

Succinct Terms of Reference

Ex-post evaluation of the External Borders Fund 2011-2013

1. SUMMARY

The evaluation will examine the implementation of actions co-financed by the External Borders Fund (EBF) under the 2011-2013 annual programmes (including the Special Transit Scheme), Community actions and Specific actions and assess their relevance and utility, effectiveness, efficiency, sustainability, coherence and complementarity and EU added value.

The legal basis for the evaluation of the EBF 2011-2013 actions is Article 21(6) of Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC¹ and Article 51 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows"².

2. PURPOSE, OBJECTIVE AND JUSTIFICATION FOR EVALUATION

2.1. Legal basis for the evaluation

According to Article 51(2) of Decision No 574/2007/EC, the EBF *"shall be evaluated by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the objectives referred to in Article 3."*

Article 51(3) of the Decision stipulates that *"the Commission shall also consider the complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives"*.

According to Article 52(3) of the Decision, *"the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ... by ... 31 December 2015 for the period 2011 to 2013 ... an ex-post evaluation report"*. As Regulation (EU) No 515/2014 repealed Decision No 574/2007/EC, the obligation for the Commission to submit the ex-post evaluation report concerning the period 2011-2013 was included among the transitional provisions defined by Article 21 of the Regulation.

2.2. Objective of the evaluation

This evaluation has the objective to examine the implementation of actions co-financed by the EBF under the 2011-2013 annual programmes (including the Special Transit Scheme), EBF

¹ OJ L 150, 20.5.2014, p. 143.

² OJ L 144, 6.6.2007, p. 22.

2010-2013 Community actions (including Emergency actions) and EBF 2010-2013 Specific actions, most notably to assess their relevance³ and utility⁴, effectiveness⁵, efficiency⁶, sustainability⁷, coherence⁸ and complementarity⁹, and EU added value¹⁰.

The impact of the EBF actions referred to in Article 51(2) will be evaluated under the above mentioned evaluation themes. The evaluation under the above mentioned themes will always assess not only the results, but also the impacts of the interventions. Under the "utility" criterion, the correspondence between the actual impacts and the needs will be assessed. Under "effectiveness", the actual impacts will be compared to the general objectives set for the Fund. Under "sustainability", the sustainability of the impacts will be assessed.

2.3. Sponsor and user of the evaluation

The European Commission's Directorate-General for Migration and Home Affairs is the commissioning body of this evaluation, which will be used by the Directorate-General itself and by other Commission's departments.

Rights concerning the evaluation report and its reproduction and publication will remain the property of the European Commission. No documents based, in whole or in part, upon the work undertaken in the context of this contract may be published except with the prior written approval of the European Commission.

The Commission (DG Migration and Home Affairs) will ensure that the evaluation results are disseminated. As part of the dissemination, the Commission will draft, on the basis of the evaluation report, a report on the implementation of the EBF in 2011-2013 and submit it to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The evaluation results will be also communicated to the relevant authorities of the Member States¹¹ and to the general public.

The publication of the deliverables will be accompanied by a judgment of the quality, carried out by the DG Migration and Home Affairs on the basis of criteria specified in section 12.

3. DESCRIPTION OF THE EXTERNAL BORDERS FUND

3.1. Legal basis of the EBF

³ Relevance: The extent to which intervention's objectives are pertinent to needs, problems and issues to be addressed.

⁴ Utility: The extent to which effects (impacts, results and outputs) correspond with the needs, problems and issues to be addressed.

⁵ Effectiveness: The extent to which objectives set are achieved.

⁶ Efficiency: The extent to which the desired effects are achieved at reasonable cost.

⁷ Sustainability: The extent to which positive effects are likely to last after an intervention has terminated.

⁸ Coherence: The extent to which the intervention does not contradict other interventions with similar objectives.

⁹ Complementarity: The extent to which the intervention complements other interventions with similar objectives.

¹⁰ EU added value: The extent to which EU funded interventions bring additional value compared to what could have been achieved with Member State resources.

¹¹ Throughout this document, whenever a reference is made to Member State(s), reference to the Schengen associated States is also implied.

The EBF was established for the period 2007 to 2013 by Decision No 574/2007/EC as one of four funds under the General programme "Solidarity and Management of Migration Flows"¹².

Strategic guidelines for the implementation of the EBF were adopted by Commission Decision No 2007/599/EC¹³.

Rules for the implementation of the EBF were adopted by Commission Decision 2008/456/EC¹⁴.

3.2. Objectives of the EBF

Article 3 of Decision No 574/2007/EC defined the general objectives of the EBF as follows:

- Efficient organisation of control, covering both checks and surveillance tasks relating to the external borders;
- Efficient management by the Member States of the flows of persons at the external borders in order to ensure, on the one hand, a high level of protection at the external borders and, on the other, the smooth crossing of the external borders in conformity with the Schengen acquis and the principles of respectful treatment and dignity;
- Uniform application by border guards of the provisions of Community law on the crossing of external borders, in particular Regulation (EC) No 562/2006;
- Improvement of the management of activities organised by the consular and other services of the Member States in third countries as regards the flows of third-country nationals into the territory of the Member States and the co-operation between Member States in this regards.

Specific objectives of the EBF, corresponding to the general objectives, were defined by Article 4 of Decision No 574/2007/EC.

In addition to the general and specific objectives of the EBF, Decision No 2007/599/EC defined the following five priorities for the EBF:

- Support for the further gradual establishment of the common integrated border management system as regards the checks on persons at and the surveillance of the external borders;
- Support for the development and implementation of the national components of a European Surveillance System for the external borders and of a permanent European Patrol Network at the southern maritime borders of the EU Member States;
- Support for the issuing of visas and the tackling of illegal immigration, including the detection of false or falsified documents by enhancing the activities organised by the consular and other services of the Member States in third countries;

¹² The other three funds under the general programme are the European Refugee Fund, the European Fund for the integration of third-country nationals and the European Return Fund.

¹³ Commission Decision 2007/599/EC of 27 August 2007 implementing Decision No 574/2007/EC of the European Parliament and of the Council as regards the adoption of strategic guidelines for 2007 to 2013 (OJ L 233, 5.9.2007, p. 3).

¹⁴ Commission Decision 2008/456/EC of 5 March 2008 laying down rules for the implementation of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund (OJ L 167, 27.6.2008, p.1).

- Support for the establishment of IT systems required for implementation of the Community legal instruments in the field of external borders and Schengen visas;
- Support for the effective and efficient application of relevant Community legal instruments in the field of external borders and Schengen visas, in particular the Schengen Borders Code and the European Code on Visas.

3.3. Implementation modalities

The EBF has been implemented via actions under annual programmes of the Member States, Community actions and Specific actions.

EBF annual programmes of the Member States

The EBF annual programmes (referred to in Article 23 of Decision No 574/2007/EC) were drafted on the basis of the EBF 2007 (2010)-2013 multi-annual programmes¹⁵ of 25 Member States¹⁶ and three Schengen associated States¹⁷ and implemented by the authorities of these 28 states under the shared/indirect management mode.

In accordance with Article 5 of Decision No 574/2007/EC, the actions under the EBF annual programmes should have supported, among others, investments in border crossing infrastructures, border surveillance infrastructure, operating equipment (sensors, video-surveillance, document examination devices, detection tools, terminals for consulting the Schengen Information System (SIS) and the Visa Information System (VIS)), means of transport for the control of external borders (vehicles, vessels, helicopters, aircrafts), IT systems and trainings.

The EBF allocations for the annual programmes of the Member States were determined on the basis of a methodology defined in Article 14 of Decision No 574/2007/EC which took into account the length of the external land and maritime borders, workload at the external land, maritime and air borders and at the consular offices and the number of consular offices.

Under the EBF annual programmes for Lithuania, a Special Transit Scheme referred to in Article 6 of Decision No 574/2007/EC was supported. The Special Transit Scheme provided support for the compensation for foregone fees from transit visas and additional costs incurred in implementing the Facilitated Transit Document and the Facilitated Rail Transit Document

¹⁵ 2010-2013 multiannual programmes in the case of Bulgaria, Romania, Iceland, Norway and Switzerland.

¹⁶ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

¹⁷ Iceland, Norway and Switzerland participated in the EBF on the basis of Article 11 of Decision No 574/2007/EC and Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 (OJ L 169, 3.7.2010). In accordance with the Joint Declaration by the European Community and Liechtenstein on the latter's participation in the External Borders Fund in application of Decision No 574/2007/EC of the European Parliament and of the Council annexed to the Agreement, Liechtenstein did not participated in the EBF, despite contributing financially to the Fund.

scheme in accordance with Council Regulation (EC) No 693/2003¹⁸ and Council Regulation (EC) No 694/2003¹⁹.

EBF Community actions

The EBF Community actions were implemented under the direct management mode, either via projects supported by grants awarded by the Commission or via contracts for services concluded following the calls for tenders published by the Commission.

In accordance with Article 7 of Decision No 574/2007/EC, the Community actions should have supported activities organised by the consular services and other services of the Member States in third countries as regards the flow of third-country nationals into the territory of the Member States and the co-operation between Member States in this regard (including the activities of air liaison officers and immigration liaison officers); integrated border management; and services to Member States in emergency situations requiring urgent action at external borders (emergency actions).

EBF Specific actions

The EBF Specific actions were implemented under the direct management mode, via projects supported by grants awarded by the Commission.

In accordance with Article 19 of Decision No 574/2007/EC, the specific actions should have contributed to the development of the European common integrated border management system by addressing weaknesses at strategic border points.

4. SCOPE

4.1. EBF actions to be covered

The evaluation will cover the following:

- Actions supported under the EBF 2011, 2012 and 2013 annual programmes of the Member States (including the Special Transit Scheme as included in the EBF 2011, 2012 and 2013 annual programmes for Lithuania).
- EBF Community actions under the 2010, 2011, 2012 and 2013 annual work programmes (including the emergency actions). Three Emergency actions were selected for co-financing under the 2010 EBF annual work programme, eight Community actions and eleven Emergency actions were selected for co-financing under the 2011 EBF annual work programme, nineteen Community actions and five Emergency actions were selected under the 2012 annual work programme and one Community action and six Emergency actions were selected under the 2013 annual work programme. Community actions under the 2010 annual work programme shall

¹⁸ Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instruction and the Common Manual (OJ L 99, 17.4.2003, p. 8).

¹⁹ Council Regulation (EC) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003 (OJ L 99, 17.4.2003, p. 15).

be covered by the evaluation if they were implemented after 1 January 2011, which was only the case for the previously mentioned emergency actions. The studies financed from the EBF Community actions on the basis of contracts concluded by the Commission are excluded from the scope of the evaluation.

- EBF Specific actions under the 2010, 2011 and 2012 annual work programmes. Eleven projects were selected for co-financing under the 2010 EBF Specific actions, four projects were selected for co-financing under the 2011 EBF Specific actions and ten projects were selected under the 2012 Specific actions. In 2013 it was decided not to allocate any budget for Specific actions and therefore no actions were co-financed. Specific actions under the 2010 annual work programme shall be covered by the evaluation if they were implemented after 1 January 2011, which was the case for all the eleven 2010 Specific actions referred to above.

Throughout this document, references to the EBF 2011-2013 actions shall imply references to the actions described under the three bullet points above (including the Community actions and Specific actions under the 2010 annual work programmes implemented after 1 January 2011).

The EBF allocations for the different types of the EBF 2011-2013 actions are presented in the table below (in EUR):

	2010	2011	2012	2013
EBF annual programmes of the Member States (excl. Special Transit Scheme)	Not covered.	237 762 000	321 910 920	424 885 696
Special Transit Scheme for Lithuania	Not covered.	16 000 000	16 000 000	16 000 000
EBF Community Actions ²⁰	11 650 000	16 000 000	21 607 080	11 848 562
EBF Specific Actions	10 000 000	5 000 000	10 000 000	0
Total	-----	274 762 000	369 518 000	452 734 258

As derogation from the definition of the scope presented above, the Annex with statistical information on the EBF 2007-2013 annual programmes (Task 16) shall present statistical information not only on the EBF 2011-2013 annual programmes, but also on the EBF 2007-2010 annual programmes.

4.2. Other instruments to be considered

The evaluation will also have to consider (in particular in the context of the evaluation of the complementarity and coherence):

- National policies of the Member States in the field of border control and the processing of Schengen visas;

²⁰ Excluding studies paid by the Commission.

- Activities of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (the Frontex Agency);
- Actions supported under the 2007-2010 EBF programmes;
- Actions supported under the other funds within the General programme "Solidarity and Management of Migration Flows";
- Actions supported by any other EU financial instrument with a possible impact on the border management (Cross-border co-operation programmes under the European Neighbourhood Policy Instrument and under the Instrument for Pre-Accession Assistance; actions supported under the European Regional Development Fund etc.).

4.3. Period covered by the evaluation

The evaluation will cover the eligibility period of the 2011-2013 EBF annual programmes (1 January 2011 – 30 June 2015).

For the EBF 2010-2013 Community actions, the evaluation period will be 1 January 2011 – 31 March 2016.

For the EBF 2010-2012 Specific actions, the evaluation period will be 1 January 2011 – 31 December 2015.

For analytical reasons, data from the year 2010 will be used as the baseline.

As derogation from the definition of the evaluation period presented above, the Annex with statistical information on the EBF 2007-2013 annual programmes (Task 16) shall cover not only the 2011-2013 period, but also the period 2007-2010.

4.4. Geographical coverage

The evaluation will cover the 28 states²¹ participating in the EBF.

5. CONTEXT OF THE EVALUATION

The ex-post evaluation of the actions under the EBF 2011-2013 programmes is the third evaluation of the EBF. In accordance with Article 52(3)(b) and (c) of Decision No 574/2007/EC, a mid-term evaluation of the EBF was carried out in 2010-2011²² and an ex-post evaluation of the EBF 2007-2010 actions was carried out in 2012-2014²³.

In accordance with Article 52(2)(b), the Member States shall submit to the Commission evaluation reports on actions supported under their EBF 2011-2013 annual programmes. As

²¹ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Iceland, Norway and Switzerland.

²² <http://bookshop.europa.eu/en/mid-term-evaluation-of-the-external-borders-fund-pbDR0313247/?CatalogCategoryID=FLIKABstbqUAAAEjs5EY4e5L>

²³ <http://ec.europa.eu/smart-regulation/evaluation/search/download.do?documentId=10682008>

the eligibility period for the EBF 2013 annual programmes expires on 30 June 2015, it was agreed that the Commission will accept that the evaluation reports of the Member States are submitted by 30 November 2015.

6. EVALUATION QUESTIONS

Replying to the evaluation questions is the core of the evaluation work and the replies will constitute the main part of the final report.

The answer to each evaluation question must be exclusively based on evidence and rigorous analysis. Different types of evaluation methods (quantitative and qualitative) and data sources must be combined to formulate the answers. The answers shall define key terms of the question, identify indicators and judgment criteria used for answering the question and fully disclose the reasoning followed in the analysis.

The evaluation questions are grouped under the following six evaluation themes – relevance and utility; effectiveness; efficiency; sustainability; complementarity and coherence; and EU added value:

Theme 1 Relevance and utility

1. To what extent did the objectives of the EBF and the actual effects of the EBF 2011-2013 actions correspond to the needs related to the management of the EU external borders and the processing of the Schengen visas?

Theme 2 Effectiveness

2. To what extent did the EBF 2011-2013 actions contribute to the efficient organisation of control, covering both checks and surveillance tasks relating to the external borders?

3. To what extent did the EBF 2011-2013 actions contribute to the efficient management by the Member States of the flows of persons at the external borders in order to ensure, on the one hand, a high level of protection at the external borders and, on the other, the smooth crossing of the external borders in conformity with the Schengen acquis and the principles of respectful treatment and dignity?

4. To what extent did the EBF 2011-2013 actions contribute to the gradual establishment of the common integrated border management system as regards the checks on persons at and the surveillance of the external borders?

5. To what extent did the EBF 2011-2013 actions contribute to the development and implementation of the national components of a European Surveillance System for the external borders and of a permanent European Patrol Network at the southern maritime borders of the EU Member States?

6. *To what extent did the EBF 2011-2013 actions contribute to the establishment of IT systems required for implementation of the EU legal instruments in the field of external borders and Schengen visas?*

7. *To what extent did the EBF 2011-2013 actions contribute to the uniform application by border guards of the provisions of EU law on the crossing of external borders, in particular Regulation (EC) No 562/2006?*

8. *To what extent were the EBF 2011-2013 actions, and in particular the EBF Community actions, effective in providing support services to Member States in duly substantiated emergency situations requiring urgent action at external borders?*

9. *To what extent did the EBF 2011-2013 actions, and in particular the EBF Community actions, contribute to the improvement of the management of activities organised by the consular and other services of the Member States in third countries as regards the flows of third-country nationals into the territory of the Member States and the co-operation between Member States in this regards?*

10. *To what extent did the EBF 2011-2013 actions contribute to the effective processing of Schengen visas and the tackling of illegal immigration, including the detection of false or falsified documents by enhancing the activities organised by the consular and other services of the Member States in third countries?*

11. *To what extent did the EBF 2011-2013 actions contribute to the effective and efficient application of relevant EU legal instruments in the field of Schengen visas, in particular the Visa Code?*

Theme 3 Efficiency

12. *To what extent were the effects of the EBF 2011-2013 actions achieved at a reasonable cost in terms of financial and human resources deployed?*

Theme 4 Sustainability

13. *To what extent have the positive effects of the EBF 2011-2013 actions lasted after the interventions were terminated?*

Theme 5 Complementarity and coherence

14. *To what extent were the EBF 2011-2013 actions coherent with and complementary to other actions related to the management of the EU external borders and the Schengen visa processing financed by other EU financial instruments and from national resources of the Member States?*

15. To what extent were the EBF 2011-2013 actions complementary to the activities of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union?

Theme 6 EU added value

16. To what extent would be the Member States able to carry out the investments necessary for the implementation of the EU policies in the field of border management and Schengen visa processing and in particular the investments related to EUROSUR, VIS, SIS II, automatic border controls, consular co-operation and contribute to the Frontex joint operations, without the support of the EBF 2011-2013 actions?

7. RISKS

The programming of the EBF annual programmes was not based on a set of mandatory common output, result and impact indicators. The annual programmes included targets for indicators which were defined on a national basis. In some cases, the indicators were primarily defined for the output level which makes it more difficult to evaluate the results and impacts. The Commission requested the Member States to report against a set of common indicators established ex-post and included in a template for the national EBF 2011-2013 ex-post evaluation reports. However, there is a considerable risk that some Member States will not provide all requested data.

The contractor is expected to propose evaluation methods which would satisfactorily address these gaps.