the enlargement agenda and their specific needs, in line with the general and specific objectives defined by this Regulation and taking relevant national strategies into due account. The programming framework should identify the areas to be supported through assistance with an indicative allocation per area of support, including an estimate of climate-related expenditure.

(18) It is in the Union's interest to assist the beneficiaries listed in Annex I in their efforts to reform with a view to Union membership. Assistance should be managed with a strong focus on results and with incentives for those who demonstrate their commitment to reform through efficient implementation of pre-accession assistance and progress towards meeting the membership criteria.

(19) The transition from direct management of pre-accession funds by the Commission to indirect management by the beneficiaries listed in Annex I should be progressive and in line with the respective capacities of those beneficiaries. Assistance should continue to make use of the structures and instruments that have proved their worth in the pre-accession process.

(20) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence and complementarity among the Union's external financing instruments, as well as the creation of synergies with other Union policies and programmes. This includes, where relevant, coherence and complementarity with macro-financial assistance.

(21) In order to maximise the impact of combined interventions to achieve a common objective, this Regulation should be able to contribute to actions under other programmes, as long as the contributions do not cover the same costs.

(22) Funding from this Regulation should be used to finance actions under the international dimension of Erasmus, the implementation of which should be done according to the Erasmus Regulation[18].

(23) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union should apply to this Regulation. These rules are laid down in the Financial Regulation and

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17 Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

18 New Erasmus Regulation

determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, financial assistance, budget support, trust funds, financial instruments and budgetary guarantees, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in Member States and third countries, as the respect for the rule of law is essential for sound financial management and effective EU funding.

(24) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.

(25) The Union should continue to apply common rules for the implementation of the external actions. Rules and procedures for the implementation of the Union's instruments for financing external action are laid down in Regulation (EU) No [NDICI] of the European Parliament and of the Council. Additional detailed provisions should be laid down for addressing the specific situations in particular for cross-border cooperation, agriculture and rural development policy area.

(26) External actions are often implemented in a highly volatile environment requiring a continuous and rapid adaptation to the evolving needs of Union partners and to global challenges such as human rights, democracy and good governance, security and stability, climate change and environment and irregular migration and its root causes. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial implementation of the programmes. To increase the ability of the Union to respond to unforeseen needs, while respecting the principle that the Union budget is set annually, this Regulation should preserve the possibility to apply the flexibilities already allowed by the Financial Regulation for other policies, namely carry-overs and re-commitments of committed funds, to ensure an efficient use of the EU funds both for the EU citizens and the beneficiaries listed in Annex I, thus maximising the EU funds available for the EU external action interventions.

(27) The new European Fund for Sustainable Development Plus (EFSD+), building on its predecessor should constitute an integrated financial package supplying financing capacity in forms of grants, budgetary guarantees and other financial instruments worldwide, including to the beneficiaries listed in Annex I. The governance for the operations carried out under this Regulation, should continue to be ensured by the Western Balkans Investment Framework.

(28) The External Action Guarantee should support the EFSD+ operations and IPA III should contribute to the provisioning needs in respect of the operations to the benefit of the beneficiaries listed in Annex I, including the provisioning and liabilities arising from macro-financial assistance loans.

(29) It is important to ensure that cross border cooperation programmes are implemented coherently with the framework established in the external actions programmes and the territorial cooperation regulation. Specific co-financing provisions should be established in this Regulation.

(30) Annual or multi-annual action plans and measures referred to in Article 8 constitute work programmes under the Financial Regulation. Annual or multi-annual action plans consist of a set of measures grouped into one document.

(31) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[19], Council Regulation (Euratom, EC) No 2988/95[20], Council Regulation (Euratom, EC) No 2185/96[21] and Council Regulation (EU) 2017/1939[22], the financial interests of the Union are to be protected through effective and proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council[23]. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union’s financial interests, to grant the necessary rights and access to the Commission, OLAF, where applicable the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Beneficiaries listed in Annex I should also report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep the latter informed of the progress of administrative and legal proceeding. With the objective of alignment to good practices in Member States, this reporting should be done by electronic means, using the Irregularity Management System, established by the Commission.

(32) In order to take account of changes in the enlargement policy framework or of significant developments in the beneficiaries listed in Annex I, the power to adopt 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 adapting and updating the thematic priorities for assistance listed in Annexes II and III. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted

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19 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999,(OJ L248, 18.9.2013, p. 1.

20 Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

21 Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292,15.11.96 , , p.2).

22 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) (OJ L283, 31.10.2017,, p.1).

23 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(33) In order to ensure uniform conditions for the implementation of this Regulation in particular on specific conditions and structures for indirect management with the beneficiaries listed in Annex I and on the implementation of rural development assistance, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with [Regulation (EU) No 182/2011[24] of the European Parliament and of the Council]. When establishing the uniform conditions for implementing this Regulation, the lessons learnt from the management and implementation of past pre-accession assistance should be taken into account. Those uniform conditions should be amended if developments so require.

(34) The committee established under this Regulation should be competent also for legal acts and commitments under Regulation (EC) No 1085/2006[25], under Regulation (EU) No 231/2014 as well as for the implementation of Article 3 of Council regulation (EC) No 389/2006[26].

(35) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the [less than twentieth] day following that of its publication in the *Official Journal of the European Union*.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the Programme 'Instrument for Pre-accession Assistance' ('IPA III').

It lays down its objectives, the budget for the period 2021-2027, the forms of Union assistance and the rules for providing such assistance.

Article 2

Definitions

For the purposes of this Regulation, the following definition apply:

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[24] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

[25] Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, 31.7.2006, p. 82).

[26] Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (OJ L 65, 7.3.2006, p. 5).

'cross-border cooperation' means cooperation between member states of the EU and beneficiaries listed in Annex I, between two or more beneficiaries listed in Annex I or between beneficiaries listed in Annex I and countries and territories listed in Annex I of the [NDICI Regulation] as referred to in point (b) of Article 3 (1) of [ETC Regulation][27].

Article 3

Objectives of IPA III

1. The general objective of IPA III shall be to support the beneficiaries listed in Annex I in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required by those beneficiaries to comply with Union values and to progressively align to Union rules, standards, policies and practices with a view to Union membership, thereby contributing to their stability, security and prosperity.

2. IPA III shall have following specific objectives:

   (a) To strengthen the rule of law, democracy, the respect of human rights, fundamental rights and international law, civil society and security as well as improve migration management including border management;

   (b) To reinforce the effectiveness of public administration and support structural reforms and good governance at all levels;

   (c) To shape the rules, standards, policies and practices of the beneficiaries listed in Annex I in alignment to those of the Union and to reinforce reconciliation and good neighbourly relations, as well as people to people contacts and communication;

   (d) To strengthen economic and social development including through increased connectivity and regional development, agriculture and rural development and social and employment policies, to reinforce environmental protection, increase resilience to climate change, accelerate the shift towards a low-carbon economy and develop the digital economy and society.

   (e) To support territorial and cross-border cooperation.

3. In accordance with the specific objectives, thematic priorities for providing assistance according to the needs and capacities of the beneficiaries listed in Annex I are set out in Annex II. Thematic priorities for cross-border cooperation between beneficiaries listed in Annex I are set out in Annex III. Each of those thematic priorities may contribute to the attainment of more than one specific objective.

Article 4

Budget

1. The financial envelope for the implementation of IPA III for the period 2021-2027 shall be EUR 14 500 000 000 in current prices.

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[27] COM(2018) 374 final - Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments

2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems and any activities related to the preparation of the successor programme for pre-accession assistance, in accordance with Article 20 of [NDICI Regulation].

Article 5

Cross-programme provisions

1. In implementing this Regulation, consistency, synergies and complementarities with other areas of Union external action, with other relevant Union policies and programmes, as well as policy coherence for development shall be ensured.

2. The [NDICI Regulation] shall apply to activities implemented under this Regulation where referred to in this Regulation.

3. IPA III shall contribute to actions established under Regulation [(Erasmus[28]]. [Regulation (EU) Erasmus] shall apply to the use of those funds. To that end, the contribution of IPA III shall be included in the single indicative programming document referred to in paragraph 7 of Article 11 of the [NDICI Regulation] and adopted in accordance with the procedures laid down in that Regulation.

4. Assistance under IPA III may be provided to the type of actions provided for under the European Regional Development Fund and the Cohesion Fund[29], the European Social Fund Plus[30] and the European Agricultural Fund for Rural Development[31].

5. The [ERDF][32] shall contribute to programmes or measures established for cross–border cooperation between the beneficiaries listed in Annex I and Member States. These programmes and measures shall be adopted by the Commission in accordance with Article 16. The amount of the contribution from IPA-CBC shall be determined pursuant to Article 10 (3) of [ETC Regulation]. IPA-Cross Border Cooperation programmes shall be managed in accordance with [ETC Regulation].

6. IPA III may contribute to transnational and interregional cooperation programmes or measures that are established and implemented under [ETC Regulation] and in which the beneficiaries listed in Annex I to this Regulation participate.

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28 COM(2018) 367 final Proposal for a Regulation of the European Parliament and of the Council establishing 'Erasmus': the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013.

29 COM(2018) 372 final Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund.

30 COM(2018) 382 final Proposal of the European Parliament and of the Council on the European Social Fund Plus (ESF+)

31 COM(2018) 392 final Proposal for a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

32 COM(2018) 372 final Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund.

7. Where appropriate, other Union programmes may contribute to actions established under this Regulation in accordance with Article 8, provided that the contributions do not cover the same costs. This Regulation may also contribute to measures established under other Union programmes, provided that the contributions do not cover the same costs. In such cases, the work programme covering those actions shall establish which set of rules shall be applicable.

8. In duly justified circumstances and in order to ensure the coherence and effectiveness of Union financing or to foster regional cooperation, the Commission may decide to extend the eligibility of action programmes and measures referred to in Article 8(1) to countries, territories and regions other than those referred in Annex I, where the programme or measure to be implemented is of a global, regional or cross-border nature.

CHAPTER II

STRATEGIC PLANNING

Article 6

Policy framework and general principles

1. The enlargement policy framework defined by the European Council and the Council, the agreements that establish a legally binding relationship with the beneficiaries listed in Annex I, as well as relevant resolutions of the European Parliament, communications of the Commission or joint Communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, shall constitute the overall policy framework for the implementation of this regulation. The Commission shall ensure coherence between the assistance and the enlargement policy framework.

2. Programmes and actions under this Regulation shall mainstream climate change, environmental protection and gender equality and shall, where applicable, address interlinkages between Sustainable Development Goals[33], to promote integrated actions that can create co-benefits and meet multiple objectives in a coherent way.

3. The Commission and the Member States shall cooperate in ensuring coherence and shall strive to avoid duplication between assistance provided under IPA III and other assistance provided by the Union, the Member States and the European Investment Bank, in line with the established principles for strengthening operational coordination in the field of external assistance, and for the harmonisation of policies and procedures, in particular the international principles on development effectiveness.[34] Coordination shall involve regular consultations, frequent exchanges of information during the different phases of the assistance cycle and inclusive meetings aimed at coordinating the assistance and shall constitute a key step in the programming processes of the Union and the Member States.

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[33] https://ec.europa.eu/europeaid/policies/sustainable-development-goals_en

[34] https://ec.europa.eu/europeaid/policies/eu-approach-aid-effectiveness_en

4. The Commission, in liaison with the Member States, shall also take the necessary steps to ensure coordination and complementarity with multilateral and regional organisations and entities, such as international organisations and financial institutions, agencies and non-Union donors.

CHAPTER III

IMPLEMENTATION

Article 7

IPA programming framework

1. Assistance under IPA III shall be based on an IPA programming framework for the delivery of the specific objectives referred to in Article 3. The IPA programming framework shall be established by the Commission for the duration of the Union's multiannual financial framework.

2. The IPA programming framework shall take relevant national strategies and sector policies into due account.

   Assistance shall be targeted and adjusted to the specific situation of the beneficiaries listed in Annex I, taking into account further efforts needed to meet the membership criteria as well as the capacities of those beneficiaries. Assistance shall be differentiated in scope and intensity according to needs, commitment to reforms and progress in implementing those reforms.

3. Without prejudice to paragraph 4, the IPA programming framework shall be adopted by the Commission by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure of the Committee referred to in Article 16.

4. The programming framework for cross border cooperation with Member States shall be adopted by the Commission in accordance with Article 10 (1) of [ETC Regulation].

5. The IPA programming framework shall include indicators for assessing progress with regard to attainment of the targets set therein.

Article 8

Implementing measures and methods

1. Assistance under IPA III shall be implemented in direct management or in indirect management in accordance with the Financial Regulation through annual or multi-annual action plans and measures as referred to in Chapter III of Title II of [NDICI Regulation]. Chapter III of Title II of [NDICI Regulation] shall apply to this Regulation with the exception of paragraph 1 of Article 24 [eligible persons and entities].

2. Under this Regulation, action plans may be adopted for a period of up to seven years.

Article 9

Cross border cooperation

1. Up to 3 % of the financial envelope shall be indicatively allocated to cross-border cooperation programmes between the beneficiaries listed in Annex I and the Member States, in line with their needs and priorities.

2. The Union co-financing rate at the level of each priority shall not be higher than 85 % of the eligible expenditure of a cross-border cooperation programme. For technical assistance the Union co-financing rate shall be 100%.

3. The level of pre-financing for cross-border cooperation with member states shall be determined in the work programme, in accordance with needs of the beneficiaries listed in Annex I and may exceed the percentage referred to in Article 49 of ETC Regulation.

4. Where cross border cooperation programmes are discontinued in accordance with Article 12 of [ETC Regulation], support from this Regulation to the discontinued programme that remains available may be used to finance any other actions eligible under this Regulation.

CHAPTER IV

ELIGIBILITY AND OTHER SPECIFIC PROVISIONS

Article 10

Eligibility for funding under IPA III

1. Tenderers, applicants and candidates from the following countries shall be eligible for funding under IPA III:

   (a) Member States, beneficiaries listed in Annex I to this Regulation, contracting parties to the Agreement on the European Economic Area and countries covered by the Annex I of the [NDICI Regulation], and

   (b) countries for which reciprocal access to external assistance is established by the Commission. Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under this Regulation. The Commission shall decide on the reciprocal access after consultation of the recipient country or countries concerned.

CHAPTER V

EFSD+ AND BUDGETARY GUARANTEES

Article 11

Financial instruments and guarantee for external actions

1. The beneficiaries listed in Annex I shall be eligible to the European Fund for Sustainable Development Plus (EFSD+) and to External Action Guarantee as provided for in Chapter IV of Title II of [NDICI Regulation]. To this end IPA III shall contribute to provisioning related to the guarantee for external actions referred to in Article 26 of [NDICI Regulation] proportionally to the investments carried out to the benefit of the beneficiaries listed in Annex I.

CHAPTER VI

MONITORING AND EVALUATION

Article 12

Monitoring, audit, evaluation and protection of the Union's financial interests

1. Chapter V of Title II of [NDICI Regulation] in relation to monitoring, reporting and evaluation shall apply to this Regulation.
2. Indicators to monitor implementation and progress of the IPA III towards the achievement of the specific objectives set out in Article 3 are set in Annex IV to this Regulation.
3. For cross-border cooperation with Member States, the indicators shall be those referred in Article 33 of [ETC Regulation].
4. In addition to the indicators referred to in Annex IV, the enlargement reports shall be taken into account in the results framework of IPA III assistance.
5. In addition to Article 129 of the Financial Regulation on the protection of the financial interests of the Union, under indirect management, beneficiaries listed in Annex I shall report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep the latter informed of the progress of administrative and legal proceeding. Reporting shall be done by electronic means, using the Irregularity Management System, established by the Commission.

CHAPTER VII

FINAL PROVISIONS

Article 13

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 14 to amend Annexes II, III and IV to this Regulation.

Article 14

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 13 shall be conferred on the Commission.
3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 15

Adoption of further implementing rules

1. Specific rules establishing uniform conditions for implementing this Regulation in particular in relation to the structures to be set up in preparation for accession and to rural development assistance, shall be adopted in accordance with the examination procedure referred to in Article 16.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No. 182/2011 shall apply.

Article 16

Committee

1. The Commission shall be assisted by a committee (the 'Instrument for Pre-accession Assistance Committee'). That committee shall be a committee within the meaning of [Regulation (EU) No 182/2011].

2. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so requests.

3. An observer from the EIB shall take part in the Committee's proceedings with regard to questions concerning the EIB.

4. The IPA III Committee shall assist the Commission and shall be competent also for legal acts and commitments under Regulation (EC) No 1085/2006, Regulation 231/2014 and the implementation of Article 3 of Regulation (EC) No 389/2006.

5. The IPA III Committee shall not be competent for the contribution to Erasmus+ as specified in Article 5(3).

Article 17

Information, communication and publicity

1. Articles 36 and 37 of [Regulation NDICI] shall apply.

Article 18

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation 231/2014 [IPA II] and Regulation (EC) No 1085/2006 [IPA] which shall continue to apply to the actions concerned until their closure. Chapter III of Title II of [Regulation NDICI], formerly under Regulation 236/2014, shall apply to these actions with the exception of paragraph 1 of Article 24.

2. The financial envelope for IPA III may also cover technical and administrative assistance expenses necessary to ensure the transition between IPA III and the measures adopted under its predecessor, IPA II.

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed.

Article 19

Entry into force

This Regulation shall enter into force on the […] [twentieth] day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *The President*	*For the Council* *The President*

LEGISLATIVE FINANCIAL STATEMENT

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Instrument for Pre-accession Assistance (IPA III)

1.2. Policy area(s) concerned *(Programme cluster)*

Pre-accession Cluster

1.3. The proposal/initiative relates to:

☒ a new action

☐ a new action following a pilot project/preparatory action[35]

☐ the extension of an existing action

☐ a merger or redirection of one or more actions towards another/a new action

1.4. Grounds for the proposal/initiative

1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The Instrument for Pre-accession Assistance (IPA III) largely contributes to meeting the broader European objectives of ensuring stability, security and prosperity in the immediate neighbourhood of the Union. Furthermore, proximity between Member States and beneficiaries and the corresponding need for coordination ensures that support given to beneficiaries helps the EU to reach its own objectives regarding a sustainable economic recovery, migration, security, energy supply, transport, the environment and climate change.

The enlargement process is built on established criteria and fair and rigorous conditionality. Each candidate or potential candidate is assessed on the basis of its own merits. The assessment of progress achieved and the identification of shortcomings aim to provide incentives and guidance to the candidates or potential candidates to pursue the necessary far-reaching reforms. For the prospect of enlargement to become a reality, a firm commitment to the principle of "fundamentals first" remains essential. The enlargement process reinforces peace, democracy and stability in Europe and allows the Union to be better positioned to address global challenges. The transformative power of the enlargement process generates far-reaching political and economic reform in the enlargement partners which also benefits the Union as a whole. Progression towards accession depends on each applicant's respect for the Union's values and its capacity to undertake the necessary reforms to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices in the Union.

[35] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

In November 2015, the European Commission set out a medium-term strategy for EU Enlargement policy, which remains valid. The current enlargement agenda covers the partners of the Western Balkans and Turkey. Accession negotiations have been opened with candidate countries Turkey (2005), Montenegro (2012), Serbia (2014). The former Yugoslav Republic of Macedonia is a candidate since 2005 and Albania obtained candidate status in 2014. Bosnia and Herzegovina (application to join the EU submitted in February 2016) and Kosovo* (Stabilisation and Association Agreement entered into force in April 2016) are potential candidates. On 17 April 2018, the Commission recommended to the Council the opening of accession negotiations with the former Yugoslav Republic of Macedonia and Albania, in light of the progress achieved, maintaining and deepening the current reform momentum.

The European Commission reaffirmed the firm, merit-based prospect of EU membership for the Western Balkans in its recent Communication “A credible enlargement perspective for and enhanced EU engagement with the Western Balkans”. This is a strong message of encouragement for the whole Western Balkans and a sign of the EU's commitment to their European future.

The Commission has maintained an open and constructive dialogue with Turkey and is using every opportunity to emphasise that Turkey's stated commitment to its EU accession needs to be matched with corresponding measures and reforms. It is also keen to continue engaging with Turkey in a number of key areas of shared interests, including trade and economic relations, energy, transport, migration and asylum, foreign policy, security and counter-terrorism.

IPA III should be clearly positioned in the context of the new Western Balkans Strategy, and reflect the developments in the relations with Turkey. IPA III reflects the objectives of the new Strategy for the Western Balkans in order to: maximise the impact of the Flagship Initiatives set forth in the Strategy, help the transformation process in the Western Balkans in the next period, implement robust Economic Reform Programmes (ERPs) and respective partner specific recommendations and renew the focus on reforms necessary for future membership.

The Western Balkans strategy indicates a potential date for accession (2025) of at least some candidates if all conditions are met. Financial means must be available to support the preparations and investments required in the years before accession, including ensuring a gradual and seamless transition from pre-accession status to that of Member State and allowing the necessary absorption capacity to be developed, in particular for the implementation of the agriculture and cohesion policy.

1.4.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Supporting the enlargement of the EU is by its very nature a task best pursued at EU level. Granting pre-accession assistance under one single instrument on the basis of a single set of criteria is more efficient than granting assistance from multiple sources – including the national budgets of the Member States – following different procedures and priorities. In addition, the EU’s political influence and leverage allows engaging national authorities with greater authority and legal certainty than individual Member States. The Instrument complements the enlargement policy of the Union by supporting political and economic reforms in candidate countries/potential candidates and is used proactively for advancing negotiations with beneficiary governments towards fulfilling the Copenhagen criteria as well as the conditionality of the Stabilisation and Association Agreements.

1.4.3. *Lessons learned from similar experiences in the past*

The mid-term review report (December 2017)[36] of ten of the external financing instruments[37] - including the Instrument for Pre-accession Assistance II (IPA II) - concluded that the external action instruments were overall fit for purpose and positive trends were emerging in relation to the achievement of objectives.

Only minimal changes would be necessary to clearly position it in the context of the new Western Balkans Strategy, and reflect the developments in the relations with Turkey. At the same time, more efforts should be put in place to ensure coherence and synergies with the broad instrument, in particular with respect to the thematic and non-programmable component. The complementarity of the instrument with other external financing instruments, notably EIDHR and IcSP has previously been good but coordination during both the planning and programming phase has not been sufficient. Close alignment between the programming cycles of IPA and the programmable parts of the broad instrument would facilitate complementarity.

In terms of political priorities, IPA III will be shaped around the following key political priorities: Rule of Law, Fundamental Rights and governance; Socio-Economic development; EU policies and acquis; and Reconciliation, good neighbourly relations and regional cooperation. While these were already spelt out under IPA II, new challenges such as migration, security and climate change will also have to be taken into account.

In order to respond to the new priorities and integrate lessons learnt, IPA III will need to be further aligned with recent developments in enlargement policy. This requires in particular close links to the objectives of the new Strategy for the Western Balkans, to maximise the impact of the Flagship Initiatives set forth in the Strategy to help the transformation process in the Western Balkans in the next period, to implement robust Economic Reform Programmes (ERPs), or to renew the focus on reforms necessary for future membership. Greater flexibility in funding allocations will have to be ensured in order to cater for unexpected/emerging priorities and to take into account the level of progress of respective countries in EU related reforms. Implementation will need to be accelerated, in particular in the first years, to avoid structural contracting and implementation backlogs, and to progressively absorb current delays. In a context of constrained budgetary resources, IPA III will have to work to further mobilise the leveraging potential of IFIs and other partners, including the private sector, in particular for supporting competiveness and inclusive growth,

[36] The mid-term review report COM(2017) 720 final, was based on ten staff working documents, one per instrument (see list below), which in turn were based on ten independent evaluations. The mid-term report, the *staff working documents and the independent evaluations can be found at here: https://ec.europa.eu/europeaid/public-consultation-external-financing-instruments-european-union_en*

[37] The ten instruments were the: Development Cooperation Instrument (DCI); European Development Fund (EDF); European Neighbourhood Instrument (ENI); Instrument for Pre-Accession (IPA II); Instrument contributing to stability and Peace (IcSP); European Instrument for Democracy and Human Rights (EIDHR); Partnership Instrument (PI); Instrument for Nuclear Safety Cooperation (INSC); Greenland Decision (GD); Common Implementing Regulation (CIR).

or financing large scale infrastructure investments. The overall performance framework will have to be strengthened and simplified.

1.4.4. *Compatibility and possible synergy with other appropriate instruments*

The programme seeks complementarities with a full range of Union programmes, including the internal policy programmes and the Neighbourhood, Development and International Cooperation Instrument. In particular there continue to be synergies with the European Regional Development and Cohesion fund, and the Common Agricultural Policy in preparing the beneficiary partner to absorb and manage future Union financing.

Coherence needs to be kept between the InvestEU Fund, the new single investment tool for the EU internal policies, and the Instrument for Pre-accession Assistance (IPA III), so that the potential access to candidates and potential candidates for EU accession to the new fund is maintained and possibly increased under the next MFF.

1.5. Duration and financial impact

☑ **unlimited duration**

– Implementation with a start-up period from 2021.

1.6. Management mode(s) planned[38]

☑ **Direct management** by the Commission

– ☑ by its departments, including by its staff in the Union delegations;

– ☑ by the executive agencies

☐ **Shared management** with the Member States

☑ **Indirect management** by entrusting budget implementation tasks to:

– ☑ third countries or the bodies they have designated;

– ☑ international organisations and their agencies (to be specified);

– ☑the EIB and the European Investment Fund;

– ☑ bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☑ public law bodies;

– ☑ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

– ☑ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

– ☑ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

Assistance under IPA III shall be implemented in direct management or in indirect management in accordance with the Financial Regulation through annual or multi-annual action plans and measures. Partner countries are still adjusting to IPA II changes and the implementation for IPA II programmes is still in an early stage; as a result a maximum of continuity should be secured. A strong performance based element should be maintained but simplified in order to make it easier to monitor and report on, and to provide a real incentive to the beneficiaries. IPA III will continue relying on a variety of partners such as national authorities, international organisations, member state agencies and organisations, civil society organisations, international and development financial institutions in situations where they have a clear added-value, building on the experience achieved and the lessons learned.

[38] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The European Commission's Monitoring system is an important element of the overall performance framework, which is based on appropriate specific objectives and corresponding indicators, and will be increasingly focussed on results.

They involve internal staff as well as external expertise. Operational managers in EU Delegations and at Headquarters continuously monitor the implementation of projects and programmes including, wherever possible, through field visits. Monitoring provides valuable information on progress, it helps managers to identify actual and potential bottlenecks and to take timely corrective action where appropriate.

In addition, external, independent experts are contracted to assess the performance of EU external actions through various complementary systems. These assessments contribute to accountability and to the improvement of ongoing interventions; they also draw lessons from past experience to inform future policies and actions. The tools used are in line with internationally-recognised OECD-DAC evaluation criteria and the European Commission's Better Regulation approach.

The Commission also supports beneficiary countries to build their own monitoring capacity. Where the Commission manages the assistance on behalf of the beneficiary, the Commission will retain primary responsibility for monitoring. On the other hand, where beneficiary countries manage the assistance under their own responsibility (indirect management) the Commission will have a mainly supervisory role, and primary responsibility will rest with the beneficiary.

Project level monitoring reports on the progress against plans, particularly concerning: (i) contracting/grant awards and (ii) delivery of outputs. Operational managers are also supported by the Results Oriented Monitoring (ROM) system which provides a snapshot of the quality of a sample of interventions. Using a highly structured, standardised methodology, independent ROM experts provide an assessment of the strengths and weaknesses of the project and formulate recommendations on how to improve effectiveness.

At sector and programme level, monitoring committees co-chaired by representatives of the beneficiaries and the Commission provide the forum to assess progress against plans. These committees are supported by the findings of monitoring reports and evaluations. They play a key role to ensure that the implementation of the financial assistance properly feeds into the policy dialogue and that committees' conclusions and recommendations are systematically followed up.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

Assistance under IPA III shall be implemented in direct management or in indirect management in accordance with the Financial Regulation through annual or multi-annual action plans and measures. Management modes will be selected on the basis of the type of programme and partner. Territorial cooperation with Member States will be managed in shared management in accordance with the ETC Regulation.

Therefore shared management is not foreseen under this Regulation. There are no fundamental changes from the Instrument for Pre-accession Assistance II, as the implementation for IPA II programmes is still in an early stage. As a result a maximum of continuity should be secured.

The EU will continue relying on a variety of partners such as national authorities, international organisations, member state agencies and organisations, civil society organisations, international and development financial institutions in situations where they have a clear added-value, building on the experience achieved and the lessons learned.

Indirect management with partner countries will continue to be encouraged in programmes preparing the beneficiaries for the management of structural funds notably in the area of rural and agriculture development. The transition from direct management of pre-accession funds by the Commission to indirect management by the beneficiaries will be progressive and in line with the respective capacities of those beneficiaries. Assistance will continue to make use of the structures and instruments that have proved their worth in the pre-accession process.

In terms of instruments and delivery modes, all types of financing foreseen in the Financial Regulation will be included in the IPA III (from grants, procurement, prizes, contributions to EU Trust funds, sector budget support, to financial instruments and budgetary guarantees).

In accordance with Article 125 of the [new Financial Regulation], to the extent possible, IPA III foresees the use for simplified forms of contribution using lump-sums, unit costs and flat-rates for the reimbursement of eligible costs as well as financing not linked to costs for contributions where it is relevant.

DG NEAR has set up internal control processes aimed at ensuring adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of its programmes as well as the nature of the payments concerned.

- Categorisation of DG NEAR's overall control environment.

DG NEAR's operational environment is a complex and risk-prone environment characterised by:

Generally speaking, a high level of risk in the partner countries (some more than others) due to the political, institutional, administrative and social environment. This risk analysis must be nuanced by partner.

– Geographically dispersed activities, covering some 25 countries, with delegations managing funds for DG NEAR.

– A high number of operations and associated financial transactions.

– Two main financial instruments to manage, along with their predecessors, each one with a different legal basis and implementing rules and also other financial instruments (thematic lines), cross sub delegated from other DGs.

– A diversity of partners in the implementation of its activities (IPA beneficiary partners, private firms, Entrusted Entities, NGOs).

– A diversity of forms and modes of financial implementation (project approach, budget support, sector approach, indirect management with IPA beneficiary partners or with an entrusted entity, blending, trust funds, shared management under Cross Border Cooperation, etc.).

For more details on the control strategy see below 2.2.2.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

DG NEAR's assurance is based on a pyramid of controls, which allows the detection of sufficient errors at different levels to ensure that the residual error remains under the desired threshold of 2%.

(1) The first level of 'ex-ante' control (before the approval of the AOSD) consists in the tight supervision and checks of all operational and financial transactions based on the financial circuits of the DG, assisted by very comprehensive and detailed checklists. This is a major source of prevention, detection and correction of errors.

(2) Mandatory expenditure verifications accompanying requests for payment: verifications explicitly required in contractual documents initiated by the beneficiary: DG NEAR follows the Financial Regulation, which sets out where payment claims have to be accompanied by an expenditure verification report issued by an external auditor.

(3) Risk-based audits: DG NEAR carries out a robust project-level risk assessment at the beginning of each year, which is the basis of the audit plan. The objective is to have an additional layer of controls which the AOSD activates when perceiving specific risks. These are financial, systems, and combined financial and systems audits (fully fledged audits with audit opinions); or verifications of International Organisations (agreed upon procedures, where controls are strictly determined in agreements (such as FAFA), and auditors do not issue 'opinions' but 'reports on factual findings'.

(4) Results-Oriented Monitoring (ROM) is a tool to report on the performance and results of EU funded projects and programmes. It makes reference to four criteria (relevance, efficiency, effectiveness, sustainability). This exercise can provide basic information that can be exploited to orient future monitoring/evaluation/audit and management decision at project/programme level.

(5) Evaluations are systematic and objective assessments of an on-going or completed project, programme or policy, its design, implementation and results. Evaluations are usually performed by independent, external experts who scrutinize an intervention against defined criteria such as relevance, efficiency, effectiveness; sustainability, coherence and EU value added (in accordance with OECD-DAC evaluation criteria and the European Commission's Better Regulation approach).

(6) On the spot checks: Such checks complement monitoring in that they ensure that contract / project deliverables are adequately verified on the spot, along with aspects of legality and regularity, to support the operational visa (‘certified correct’) or to provide supplementary assurance in IMBC ('Indirect Management with Beneficiary Country') that the monitoring and controls of the national authorities / entrusted entities to support their payment visas can be relied upon. On the spot checks can also include a contractual/financial

dimension based on risk assessment, and in this case involve both operational and contracts and finance staff.

(7) Pillar assessment of IMEEs ('Indirect Management with Entrusted Entities'): DG NEAR may entrust activities to entities that have been pillar-assessed, either by DG NEAR or other Commission services. These entities must meet requirements with regard to areas identified in the Financial regulation.

(8) IMBC ('Indirect Management with Beneficiary Country') Systems Audits: They are performed either by using Commission staff or external contractors.

(9) The Commission obtains evidence that the requirements set out in the Framework Agreement are fulfilled, in particular through the reinforced support to the Audit Authorities. Opinions on the design and reliability of national systems and sub-systems are delivered. In 2017, DG NEAR carried out IMBC audits (and/or follow up) for all five beneficiary countries that benefit from the IMBC process. An external audit firm which was contracted in 2016 finalized the limited review in the area of Information and Communication Technology (ICT) in all five countries. These reviews were followed up by the preparation of ICT action plans.

(10) Supervision missions to Delegations: represent a management tool at the level of Directors. They provide assurance to the AOSD, as well as insight into the Delegations' capacity to manage EU external assistance and to achieve their goals. Each Delegation is visited every 2-4 years.

(11) IAS and ECA: controls are also performed by external audit bodies, the IAS and ECA, and their results help reinforce the control system of the DG. The audits performed by the IAS and those of the Court - performance audits and Declaration of Assurance (DAS) – are also useful tools to support assurance. Within the framework of the DAS, the Court provides each year the most likely error rate (MLE), which gives a clear indication on the functioning of the control systems.

(12) Local System validation: DG BUDG, working for the Accounting Officer of the Commission, reviews both the functional IT and procedural aspects of the local systems of all operational DGs, including DG NEAR, to ensure that the information forwarded by the AODs is reliable. These reviews are carried out under Article 68 of the Financial Regulation and Article 56 of the Rules of Application. Although these tests are carried out primarily to provide assurance to the Accounting Officer, a positive validation report also provides a degree of assurance to DG NEAR management that the systems subject to that report are adequate in terms of design and are working as intended. In 2017, DG BUDG reviewed DG NEAR local systems for the estimation and establishment of receivable amounts and the reflows from financial instruments.

(13) Accounting Quality Review: DG NEAR conducts the accounting quality review on a yearly basis to ensure that its annual financial report and its contribution to the consolidated accounts of the European Commission present a true and fair view of its underlying financial activities.

(14) Manuals/Guidance and staff training: DG NEAR organises trainings for its staff at Headquarters and in Delegations on a regular basis, in particular at the Cooperation Days and the meetings of Heads of Finance and of Operations or

regional seminars. A new Manual of Procedures was finalised and made available to the staff in early 2017.

(15) Residual Error Rate: Residual Errors are those that have evaded all prevention, detection and correction controls in the existing control framework. Work performed supporting the measurement of the RER is intended to identify errors which have not been identified by means of the internal control system and conclude on its efficiency.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

I. Cost / Benefit of controls in DG NEAR

The control setup proposed for the new IPA instrument does not differ significantly from the one applying under the current instrument. Its cost structure will therefore be similar.

Costs of controls in 2017, at 2017 prices, are expected to be maintained:

The cost of controls in DG NEAR has been estimated at EUR 89 million for 2017. The estimation is made assessing the spending on human resources related to internal control, as well as on evaluation and audit.

Human resource costs have been estimated at EUR 74 million and include direct, indirect and overhead costs. The calculation is based on the number of officials and contract agents in headquarters and official, contract agents and local agents in delegations, multiplied by the average costs provided by central services (DG BUDG), using allocation keys for each unit. The key is determined by the time spent by each unit on control activities where control is defined as per article 2 of the Financial Regulation: 'control' means any measure taken to provide reasonable assurance regarding the effectiveness, efficiency and economy of operations, the reliability of reporting, the safeguarding of assets and information, the prevention and detection and correction of fraud and irregularities and their follow-up, and the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned. Controls may involve various checks, as well as the implementation of any policies and procedures to achieve the objectives described in the first sentence. The cost of control calculation refers only to the costs of the Commission.

The cost of controls as a proportion of the value of the related funds managed in 2017 is 2.9%.

Also, the absolute amount of cost of controls has to be read in the light of the benefit of controls (sound financial management as confirmed by the low Residual Error Rate below 2%) and quantitative financial benefits of controls, amounting to EUR 189 million.

Costs incurred by national systems in countries implementing IPA under indirect management are not included. It should be noted that a significant share of the investment and training costs incurred to set up such systems is financed by IPA operational expenditure.

II. Error rate in DG NEAR

In terms of expected error rate(s), at the stage of the legislative proposals the aim is to maintain the error rate below the threshold of 2%.

Estimation of the Residual Error Rate ('RER') in DG NEAR

DG NEAR has developed a study that enables to evaluate the effectiveness of the overall control framework, and forms an important part of the information at the Director General's disposal when signing the Declaration of Assurance.

This indicator is designed to assess the main control objective of the DG and to measure the residual errors not detected by the overall control system. It has to remain below 2% of the total amount of the transactions under review.

The RER study is based on a sample (drawn by monetary unit sampling) of minimum 720 intervals in a population of closed contracts in the period September 2016 to August 2017. The multiannual nature of DG NEAR's programmes is taken into account in this methodology, as the contracts closed during the said period and taken into account for the monetary unit sampling were authorised over a period of several years.

The 2017 Residual Error Rate (0.67%) for the DG is very satisfactory. This is a strong signal that the pyramid of controls put in place at all the levels of the DG are functioning.

In 2017, the residual error rate is as follows:

ENI errors:	0.65 %
IPA (excl – IMBC) errors:	0.90 %
IPA IMBC errors:	0.36 %
DG NEAR	0.67%

Upper and lower error limits

The weighted upper error rate is 2.33% and the lower error rate is 0.06%. This means that we can state with 95% confidence that the error rate falls between these two limits. The breakdown of the upper error limit is as follows:

	Upper error limit	Weighted
ENI	2.25%	1.55%
IPA	2.62%	0.55%
IMBC	2.31%	0.23%
Total		2.33%

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

Given the risk environment in the IPA countries in which DG NEAR operates, the systems need to anticipate the occurrence of potential compliance error in transactions and build in prevention, detection and correction controls as early as possible. This means in practice that DG NEAR's compliance controls will place most reliance on significant ex-ante checks by Commission staff on transactions, as well as on systematic systems audits of indirect management payment systems (while still executing some ex-post audits and checks), going well beyond the financial safeguards required by the Financial Regulation. DG NEAR compliance framework is made up of the following significant components:

Preventive measures

- Core training covering fraud issues for aid management staff;
- Provision of guidance using the NEAR manual of procedures(MAP);
- Annual IMBC process including a verification of the management and control system in place, including an assessment to ensure that appropriate anti-fraud measures to prevent and detect fraud in the management of EU funds are in place in the authorities managing the relevant funds,
- Ex-ante screening of the anti-fraud mechanisms available in the beneficiary partner as part of the assessment of the eligibility criterion of public finance management for receiving budget support (i.e. active commitment to fight fraud and corruption, adequate inspection authorities, sufficient judicial capacity and efficient response and sanction mechanisms),
- Ex-ante controls of all nationally procured contracts; waived after national systems meet stringent management and control benchmarks;

Detective and corrective measures

- Ex-ante transaction checks performed by Commission staff;
- Internal and external audits and verifications, including by the European Court of Auditors;
- Retrospective checks and recoveries.

In addition where irregularity is suspected to be intentional (fraud) DG NEAR has other measures as its disposal including:

- Suspension of time-limit for payments and notification to the entity;
- Specific audits (ad hoc/forensic audit);
- EDES (Early Detection Exclusion System) ;
- Suspension/termination of contract;
- Exclusion procedure.
- Suspension of servicing requests for funds by national funds;

DG NEAR has developed and implemented its own anti-fraud strategy, elaborated on the basis of the methodology provided by OLAF. It has been updated in 2016 and approved for the years 2016-2017.

The general objectives of this anti-fraud strategy are:

- Anti-fraud network, data collection and guidance: to establish a network of OLAF Focal Points within DG NEAR, as well as develop data and statistics on the OLAF cases that concern the DG.
- Management reporting and relations with EU stakeholders: to establish regular reporting cycles on anti-fraud issues at senior management level and at the level of Commissioner, as well as to develop the tools that enable this reporting and to coordinate relations between DG NEAR and OLAF.
- Awareness raising, procedures and document management: to raise the fraud awareness level of DG NEAR staff, including increasing their knowledge and capacity for performing preventive and detective controls and to develop procedures and guidance on reporting fraud and anti-fraud KPIs for the Management Plan.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number Heading 6	Diff./Non-diff.[39]	from EFTA countries[40]	from candidate countries[41]	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
Heading 6	16 01 Pre-accession assistance — Expenditure on administrative management	NDA	NO	NO	NO	NO
Heading 6	16 02 Pre-accession assistance — Operational credits	DA	YES	YES	YES	YES
Heading 6	16 02.01 Support for strengthening the rule of law, democracy, civil society, fundamental and human rights, migration including border management as well as security.	DA	YES	YES	YES	YES
Heading 6	16 02.02 Support for strengthening the public administration effectiveness, structural reforms and good governance.	DA	YES	YES	YES	YES
Heading 6	16 02.03 Support for shaping rules, standards, policies and practices in alignment to those of the Union	DA	YES	YES	YES	YES
Heading 6	16 02.04 Support for strengthening economic and social development	DA	YES	YES	YES	YES
Heading 6	16 02.05 Support for territorial and cross-border cooperation	DA	YES	YES	YES	YES

[39] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[40] EFTA: European Free Trade Association.
[41] Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure[42]

EUR million (to three decimal places)

Heading of multiannual financial framework	6	NEIGHBOURHOOD AND THE WORLD

			2021	2022	2023	2024	2025	2026	2027	*Post 2027*	TOTAL
Operational appropriations	Commitments	(1)	1 899,300	1 938,665	1 978,014	2 018,145	2 058,259	2 100,355	2 143,433		14 136,171
	Payments	(2)	94,239	337,482	591,552	995,238	1 460,304	1 589,081	1 678,593	7 389,681	14 136,171
Appropriations of an administrative nature financed from the envelope of the programme[43]	Commitments = Payments	(3)	49,700	50,335	50,986	51,855	52,741	53,645	54,567		363,829
TOTAL appropriations for the envelop of the programme	Commitments	=1 +3	1 949,000	1 989,000	2 029,000	2 070,000	2 111,000	2 154,000	2 198,000		14 500,000
	Payments	=2 +3	143,939	387,817	642,538	1 047,093	1 513,045	1 642,726	1 733,160	7 389,681	14 500,000

42 Totals may not tally due to rounding.

43 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Heading of multiannual financial framework	7	'ADMINISTRATIVE EXPENDITURE'

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	*Post 2027*	TOTAL
Human resources		41,128	41,950	42,789	43,645	44,518	45,408	46,316		305,755
Other administrative expenditure		3,532	3,602	3,674	3,748	3,823	3,899	3,977		26,255
TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	44,659	45,552	46,464	47,393	48,341	49,307	50,294		332,010

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	*Post 2027*	TOTAL
TOTAL appropriations across HEADINGS of the multiannual financial framework	Commitments	1 993,659	2 034,552	2 075,464	2 117,393	2 159,341	2 203,307	2 248,294		14 832,010
	Payments	188,598	433,369	689,002	1 094,486	1 561,386	1 692,033	1 783,454	7 389,682	14 832,010

3.2.2. *Summary of estimated impact on appropriations of an administrative nature*

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
HEADING 7 of the multiannual financial framework								
Human resources	41,128	41,950	42,789	43,645	44,518	45,408	46,316	305,755
Other administrative expenditure	3,532	3,602	3,674	3,748	3,823	3,899	3,977	26,255
Subtotal HEADING 7 of the multiannual financial framework	44,659	45,552	46,464	47,393	48,341	49,307	50,294	332,010
Outside HEADING 7[44] of the multiannual financial framework								
Human resources	41,750	42,585	43,436	44,305	45,191	46,095	47,017	310,379
Other expenditure of an administrative nature	7,950	7,750	7,550	7,550	7,550	7,550	7,550	53,450
Subtotal outside HEADING 7 of the multiannual financial framework	49,700	50,335	50,986	51,855	52,741	53,645	54,567	363,829
TOTAL	**94,359**	**95,887**	**97,450**	**99,248**	**101,082**	**102,953**	**104,861**	**695,839**

44 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.2.1. Estimated requirements of human resources

– ☐The proposal/initiative does not require the use of human resources.

– ☒The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

Years		2021	2022	2023	2024	2025	2026	2027
• **Establishment plan posts (officials and temporary staff)**								
Headquarters and Commission's Representation Offices		199	199	199	199	199	199	199
Delegations		50	50	50	50	50	50	50
Indirect research								
Direct research								
• **External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED** [45] Heading 7								
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	25	25	25	25	25	25	25
	- in Delegations	8	8	8	8	8	8	8
Financed from the envelope of the programme [46]	- at Headquarters	97	97	97	97	97	97	97
	- in Delegations	482	482	482	482	482	482	482
Indirect research								
Direct research								
Other (specify)								
TOTAL		**861**	**861**	**861**	**861**	**861**	**861**	**861**

Description of tasks to be carried out:

Officials and temporary agents	Planning, programming, management and monitoring of financial assistance
External staff	Planning, programming, management and monitoring of financial assistance

45 AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

46 Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.3. *Third-party contributions*

The proposal/initiative:

– ☒ does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

– ☒ The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative[47]						
	2021	2022	2023	2024	2025	2026	2027
Article ………….							

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[47] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.