

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2020/1567

of 26 October 2020

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

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EU) 2019/1896 provides for the strengthening of the mandate of the European Border and Coast Guard Agency ('the Agency') and for the provision of the necessary capabilities in the form of a European Border and Coast Guard standing corps (the 'standing corps').
- (2) The standing corps is to include operational staff contributed by Member States. In order to ensure Member States are in a position to contribute such staff, it is appropriate to establish a financial system intended to support the development of relevant human resources.
- (3) Financial support should be provided in the form of an annual payment made by the Agency to the Member States after the end of year N. It should also be possible for the Agency to grant an advance payment before the end of year N upon the request of a Member State.
- (4) Article 61(1), points (a), (b) and (c), of Regulation (EU) 2019/1896 lays down the calculation formulas for the annual payment corresponding to different categories of operational staff of the standing corps. The financial support to be granted is to be determined largely by reference to the level of Member States' involvement in the standing corps for staff categories 2 and 3. A mechanism for compensating, in certain cases, the national services of Member States from where the Agency's statutory staff is to be recruited ('financing for category 1') should also be included in the financial support system.
- (5) The calculation formulas for the annual payment should be based on the reference amount set out in Article 61(2) of Regulation (EU) 2019/1896.
- (6) In the interest of simplification and effective coordination, each Member State should designate one central national authority responsible for the management of financial support. A national contact point designated in accordance with Article 13 of Regulation (EU) 2019/1896 may also be designated as a central national authority.
- (7) In order to facilitate the preparation of requests for payments, the Agency should provide relevant information to the Member States, in particular information on the reference amounts and the number of persons recruited by the Agency from the national services.
- (8) In order to compensate training investments of the Member States for new personnel replacing staff departing from the national services, the Agency should only consider personnel who terminated their institutional relationship with the national authorities concerned permanently or suspended it during the period of their employment by the Agency.

⁽¹⁾ OJ L 295, 14.11.2019, p. 1.

- (9) For the fulfilment of the conditions related to financing for category 2 of the operational staff, the effective increase of the overall national border guard staffing should be measured against the situation on 30 April 2019, the day after the European Parliament and the Council reached political agreement on the text which became Regulation (EU) 2019/1896. The calculation should take into account the overall staffing of all the main authorities contributing systematically to the European Border and Coast Guard standing corps via secondments or, in the case of authorities having a wider mandate than the Agency's operational activities supported via the standing corps, the staffing of the relevant entities within those authorities contributing via secondments.
- (10) The Member States should have in place mechanisms and procedures to avoid irregularities and fraud within the financial support system. In order to limit the administrative burden and the associated costs to the extent possible, such procedures and mechanisms should be targeted in the light of risk assessments.
- (11) With regard to the objective of supporting the preparation of Member States to contribute to the standing corps, it is important to make the financial support effectively available as soon as possible. Therefore, this Decision should enter into force already one day after its publication in the *Official Journal of the European Union*.
- (12) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC^(?); Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (13) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC^(?).
- (14) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC^(*).
- (15) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU^(?).
- (16) This Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (17) The measures provided for in this Decision are in accordance with the opinion of the European Border and Coast Guard Committee,

(?) Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

(?) 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).

(*) 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).

(?) 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).

HAS ADOPTED THIS DECISION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Definitions

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

- (1) 'correction coefficient' means the percentage applied to remuneration of expatriate officials to adjust for differences in price level of consumer goods and services in the duty station by reference to base city, as established by Eurostat ⁽⁶⁾;
- (2) 'year N' means the year from 1 January until 31 December in which a Member State needs to fulfil conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 in order to be entitled to receive financial support;
- (3) 'annual payment' means a payment made by the Agency to the Member State concerned after the end of year N;
- (4) 'advance payment' means a payment made by the Agency to the Member State concerned before the end of year N in advance of the annual payment;
- (5) 'overall national border guard staffing' means the overall staffing of the specific entities within the main national authorities or, where applicable, of all main national authorities contributing systematically to the European Border and Coast Guard standing corps via secondments in accordance with Article 56 of Regulation (EU) 2019/1896.

Article 2

Information by the Agency

1. By 31 January of year N, the Agency shall inform the Member States about the reference amounts for that year per Member State, taking into account the respective correction coefficient.
2. For the calculation of the reference amounts, the Agency shall take into account the latest available relevant values for the salary of a contractual agent in function group III, grade 8, step 1, adjusted with the correction coefficient.

Article 3

Arrangements in Member States

1. The Member States shall designate one central national authority responsible for the management of financial support in accordance with Article 61 of Regulation (EU) 2019/1896. The Member State shall notify the designated central national authority to the Agency before the first payment is requested in accordance with Articles 5 (1), 6 (1) or 15 (2).
2. The central national authority shall be responsible for:
 - (a) liaising with the Agency on the monitoring of the applicable conditions laid down in Article 61(3) of Regulation (EU) 2019/1896;
 - (b) ensuring the provision of all the relevant information to the Agency to manage the financial support referred to in Article 61 of Regulation (EU) 2019/1896;
 - (c) managing the matters related to the payment of the financial support, including requests for advance payment or payment to the Agency and reception of the corresponding payments from the Agency;
 - (d) redistributing payments to national authorities proportionately to their staff contributions to the standing corps, where provided for in the national arrangements.

⁽⁶⁾ <https://ec.europa.eu/eurostat/web/civil-servants-remuneration/correction-coefficients>

*Article 4***Currency**

The financial support shall be paid in euro.

CHAPTER 2

DETAILED ARRANGEMENTS FOR PAYMENTS*Article 5***Detailed arrangements for annual payment**

1. A Member State may request an annual payment between 1 January and 30 June of the year N+1.
2. The annual payment shall be payable if the conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 were fulfilled in year N. The central national authority may request financing for category 2 of operational staff only if the Member State concerned provided the complete reporting to the Agency for the purpose of verifying the amounts due in accordance with Article 61 of Regulation (EU) 2019/1896.
3. The annual payment shall include one or more of the following:
 - (a) amounts laid down in Article 61(1)(a) of Regulation (EU) 2019/1896, calculated as 100 % of the reference amount multiplied by the number of operational staff indicated for the year N+2 for secondment in accordance with Annex II to Regulation (EU) 2019/1896 ('financing for category 2');
 - (b) amounts laid down in Article 61(1)(b) of Regulation (EU) 2019/1896, calculated as 37 % of the reference amount multiplied by the number of operational staff effectively deployed in accordance with Article 57 within the limit set in Annex III and in accordance with Article 58 within the limit set in Annex IV, as applicable ('financing for categories 3 and 4');
 - (c) amounts laid down in Article 61(1)(c) of Regulation (EU) 2019/1896, calculated as a one-off payment of 50 % of the reference amount multiplied by the number of operational staff recruited by the Agency as statutory staff who departed from national services ('financing for category 1').

*Article 6***Detailed arrangements for advance payment**

1. A Member State may request the Agency an advance payment for the year N in order to support the development of human resources before the corresponding annual payment is made. The request shall clearly identify the categories of staff to which it relates. For financing for category 2, it shall include proof of the corresponding effective increase of staff in accordance with the template set out in Annex II. Such a request may be made between 1 July and 15 September of year N.
2. The Agency shall make an advance payment if the conditions laid down in Article 61(3) of Regulation (EU) 2019/1896 were fulfilled for the period between 1 January and the date of the request for an advance payment.
3. The request for an advance payment shall concern an amount of minimum EUR 50 000.

CHAPTER 3

DETAILED ARRANGEMENTS RELATED TO FINANCING FOR CATEGORY 2*Article 7***Conditions in relation to financing for category 2**

1. Financing for category 2 for the year N shall only become due provided that the Member States increase cumulatively their respective overall national border guard staffing through the recruitment of new staff in the period concerned.

2. The increase of the overall national border guard staffing in the Member State concerned shall be calculated annually by comparing the number of staff on 31 December of Year N and the number of staff on 30 April 2019 in activity in the relevant entities of the authorities concerned or, where applicable, of all main national authorities contributing to the standing corps via secondments.

3. By 29 November 2020 at the latest, Member States shall inform the Agency about their overall national border guard staffing on 30 April 2019, using the template in Annex I.

Article 8

Monitoring of the applicable conditions for financing for category 2

1. Member States shall provide via their central national authorities the relevant information confirming the fulfilment of the conditions related to the financing for category 2 for the year N filling out the template set out in Annex II. The Agency shall verify the relevant information in the framework of the vulnerability assessment in the year N + 1.

2. Member States shall ensure that the information provided is complete and sufficiently detailed to allow the Agency to verify the fulfilment of the conditions for financing for category 2.

3. The central national authority shall have access upon its request to all relevant documentation held by respective national authorities that may relate to the management of the financial support under Article 61 of Regulation (EU) 2019/1896.

Article 9

Recovery of advance payment for category 2

1. When submitting the request for annual payment, the Member States shall inform the Agency if the overall effective increase of staffing in year N was lower than the number for which the Member State has received an advance payment in year N.

2. Based on the information received from the Member States, further to the audit, or where the verifications made through the vulnerability assessment carried out in year N + 1 demonstrate a lower overall effective increase of staffing referred to in paragraph 1, the Agency shall recover the amount corresponding to the difference by issuing a debit note to the Member State concerned. The Agency may decide, in agreement with the Member State, not to recover the amounts and to adjust the payment of the subsequent year accordingly.

CHAPTER 4

DETAILED ARRANGEMENTS RELATED TO FINANCING FOR CATEGORIES 3 AND 4

Article 10

Conditions in relation to financing for categories 3 and 4

1. The amounts for financing for categories 3 and 4 shall be due in full in relation to the number of staff effectively deployed for a consecutive or non-consecutive period of 120 days during year N.

2. For deployments with a duration of less or more than 120 days, financing for categories 3 and 4 shall be calculated pro-rata on the basis of a reference period of 120 days.

3. The pro-rata calculation shall be based on a unit of calculation equivalent to the deployment of one team member for a day in any operational activity carried out by the standing corps, including the necessary travel days.

*Article 11***Monitoring of the applicable conditions for financing for categories 3 and 4**

The Agency shall verify the fulfilment of the conditions related to the financing for categories 3 and 4 based on its own operational data on the deployments of the standing corps.

*Article 12***Conditions in relation to financing for technical crew**

1. Where the deployment of a technical crew exceptionally exceeds the maximum national contributions set out in Annex III to Regulation (EU) 2019/1896, financial support shall be due provided that the technical crew is deployed pursuant to Article 57 of that Regulation during the year N.
2. For deployments with a duration of less or more than 120 days, financing for a technical crew shall be calculated on a pro-rata basis as set out in Article 10(3).

*Article 13***Monitoring of the applicable conditions for financing for a technical crew**

The Agency shall verify the fulfilment of the conditions related to a technical crew based on its own operational data on effective deployments in accordance with Article 57 of Regulation (EU) 2019/1896.

CHAPTER 5

DETAILED ARRANGEMENTS RELATED TO FINANCING FOR CATEGORY 1*Article 14***Conditions in relation to financing for category 1**

1. The Agency shall inform the central national authority about staff who have departed from the national services of that Member State and who entered into the service of the Agency in year N.
2. Before informing the central national authority, the Agency shall have the confirmation from the staff concerned that they have terminated or suspended their institutional relationship with the national authorities concerned.
3. The Agency shall provide the information referred to in paragraph 1 by 31 January of the year N+1 in an anonymised way by indicating the national authority concerned and a number of staff complying with the condition of paragraph 2.

CHAPTER 6

FINAL PROVISIONS*Article 15***Special arrangements for 2020**

1. By 12 November 2020, the Agency shall inform the Member States about their reference amounts for 2020, taking into account the respective correction coefficients.
2. The Member States may request the advance payment until 15 November 2020 provided that they informed the Agency about their overall national border guard staffing on 30 April 2019, in accordance with Article 7(3).

*Article 16***Entry into force**

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

Done at Brussels, 26 October 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Overall national border guard staffing on 30 April 2019 in the main authorities contributing systematically to the European Border and Coast Guard standing corps via secondments and/or, where applicable, in the relevant entities within the authorities contributing via secondments in accordance with Article 56 of Regulation (EU) 2019/1896

Authorities contributing systematically to the European Border and Coast Guard ('EBCG') standing corps via secondments or contributing entities, or both, within the authorities having a wider mandate than the Agency's operational activities supported via the standing corps	Entity within the authority having a wider mandate than the Agency's operational activities supported via the standing corps	Number of staff in activity on 30 April 2019 in authorities contributing systematically to the EBCG standing corps via secondments and/or in the relevant entities contributing within the authorities having a wider mandate than the Agency's operational activities supported via the standing corps
[NAME]	[entity within the authority, where applicable]	
[NAME]	[entity within the authority, where applicable]	
	Total number:	

Template for the request of payment for category 2

Authority/entity contributing to the standing corps	Number of staff effectively in the posts on 30 April 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025
[per relevant MS authority/entity]	[total number]	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:	Maximal multiplication number: New recruitments: Reductions: Total number of staff: Effective increase: Eligible for payment:
[Member State]	[total number]	[total number]	[total number]	[total number]	[total number]	[total number]	[total number]

Explanation of the template for the request of payment for category 2

'Maximal multiplication number' is a threshold used in year N based on the number of annual contributions to be provided by Member States to the EBCG standing corps through the long-term secondment in year N + 2 in accordance with Annex II of Regulation (EU) 2019/1896;

'New recruitments' is the number of newly recruited staff in the year N by the authorities contributing systematically to the EBCG standing corps via secondments or contributing entities, or both, within the authorities having a wider mandate than the Agency's operational activities supported via the standing corps;

'Reductions' is the number of staff that has left the authorities contributing systematically to the EBCG standing corps via secondments or contributing entities, or both, within the authorities having a wider mandate than the Agency's operational activities supported via the standing corps in year N;

'Total number of staff' is the total number of staff in activity on 31 December of year N;

'Effective increase' is the difference between the number of staff in activity on 31 December of year N and the number of staff in activity on 30 April 2019 (baseline value);

'Eligible for payment' is the total number of staff in activity on 31 December of year N reduced by the number of staff in activity on 30 April 2019 (baseline value), limited by the maximal multiplication number relevant for that year.
