



Brussels, **XXX**
[...] (2021) **XXX** draft

COMMISSION IMPLEMENTING DECISION

of **XXX**

on the financing of the components of the Thematic Facility under the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy, and adoption of the work programme covering the years 2021 and 2022 for actions implemented under direct and indirect management and the years 2021 to 2024 for actions implemented under shared management

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012¹, and in particular Article 110 thereof,

Having regard to Regulation (EU) 2021/1148 of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy², and in particular Article 8(7) thereof,

Whereas:

- (1) In order to ensure the implementation of the components of the thematic facility under the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy, it is necessary to adopt a multiannual financing decision, which constitutes the multiannual work programme, for 2021 and 2022 for actions implemented under direct and indirect management and 2021 to 2024 for actions implemented under shared management. Article 110 of Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation') establishes detailed rules on financing decisions.
- (2) In accordance with Article 33(3) of Regulation (EU) 2021/1148 and Article 193(2), second subparagraph, point (a), of the Financial Regulation, taking into account the delayed entry into force of Regulation (EU) 2021/1148, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under that Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted. The same rules apply, *mutatis mutandis*, to the eligibility of activities and costs under indirect management.
- (3) The envisaged assistance is to comply with the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU.

¹ OJ L 193, 30.7.2018, p. 1.

² OJ L 251, 15.7.2021, p. 48.

- (4) It is appropriate to authorise the award of grants without a call for proposals and to provide for the conditions for awarding those grants.
- (5) Pursuant to Article 62(1), point (c), of the Financial Regulation indirect management is to be used for the implementation of the programme. Pursuant to Article 62(1), point (b) of the Financial Regulation shared management is to be used for the implementation of the programme, and in particular for the implementation of the specific actions.
- (6) The Commission is to ensure a level of protection of the financial interests of the Union with regards to entities and persons entrusted with the implementation of Union funds by indirect management as provided for in Article 154(3) of the Financial Regulation. To this end, such entities and persons are to be subject to an assessment of their systems and procedures in accordance with Article 154(4) of the Financial Regulation³ and, if necessary, to appropriate supervisory measures in accordance with Article 154(5) of the Financial Regulation before a contribution agreement can be signed.
- (7) It is necessary to allow for the payment of interest due for late payment on the basis of of Article 116(5) of the Financial Regulation.
- (8) In order to allow for flexibility in the implementation of the work programme, it is appropriate to allow changes which should not be considered substantial for the purposes of Article 110(5) of the Financial Regulation.
- (9) Given that Regulation (EU) No 2021/1148 builds upon the Schengen *acquis*, in accordance with Article 4 of Protocol No 22 on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark notified by letter of 24 September 2021 the implementation of Regulation (EC) 2021/1148 in its national law. It is therefore bound by this Decision.
- (10) Regulation (EU) No 2021/1148 constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part. Ireland is therefore not bound by this Decision or subject to its application.
- (11) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis*⁴ within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, Points A and B of Council Decision 1999/437/EC.⁵

However, pursuant to article 7(6) of Regulation (EU) 2021/1148, participation of Iceland and Norway in the Border Management and Visa Instrument requires arrangements to specify the nature and modes of such participation in accordance with the relevant provisions of their respective association agreements. This Decision does not apply to Iceland and Norway, because such arrangements have not yet been concluded.

³ Except for the cases of Article 154(6) of the Financial Regulation, where the Commission may decide, not to require an ex ante assessment

⁴ OJ L 176, 10.7.1999, p. 36.

⁵ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ([OJ L 176, 10.7.1999, p. 31](#)).

- (12) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*⁶ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁷.

However, pursuant to article 7(6) of Regulation (EU) 2021/1148, participation of Switzerland in the Border Management and Visa Instrument requires arrangements to specify the nature and modes of such participation in accordance with the relevant provisions of their respective association agreements. This Decision does not apply to Switzerland, because such arrangements have not yet been concluded.

- (13) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*⁸ which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU⁹.
- (14) The attribution of EUR 496 770 572.75 for the implementation of the work programme aims to facilitate the programming and reduce the risk of de-commitment in shared managed programmes. This should not preclude the possibility to allocate additional resources of the 2023 and 2024 budgetary allocations to specific actions in the next multiannual work programme of the thematic facility under the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) No 2021/1148,

HAS DECIDED AS FOLLOWS:

Article 1
The work programme

The multiannual financing decision, constituting the multiannual work programme for the implementation of the components of the thematic facility under the Integrated Border

⁶ OJ L 53, 27.2.2008, p. 52.

⁷ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ([OJ L 53, 27.2.2008, p. 1](#)).

⁸ OJ L 160, 18.6.2011, p. 21.

⁹ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons ([OJ L 160, 18.6.2011, p. 19](#)).

Management Fund, the Instrument for Financial Support for Border Management and Visa Policy covering the years 2021 and 2022 for actions implemented under direct and indirect management and the years 2021 to 2024 for actions implemented under shared management, as set out in the Annex, is adopted.

Article 2
Union contribution

The maximum Union contribution for the implementation of the work programme for the years 2021 and 2022 for actions implemented under direct and indirect management and the years 2021 to 2024 for actions implemented under shared management referred to in Article 1 is set at EUR 496 770 572.75 and shall be financed from the appropriations entered in the line 11 02 01 of the general budget of the Union, as follows:

- (1) EUR 120 031 231.65 for 2021;
- (2) EUR 244 124 960.83 for 2022;
- (3) EUR 66 307 190.14 for 2023;
- (4) EUR 66 307 190.13 for 2024.

The amounts related to 2023 and 2024 shall cover exclusively the actions under shared management (specific actions) set out in the work programme.

The appropriations provided for in the first paragraph may also cover interest due for late payment.

The implementation of this Decision is subject to the availability of the appropriations provided for in the general budget of the Union for 2022 following the adoption of that budget by the budget authority, and subject to the availability of the appropriations provided for in the general budgets of the Union for 2023 and 2024 for the appropriations linked to the actions under shared management (specific actions).

Article 3
Methods of implementation and entrusted entities or persons

The implementation of the actions carried out by way of indirect management, as set out in the Annex, may be entrusted to the entities or persons referred to or selected in accordance with the criteria laid down in point 4 of that Annex.

Article 4
Flexibility clause

Cumulated changes to the allocations to actions not exceeding 10% of the maximum Union contribution set in the first paragraph of Article 2 of this Decision shall not be considered to be substantial for the purposes of Article 110(5) of the Financial Regulation, where those changes do not significantly affect the nature of the actions and the objective of the work programme.

The increase of the maximum Union contribution set in the first paragraph of Article 2 of this Decision shall not exceed 20%.

The authorising officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and proportionality.

Article 5
Grants

Grants may be awarded without a call for proposals in accordance with the conditions set out in the Annex. Grants may be awarded to the bodies referred to in the Annex.

Done at Brussels,

For the Commission
[...]

Member of the Commission