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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund – Presidency compromise proposal on Annex I

In view of the Adhoc Working Party on JHA Financial instruments meeting on 9 October 2019, delegations will find attached a Presidency compromise proposal on Annex I.

Changes compared to the original Commission proposal are indicated in **bold underline** for additions and ~~strikethrough~~ for deletions.

2018/0248 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the Asylum, ~~and~~ Migration and Integration Fund

[ANNEX I]

[Criteria for the allocation of funding to the programmes under shared management]

1. [The available resources referred to in Article 11 shall be broken down between the Member States as follows:
 - (a) Each Member State shall receive a fixed amount of EUR **7 500 000** ~~5 000 000~~ from the Fund at the start of the programming period only;
 - (b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:
 - **35** ~~30~~% for asylum;
 - 30 % for legal migration and integration;
 - **35** ~~40~~ % for countering irregular migration including returns.

2. The following criteria in the area of asylum will 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;
 - Any third-country national or stateless person enjoying a form of subsidiary protection with the meaning of recast Directive 2011/95/EU¹;
 - Any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC²
 - (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.

¹ 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. 9–26).

² Data to be taken into account only in case of the activation of the 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. 12–23).

3. The following criteria in the area of legal migration and integration will be taken into account and shall be weighted as follows:
- (a) 40 % in proportion to the total number of legally residing third-country nationals in a Member State.
 - (b) 60 % in proportion to the number of third-country nationals who have obtained a first residence permit.
 - (c) However, for the purpose of the calculation referred to in paragraph 3(b), the following categories of persons shall not be included:
 - Third country nationals being issued a work-related first residence permits 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/EC³ or when applicable the Directive (EU) 2016/801⁴;
 - Third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC⁵ or when applicable the Directive (EU) 2016/801.

³ 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. 12–18).

⁴ 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. 21–57).

⁵ 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. 15–22).

4. The following criteria in the area of countering irregular migration including returns will be taken into account and shall be weighted as follows:
- (a) 50% 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 and / or Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;
 - (b) 50% 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.
5. For initial allocation the reference figures shall be **based on** the ~~latest~~ annual statistical data produced by the Commission (Eurostat) covering the ~~preceding three calendar~~ years **2017, 2018 and 2019** on the basis of data provided by Member States on the date of the applicability of this Regulation in accordance with Union law. For the mid-term review, the reference figures shall be **based on** the ~~latest~~ annual statistical data produced by the Commission (Eurostat) covering the ~~preceding three calendar~~ years **2021, 2022 and 2023** **prior to the mid-term review in 2024** ~~available at the time of the mid-term review in 2024~~ 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 statistics concerned, they shall provide provisional data as soon as possible.
6. Before accepting these data 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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