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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: Position of the Council at first reading with a view to the adoption of a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL establishing the Asylum, Migration and Integration Fund  
- Adopted by the Council on 14 June 2021

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**REGULATION (EU) 2021/...**  
**OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**establishing the Asylum, Migration and Integration Fund**

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 Article 78(2) and Article 79(2) and (4) 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 European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>1</sup> OJ C 62, 15.2.2019, p. 184.

<sup>2</sup> OJ C 461, 21.12.2018, p. 147.

<sup>3</sup> Position of the European Parliament of 13 March 2019 (OJ C 23, 21.1.2021, p. 356) and position of the Council at first reading of 14 June 2021 (not yet published in the Official Journal). Position of the European Parliament of ... [(OJ L ...)/(not yet published in the Official Journal)].

Whereas:

- (1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration and migration systems in the Member States, to prevent and adequately handle situations of pressure in solidarity, and to replace irregular and unsafe arrivals with legal and safe pathways, investing in efficient and coordinated migration management in the Union is key to realising the Union's objective of constituting an area of freedom, security and justice in accordance with Article 67(2) of the Treaty on the Functioning of the European Union (TFEU).
- (2) The importance of a coordinated approach by the Union and the Member States is reflected in the European Agenda on Migration of 13 May 2015, which stressed the need for a consistent and clear common policy in order to restore confidence in the Union's ability to bring together European and national efforts to address migration and to work together in an effective way, in accordance with the principle of solidarity and fair sharing of responsibility between the Member States as set out in Article 80 TFEU; this was confirmed in the mid-term review of 27 September 2017 and the progress reports of 14 March 2018 and 16 May 2018.

- (3) In its conclusions of 19 October 2017, the European Council reaffirmed the need to pursue a comprehensive, pragmatic and resolute approach to migration management that aims to ensure control of external borders and reduce irregular arrivals and the number of deaths at sea; that approach should be based on the flexible and coordinated use of all available Union and Member State instruments. The European Council further called for the ensuring of significantly enhanced returns through actions at both Union and Member State level, such as effective readmission agreements and arrangements.
- (4) In order to support efforts to ensure a comprehensive approach to the management of migration that is grounded on mutual trust, solidarity and fair sharing of responsibility among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of an Asylum, Migration and Integration Fund (the 'Fund').
- (5) All actions funded under the Fund, including those carried out in third countries, should be implemented in full compliance with the rights and principles enshrined in the Union *acquis* and the Charter of Fundamental Rights of the European Union (the 'Charter'), and should be in line with the international obligations of the Union and the Member States arising from the international instruments to which they are party, in particular by ensuring compliance with the principles of gender equality, non-discrimination and the best interests of the child.

- (6) The best interests of the child should be a primary consideration in all actions or decisions concerning children in migration, including returns, taking full account of the right of the child to express his or her views.
- (7) The Fund should build on the results achieved and investments made with the support of its predecessors: the European Refugee Fund established by Decision No 573/2007/EC of the European Parliament and the Council<sup>1</sup> for the period 2008-2013, the European Fund for the Integration of third-country nationals established by Council Decision 2007/435/EC<sup>2</sup> for the period 2007-2013, the European Return Fund established by Decision No 575/2007/EC of the European Parliament and the Council<sup>3</sup> for the period 2008-2013 and the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014 of the European Parliament and of the Council<sup>4</sup> for the period 2014-2020. It should at the same time take into account all relevant new developments.

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<sup>1</sup> Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC (OJ L 144, 6.6.2007, p. 1).

<sup>2</sup> Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 168, 28.6.2007, p. 18).

<sup>3</sup> Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 45).

<sup>4</sup> Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

- (8) The Fund should support solidarity and fair sharing of responsibility between Member States and the efficient management of migration flows, inter alia by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and humanitarian admission and the transfer between Member States of applicants for international protection or beneficiaries of international protection, by enhancing the protection of vulnerable asylum seekers such as children, by supporting integration strategies and by developing and strengthening legal migration policy, for example, through the provision of safe and legal avenues of entry to the Union, which should also help to ensure the Union's long-term competitiveness and the future of its social model and reduce incentives for irregular migration through a sustainable return and readmission policy.

- (9) Given the internal nature of the Fund and that the Fund is the main funding instrument for asylum and migration at Union level, the Fund should primarily support actions serving internal Union policy on asylum and migration in line with the Fund's objectives.
- However, given that certain actions taken outside the Union contribute to the achievement of the Fund's objectives and, under certain circumstances, may bring Union added value, the Fund should support the strengthening of cooperation and partnership with third countries for the purpose of managing migration in order to reinforce avenues of legal migration and enhance effective, safe and dignified return and readmission, as well as to promote initial reintegration in third countries. Support provided under the Fund would be without prejudice to the current voluntary nature of resettlement and relocation of applicants for international protection and beneficiaries of international protection under the legal framework of the Common European Asylum System that applies at the time of adoption of this Regulation.

- (10) In order to benefit from the expertise of relevant decentralised agencies, the Commission should ensure that their knowledge and experience is taken into account as regards the areas of their competence in the development of Member States' programmes.
- Furthermore, it should be possible for the Fund to complement the following activities supported by the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010 of the European Parliament and of the Council<sup>1</sup>, with a view to facilitating and improving the functioning of the Common European Asylum System: strengthening practical cooperation, in particular information exchanges regarding asylum and good practices; promoting Union and international law and contributing to the uniform implementation of Union law on asylum on the basis of high standards for international protection procedures, for reception conditions and for the assessment of protection needs across the Union; enabling the sustainable and fair distribution of applications for international protection; facilitating convergence in the assessment of applications for international protection across the Union; supporting the resettlement efforts of the Member States; and providing operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.
- (11) The Fund should support the efforts of the Union and the Member States to enhance the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under Union law.

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<sup>1</sup> Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).



- (12) The Fund should support the Member States' and the Union's efforts to fully implement and further develop the Common European Asylum System, including its external dimension.
- (13) Partnerships and cooperation with third countries are an essential component of Union policy for managing migration. The Fund should contribute to replacing unsafe and irregular arrival with legal and safe arrival in the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, and should effectively contribute to global resettlement initiatives with the Union and Member States speaking with one voice in international fora and with third countries. The Fund should provide support, in the form of financial incentives, to efforts made by Member States to provide international protection and a durable solution for refugees and displaced persons who have been admitted under resettlement or humanitarian admission programmes.

- (14) Considering the migration flows to the Union and the importance of ensuring integration and inclusion for persons coming to Europe for local communities and for the long-term well-being of our societies and the stability of our economies, it is crucial to support Member States' policies for the integration of legally-staying third-country nationals, including in the priority areas identified in the Action Plan on Integration and Inclusion 2021-2027. The Fund should support integration measures that are tailored to the needs of third-country nationals, as well as horizontal measures aimed at building Member States' capacity to develop integration strategies, to strengthen exchange and cooperation, and to promote contact, constructive dialogue and acceptance between third-country nationals and the receiving society.

- (15) In order to increase efficiency, to achieve the greatest Union added value and to ensure the consistency of the Union's response in terms of fostering the integration of third-country nationals, actions financed under the Fund should be consistent with and complementary to actions financed under other Union instruments, in particular external instruments, the European Social Fund Plus (ESF+), established by Regulation (EU) 2021/... of the European Parliament and of the Council<sup>1+</sup>, and the European Regional Development Fund (ERDF), established by Regulation (EU) 2021/... of the European Parliament and of the Council<sup>2++</sup>. The Fund should support measures tailored to the needs of third-country nationals that are generally implemented in the early stages of integration, as well as horizontal measures supporting Member States' capacities in the field of integration, whereas interventions for third-country nationals with a longer-term impact should be financed under the ESF+ and ERDF. In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and coordinate with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and the ERDF and, wherever necessary, to cooperate and coordinate with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals.

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<sup>1</sup> Regulation (EU) 2021/... of the European Parliament and of the Council of ... on establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L ..., ..., p. ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in ST 6980/21 (2018/0206 (COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

<sup>2</sup> Regulation (EU) 2021/... of the European Parliament and of the Council of ... on the European Regional Development Fund and on the Cohesion Fund (OJ L ..., ..., p. ...).

<sup>++</sup> OJ: Please insert in the text the number of the Regulation contained in ST 6168/21 (2018/0197 (COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

- (16) The scope of the integration measures should also cover beneficiaries of international protection in order to ensure a comprehensive approach to integration, taking into account the specificities of that target group. Where integration measures are combined with reception, actions should, where appropriate, also allow asylum seekers to be included.
- (17) The implementation of the Fund in the area of integration should be consistent with the Union's common basic principles on integration, as specified in the Action Plan on Integration and Inclusion 2021-2027.
- (18) It should be possible for those Member States that so wish to provide in their programmes for integration measures to include immediate relatives of third-country nationals, thus supporting family unity, to the extent that doing so is necessary for the effective implementation of such measures. The term 'immediate relative' should be understood as meaning spouses, partners and any person having direct family links in the descending or ascending line with the third-country national targeted by the integration measure and who would not otherwise be covered by the scope of the Fund.

- (19) Considering the crucial role played by Member States' authorities and civil society organisations in the field of integration, and in order to facilitate the access of those entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by national, regional and local authorities and civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for those actions. In that regard, a minimum of 5 % of the initial allocation to the thematic facility should target the implementation of integration measures by local and regional authorities.
- (20) In addition to the co-financing rate provided by the Fund for projects, Member States are encouraged to provide funding from the budgets of their public authorities where such funding is essential for a project to be carried out, particularly when the project is implemented by a civil society organisation.
- (21) Considering the long-term economic and demographic challenges faced by the Union and the increasingly globalised nature of migration, it is crucial to establish well-functioning channels for legal migration to the Union in order to maintain the Union as an attractive destination for regular migration, in accordance with Member States' economic and social needs, and to ensure the sustainability of welfare systems and growth of the Union economy, while protecting migrant workers from labour exploitation.

- (22) The Fund should support Member States in setting up strategies and strengthening and developing policies for legal migration, and in enhancing their capacity to develop, implement, monitor and evaluate immigration and integration strategies, policies and measures for legally staying third-country nationals, in particular Union legal instruments for legal migration. The Fund should also support the exchange of information, best practices and cooperation between different administrative departments and levels of government, and between Member States.
- (23) An efficient and dignified return policy is an integral part of the comprehensive migration approach pursued by the Union and its Member States. The Fund should support and encourage efforts by Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council<sup>1</sup>, with an emphasis on voluntary returns, and of an integrated and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as measures to facilitate and guarantee safe and dignified return and readmission and sustainable reintegration of returnees, including through the provision of cash or in-kind support.

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<sup>1</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

- (24) Member States should give preference to voluntary return and should ensure effective, safe and dignified return. In order to promote voluntary return, Member States should envisage incentives such as preferential treatment in the form of enhanced return assistance and initial reintegration support. That kind of voluntary return is in the interest of both returnees and authorities in terms of its cost-effectiveness.
- (25) While voluntary return should take priority over forced return, they are nevertheless interlinked, with a mutually reinforcing effect, and Member States should therefore be encouraged to reinforce the complementarities between those two forms of return. The possibility of removals is an important element that contributes to the integrity of the asylum and legal migration systems. The Fund should therefore support actions by Member States to facilitate and carry out removals in accordance with standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.
- (26) Specific support measures for returnees, with particular attention to their humanitarian and protection needs in the Member States and in the countries of return, can improve conditions of return and enhance the reintegration of returnees. Particular attention should be paid to vulnerable persons.

- (27) Effective readmission of illegally staying third-country nationals by third countries is an integral component of the Union return policy and a central tool for the efficient management of migration flows, as it facilitates the swift return of irregular migrants. Readmission cooperation is an important element in the framework of dialogue and cooperation with third countries of origin and the transit of irregular migrants, and its implementation in third countries should be supported in the interests of effective return policies at national and Union level.
- (28) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to counter irregular migration and the trafficking of migrants and to encourage compliance with legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.
- (29) The employment of irregular migrants undermines the development of a labour mobility policy built on legal migration schemes and endangers the rights of migrant workers, making them vulnerable to rights violations and abuse. The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council<sup>1</sup>, which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.

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<sup>1</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).



- (30) The Fund should support Member States, either directly or indirectly, in their implementation of Directive 2011/36/EU of the European Parliament and of the Council<sup>1</sup>, which sets out provisions on assistance, support and protection for victims of trafficking in human beings. Those measures, including measures for the early identification of victims of trafficking in human beings and their referral to specialised services, should take into account the gender-specific nature of trafficking in human beings and child victims.
- (31) The Fund should complement the activities undertaken in the field of return by the European Border and Coast Guard Agency, governed by Regulation (EU) 2019/1896 of the European Parliament and of the Council<sup>2</sup>, without providing an additional funding stream to that Agency.
- (32) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.

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<sup>1</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

<sup>2</sup> 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 (OJ L 295, 14.11.2019, p. 1).

- (33) In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis.
- (34) Actions in and in relation to third countries supported under the Fund should be carried out in synergy and coherence with other activities outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of external Union policy, with the principle of policy coherence for development and consistency with the strategic programming documents for the country or region in question, and with the Union's international commitments. In relation to the external dimension, the Fund should focus on supporting actions that are not development-oriented and that serve the interest of internal Union policies and should be consistent with activities undertaken within the Union. The Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.

- (35) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value compared to actions by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the areas of asylum and migration in accordance with Article 80 TFEU.
- (36) When promoting actions supported by the Fund, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.
- (37) It should be possible for the Commission to use financial resources under the Fund to promote best practices and the exchange of information as regards the implementation of the Fund.
- (38) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.

- (39) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under the Fund, if it has failed to fulfil its obligations under the Treaties in the area of asylum and return, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on asylum and return, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Council Regulation (EU) No 1053/2013<sup>1</sup> has identified deficiencies in the relevant area.
- (40) The Fund should ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. In order to meet transparency requirements, the Commission should publish information on the annual and multiannual work programmes of the thematic facility. In line with Regulation (EU) 2021/... of the European Parliament and of the Council<sup>2+</sup>, each Member State should ensure that within six months of the approval of its programme, there is a website in place on which information on its programme is available, covering the programme's objectives, activities, available funding opportunities and achievements.

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<sup>1</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

<sup>2</sup> Regulation (EU) 2021/... of the European Parliament and of the Council of ... laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L ..., ..., p. ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

- (41) This Regulation should establish the initial amounts for Member States' programmes which consist of a fixed amount as set out in Annex I and an amount calculated on the basis of the criteria laid down in that Annex and which reflect the needs and pressure experienced by different Member States in the areas of asylum, migration, integration and return. In view of the special needs of those Member States which have experienced the highest number of asylum applications per capita in 2018 and 2019, it is appropriate to increase the fixed amounts for Cyprus, Malta and Greece.
- (42) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments. To take account of changes in migration flows, to address needs in respect of the management of asylum and reception systems and in respect of the integration of legally staying third-country nationals, and to develop legal migration and counter irregular migration through effective, safe and dignified return, an additional amount should be allocated to the Member States at the mid-term of the programming period taking into account objective criteria. That amount should be based on statistical data, in accordance with Annex I, to reflect the changes in the baseline situation of Member States.

- (43) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that their programmes include actions addressing the specific objectives of the Fund, that the priorities chosen are in accordance with the implementation measures set out in Annex II, and that the allocation of resources between the objectives ensures that the overall policy objective can be met. To that end, Member States should, in principle, ensure a minimum allocation for strengthening and developing the Common European Asylum System, for strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and for promoting and contributing to the effective integration and social inclusion of third-country nationals.
- (44) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, to Union actions, to actions of local and regional authorities, to emergency assistance, to resettlement and humanitarian admission, and to additional support for Member States contributing to solidarity and responsibility efforts. The thematic facility offers flexibility in the management of the Fund and could also be implemented through Member States' programmes.
- (45) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution.

- (46) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions, in addition to the initial allocation. Those specific actions should be identified at Union level and should concern actions which require cooperation or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States.
- (47) The Fund should contribute to supporting operating costs that relate to the specific objectives of the Fund in order to enable Member States to maintain capabilities which are crucial for tasks and services which constitute a public service for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Fund and should form an integral part of the Member States' programmes.
- (48) To complement the implementation of the policy objective of the Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund in relation to policy analysis and innovation, transnational mutual learning and partnerships, and the testing of new initiatives and actions across the Union.

- (49) In order to strengthen the Union's capacity to immediately address exceptional migratory situations in one or more Member States characterised by a large or disproportionate influx of third-country nationals, which place significant and urgent demands on Member States' reception and detention facilities and on their systems and procedures for asylum and migration management, or to immediately address exceptional migratory situations in third countries due to political developments or conflicts, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.
- (50) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC<sup>1</sup> and should provide financial assistance in accordance with its objectives and tasks.
- (51) The policy objective of the Fund will also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council<sup>2</sup>. Financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have clear Union added value.

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<sup>1</sup> Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

<sup>2</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).



- (52) Blending operations have a voluntary nature and are operations supported by the Union budget that combine non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from promotional, development or other public finance institutions, as well as support from commercial finance institutions and investors.
- (53) This Regulation lays down a financial envelope for the entire duration of the Fund which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup> for the European Parliament and the Council during the annual budgetary procedure.
- (54) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>2</sup> (the 'Financial Regulation') applies to the Fund. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

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<sup>1</sup> OJ L 433 I, 22.12.2020, p. 28.

<sup>2</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (55) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/...<sup>+</sup>.
- (56) Regulation (EU) 2021/...<sup>+</sup> establishes the framework for action by ERDF, ESF+, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as a part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Fund in this Regulation, and to lay down specific provisions concerning the actions that may be financed under the Fund.
- (57) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/...<sup>+</sup>, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

- (58) The types of financing and methods of implementation under this Regulation should 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, administrative burdens and the risk of non-compliance. When making that choice, use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation, should be considered.
- (59) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.

(60) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup> and Council Regulations (EC, Euratom) No 2988/95<sup>2</sup>, (Euratom, EC) No 2185/96<sup>3</sup> and (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

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- <sup>1</sup> 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).
- <sup>2</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).
- <sup>3</sup> 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).
- <sup>4</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>1</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

- (61) A third country which has concluded an agreement with the Union on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country should be allowed to participate in the Fund provided certain conditions are fulfilled.

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<sup>1</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (62) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (63) Pursuant to Council Decision 2013/755/EU<sup>1</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (64) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund should support those Member States with adequate resources to help those regions manage migration sustainably and handle possible situations of pressure.

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<sup>1</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

- (65) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, indicators and related targets should be established in relation to each specific objective of the Fund. Those indicators should include qualitative and quantitative indicators.
- (66) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund in accordance with the relevant provisions of Regulation (EU) 2021/...<sup>+</sup> and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with the links to the Member States' websites referred to in Regulation (EU) 2021/...<sup>+</sup>.

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<sup>1</sup> OJ L 123, 12.5.2016, p. 1

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

(67) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change<sup>1</sup>, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of a 30 % target of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget reflecting biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while considering the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to the environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>2</sup>.

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<sup>1</sup> OJ L 282, 19.10.2016, p. 4.

<sup>2</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).



(68) Regulation (EU) No 514/2014 of the European Parliament and of the Council<sup>1</sup> and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the Fund during the 2014–2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.

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<sup>1</sup> Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

(69) In order to supplement and amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions eligible for support under Annex III; the list of actions eligible for higher co-financing rates under Annex IV; operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(70) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.

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<sup>1</sup> 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (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.
- (72) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (73) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

- (74) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multiannual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun, be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.
- (75) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093<sup>1</sup>.
- (76) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

# Chapter I

## General provisions

### *Article 1*

#### *Subject matter*

This Regulation establishes the Asylum, Migration and Integration Fund (the 'Fund') for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the objectives of the Fund, the budget for the period from 1 January 2021 to 31 December 2027, the forms of Union funding and the rules for providing such funding.

### *Article 2*

#### *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'applicant for international protection' means an applicant as defined in point (c) of Article 2 of Directive 2013/32/EU of the European Parliament and of the Council<sup>1</sup>;

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<sup>1</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

- (2) 'beneficiary of international protection' means a beneficiary of international protection as defined in point (b) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council<sup>1</sup>;
- (3) 'blending operation' means actions supported by the Union budget, including within blending facilities within the meaning of point (6) of Article 2 of the Financial Regulation;
- (4) 'family member' means any third-country national defined as a family member under the Union law relevant to the policy area of action supported under the Fund;
- (5) 'humanitarian admission' means the admission following, where requested by a Member State, a referral from the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees ('UNHCR'), or another relevant international body, of third-country nationals or stateless persons from a third country to which they have been forcibly displaced to the territory of the Member States, and who are granted international protection or a humanitarian status under national law that provides for rights and obligations equivalent to those of Articles 20 to 34 of Directive 2011/95/EU for beneficiaries of subsidiary protection;
- (6) 'operating support' means a part of a Member State's allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union;

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<sup>1</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

- (7) 'removal' means removal as defined in point (5) of Article 3 of Directive 2008/115/EC;
- (8) 'resettlement' means the admission following a referral from the UNHCR of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;
- (9) 'return' means return as defined in point (3) of Article 3 of Directive 2008/115/EC;
- (10) 'specific actions' means transnational or national projects that bring Union added value in line with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;
- (11) 'third-country national' means any person, including a stateless person or a person with undetermined nationality, who is not a citizen of the Union as defined in Article 20(1) TFEU;
- (12) 'unaccompanied minor' means an unaccompanied minor as defined in point (1) of Article 2 of Directive 2011/95/EU;
- (13) 'Union actions' means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund;



- (14) 'vulnerable person' means any person defined as a vulnerable person under the Union law relevant to the policy area of action supported under the Fund.

### *Article 3*

#### *Objectives of the Fund*

1. The policy objective of the Fund is to contribute to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum and the common immigration policy, in accordance with the relevant Union *acquis* and fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
  - (a) strengthening and developing all aspects of the Common European Asylum System, including its external dimension;
  - (b) strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and promoting and contributing to the effective integration and social inclusion of third-country nationals;

- (c) contributing to countering irregular migration, enhancing effective, safe and dignified return and readmission, and promoting and contributing to effective initial reintegration in third countries;
  - (d) enhancing solidarity and fair sharing of responsibility between the Member States, in particular as regards those most affected by migration and asylum challenges, including through practical cooperation.
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

*Article 4*  
*Partnership*

For the purposes of the Fund, partnerships shall, pursuant to Article 8(1) of Regulation (EU) 2021/...<sup>+</sup>, include regional, local, urban and other public authorities or associations representing such authorities, relevant international organisations, non-governmental organisations, such as refugee organisations and migrant-led organisations, as well as national human rights institutions and equality bodies, and economic and social partners.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

*Article 5*  
*Scope of support*

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Fund shall, in particular, support the actions listed in Annex III.

To address unforeseen or new circumstances, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions in Annex III in order to add new actions.

2. To achieve its objectives, the Fund may support, in line with the Union priorities, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 7 or 24, as applicable.
3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:
  - (a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;

- (b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;
  - (c) focus on measures that are not development-oriented; and
  - (d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.
4. The objectives of the Fund shall support actions focusing on one or more target groups within the scope of Articles 78 and 79 TFEU.

#### *Article 6*

#### *Gender equality and non-discrimination*

1. The Member States and the Commission shall ensure the integration of the gender perspective and that gender equality and gender mainstreaming are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.

2. The Member States and the Commission shall take appropriate steps to exclude any form of discrimination prohibited by Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter') during the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.

*Article 7*

*Third countries associated to the Fund*

1. The Fund shall be open to third countries that fulfil the criteria listed in paragraph 2, in accordance with the conditions laid down in a specific agreement covering the participation of the third country in the Fund.
2. In order for a third country to be eligible to be associated to the Fund as referred to in paragraph 1, it shall have concluded with the Union an agreement on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country.

3. The specific agreement covering the participation of the third country in the Fund, shall at a minimum:
- (a) enable cooperation with the Member States and the Union institutions, bodies, offices and agencies in the area of asylum, migration and return in the spirit of the principle of solidarity and fair sharing of responsibility;
  - (b) be underpinned, throughout the duration of the Fund, by the principles of non-refoulement, democracy, the rule of law and respect for human rights;
  - (c) ensure a fair balance as regards the contributions made by, and the benefits received by, the third country participating in the Fund;
  - (d) lay down the conditions of participation in the Fund, including the calculation of financial contributions to the Fund, and its administrative costs;
  - (e) not confer on the third country any decision-making power in respect of the Fund;
  - (f) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests;

- (g) provide that the third country grants the necessary rights and access required by the authorising officer responsible, OLAF and the Court of Auditors in accordance with Article 8.

The contributions referred to in point (d) of the first subparagraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

#### *Article 8*

##### *Protection of the financial interests of the Union*

Where a third country participates in the Fund by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

## **Chapter II**

### **Financial and implementation framework**

#### **SECTION 1**

#### **COMMON PROVISIONS**

##### *Article 9*

##### *General principles*

1. Support provided under the Fund shall complement national, regional and local intervention, and shall focus on bringing Union added value to the achievement of the objectives of the Fund.
  
2. The Commission and the Member States shall ensure that the support provided under the Fund and by the Member States is consistent with the relevant actions, policies and priorities of the Union, and is complementary to support provided under other Union instruments, in particular the external instruments, the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF).



3. The Fund shall be implemented under direct, shared or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

*Article 10*

*Budget*

1. The financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 9 882 000 000 in current prices.
2. The financial envelope shall be used as follows:
  - (a) EUR 6 270 000 000 shall be allocated to the Member States' programmes;
  - (b) EUR 3 612 000 000 shall be allocated to the thematic facility referred to in Article 11.
3. Up to 0,42 % of the financial envelope shall be allocated to technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/...<sup>+</sup>.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

4. In accordance with Article 26 of Regulation (EU) 2021/...<sup>+</sup>, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Fund under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

### *Article 11*

#### *General provisions on the implementation of the thematic facility*

1. The amount referred to in point (b) of Article 10(2) shall be allocated flexibly through a thematic facility using shared, direct or indirect management as set out in work programmes. Given the internal nature of the Fund, the thematic facility shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2).

Funding from the thematic facility shall be used for its components, which are as follows:

- (a) specific actions;
- (b) Union actions;
- (c) emergency assistance as referred to in Article 31;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

- (d) resettlement and humanitarian admission;
- (e) support to Member States for the transfer of applicants for international protection or of beneficiaries of international protection as a part of solidarity efforts as referred to in Article 20; and
- (f) the European Migration Network as referred to in Article 26.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/...<sup>+</sup>, shall also receive support from the amount referred to in point (b) of Article 10(2) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs in line with agreed Union priorities as reflected in Annex II.

The funding referred to in the first subparagraph of this paragraph, with the exception of funding used for emergency assistance in accordance with points (a) and (b) of the first subparagraph of Article 31(1), shall only support the actions listed in Annex III, including resettlement and humanitarian admission in accordance with Article 19 as part of the external dimension of the Union's migration policy.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Fund.
4. A minimum of 20 % of the resources from the initial allocation to the thematic facility shall be allocated to the specific objective set out in point (d) of Article 3(2).
5. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of those projects are not selected.
6. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/...<sup>+</sup>, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.
7. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

8. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(3) of this Regulation.
9. The thematic facility shall, in particular, support actions falling under implementation measure 2(d) of Annex II that are implemented by national, regional and local authorities or civil society organisations. In that regard, a minimum of 5 % of the initial allocation to the thematic facility shall target the implementation of integration measures by local and regional authorities.
10. The Commission shall ensure that the distribution of resources among the specific objectives set out in Article 3(2) is fair and transparent. The Commission shall report on the use and the distribution of the thematic facility between the components referred to in the second subparagraph of paragraph 1 of this Article, including on the support provided to actions in or in relation to third countries under the Union actions.

11. Following the adoption of a financing decision as referred to in paragraph 8, the Commission may amend the Member States' programmes accordingly.

## **SECTION 2**

### **SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT**

#### *Article 12*

##### *Scope*

1. This section applies to the amount referred to in point (a) of Article 10(2) and additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 11.
2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and Regulation (EU) 2021/...<sup>+</sup>.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

*Article 13*  
*Budgetary resources*

1. The amount referred to in point (a) of Article 10(2) shall be allocated to Member States' programmes indicatively as follows:
  - (a) EUR 5 225 000 000 in accordance with Annex I;
  - (b) EUR 1 045 000 000 for the adjustment of the allocations to the Member States' programmes referred to in Article 17(1).
2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 10(2).

*Article 14*  
*Pre-financing*

1. In accordance with Article 90(4) of Regulation (EU) 2021/...<sup>+</sup>, the pre-financing for the Fund shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:
  - (a) 2021: 4 %;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

- (b) 2022: 3 %;
- (c) 2023: 5 %;
- (d) 2024: 5 %;
- (e) 2025: 5 %;
- (f) 2026: 5 %.

2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

*Article 15*

*Co-financing rates*

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.
2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.



3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.
4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.
5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 31.
6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States within the limits set out in point (b)(vi) of Article 36(5) of the Regulation (EU) 2021/...<sup>+</sup>.
7. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Fund for the types of action covered by the contribution referred to in paragraphs 1 to 6.
8. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:
  - (a) the total contribution, including the public and private contributions; or
  - (b) the public contribution only.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

*Article 16*  
*Member States' programmes*

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with and respond to Union priorities and challenges in the area of asylum and migration management and are fully in accordance with the relevant Union *acquis* and agreed Union priorities, while fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party. In defining the priorities of their programmes Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

Given the internal nature of the Fund, Member States' programmes shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2) of this Regulation.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/...<sup>+</sup>.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

2. Within the resources allocated in Article 13(1), and without prejudice to paragraph 3 of this Article, each Member State shall allocate within its programme:
  - (a) a minimum of 15 % of its allocated resources to the specific objective set out in point (a) of Article 3(2); and
  - (b) a minimum of 15 % of its allocated resources to the specific objective set out in point (b) of Article 3(2).
3. A Member State may allocate less than the minimum percentages referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.
4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies, in particular EASO, the European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007<sup>1</sup>, are taken into account as regards the areas of their competence, at an early stage and in a timely manner, in the development of the Member States' programmes.

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<sup>1</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

5. The Commission may involve, where appropriate, relevant decentralised agencies, including those referred to in paragraph 4, in the monitoring and evaluation tasks as specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.
  
6. Following the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned shall examine, together with the Commission, how to address the findings and recommendations through its programme with the support of the Fund, where appropriate.  
  
The Commission may, where relevant, also draw on the expertise of decentralised agencies on specific issues falling within those agencies' competencies.
  
7. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/...<sup>+</sup> to take into account the recommendations referred to in paragraph 6 of this Article.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

8. In cooperation and consultation with the Commission and the relevant decentralised agencies as regards the areas of their competence, as applicable, the Member State concerned may reallocate resources under its programme with the aim of addressing the recommendations referred to in paragraph 6 where those recommendations have financial implications.
9. Member States shall in particular pursue the actions eligible for higher co-financing rates that are listed in Annex IV in their programmes. In the event of unforeseen or new circumstances or in order to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions eligible for higher co-financing rates in Annex IV.
10. Member States' programmes may allow for the inclusion of immediate relatives of persons covered by the integration measures referred to in Annex III to the extent necessary for the effective implementation of those measures.
11. Whenever a Member State decides to implement a project with or in a third country with the support of the Fund, the Member State concerned shall consult the Commission prior to the approval of the project.

12. Programming as referred to in Article 22(5) of Regulation (EU) 2021/...<sup>+</sup> shall be based on the types of intervention set out in Table 1 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

### *Article 17*

#### *Mid-term review*

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 13(1) in accordance with the criteria referred to in point (b) of paragraph 1 and paragraphs 2 to 5 of Annex I. Funding shall be effective as of 1 January 2025.
2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 13(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/...<sup>+</sup>, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 13(1) of this Regulation.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

3. When allocating the funds from the thematic facility referred to in Article 11 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/...<sup>+</sup> and identified shortcomings in implementation.

#### *Article 18*

##### *Specific actions*

1. A Member State may receive funding for specific actions in addition to its allocation under Article 13(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Fund.
2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

#### *Article 19*

##### *Resources for resettlement and humanitarian admission*

1. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 10 000 for each person admitted through resettlement.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

2. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 6 000 for each person admitted through humanitarian admission.
3. The amount referred to in paragraph 2 shall be increased to EUR 8 000 for each person admitted through humanitarian admission who belongs to one or more of the following vulnerable groups:
  - (a) women and children at risk;
  - (b) unaccompanied minors;
  - (c) persons having medical needs that can be addressed only through humanitarian admission;
  - (d) persons in need of humanitarian admission for legal or physical protection needs, including victims of violence or torture.
4. Where a Member State admits a person belonging to more than one of the categories referred to in paragraphs 2 and 3, it shall receive the amount only once in respect of that person.
5. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraphs 1, 2 and 3 if those family members are admitted to ensure family unity.



6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.
7. The amounts referred to in paragraphs 1, 2, 3 and 5 shall be allocated to the Member State's programme for the first time in the financing decision approving that programme. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme. Those amounts may be included in the payment applications to the Commission, provided that the person in respect of whom the amount is allocated was effectively resettled or admitted.
8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission.
9. To take account of current inflation rates, relevant developments in the field of resettlement, and other factors which might optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1, 2 and 3 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

*Article 20*

*Resources for the transfer of applicants for international protection  
or of beneficiaries of international protection*

1. A Member State shall receive, in addition to its allocation under Article 13(1), an additional amount of EUR 10 000 for each applicant for international protection transferred from another Member State in accordance with Article 17 of Regulation (EU) No 604/2013 of the European Parliament and of the Council<sup>1</sup> or as a result of similar forms of relocation.
2. Where appropriate, Member States may also be eligible to receive the amount referred to in paragraph 1 of this Article for each family member of persons referred to in that paragraph, provided that those family members have been transferred to ensure family unity in accordance with Article 17 of Regulation (EU) No 604/2013 or have been transferred as a result of similar forms of relocation.
3. Member States shall receive, in addition to their allocation under Article 13(1), an additional amount of EUR 10 000 for each beneficiary of international protection transferred from another Member State.

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<sup>1</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

4. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraph 3 if those family members have been transferred to ensure family unity.
5. The Member State covering the cost of transfers referred to in paragraphs 1 to 4 shall receive a contribution of EUR 500 for each applicant for international protection or beneficiary of international protection transferred to another Member State.
6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.
7. The amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member State's programme, provided that the person in respect of whom the amount is allocated was effectively transferred to a Member State or was registered as an applicant in the Member State responsible in accordance with Regulation (EU) No 604/2013, as applicable.

Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme.

8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons transferred and of the date of their transfer.

9. To take account of current inflation rates, relevant developments in the field of relocation and other factors which might optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1, 3 and 5 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

### *Article 21*

#### *Operating support*

1. A Member State may use up to 15 % of the amount allocated to its programme under the Fund to finance operating support under the specific objectives of the Fund.
2. When using operating support, a Member State shall comply with the relevant Union *acquis* and the Charter.

3. A Member State shall explain, in its programme and in the annual performance report referred to in Article 35 of this Regulation, how the use of operating support contributes to the achievement of the objectives of the Fund. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available as a result of the monitoring exercises which are carried out in accordance with Regulation (EU) No 1053/2013 and which are within the scope of this Regulation.
4. Operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.
5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the eligible actions listed in Annex VII.

## *Article 22*

### *Management verifications and audits of projects carried out by international organisations*

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').
  
2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/...<sup>+</sup> and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/...<sup>+</sup>, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/...<sup>+</sup>, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.
4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/...<sup>+</sup>, the management declaration to be submitted by the international organisation shall confirm that:
  - (a) invoices and proof of their payment by the beneficiary have been verified;
  - (b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.
5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/...<sup>+</sup>, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.
7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that the expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.



8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/...<sup>+</sup>. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article, instead of by relying on the management verifications referred to in Article 74(1) of Regulation (EU) 2021/...<sup>+</sup>.
9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/...<sup>+</sup> shall include the requirements set out in this Article.
10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:
  - (a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;
  - (b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

(c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project, in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/...<sup>+</sup>, is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a sub-sample of transactions that relate to that project. Where errors are found in the sub-sample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

### **SECTION 3**

#### **SUPPORT AND IMPLEMENTATION UNDER DIRECT OR INDIRECT MANAGEMENT**

##### *Article 23*

##### *Scope*

The Commission shall implement support under this Section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

*Article 24*  
*Eligible entities*

1. The following entities are eligible for Union financing:
  - (a) legal entities established in:
    - (i) a Member State or an overseas country or territory linked to it;
    - (ii) a third country associated to the Fund pursuant to a specific agreement under Article 7, subject to it being covered by the work programme and conditions therein;
    - (iii) a third country listed in the work programme, under the conditions specified in paragraph 3.
  - (b) legal entities created under Union law or any international organisation relevant for the purposes of the Fund.
2. Natural persons are not eligible for Union financing.
3. Entities as referred to in point (a)(iii) of paragraph 1, shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Fund.

*Article 25*

*Union actions*

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund, in accordance with Annex III.
2. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. They may also provide funding in the form of financial instruments within blending operations.
3. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
4. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.

5. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. Article 37(7) of Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>1</sup> shall apply.

*Article 26*

*European Migration Network*

1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.
2. The amount to be made available for the European Migration Network under the annual appropriations of the Fund and the work programme laying down the priorities for its activities shall be adopted by the Commission after approval by the Steering Board in accordance with point (a) of Article 4(5) of Decision 2008/381/EC. The decision of the Commission shall constitute a financing decision in accordance with Article 110 of the Financial Regulation. To ensure the timely availability of resources, the Commission may adopt the work programme for the European Migration Network in a separate financing decision.

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<sup>1</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

3. Financial assistance provided for the activities of the European Migration Network shall take the form of grants to the National Contact Points referred to in Article 3 of Decision 2008/381/EC or procurements, as appropriate, in accordance with the Financial Regulation.

*Article 27*

*Blending operations*

Blending operations decided under the Fund shall be carried out in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

*Article 28*

*Technical assistance at the initiative of the Commission*

In accordance with Article 35 of Regulation (EU) 2021/...<sup>+</sup>, the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

*Article 29*

*Audits*

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by the Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

*Article 30*

*Information, communication and publicity*

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Fund.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 11. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.



**SECTION 4**  
**SUPPORT AND IMPLEMENTATION UNDER SHARED, DIRECT**  
**OR INDIRECT MANAGEMENT**

*Article 31*  
*Emergency assistance*

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations resulting from one or more of the following cases:
  - (a) an exceptional migratory situation characterised by a large or disproportionate influx of third-country nationals into one or more Member States which places significant and urgent demands on those Member States' reception and detention facilities, and on their asylum and migration management systems and procedures;
  - (b) an event of a mass influx of displaced persons within the meaning of Council Directive 2001/55/EC<sup>1</sup>;

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<sup>1</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

- (c) an exceptional migratory situation in a third country, including where persons in need of protection could be stranded due to political developments or conflicts, notably where it might have an impact on migration flows towards the Union.

In response to such duly justified emergency situations, the Commission may decide to provide emergency assistance, including for voluntary relocation, within the limits of available resources. In such cases, the Commission shall inform the European Parliament and the Council in a timely manner.

2. Measures in third countries shall be implemented in accordance with Article 5(2) and (3).
3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 13(1) and Annex I, provided that it is subsequently earmarked as such in the Member State's programme. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.
6. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 38(4). Such an act shall remain in force for a period not exceeding 18 months.

#### *Article 32*

#### *Cumulative and alternative financing*

1. An action that has received a contribution under the Fund may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

2. In accordance with Article 73(4) of Regulation (EU) 2021/...<sup>+</sup>, the ERDF or the ESF+ may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:
- (a) they have been assessed in a call for proposals under the Fund;
  - (b) they comply with the minimum quality requirements of that call for proposals;
  - (c) they cannot be financed under that call for proposals due to budgetary constraints.

## **SECTION 5**

### **MONITORING, REPORTING AND EVALUATION**

#### **SUB-SECTION 1**

#### **COMMON PROVISIONS**

##### *Article 33*

##### *Monitoring and reporting*

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

2. The Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex V in order to make the necessary adjustments to core performance indicators listed in that Annex.
3. Indicators to report on the progress of the Fund towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.
4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.
5. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

*Article 34*  
*Evaluation*

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of the Regulation (EU) 2021/...<sup>+</sup>, the mid-term evaluation shall assess the following:
  - (a) the effectiveness of the Fund, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 35 and the output and result indicators set out in Annex VIII;
  - (b) the efficiency of the use of resources allocated to the Fund and the efficiency of the management and control measures put in place to implement it;
  - (c) the continued relevance and appropriateness of the implementation measures listed in Annex II;
  - (d) the coordination, coherence and complementarity between the actions supported under the Fund and support provided by other Union funds;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

(e) the Union added value of actions implemented under the Fund.

That mid-term evaluation shall take into account the results of the retrospective evaluation of the effects of the Asylum, Migration and Integration Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/...<sup>+</sup>, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall also be evaluated.
3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.
4. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 7, Article 16(11) and Article 24.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

**SUB-SECTION 2**  
**RULES FOR SHARED MANAGEMENT**

*Article 35*

*Annual performance reports*

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/...<sup>+</sup>.

The reporting period shall cover the last accounting year as defined in point (29) of Article 2 of Regulation (EU) 2021/...<sup>+</sup> preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:
  - (a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/...<sup>+</sup>;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).



- (b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions delivered by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Fund;
- (c) the complementarity between the actions supported under the Fund and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;
- (d) contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans and to cooperation and solidarity between Member States;
- (e) the implementation of communication and visibility actions;
- (f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;
- (g) the number of persons admitted through resettlement and humanitarian admission, by reference to the amounts set out in Article 19;

- (h) the number of applicants for international protection and of beneficiaries of international protection transferred from one Member State to another as referred to in Article 20;
- (i) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.
4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/...<sup>+</sup>.
5. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt an implementing act establishing the template for the annual performance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 38(2).

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

### *Article 36*

#### *Monitoring and reporting under shared management*

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/...<sup>+</sup> shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. To address unforeseen or new circumstances and to ensure the effective implementation of the funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 of this Regulation to amend Annex VI.
2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/...<sup>+</sup>.

## **Chapter III**

### **Transitional and final provisions**

### *Article 37*

#### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

2. The power to adopt delegated acts referred to in the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and Article 36(1) shall be conferred on the Commission until 31 December 2027.
3. The delegation of power referred to in the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and Article 36(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) or Article 36(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

### *Article 38*

#### *Committee procedure*

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/... of the European Parliament and of the Council<sup>1+</sup>. That committee shall be a committee 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.

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<sup>1</sup> Regulation (EU) 2021/... of the European Parliament and of the Council of ... establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (OJ L ..., ..., p. ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in ST 6487/21 (2018/0249 (COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

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

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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

### *Article 39*

#### *Transitional provisions*

1. This Regulation shall not affect the continuation of or modification of the actions initiated pursuant to Regulation (EU) No 516/2014, which shall continue to apply to those actions until their closure.
2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to Regulation (EU) No 516/2014.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.
4. Member States may continue after 1 January 2021 to support a project selected and started under Regulation (EU) No 516/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:
  - (a) the project has two phases identifiable from a financial point of view with separate audit trails;
  - (b) the total cost of the project exceeds EUR 500 000;
  - (c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/...<sup>+</sup>;

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).

- (d) the second phase of the project complies with the applicable law and is eligible for support from the Fund under this Regulation and Regulation (EU) 2021/...<sup>+</sup>;
- (e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) 2021/...<sup>+</sup> shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ST 6674/21 (2018/0196(COD)).



*Article 40*

*Entry into force and application*

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

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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## ANNEX I

### CRITERIA FOR THE ALLOCATION OF FUNDING TO THE MEMBER STATES' PROGRAMMES

1. The budgetary resources available under Article 13 shall be broken down between the Member States as follows:
  - (a) at the start of the programming period, each Member State shall receive a fixed amount of EUR 8 000 000 from the Fund, with the exception of Cyprus, Malta and Greece, which shall each receive a fixed amount of EUR 28 000 000;
  - (b) the remaining budgetary resources referred to in Article 13 shall be distributed based on the following criteria:
    - 35 % for asylum;
    - 30 % for legal migration and integration;
    - 35 % for countering irregular migration including returns.

2. The following criteria in the area of asylum shall be taken into account and shall be weighted as follows:
- (a) 30 % in proportion to the number of persons who fall into one of the following categories:
    - any third-country national or stateless person having been granted the status defined by the Geneva Convention relating to the Status of Refugees of 28 July 1951 as amended by the New York Protocol of 31 January 1967;
    - any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Directive 2011/95/EU;
    - any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC<sup>1</sup>;
  - (b) 60 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection;
  - (c) 10 % in proportion to the number of third-country nationals or stateless persons who are being or have been resettled in a Member State.

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<sup>1</sup> Data to be taken into account only in case of the activation of Directive 2001/55/EC.

3. The following criteria in the area of legal migration and integration shall be taken into account and shall be weighted as follows:
- (a) 50 % in proportion to the total number of legally residing third-country nationals in a Member State;
  - (b) 50 % in proportion to the number of third-country nationals who have obtained a first residence permit; however, the following categories of persons shall not be included:
    - third-country nationals issued with a work-related first residence permit valid for less than 12 months;
    - third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC<sup>1</sup> or, where applicable, Directive (EU) 2016/801 of the European Parliament and of the Council<sup>2</sup>;

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<sup>1</sup> Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12).

<sup>2</sup> Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

- third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC<sup>1</sup> or, where applicable, Directive (EU) 2016/801.

4. The following criteria in the area of countering irregular migration including returns shall be taken into account and shall be weighted as follows:

- (a) 70 % in proportion to the number of third-country nationals who do not or no longer fulfil the conditions for entry and stay in the territory of the Member State and who are subject to a return decision under national law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;
- (b) 30 % in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.

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<sup>1</sup> Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15).

5. For initial allocation the reference figures shall be based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2017, 2018 and 2019 on the basis of data provided by Member States prior to the date of application of this Regulation in accordance with Union law. For the mid-term review, the reference figures shall be based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2021, 2022 and 2023 on the basis of data provided by Member States in accordance with Union law. Where Member States have not supplied the Commission (Eurostat) with the statistical data concerned, they shall provide provisional data as soon as possible.
6. Before accepting the data referred to in paragraph 5 as reference figures, the Commission (Eurostat) shall evaluate the quality, comparability and completeness of the statistical information in accordance with normal operational procedures. At the request of the Commission (Eurostat), Member States shall provide it with all the necessary information to do so.

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## ANNEX II

### IMPLEMENTATION MEASURES

1. The Fund shall contribute to the specific objective set out in point (a) of Article 3(2) by focusing on the following implementation measures:
  - (a) ensuring the uniform application of the Union *acquis* and of the priorities related to the Common European Asylum System;
  - (b) supporting the capacity of Member States' asylum systems as regards infrastructures and services where necessary, including at local and regional level;
  - (c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including by enhancing their capacities to improve the protection of persons in need of international protection in the context of global cooperation efforts;
  - (d) providing technical and operational assistance to one or several Member States, including in cooperation with EASO.

2. The Fund shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:
- (a) supporting the development and implementation of policies promoting legal migration and the implementation of the Union legal migration *acquis*, including family reunification and the enforcement of labour standards;
  - (b) supporting measures to facilitate regular entry into and residence in the Union;
  - (c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including through legal avenues of entry to the Union, in the context of global cooperation efforts in the area of migration;
  - (d) promoting integration measures for the social and economic inclusion of third-country nationals and protection measures for vulnerable persons in the context of integration measures, facilitating family reunification and preparing for the active participation of third-country nationals in, and their acceptance by, the receiving society, with the involvement of national and, in particular, regional or local authorities and civil society organisations, including refugee organisations and migrant-led organisations, and social partners.



3. The Fund shall contribute to the specific objective set out in point (c) of Article 3(2) by focusing on the following implementation measures:
- (a) ensuring the uniform application of the Union *acquis* and policy priorities regarding infrastructure, procedures and services;
  - (b) supporting an integrated and coordinated approach to return management at the Union and Member State level, to the development of capacities for effective, dignified and sustainable return, and to reducing incentives for irregular migration;
  - (c) supporting assisted voluntary return, family tracing and reintegration, while respecting the best interests of the child;
  - (d) strengthening cooperation with third countries and their capacity, with respect to readmission and sustainable return.
4. The Fund shall contribute to the specific objective set out in point (d) of Article 3(2) by focusing on the following implementation measures:
- (a) enhancing solidarity and cooperation with third countries affected by migratory flows, including through resettlement in the Union and through other legal avenues to protection in the Union;
  - (b) supporting transfers from one Member State to another of applicants for international protection or beneficiaries of international protection.
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## ANNEX III

### SCOPE OF SUPPORT

1. Within the policy objective set out in Article 3(1), the Fund shall in particular support:
  - (a) the establishment and development of national, regional and local strategies in relation to asylum, legal migration, integration, return and irregular migration in accordance with the relevant Union *acquis*;
  - (b) the setting up of administrative structures, tools and systems, including ICT systems, and the training of staff, including the staff of local authorities and of other relevant stakeholders, in cooperation with relevant decentralised agencies, where appropriate;
  - (c) the establishment of contact points at the national, regional and local levels to provide impartial guidance, practical information and assistance regarding all aspects of the Fund to potential beneficiaries and eligible entities;
  - (d) the development, monitoring and evaluation of policies and procedures, including the collection, exchange and analysis of information and data; the dissemination of qualitative and quantitative data and statistics on migration and international protection; and the development and application of common statistical tools, methods and indicators for measuring progress and assessing policy developments;

- (e) the exchange of information, best practices and strategies; mutual learning, studies and research; the development and implementation of joint actions and operations; and the setting-up of transnational cooperation networks;
- (f) assistance and support services provided in a gender-sensitive manner that are consistent with the status and the needs of the person concerned, in particular vulnerable persons;
- (g) actions aimed at the effective protection of children in migration, including the implementation of assessments of the best interests of the child, the strengthening of guardianship systems, as well as the development, monitoring and evaluation of child safeguarding policies and procedures;
- (h) actions aimed at enhancing awareness among stakeholders and the general public of policies relating to asylum, integration, legal migration and return, with specific attention to vulnerable persons, including minors.

2. Within the specific objective set out in point (a) of Article 3(2), the Fund shall in particular support:

- (a) the provision of material aid, including assistance at the border;

- (b) the conducting of asylum procedures in accordance with the asylum *acquis*, including the provision of support services such as translation and interpretation, legal assistance, family tracing and other services which are consistent with the status of the person concerned;
- (c) the identification of applicants with special procedural or reception needs, including the early identification of victims of trafficking, with a view to their referral to specialised services such as psycho-social and rehabilitation services;
- (d) the provision of specialised services such as qualified psycho-social and rehabilitation services to applicants with special procedural or reception needs;
- (e) the establishment or improvement of reception accommodation infrastructure, such as small scale infrastructure addressing the needs of families with minors, including those provided by local and regional authorities and including the possible joint use of such facilities by more than one Member State;
- (f) the enhancement of the capacity of Member States to collect, analyse and share among their competent authorities country of origin information;

- (g) actions related to Union resettlement programmes or national resettlement and humanitarian admission schemes, including the conducting of procedures for their implementation;
  - (h) the enhancement of the capacities of third countries to improve the protection of persons in need of protection, including through supporting the development of protection systems for children in migration;
  - (i) the establishment, development and improvement of effective alternatives to detention, in particular in relation to unaccompanied minors and families, and including, where appropriate, non-institutionalised care integrated into national child protection systems.
3. Within the specific objective set out in point (b) of Article 3(2), the Fund shall in particular support:
- (a) information packages and campaigns to raise awareness of legal migration channels to the Union, including on the Union legal migration *acquis*;
  - (b) the development of mobility schemes to the Union, such as circular or temporary migration schemes, including training to enhance employability;
  - (c) cooperation between third countries and the recruitment agencies, the employment services and the immigration services of Member States;

- (d) the assessment and recognition of skills and qualifications, including professional experience, acquired in a third country, as well as their transparency, and their equivalence with those of a Member State;
- (e) assistance in the context of applications for family reunification to ensure a harmonised implementation of Council Directive 2003/86/EC<sup>1</sup>;
- (f) assistance, including legal assistance and representation, in relation to a change of status for third-country nationals already legally residing in a Member State, in particular in relation to the acquisition of a legal residence status as defined at Union level;
- (g) assistance to third-country nationals seeking to exercise their rights, in particular related to mobility, under Union legal migration instruments;
- (h) integration measures, such as tailored support in accordance with the needs of third-country nationals, and integration programmes focusing on counselling, education, language and other training, such as civic orientation courses and professional guidance;

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<sup>1</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

- (i) actions promoting equality in access to public and private services by third-country nationals and the provision of such services to third-country nationals, including access to education, healthcare and psycho-social support and adapting such services to the needs of the target group;
- (j) cooperation between governmental and non-governmental bodies in an integrated manner, including through coordinated integration-support centres, such as one-stop shops;
- (k) actions enabling and supporting the introduction of third-country nationals to, and their active participation in, the receiving society and actions promoting acceptance by the receiving society;
- (l) promoting exchanges and dialogue between third-country nationals, the receiving society and public authorities, including through consultation with third-country nationals, and intercultural and inter-religious dialogue;
- (m) building the capacity of integration services provided by local authorities and other relevant stakeholders.

4. Within the specific objective set out in point (c) of Article 3(2), the Fund shall in particular support:

- (a) the establishment or improvement of open reception or detention infrastructure, including the possible joint use of such facilities by more than one Member State;

- (b) the introduction, development, implementation and improvement of effective alternative measures to detention, including community based case management, in particular in relation to unaccompanied minors and families;
- (c) the introduction and reinforcement of independent and effective forced-return monitoring systems, as laid down in Article 8(6) of Directive 2008/115/EC;
- (d) the countering of incentives for irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, and information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC;
- (e) the preparation of returns, including measures leading to the issuing of return decisions, the identification of third-country nationals, the issuing of travel documents and family tracing;



- (f) cooperation with the consular authorities and immigration services or other relevant authorities and services of third countries with a view to obtaining travel documents, facilitating returns and ensuring readmission, including through the deployment of third-country liaison officers;
- (g) return assistance, in particular assisted voluntary return and information about assisted voluntary return programmes, including by providing specific guidance for children in return procedures;
- (h) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of support for coercive equipment;
- (i) measures to support the returnee's sustainable return and reintegration, including cash-incentives, training, placement and employment assistance and start-up support for economic activities;
- (j) facilities and support services in third countries to ensure appropriate temporary accommodation and reception upon arrival and, where appropriate, a fast transition to community-based accommodation;
- (k) cooperation with third countries regarding countering irregular migration and regarding effective return and readmission;

- (l) measures aimed at raising awareness of the appropriate legal channels for migration and the risks of irregular immigration;
  - (m) assistance and actions in third countries which help to improve effective cooperation between third countries and the Union and its Member States regarding return and readmission and to support reintegration into the society of origin.
5. Within the specific objective set out in point (d) of Article 3(2), the Fund shall in particular support:
- (a) the implementation of voluntary transfers from one Member State to another of either applicants for international protection or beneficiaries of international protection;
  - (b) operational support in terms of seconded staff or financial assistance provided by a Member State to another Member State affected by migration challenges, including support provided to EASO;
  - (c) the voluntary implementation of national resettlement or humanitarian admission schemes;
  - (d) support by a Member State to another Member State affected by migration challenges in terms of establishment or improvement of reception infrastructure.
-

## ANNEX IV

### ACTIONS ELIGIBLE FOR HIGHER CO-FINANCING RATES IN ACCORDANCE WITH ARTICLES 15(3) AND 16(9)

- Integration measures implemented by local and regional authorities and civil society organisations, including refugee organisations and migrant-led organisations;
  - Actions to develop and implement effective alternatives to detention;
  - Assisted voluntary return and reintegration programmes and related activities;
  - Measures targeting vulnerable persons and applicants for international protection with special reception or procedural needs, including measures to ensure effective protection of minors, in particular unaccompanied minors, including through alternative, non-institutionalised care systems.
-

## ANNEX V

### CORE PERFORMANCE INDICATORS AS REFERRED TO IN ARTICLE 33(1)

All indicators related to persons shall be reported by age brackets (<18, 18-60, >60) and by gender.

#### Specific objective set out in point (a) of Article 3(2)

1. Number of participants who consider the training useful for their work.
2. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.
3. Number of persons placed in alternatives to detention, separately specifying:
  - 3.1 the number of unaccompanied minors placed in alternatives to detention;
  - 3.2 the number of families placed in alternatives to detention.

#### Specific objective set out in point (b) of Article 3(2)

1. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.

2. Number of participants who report that the activity was helpful for their integration.
3. Number of participants who applied for the recognition or assessment of qualifications or skills acquired in a third country.
4. Number of participants who applied for a long-term residence status.

Specific objective set out in point (c) of Article 3(2)

1. Number of returnees voluntarily returned.
2. Number of returnees who were removed.
3. Number of returnees subject to alternatives to detention.

Specific objective set out in point (d) of Article 3(2)

1. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.
2. Number of persons resettled.
3. Number of persons admitted through humanitarian admission.

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## ANNEX VI

### TYPES OF INTERVENTION

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. Common European Asylum System	
001	Reception conditions
002	Asylum procedures
003	Implementation of the Union <i>acquis</i>
004	Children in migration
005	Persons with special reception and procedural needs
006	Union resettlement programmes or national resettlement and humanitarian admission schemes (Annex III, point 2 (g))
007	Operating support
II. Legal migration and integration	
001	Development of integration strategies
002	Victims of trafficking in human beings
003	Integration measures – information and orientation, one-stop shops
004	Integration measures – language training
005	Integration measures – civics and other training
006	Integration measures – introduction, participation, exchanges host society
007	Integration measures – basic needs
008	Pre-departure measures
009	Mobility schemes
010	Acquisition of legal residence
011	Vulnerable persons, including unaccompanied minors
012	Operating support

III. Return	
001	Alternatives to detention
002	Reception/detention conditions
003	Return procedures
004	Assisted voluntary return
005	Reintegration assistance
006	Removal/Return operations
007	Forced-return monitoring system
008	Vulnerable persons, including unaccompanied minors
009	Measures addressing incentives for irregular migration
010	Operating support
IV. Solidarity and fair sharing of responsibility	
001	Transfers to another Member State ('relocation')
002	Support by a Member State to another Member State, including support provided to EASO
003	Resettlement (Article 19)
004	Humanitarian admission (Article 19)
005	Support, in terms of reception infrastructure, to another Member State
006	Operating support
V. Technical assistance	
001	Information and communication
002	Preparation, implementation, monitoring and control
003	Evaluation and studies, data collection
004	Capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	Development of national strategies
002	Capacity building
003	Education and training for third-country nationals
004	Development of statistical tools, methods and indicators
005	Exchange of information and best practices
006	Joint actions/operations between Member States
007	Campaigns and information
008	Exchange and secondment of experts
009	Studies, pilot projects, risk assessments
010	Preparatory, monitoring, administrative and technical activities
011	Provision of assistance and support services to third-country nationals
012	Infrastructure
013	Equipment



TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 15(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Emergency assistance

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
002	Actions in or in relation to third countries
003	None of the above

## **ANNEX VII**

### EXPENDITURE ELIGIBLE FOR OPERATING SUPPORT

Within all specific objectives set out in Article 3(2), operating support shall cover:

- staff costs;
  - service costs, such as maintenance or replacement of equipment, including ICT systems;
  - service costs, such as maintenance and repair of infrastructure.
-

## ANNEX VIII

### OUTPUT AND RESULT INDICATORS AS REFERRED TO IN ARTICLE 33(3)

All indicators relating to persons shall be reported by age brackets (<18, 18-60, >60) and by gender.

Specific objective set out in point (a) of Article 3(2)

#### Output indicators

1. Number of participants supported, separately specifying:
  - 1.1. the number of participants who received legal assistance;
  - 1.2. the number of participants benefiting from types of support other than legal assistance, including information and assistance throughout the asylum procedure<sup>1</sup>;
  - 1.3. the number of vulnerable participants assisted.
2. Number of participants in training activities.

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<sup>1</sup> This indicator is generated automatically for reporting purposes by the system by subtracting the number of participants who received legal assistance from the number of participants supported. The data for this indicator is generated by SFC2021 for reporting purposes. Member States do not need to report data for this indicator, nor do they need to set milestones or targets.

3. Number of newly created places in reception infrastructure in accordance with Union *acquis*, separately specifying:
  - 3.1. the number of newly created places for unaccompanied minors.
4. Number of renovated or refurbished places in reception infrastructure in accordance with Union *acquis*, separately specifying:
  - 4.1. the number of renovated or refurbished places for unaccompanied minors.

#### Result indicators

5. Number of participants who consider the training useful for their work.
6. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.
7. Number of persons placed in alternatives to detention, separately specifying:
  - 7.1. the number of unaccompanied minors placed in alternatives to detention;
  - 7.2. the number of families placed in alternatives to detention.

Specific objective set out in point (b) of Article 3(2)

## Output indicators

1. Number of participants in pre-departure measures.
2. Number of local and regional authorities supported to implement integration measures.
3. Number of participants supported, separately specifying
  - 3.1. the number of participants in a language course;
  - 3.2. the number of participants in a civic orientation course;
  - 3.3. the number of participants who received personalised professional guidance.
4. Number of information packages and campaigns to raise awareness of legal migration channels to the Union.
5. Number of participants receiving information or assistance in applying for family reunification.
6. Number of participants benefitting from mobility schemes.
7. Number of integration projects where local and regional authorities are the beneficiary.

### Result indicators

8. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.
9. Number of participants who report that the activity was helpful for their integration.
10. Number of participants who applied for their qualification or skills acquired in a third country to be recognised or assessed.
11. Number of participants who applied for a long-term residence status.

Specific objective set out in point (c) of Article 3(2)

### Output indicators

1. Number of participants in training activities.
2. Number of items of equipment purchased, including number of ICT systems purchased or updated.
3. Number of returnees who received reintegration assistance.
4. Number of places in detention centres created.

5. Number of places in detention centres refurbished or renovated.

Result indicators

6. Number of returnees voluntarily returned.
7. Number of returnees who were removed.
8. Number of returnees subject to alternatives to detention.

Specific objective set out in point (d) of Article 3(2)

Output indicators

1. Number of staff trained.
2. Number of participants who received pre-departure support.

Result indicators

3. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.
4. Number of persons resettled.
5. Number of persons admitted through humanitarian admission.

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