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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of a Regulation of the European Parliament and of the Council establishing the Internal Security Fund

Delegations will find attached document COM(2021) 330 final.

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Brussels, 21.6.2021
COM(2021) 330 final

2018/0250 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council establishing the Internal Security Fund**

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**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council establishing the Internal Security Fund**

1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2018) 472 final – 2018/0250 COD):	13 June 2018
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Date of the opinion of the European Economic and Social Committee:	17 October 2018
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Date of the position of the European Parliament, first reading:	13 March 2019
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Date of adoption of the partial general approach of the Council:	7 June 2019
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Date of adoption of the general approach of the Council:	12 October 2020
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Date of fifth trilogue where provisional political agreement on key political points was reached:	10 December 2020
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Date of the adoption of the position of the Council:	14 June 2021
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2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

In the context of the 2021-2027 Multiannual Financial Framework, the Commission submitted its proposal for a renewed and reinforced Internal Security Fund (ISF) to contribute to a high level of security in the EU. The proposal aimed at reinforcing the overall Union budget for internal security.

The Fund acknowledges and addresses that internal security has an inherently cross-border dimension and that a strong, coordinated response is required at EU level. The Fund aims to increase the level of security in the EU in particular by preventing and combating terrorism, radicalisation, serious and organised crime, and cybercrime, by assisting and protecting victims of crime and by preparing for, protecting against and effectively managing security-related incidents, risks and crises.

As identified during the previous programming period, greater flexibility in the management of the preceding fund was needed to better support its objectives. While providing such flexibility, the proposal for the new Fund also ensured that funding will be steered towards Union priorities and actions with a significant benefit to the Union. New mechanisms for the allocation of funding for shared, direct and indirect management were therefore proposed to address changing operational challenges and priorities.

3. COMMENTS ON THE POSITION OF THE COUNCIL

The position of the Council as adopted in the first reading fully reflects the political agreement reached between the European Parliament, the Council, and the Commission, as concluded on 10 December 2020. The main points of this agreement were:

Objectives and recital on intelligence cooperation: Agreement was reached to include a recital instead of a new, fourth specific objective on intelligence cooperation.

Budget: The financial envelope was aligned with the amounts agreed for the 2021-2027 Multiannual Financial Framework, i.e. EUR 1.9 billion in current prices. The Thematic Facility's share of the total financial envelope was reduced from 40% to 30%. Moreover, the Commission's proposal on the conditionality for receiving additional funding at the mid-term review phase was retained. As proposed, a Member State must submit payment applications covering at least 10% of the initial allocation for its programme to be eligible to receive an additional allocation for its programme in the mid-term review.

Minimum percentages: Minimum percentages for the allocation of funds towards the specific objectives, as follows:

- (a) At least 10% of the resources to Member State programmes allocated to the specific objective on information exchange;
- (b) At least 10% of the resources to Member State programmes allocated to the specific objective on operational cooperation.

Member States may deviate from the minimum funding percentages in their programmes in duly justified cases.

Scope of support: The eligible actions under the Fund's objectives listed in Annex III to the ISF will be managed as follows:

- (a) Annex III remains an open list for the purposes of the programmes drawn up by Member States;
- (b) For the purposes of the thematic facility programmes, Annex III will remain an open list. This agreement allowed for flexibility concerning the actions to be taken, as the Commission will not be restricted to actions listed in Annex III, but it will have the possibility for a broader scope of actions to address newly emerging security threats.

Third countries and external dimension of the Fund: Agreement was reached on the basis of the following:

- (a) Further safeguards included for actions in and in relation to third countries (e.g. Member State projects in or in relation to third countries need prior approval of the Commission, and eligible entities established in third countries may only receive funding if they are part of a consortium with at least one entity established in a Member State);
- (b) Provisions included to highlight the internal nature of the Fund and that, while actions in or in relation to third countries remain possible, the programmes must primarily serve internal Union policy.

Financing of decentralised agencies: Decentralised agencies may exceptionally be eligible for funding under Union actions, when such actions fall within the agencies' competences and are not covered by the Union's contribution to the budget of the agencies.

Adoption procedures for implementing acts: Work programmes of the thematic facility to be adopted by implementing acts under the examination procedure (with the 'no opinion clause'). The faster procedure of immediately applicable implementing acts was included for emergency assistance. The adoption of the template for the annual performance report will be adopted through an implementing act subject to the advisory procedure.

The thematic facility: The Commission shall report on the use and distribution of the thematic facility between its components, including on the support provided actions in or in relation to third countries under Union actions. When, on the basis of the information presented to it, the European Parliament makes recommendations for actions to be supported under the thematic facility, the Commission shall endeavour to take such recommendations into account.

Non-eligible actions which should be eligible in emergency situations: Agreement was reached that only actions limited to the maintenance of public order at national level could become eligible for funding in the case of an emergency situation.

Operating support: The percentage of the allocation that may go to operating support was increased to 20 % (from 10 % in the Commission proposal).

Maximum percentage for equipment, means of transport and security relevant facilities and eligibility of standard equipment: The percentage of the allocation that Member States can spend on equipment, means of transport and security relevant facilities was raised to 35 % (from 15 % in the Commission proposal). It was also agreed to include only a recital and not an article as regards the non-eligibility of standard equipment, means of transport and security relevant facilities.

Multi-purpose equipment: It was agreed that the Fund could finance equipment that can also be used for border management and visa purposes, as long as the primary purpose is internal security.

International organisations: New provisions on the audit and control of international organisation were integrated in the text.

Performance indicators: Result and output indicators in Annexes V and VIII were streamlined.

Retroactivity: Retroactivity provisions were included to take into account that the act would not be adopted before the end of 2020.

Overall, the agreement reached preserves the objectives of the Commission's original proposal, although possibly with slightly less flexibility and simplification than initially proposed. The agreement maintains the same level of ambition as the initial proposal and provides a workable legal base for the implementation of the Fund's objectives.

The Commission signalled, in the last political trilogue on 10 December 2020, that it could accept elements agreed between the European Parliament and the Council for the purposes of reaching an overall final agreement.

4. CONCLUSION

The Commission accepts the position taken by the Council.