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►B REGULATION (EU) No 236/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2014

laying down common rules and procedures for the implementation of the Union's instruments for financing external action

(OJ L 77, 15.3.2014, p. 95)

Corrected by:

►C1 Corrigendum, OJ L 319, 4.12.2015, p. 21 (236/2014)

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REGULATION (EU) No 236/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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laying down common rules and procedures for the implementation of the Union's instruments for financing external action

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 Articles 209(1) and 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 Committee of Regions [1],

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

Whereas:

(1) The European Union should adopt a comprehensive set of instruments for financing external action covering a range of policies related to such action, which require specific common rules and procedures for their implementation. Those instruments for financing external action for the period from 2014 to 2020 are: the Development Cooperation Instrument (DCI), as established by Regulation (EU) No 233/2014 of the European Parliament and of the Council [3], the European Instrument for Democracy and Human Rights (EIDHR), as established by Regulation (EU) No 235/2014 of the European Parliament and of the Council [4], the European Neighbourhood Instrument (ENI), as established by Regulation (EU) No 232/2014 of the European Parliament and of the Council [5], the Instrument contributing to Stability and Peace, as established by Regulation (EU) No 230/2014 of the European Parliament and of the Council [6], the Instrument for Pre-accession Assistance (IPA II), as established by Regulation (EU) No 231/2014 of the European Parliament and of the Council [7], and the Partnership Instrument for cooperation with third countries, as established by Regulation

[1] OJ C 391, 18.12.2012, p. 110.
[2] Position of the European Parliament of 11 December 2013 (not yet published in the Official Journal) and decision of the Council of 11 March 2014.
[3] Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (see page 44 of this Official Journal).
[4] Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (see page 85 of this Official Journal).
[5] Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (see page 27 of this Official Journal).
[6] Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (see page 1 of this Official Journal).
[7] 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) (see page 11 of this Official Journal).

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(EU) No 234/2014 of the European Parliament and of the Council [1] (hereinafter referred to jointly as 'the Instruments' and individually as 'the Instrument').

(2) The common rules and procedures should be consistent with the financial rules applicable to the general budget of the Union laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council [2], including the corresponding rules adopted by the Commission [3] for implementing that Regulation.

(3) The Instruments generally provide that actions to be funded on their basis should be the object of a multiannual indicative programming, providing the framework within which financing decisions should be adopted in accordance with Regulation (EU, Euratom) No 966/2012, and with the procedures provided for in Regulation (EU) No 182/2011 of the European Parliament and of the Council [4].

(4) Financing decisions should take the form of annual or multiannual action programmes and individual measures when following the planning provided for by the multiannual indicative programming, of special measures where required by unforeseen and duly justified needs or circumstances, and of support measures. Support measures may be adopted either as part of an annual or multiannual action programme or outside the scope of indicative programming documents.

(5) Financing decisions should include in an annex a description of each action, specifying its objectives, main activities, expected results, methods of implementation, budget and indicative timetable, any associated support measures and performance monitoring arrangements, and should be approved in accordance with the procedures provided for in Regulation (EU) No 182/2011.

(6) Taking into account the policy programming or financial execution nature of those implementing acts, in particular their budgetary implications, the examination procedure should be used for their adoption, except for individual and special measures below pre-defined thresholds. However, the Commission should adopt immediately applicable implementing

[1] Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries (see page 77 of this Official Journal).

[2] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

[3] Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

[4] 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).

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acts where, in duly justified cases relating to the need for a swift response from the Union, imperative grounds of urgency so require. The European Parliament should be duly informed thereof, in accordance with the relevant provisions of Regulation (EU) No 182/2011.

(7) For the implementation of the Instruments, where the management of the operation is entrusted to a financial intermediary, the Commission decision should cover in particular provisions concerning risk-sharing, transparency, the remuneration of the intermediary responsible for implementation, the use and re-use of funds and of possible profits, and the reporting obligations and control mechanisms, taking into account the relevant provisions of Regulation (EU, Euratom) No 966/2012.

(8) 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 between the Union's instruments for external action, as well as the creation of synergies between the Instruments and other policies of the Union. This should further entail mutual reinforcement of the programmes devised under the Instruments, and, where appropriate, the use of financial instruments that have a leverage effect.

(9) Pursuant to Article 21 of the Treaty on European Union (TEU), the Union's action on the international scene is to be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world, namely democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principle of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

(10) In line with the commitments of the Union at the 3rd and 4th High Level Fora on Aid Effectiveness (Accra 2008 and Busan 2011), and the recommendation of the Development Assistance Committee of the Organisation for Economic Co-operation and Development (‘OECD-DAC’) on untying official development assistance (ODA) to the Least Developed Countries and Heavily Indebted Poor Countries, the Commission should untie Union aid to the maximum extent, including for innovative financing mechanisms, and promote the participation of entities from partner countries in contract-award procedures.

(11) In order to ensure the visibility towards the citizens of the beneficiary countries and the Union citizens, of the Union's assistance, there should be, where appropriate, targeted communication and information by adequate means.

(12) The Union's external action under the Instruments should contribute to clear results (covering outputs, outcomes and impacts) in countries benefiting from the Union's external

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financial assistance. Whenever possible and appropriate, the results of the Union's external action and the efficiency of a particular Instrument should be monitored and assessed on the basis of pre-defined, clear, transparent and, where appropriate, country-specific and measurable indicators, adapted to the specificities and objectives of the Instrument concerned.

(13) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties. Those measures should be carried out in accordance with the applicable agreements concluded with international organisations and third countries.

(14) Provision should be made for financing methods, the protection of the financial interests of the Union, rules on nationality and origin, the evaluation of actions, reporting and review and evaluation of the Instruments.

(15) Without prejudice to cooperation mechanisms developed with civil society organisations at all levels in accordance with Article 11 TEU, stakeholders of beneficiary countries, including civil society organisations and local authorities, have a prominent role to play regarding the external policy of the Union. During the implementation process, in particular the preparation, implementation, monitoring and evaluation of measures taken under this Regulation, it is important to duly consult them to ensure that they play a meaningful role in this process and to duly consider their specificities.

(16) In accordance with Article 208, Article 209(3) and Article 212 of the Treaty on the Functioning of the European Union, and under the terms laid down in the Statute of the European Investment Bank (EIB) and in Decision No 1080/2011 of the European Parliament and of the Council [1], the EIB contributes to the implementation of the measures necessary to further the objectives of the Union's development and other external policies, and intervenes in complementarity with the Union's instruments for external action. Opportunities should be seized to combine EIB financing with Union budgetary resources. The EIB is consulted in the Union programming process where appropriate.

(17) International organisations and development agencies routinely work with non-profit organisations as implementing partners and may have to entrust budget implementation tasks to them in duly justified cases. By way of derogation from point (c) of

[1] Decision No 1080/2011/EU of the European Parliament and of the Council of 25 October 2011 granting an EU guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Union and repealing Decision No 633/2009/EC (OJ L 280, 27.10.2011, p. 1).

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Article 58(1) of Regulation (EU, Euratom) No 966/2012, provision should be made in this Regulation to allow such tasks to be entrusted to non-profit organisations under conditions equivalent to those applying to the Commission.

(18) In order to enhance partner countries' ownership of their development processes and the sustainability of external aid, and in line with international aid effectiveness commitments entered into by the Union and partner countries, the Union should promote, where appropriate in light of the nature of the action concerned, the use of partner countries' own institutions, systems and procedures.

(19) In line with the European Consensus on Development and the international aid effectiveness agenda, and as underlined by the European Parliament's resolution of 5 July 2011 on the future of EU budget support to developing countries, the Commission's Communication of 13 October 2011 entitled ‘Increasing the impact of EU Development Policy: an Agenda for Change’, and the Council Conclusions on ‘The Future Approach to EU Budget Support to Third Countries’ of 14 May 2012, budget support is to be used effectively to support poverty reduction and the use of country systems, make aid more predictable and strengthen partner countries' ownership of development policies and reforms. The disbursement of forecast budget tranches should be conditional on the progress achieved towards the objectives agreed with partner countries. In countries benefiting from that type of the Union's financial assistance, the Union supports the development of parliamentary control, audit capacities, transparency and public access to information.

(20) Union action aimed at advancing the principles of democracy and strengthening democratisation may be implemented, inter alia, through support to civil society organisations and independent institutions active in this area, such as the European Endowment for Democracy.

(21) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(22) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013 ([1]). Therefore, this Regulation should apply from 1 January 2014 until 31 December 2020,

([1]) Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

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HAVE ADOPTED THIS REGULATION:

TITLE I

IMPLEMENTATION

Article 1

Subject matter and principles

1. This Regulation lays down the rules and conditions for the provision by the Union of financial assistance to actions, including action programmes and other measures, under the following instruments for financing external action for the period from 2014 to 2020: the Development Cooperation Instrument (DCI), the European Instrument for Democracy and Human Rights (EIDHR), the European Neighbourhood Instrument (ENI), the Instrument contributing to Stability and Peace, the Instrument for Pre-Accession Assistance (IPA II) and the Partnership Instrument for cooperation with third countries (hereinafter referred to jointly as 'the Instruments' and individually as 'the Instrument').

For the purposes of this Regulation, the term 'countries' includes territories and regions, as appropriate.

2. This Regulation does not apply to the implementation of actions financing the Erasmus+ programme under Regulation (EU) No 233/2014, Regulation (EU) No 232/2014, Regulation (EU) No 231/2014 and Regulation (EU) No 234/2014. Those actions shall be implemented in accordance with Regulation (EU) No 1288/2013 of the European Parliament and of the Council [1], on the basis of the indicative programming documents referred to in the applicable Instrument, while ensuring conformity with those Regulations.

3. The Commission shall ensure that actions are implemented in accordance with the objectives of the applicable Instrument, and in conformity with an effective protection of the financial interests of the Union. The Union's financial assistance provided on the basis of the Instruments shall be consistent with the rules and procedures laid down in Regulation (EU, Euratom) No 966/2012, which provides the basic financial and legal framework for their implementation.

4. In applying this Regulation, the Commission shall use the most effective and efficient implementation methods. Where possible and appropriate in light of the nature of the action, the Commission shall also favour the use of the most simple procedures.

5. Taking into account paragraph 4, in applying this Regulation, the Commission shall favour the use of partner countries' systems when possible and appropriate in light of the nature of the action.

[1] Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC (OJ L 347, 20.12.2013, p. 50).

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6. The Union shall seek to promote, develop and consolidate the principles of democracy, the rule of law and respect for human rights and fundamental freedoms on which it is founded, on the basis of, where appropriate, dialogue and cooperation with partner countries and regions. The Union shall integrate those principles in the implementation of the Instruments.

Article 2

Adoption of action programmes, individual measures and special measures

1. The Commission shall adopt annual action programmes, based on the indicative programming documents referred to in the relevant Instrument, where applicable. The Commission may also adopt multi-annual action programmes in accordance with Article 6(3).

Action programmes shall specify for each action the objectives pursued, the expected results and main activities, the methods of implementation, the budget and an indicative timetable, any associated support measures and performance monitoring arrangements.

When necessary, an action may be adopted as an individual measure before or after the adoption of annual or multi-annual action programmes.

In the event of unforeseen and duly justified needs or circumstances, and when funding is not possible from more appropriate sources, the Commission may adopt special measures not provided for in the indicative programming documents, including measures to ease the transition from emergency aid to long-term development operations or measures to better prepare people to deal with recurring crises.

2. Action programmes, individual measures and special measures provided for in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 16(3).

3. The procedure referred to in paragraph 2 shall not be required for:

(a) individual measures for which the Union's financial assistance does not exceed EUR 5 million;

(b) special measures for which the Union's financial assistance does not exceed EUR 10 million;

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(c) technical amendments to action programmes, individual measures and special measures. Technical amendments are adjustments, such as:

(i) extensions of the implementation period;

(ii) reassignments of funds between actions contained in an annual or multi-annual action programme; or

(iii) increases or reductions of the budget of the annual or multi-annual action programmes, or of individual or special measures, by not more than 20 % of the initial budget and not exceeding EUR 10 million,

provided such amendments do not substantially affect the objectives of the measure concerned.

Measures adopted under this paragraph shall be communicated to the European Parliament and to the Member States through the relevant committee referred to in Article 16 within one month of their adoption.

4. Paragraphs 1, 2 and 3 relating to action programmes and individual measures shall not apply to ENI cross-border cooperation.

5. On duly justified imperative grounds of urgency, such as crises or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt individual or special measures or amendments to existing action programmes and measures, in accordance with the procedure referred to in Article 16(4).

6. Appropriate environmental screening, including for climate change and biodiversity impacts, shall be undertaken at project level, in accordance with the applicable legislative acts of the Union, including Directive 2011/92/EU of the European Parliament and of the Council ([1]) and Council Directive 85/337/EEC ([2]), comprising, where applicable, an environmental impact assessment (EIA) for environmentally sensitive projects, in particular for major new infrastructure. Where relevant, strategic environmental assessments shall be used in the implementation of sectoral programmes. The involvement of interested stakeholders in environmental assessments and public access to the results of such assessments shall be ensured.

7. In the design and implementation of programmes and projects, criteria regarding accessibility for persons with disabilities shall be duly taken into account.

([1]) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

([2]) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

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Article 3

Support measures

1. Union financing may cover expenditure for the implementation of the Instruments and for the achievement of their objectives, including administrative support associated with the preparation, follow-up, monitoring, audit and evaluation activities directly necessary for such implementation, as well as expenditure at Union delegations on the administrative support needed to manage operations financed under the Instruments.

2. Provided that the activities listed in points (a), (b) and (c) are related to the general objectives of the applicable Instrument implemented through actions, Union financing may cover:

(a) studies, meetings, information, awareness-raising, training, preparation and exchange of lessons learnt and best practices, publication activities and any other administrative or technical assistance expenditure necessary for the management of actions;

(b) research activities and studies on relevant issues and the dissemination thereof;

(c) expenditure related to the provision of information and communication actions, including the development of communication strategies and corporate communication of the political priorities of the Union.

3. Support measures may be financed outside the scope of indicative programming documents. Where applicable, the Commission shall adopt support measures in accordance with the examination procedure referred to in Article 16(3).

The examination procedure shall not apply to the adoption of support measures for which the Union's financial assistance does not exceed EUR 10 million.

Support measures for which the Union's financial assistance does not exceed EUR 10 million shall be communicated to the European Parliament and to the Member States through the relevant committee referred to in Article 16 within one month of their adoption.

TITLE II

PROVISIONS ON THE FINANCING METHODS

Article 4

General financing provisions

1. The Union's financial assistance may be provided through the types of financing envisaged by Regulation (EU, Euratom) No 966/2012, and in particular:

(a) grants;

(b) procurement contracts for services, supplies or works;

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(c) general or sector budget support;

(d) contributions to trust funds set up by the Commission, in accordance with Article 187 of Regulation (EU, Euratom) No 966/2012;

(e) financial instruments such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments, whenever possible under the lead of the EIB in line with its external mandate under Decision No 1080/2011/EU, a multilateral European financial institution, such as the European Bank for Reconstruction and Development, or a bilateral European financial institution, e.g. bilateral development banks, possibly pooled with additional grants from other sources.

2. General or sector budget support as referred to in point (c) of paragraph 1 is based on mutual accountability and shared commitments to universal values, and aims at strengthening contractual partnerships between the Union and partner countries in order to promote democracy, human rights and the rule of law, support sustainable and inclusive economic growth and eradicate poverty.

Any decision to provide the general or sector budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits.

One of the key determinants of that decision shall be an assessment of the commitment, record and progress of partner countries with regard to democracy, human rights and the rule of law. The general or sector budget support shall be differentiated in such a way as to respond better to the political, economic and social context of the partner country, taking into account situations of fragility.

When providing the general or sector budget support in accordance with Article 186 of Regulation (EU, Euratom) No 966/2012, the Commission shall clearly define and monitor its conditionality, and shall support the development of parliamentary control and audit capacities and increased transparency and public access to information. Disbursement of the general or sector budget support shall be conditional on satisfactory progress being made towards achieving the objectives agreed with the partner country.

3. Any entity entrusted with the implementation of the financial instruments as referred to in point (e) of paragraph 1 shall fulfil the requirements of Regulation (EU, Euratom) No 966/2012 and comply with Union objectives, standards and policies, as well as best practices regarding the use of and reporting on Union funds.

Those financial instruments may be grouped into facilities for implementation and reporting purposes.

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The Union's financial assistance may also be provided, in accordance with Regulation (EU, Euratom) No 966/2012, through contributions to international, regional or national funds, such as those established or managed by the EIB, by Member States, by partner countries and regions or by international organisations, with a view to attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects.

4. Reciprocal access by Union financial institutions to financial instruments set up by other organisations shall be promoted, as appropriate.

5. When providing the Union's financial assistance as referred to in paragraph 1, the Commission shall, where appropriate, take all necessary measures in order to ensure the visibility of the Union's financial support. Those shall include measures imposing visibility requirements on recipients of Union funds, except in duly justified cases. The Commission shall be responsible for monitoring recipients' compliance with those requirements.

6. All revenue generated by a financial instrument shall be assigned to the corresponding Instrument as internal assigned revenue. Every five years, the Commission shall examine the contribution made to the achievement of Union objectives, and the effectiveness, of existing financial instruments.

7. The Union's financial assistance shall be implemented by the Commission, as provided for by Regulation (EU, Euratom) No 966/2012, directly by Commission departments, by Union delegations and by executive agencies, by shared management with Member States or indirectly by entrusting budget implementation tasks to the entities listed in Regulation (EU, Euratom) No 966/2012. Those entities shall ensure consistency with the Union's external policy and may entrust budget implementation tasks to other entities under conditions equivalent to those applying to the Commission.

They shall annually fulfil their obligation under Article 60(5) of Regulation (EU, Euratom) No 966/2012. The audit opinion, where required, shall be submitted within one month of the report and management declaration, to be taken into account in the assurance of the Commission.

International organisations as referred to in point (c)(ii) of Article 58(1)) of Regulation (EU, Euratom) No 966/2012 and bodies of the Member States as referred to in points (c)(v) and (vi) of Article 58(1) of that Regulation which have been entrusted by the Commission may also entrust budget implementation tasks to non-profit organisations possessing the appropriate operational and financial capacity, under conditions equivalent to those applying to the Commission.

Entities which fulfil the criteria laid down in Article 60(2) of Regulation (EU, Euratom) No 966/2012 shall be deemed to meet the selection criteria referred to in Article 139 of that Regulation.

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8. The types of financing referred to in paragraph 1 of this Article and in Article 6(1), and the methods of implementation referred to in paragraph 3 of this Article, shall 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. For grants, this shall include consideration of the use of lump sums, flat rates and scales of unit costs.

9. Actions financed under the Instruments may be implemented by means of parallel or joint co-financing.

In the case of parallel co-financing, an action is split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.

In the case of joint co-financing, the total cost of an action is shared between the partners providing the co-financing and the resources are pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action. In such a case, ex-post publicity of grant and procurement contracts as provided for by Article 35 of Regulation (EU, Euratom) No 966/2012 shall comply with the rules, if any, governing the entrusted entity.

10. When recourse is had to a type of financing referred to in paragraph 1 of this Article or Article 6(1), cooperation between the Union and its partners may take the form, *inter alia*, of:

(a) triangular arrangements whereby the Union coordinates with third countries its assistance to a partner country or region;

(b) administrative cooperation measures such as twinning between public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State and those of a partner country or region, as well as cooperation measures involving public-sector experts dispatched from the Member States and their regional and local authorities;

(c) contributions to the necessary costs of setting up and administering a public-private partnership;

(d) sector policy support programmes whereby the Union provides support to a partner country's sector programme;

(e) in the case of the ENI and IPA II, contributions to the cost of the countries' participation in Union programmes and agencies;

(f) interest rate subsidies;

(g) financing through grants to Union agencies.

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11. When working with stakeholders of beneficiary countries, the Commission shall take into account their specificities, including needs and context, when defining the modalities of financing, the type of contribution, the award modalities and the administrative provisions for the management of grants, with a view to reaching and best responding to the widest possible range of such stakeholders. Specific modalities shall be encouraged in accordance with Regulation (EU, Euratom) No 966/2012, such as partnership agreements, authorisations of subgranting, direct award or eligibility-restricted calls for proposals or lump sums.

12. In implementing its support to transition and reform in partner countries, the Union shall, where appropriate, draw on and share the experiences of Member States and lessons learnt.

Article 5

Taxes, duties and charges

The Union's assistance shall not generate or activate the collection of specific taxes, duties or charges.

Where applicable, appropriate provisions shall be negotiated with third countries in order to exempt from taxes, custom duties and other fiscal charges the actions implementing the Union's financial assistance. Otherwise, such taxes, duties and charges shall be eligible under the conditions laid down in Regulation (EU, Euratom) No 966/2012.

Article 6

Specific financing provisions

1. In addition to the types of financing referred to in Article 4(1) of this Regulation, the Union's financial assistance under the following Instruments may be provided in accordance with Regulation (EU, Euratom) No 966/2012 also through the following types of financing:

(a) under the DCI and under the ENI, debt relief in the context of internationally agreed debt relief programmes;

(b) under the DCI and under the Instrument contributing to Stability and Peace, in exceptional cases, sectoral and general import programmes, which may take the form of:

(i) sectoral import programmes in kind;

(ii) sectoral import programmes providing foreign exchange to finance imports for the sector in question; or

(iii) general import programmes providing foreign exchange to finance general imports of a wide range of products;

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(c) under the EIDHR, direct award of:

(i) low-value grants to human rights defenders to finance urgent protection actions, where appropriate without the need for co-funding;

(ii) grants, where appropriate without the need for co-funding, to finance actions in the most difficult conditions or in situations referred to in Article 2(4) of Regulation (EU) No 235/2014 where the publication of a call for proposals would be inappropriate. Such grants shall not exceed EUR 1 000 000 and shall have a duration of up to 18 months, which may be extended by a further 12 months in the event of objective and unforeseen obstacles to their implementation;

(iii) grants to the Office of the UN High Commissioner for Human Rights as well as to the European Inter-University Centre for Human Rights and Democratisation, providing a European Master's Degree in Human Rights and Democratisation and an EU-UN Fellowship Programme, and its associated network of universities delivering human rights postgraduate diplomas, including scholarships to students and human rights defenders from third countries.

2. Under the ENI and IPA II, cross-border cooperation programmes shall be implemented, in particular, in shared management with Member States or in indirect management with third countries or international organisations. Detailed rules shall be laid down in implementing acts adopted on the basis of Regulation (EU) No 232/2014 and Regulation (EU) No 231/2014.

3. The Commission may adopt multiannual action programmes:

(a) for a period of up to three years in the case of recurrent actions;

(b) for a period of up to seven years under IPA II.

Where multiannual commitments are made, they shall contain provisions indicating that, for years other than the initial commitment year, the commitments are indicative and dependent on the future annual budgets of the Union.

4. For actions under the ENI and IPA II extending over more than one year, budgetary commitments may be broken down over several years into annual instalments.

In such cases, unless otherwise provided by the applicable rules, the Commission shall automatically de-commit any portion of a budgetary commitment for a programme that, by 31 December of the fifth year following that of the budgetary commitment, has not been used for the purpose of pre-financing or making interim payments or for which the entrusted entity has not presented any certified statement of expenditure or any payment request.

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5. The rules governing cross-border cooperation under IPA II implemented in shared management with Member States shall be consistent with the rules contained in Regulation (EU) No 1303/2013 of the European Parliament and of the Council [1] and Regulation (EU) No 1299/2013 of the European Parliament and of the Council [2].

Article 7

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery or, where appropriate, the restitution of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives, and the Court of Auditors, shall have the power of audit or, in the case of international organisations, the power of verification in accordance with agreements reached with them, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council [3] and Council Regulation (Euratom, EC) No 2185/96 [4], with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections, according to their respective competences.

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[1] Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

[2] Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

[3] 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 L 248, 18.9.2013, p. 1).

[4] 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 L 292, 15.11.1996, p. 2).

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TITLE III

RULES ON NATIONALITY AND ORIGIN FOR PUBLIC PROCUREMENT, GRANT AND OTHER AWARD PROCEDURES

Article 8

Common rules

1. Participation in the award of procurement contracts and in grant and other award procedures for actions financed under this Regulation for the benefit of third parties shall be open to all natural persons who are nationals of, and legal persons which are effectively established in, an eligible country as defined for the applicable Instrument under this Title, and to international organisations.

Legal persons may include civil society organisations, such as non-governmental non-profit organisations and independent political foundations, community-based organisations and private-sector non-profit agencies, institutions and organisations and networks thereof at local, national, regional and international level.

2. In the case of actions jointly co-financed with a partner or other donor or implemented through a Member State in shared management, or through a trust fund established by the Commission, countries which are eligible under the rules of that partner, other donor or Member State or determined in the constitutive act of the trust fund shall also be eligible.

In the case of actions implemented through one of the entrusted bodies in indirect management within a category listed in points (c)(ii) to (c)(viii) of Article 58 (1) of Regulation (EU, Euratom) No 966/2012, countries which are eligible under the rules of the body concerned shall also be eligible.

3. In the case of actions financed by one of the Instruments and, in addition, by another Union instrument for external action, including the European Development Fund, the countries identified under any of those instruments shall be considered eligible for the purpose of those actions.

In the case of actions of a global, regional or cross-border nature financed by one of the Instruments, the countries, territories and regions covered by the action may be considered eligible for the purpose of that action.

4. All supplies purchased under a procurement contract, or in accordance with a grant agreement, financed under this Regulation shall originate from an eligible country. However, they may originate from any country when the amount of the supplies to be purchased is below the threshold for the use of the competitive negotiated procedure. For the purposes of this Regulation, the term ‘origin’ is defined in

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Article 23 and 24 of Council Regulation (EEC) No 2913/92 ([1]) and other legislative acts of the Union governing non-preferential origin.

5. The rules under this Title do not apply to, and do not create nationality restrictions for, natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor.

6. In order to promote local capacities, markets and purchases, priority shall be given to local and regional contractors when Regulation (EU, Euratom) No 966/2012 provides for an award on the basis of a single tender. In all other cases, participation of local and regional contractors shall be promoted in accordance with the relevant provisions of that Regulation.

7. Eligibility as set out in this Title, may be restricted with regard to the nationality, geographical location or nature of applicants, where such restrictions are required on account of the specific nature and the objectives of the action and where they are necessary for its effective implementation. Such restrictions may apply in particular to participation in award procedures in the case of cross-border cooperation actions.

8. Natural and legal persons who have been awarded contracts shall comply with applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards ([2]).

Article 9

Eligibility under the DCI, the ENI and the Partnership Instrument for cooperation with third countries

1. Tenderers, applicants and candidates from the following countries shall be eligible for funding under the DCI, the ENI and the Partnership Instrument for cooperation with third countries:

(a) Member States, beneficiaries listed in Annex I to Regulation (EU) No 231/2014, and contracting parties to the Agreement on the European Economic Area;

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(b) for the ENI, partner countries covered by the ENI and the Russian Federation when the relevant procedure takes place in the context of the multi-country and cross-border cooperation programmes in which it participates;

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(c) developing countries and territories, as included in the list of ODA recipients published by the OECD-DAC (‘list of ODA

([1]) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.12.1992, p. 1).

([2]) The ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation and the abolition of child labour.

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recipients'), which are not members of the G-20 group, and overseas countries and territories covered by Council Decision 2001/822/EC ([1]);

(d) developing countries, as included in the list of ODA recipients, which are members of the G-20 group, and other countries and territories, when they are beneficiaries of the action financed by the Union under the Instruments covered by this Article;

(e) 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 the Instruments covered by this Article. The Commission shall decide on the reciprocal access and on its duration in accordance with the advisory procedure referred to in Article 16(2), and after consultation of the recipient country or countries concerned; and

(f) member countries of the OECD, in the case of contracts implemented in a Least Developed Country or a Highly Indebted Poor Country, as included in the list of ODA recipients.

2. Tenderers, applicants and candidates from non-eligible countries or supplies from a non-eligible origin may be accepted as eligible by the Commission in the case of:

(a) countries having traditional economic, trade or geographical links with neighbouring beneficiary countries; or

(b) urgency or the unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of a project, programme or action impossible or exceedingly difficult.

3. For actions implemented in shared management, the relevant Member State to which the Commission has delegated implementation tasks shall be entitled to accept as eligible, on behalf of the Commission, tenderers, applicants and candidates from non-eligible countries as referred to in paragraph 2 of this Article, or goods from a non-eligible origin as referred to in Article 8(4).

Article 10

Eligibility under IPA II

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

(a) Member States, beneficiaries listed in Annex I to Regulation (EU) No 231/2014, contracting parties to the Agreement on the European Economic Area and partner countries covered by the ENI, and

(b) countries for which reciprocal access to external assistance is established by the Commission under the conditions laid down in point (e) of Article 9(1).

([1]) Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') (OJ L 314, 30.11.2001, p. 1).

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2. Tenderers, applicants and candidates from non-eligible countries or goods from a non-eligible origin may be accepted as eligible by the Commission in cases involving an urgency or the unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of a project, programme or action impossible or exceedingly difficult.

3. For actions implemented in shared management, the relevant Member State to which the Commission has delegated implementation tasks shall be entitled to accept as eligible, on behalf of the Commission, tenderers, applicants and candidates from non-eligible countries as referred to in paragraph 2 of this Article, or goods from a non-eligible origin as referred to in Article 8(4).

Article 11

Eligibility under the EIDHR and the Instrument contributing to Stability and Peace

1. Without prejudice to the limitations inherent in the nature and objectives of the action as provided for in Article 8(7), participation in the award of procurement contracts or grants, as well as the recruitment of experts, shall be open without limitations under the EIDHR and the Instrument contributing to Stability and Peace.

2. Under the EIDHR, the following bodies and actors shall be eligible for funding in accordance with Article 4(1), (2) and (3) and point (c) of Article 6(1):

(a) civil society organisations, including non-governmental non-profit organisations and independent political foundations, community-based organisations and private-sector non-profit agencies, institutions and organisations and networks thereof at local, national, regional and international level;

(b) public-sector non profit-agencies, institutions and organisations and networks at local, national, regional and international level;

(c) national, regional and international parliamentary bodies, when this is necessary to achieve the objectives of the EIDHR and the proposed measure cannot be financed under another Instrument;

(d) international and regional inter-governmental organisations;

(e) natural persons, entities without legal personality and, in exceptional and duly justified cases, other bodies or actors not identified in this paragraph, when this is necessary to achieve the objectives of the EIDHR.

Article 12

Monitoring and evaluation of actions

1. The Commission shall regularly monitor its actions and review progress made towards delivering expected results, covering outputs and outcomes. The Commission shall also evaluate the impact and effectiveness of its sectoral policies and actions and the effectiveness

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of programming, where appropriate by means of independent external evaluations. Proposals by the European Parliament or the Council for independent external evaluations shall be taken into due account. Evaluations shall be based on OECD-DAC good practice principles, seeking to ascertain whether the specific objectives, where applicable taking into account gender equality, have been met and to formulate recommendations with a view to improving future operations. Those evaluations shall be carried out on the basis of pre-defined, clear, transparent and, where appropriate, country-specific and measurable indicators.

2. The Commission shall send its evaluation reports to the European Parliament, to the Council and to the Member States through the relevant committee referred to in Article 16. Specific evaluations may be discussed in that committee at the request of Member States. The results shall feed back into programme design and resource allocation.

3. The Commission shall, to an appropriate extent, associate all relevant stakeholders in the evaluation phase of the Union's assistance provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States and development partners.

4. The report mentioned in Article 13 shall reflect the main lessons learnt and the follow-up to the recommendations of the evaluations carried out in previous years.

TITLE IV

OTHER COMMON PROVISIONS

Article 13

Annual report

1. The Commission shall examine the progress made in implementing the measures of the Union's external financial assistance and, from 2015 onwards, shall submit to the European Parliament and to the Council an annual report on the achievement of the objectives of each Regulation by means of indicators, measuring the results delivered and the efficiency of the relevant Instrument. That report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions.

2. The annual report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of the relevant partners, and the implementation of budgetary commitments and of payment appropriations broken down by country, region and cooperation sector. It shall assess the results of the Union's financial assistance using, as far as possible, specific and measurable indicators of its role in meeting the objectives of the Instruments. In the case of development cooperation, the report shall also assess, where possible and relevant, the adherence to aid-effectiveness principles, including for innovative financial instruments.

3. The annual report prepared in 2021 shall contain consolidated information from annual reports concerning the period from 2014 to2020 on all funding governed by this Regulation, including external assigned revenues and contributions to trust funds, and offering a breakdown of spending by beneficiary country, use of financial instruments, commitments and payments.

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Article 14

Climate action and biodiversity expenditure

An annual estimate of the overall spending related to climate action and biodiversity shall be made on the basis of the indicative programming documents adopted. The funding allocated in the context of the Instruments shall be subject to an annual tracking system based on the OECD methodology ('Rio markers'), without excluding the use of more precise methodologies where these are available, integrated into the existing methodology for performance management of Union programmes, to quantify the expenditure related to climate action and biodiversity at the level of the action programmes and the individual and special measures referred to in Article 2(1), and recorded within evaluations and the annual report.

Article 15

Involvement of stakeholders of beneficiary countries

The Commission shall, whenever possible and appropriate, ensure that, in the implementation process, relevant stakeholders of beneficiary countries, including civil society organisations and local authorities, are or have been duly consulted and have timely access to relevant information allowing them to play a meaningful role in that process.

TITLE V

FINAL PROVISIONS

Article 16

Committee procedure

1. The Commission shall be assisted by the committees established by the Instruments. Those committees shall be committees within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

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. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

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The adopted decision shall remain in force for the duration of the adopted or modified document, action programme or measure.

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

Article 17

Mid-term review and evaluation of the Instruments

1. No later than 31 December 2017, a mid-term review report shall be submitted by the Commission on the implementation of each of the Instruments and of this Regulation. It shall cover the period from 1 January 2014 to 30 June 2017 and shall focus on the achievement of the objectives of each Instrument by means of indicators measuring the results delivered and the efficiency of the Instruments.

With a view to achieving the objectives of each Instrument, that report shall in addition address, the added value of each Instrument, the scope for simplification, internal and external coherence, including complementarity and synergies between the Instruments, the continued relevance of all objectives, and the contribution of the measures to a consistent Union external action and, where relevant, to the Union priorities for smart, sustainable and inclusive growth. It shall take into account any findings and conclusions concerning the long-term impact of the Instruments. It shall also contain information about the leverage effect achieved by the funds of each financial instrument.

The report shall be undertaken for the specific purpose of improving the implementation of the Union's assistance. It shall inform decisions on the renewal, modification or suspension of the types of actions implemented under the Instruments.

The report shall also contain consolidated information from relevant annual reports on all funding governed by this Regulation, including external assigned revenues and contributions to trust funds offering a breakdown of spending by beneficiary country, use of financial instruments, commitments and payments.

A final evaluation report on the period from 2014 to2020 shall be established by the Commission within the interim review of the next financial period.

2. The mid-term review report referred to in the first subparagraph of paragraph 1 shall be submitted to the European Parliament and to the Council, and shall be accompanied, if appropriate, by legislative proposals introducing the necessary modifications to the Instruments and to this Regulation.

3. The values of the indicators on 1 January 2014 shall be used as a basis for assessing the extent to which the objectives have been achieved.

4. Partner countries shall be required by the Commission to provide all the data and information necessary, in line with the international commitments on aid effectiveness, to permit the monitoring and evaluation of the measures concerned.

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5. The longer-term outcomes and impacts and the sustainability of effects of the Instruments shall be evaluated in accordance with the monitoring, evaluation and reporting rules and procedures applicable at that time.

Article 18

Entry into force

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

It shall apply from 1 January 2014 until 31 December 2020.

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

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Declaration of the European Commission on the use of implementing acts for laying down provisions for the implementation of certain rules in Regulation No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument and in 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)

The European Commission considers that the rules for implementing cross-border cooperation programmes as set out in Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and other specific, more detailed implementing rules in Regulation (EU) No. 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument and in 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), aim at supplementing the basic act and should therefore be delegated acts to be adopted on the basis of Article 290 TFEU. The European Commission will not oppose the adoption of the text as agreed by the co-legislators. Nevertheless, the European Commission recalls that the question of delimitation between Articles 290 and 291 TFEU is currently under examination by the Court of Justice of the European Union in the ‘biocides’ case.

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European Commission declaration concerning ‘reflows’

In line with the obligations set out in Article 21(5) of the Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, the European Commission will include in the draft budget a line accomodating internal assigned revenues and wherever possible, it will indicate the amount of such revenue.

The budgetary authority will be informed about the amount of the accomulated ressources every year during the planning process of the budget. Internal assigned revenues will be included in the draft budget only to the extenet that their amount is certain.

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Statement by the European Parliament on the suspension of assistance granted under the financial instruments

The European Parliament notes that Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020, Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument, Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries and 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) do not contain any explicit reference to the possibility of suspending assistance in cases where a beneficiary country fails to observe the basic principles enunciated in the respective instrument and notably the principles of democracy, rule of law and the respect for human rights.

The European Parliament considers that any suspension of assistance under these instruments would modify the overall financial scheme agreed under the ordinary legislative procedure. As a co-legislator and co-branch of the budgetary authority, the European Parliament is therefore entitled to fully exercise its prerogatives in that regard, if such a decision is to be taken.