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Delegations will find attached the opinion of the European Economic and Social Committee on the abovementioned proposal.

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European Economic and Social Committee

SOC/601
Internal Security Fund

OPINION

European Economic and Social Committee

Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund
[COM(2018) 472 final – 2018/0250 (COD)]

Rapporteur: **José Antonio MORENO DÍAZ**

Referral	European Parliament, 02/07/2018 Council, 25/07/2018
Legal basis	Article 82 (1), Article 84, Article 87(2) and Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	26/09/2018
Adopted at plenary	18/10/2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	139/3/4

1. **Conclusions and recommendations**

1.1 The EESC agrees with the need to allocate more resources to operational and preventive security-related actions and programmes and supports the creation of a flexible and transparent fund – distributing resources according to clear and predictable operational criteria and objectives – in order to strengthen them.

1.2 The Security Fund should be designed so as to strengthen a preventive policy, which requires active engagement and cooperation with civil society, especially in terms of caring for and making arrangements for victims, auditing security actors, and preventing radicalisation.

1.3 Grants from the Fund – in the case of both EU Member States and third countries – must only go to public institutions that can effectively ensure that human rights will be strictly upheld.

1.4 The EESC must be treated as an observer in the creation and development of this Fund so that the views of organised civil society can be heard at EU level.

1.5 We point out the need to specifically address the risk posed by the violent radicalisation of far-right groups.

1.6 We point out the need to counteract criminal organisations' financing mechanisms and capital flows.

1.7 The EESC believes that it is necessary to be more than merely reactive and to deepen preventive policies, addressing both the root causes of why some people become radicalised, posing a danger to others, and the financing mechanisms of violent groups.

1.8 Human rights – the philosophical cornerstone of the EU – must be an integral element and a prerequisite of any measure taken. In the case of a financing fund, this should be made clear by refusing resources from the Fund to those who do not demonstrate compliance with the minimum standards. This also comes through in the Commission's recent proposal[1] on financial measures to ensure the rule of law in Member States, as well the EESC's group on Fundamental Rights and the Rule of Law.

[1] COM(2018) 324 final.

2. **Text of the proposal**

2.1 This document makes use of the methodology of Article 2 of the Commission proposal as regards the definitions of the various concepts involved in its development.

2.2 The EESC shares the concerns set out in the proposal under consideration, given the fact that threats to security in Europe have intensified and diversified, taking the form of terrorist attacks, new types of organised crime, and cybercrime.

2.3 Security has an inherently cross-border dimension and therefore a strong, coordinated EU response is required: beyond internal security challenges, the EU faces complex external threats that no Member State can meet on its own.

2.4 Security will remain a defining issue for the EU for years to come and Europe's citizens expect their Union and national governments to deliver security in a fast-changing and uncertain world. Thus, educational and pedagogical measures on the prevention of violent behaviour are desirable, including textbooks and school material that foreground respect for fundamental rights, pluralism and diversity.

2.5 It is clear that the challenges the Union is facing, notably from international terrorism, cannot be managed by individual Member States alone and without the financial and technical support of the EU. In an era where terrorism – both external and domestic terrorism and with either a religious or politically extreme (particularly far-right) dimension – as well as other dangers arising from drug trafficking, trafficking in human beings for exploitation and other serious crime, know no borders, the Member States continue to have a responsibility towards their citizens to deliver public security, in full compliance with the fundamental rights also enshrined in EU texts and in international treaties.

2.6 The EU can and must support these measures; in this connection, the Treaties envisage the need to ensure a high level of security, focusing in particular on preventive measures and coordination and cooperation between police, judicial and other competent authorities, such as the decentralised agencies.

2.7 The European Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) play key operational, coordination and supporting roles in the implementation of the EU priorities, objectives and activities in the security area.

2.8 The Internal Security Fund is set up to facilitate cross-border cooperation and exchange of information between Member State law enforcement officials and other relevant authorities. In particular, this cooperation is facilitated by enabling the interoperability of the different EU information systems for security, thereby making borders and migration management more effective and efficient, and by facilitating joint operational actions, as well as by providing support for training, for the construction of essential security-relevant facilities, for the collection and processing of passenger name records in line with the relevant EU acquis, and for the purchase of necessary technical equipment.

2.9 The Fund aims at intensifying cross-border operational cooperation in relation to the prevention, detection and investigation of cross-border crime and at supporting efforts to strengthen the capabilities to prevent such crime, including terrorism, in particular through increased cooperation between public authorities, civil society and private partners from across the Member States.

2.10 The role that civil society has played in addressing security concerns has been very useful and necessary in terms of raising standards regarding respect for fundamental rights, ensuring that there is no abuse on the part of the authorities, and condemning certain undesirable attitudes which, nonetheless, are a constant temptation. In our democratic context, we must not be carried away by a desire for effective and exclusively security-based solutions at all costs. The Fund should therefore be available to finance programmes that strengthen this kind of monitoring, and to increase support for legal structures that can subject the actions taken by security forces to independent judicial oversight. The same also applies to the crucial task of preventing radicalisation, providing education and raising public awareness.

2.11 Non-governmental organisations and other members of civil society already make quantitative and qualitative contributions to security by:

- preventing and prosecuting measures taken by Member State authorities that are excessive or infringe human rights,
- preventing and prosecuting all forms of ideological radicalisation,
- raising society's awareness about victims, integrating them into society and providing the necessary support,
- accomplishing organisational work and enabling victims, and all those who work in solidarity with them – as well as all those who are concerned by security-related issues – to be able to play a role and provide input,
- implementing measures in the field of education, especially of the youngest children, with the crucial role of both raising awareness and preventing radicalisation,
- undertaking many other measures that indirectly promote both domestic and border security, such as the abovementioned auditing of the actions of the security forces, education and awareness-raising, protecting and making arrangements for victims, etc.,
- along these lines, civil society must be permitted to continuously monitor how the fund is used.

2.12 This whole range of actions should receive direct support from the Union authorities, and, since they promote security, should also have a budget item within the abovementioned allocation.

2.13 Both the EU and the Member States need to be aware that certain civil society organisations could also – directly, or by indirect actions – promote speech and/or behaviour that runs counter to the EU's rights and values.

2.14 The main challenge the proposal aims to address is the need for greater flexibility in managing the future Fund, as compared with the current programming period. It is also important to have tools to ensure that funding is steered towards EU priorities and actions with a significant added value to the Union. Given that new mechanisms for the allocation of funding between direct, indirect and shared management systems are needed to address the latest challenges and priorities, it is essential that these mechanisms also allow for the inclusion of the active members of civil society mentioned above, with a view to meeting the objectives highlighted. **In this connection, we propose that the EESC be considered an observer in the creation and development of this Fund so that the views of organised civil society can be heard at EU level.**

2.15 Given the size of the total and envelope of the Fund (EUR 2 500 000 000), the criteria for allocating this amount should be clarified. It is right that they retain a necessary degree of flexibility, without prejudice to the need to clearly specify the budget items under which this money will be distributed.

2.16 These items should follow a simplicity criterion to avoid excessive bureaucratic obstacles to accessing the Fund and should be governed by the principle of mutual trust. Clarity and predictability in this regard will make it easier for decision-makers from various countries to launch task forces or rapid intervention measures, with the guarantee that they will be covered or supported by allocations from the Fund.

2.17 The EESC welcomes the proposal (regulation of the European Parliament and the Council to create an Internal Security Fund) and views the creation of the Fund as appropriate, on the basis of Article 3(2) of the Treaty on European Union. It also believes that the proposal is justified in light of the objectives referred to in Article 67 of the Treaty on the Functioning of the European Union, subject to the principles of solidarity and fair sharing of responsibility stated in Article 80 TFEU, as well as the principles of subsidiarity – as the subject-matter comes under the area of non-exclusive competences – and the principle of proportionality.

2.18 In any event, the establishment of an Internal Security Fund seeks to provide an instrument to complement the work of the other agencies and funds already available to the Union, as well as other national bodies, with the fundamental aim being to contribute to a high level of security within the Union, in particular through the fight against terrorism and radicalisation, serious and organised crime and cybercrime, as well as assistance to and protection of victims of crime. It makes use of specific objectives such as exchange of information, the stepping-up of cross-border joint actions, and capacity-building in relation to prevention, while always being underpinned by cooperation between the various public authorities, civil society and private partners in the Member States[2]. In this context, it is also important to target criminal organisations' funding mechanisms and capital flows, and the Fund must consider this issue.

[2] Article 3(1) and (2) of the proposal.

2.19 Finally, it is worth mentioning that the EESC has participated as an observer in the High-Level Commission Expert Group on Radicalisation set up by the European Commission in 2017[3].

3. Recommendations

3.1 The Fund should address the root causes of why some people join and organise groups that pose a danger to others, by means of substantive studies and research to help prevent specific situations from occurring.

3.2 The creation of the Fund builds on the investments and achievements that preceded it, such as the "Security and Safeguarding Liberties" programme, the instrument for police cooperation, and the drugs policy of the "Justice" programme. In any case, the assertion that "The facility will make it possible to address new priorities or take urgent action and to implement them through the delivery mode that is best placed to achieve the policy objective"[4] should be fleshed out. Innovation is a priority, especially when the groups we are fighting against are highly innovative.

3.3 Fund distribution criteria should be purely operational, meaning that measures and programmes are funded without recourse to criteria such as population or country size. Another priority should be total transparency in the allocation and economic framework of the Fund, which will be open to the media and civil society, enabling them to scrutinise the fulfilment of the conditions that are imposed in order to benefit from its resources.

3.4 It is also important that the creation of the Fund makes provision for a future evaluation of its significance and effectiveness by means of a periodic, up-to-date study on the general situation, enabling its evolution to be assessed.

3.5 The Economic and Social Committee would like to highlight some of these new priorities which do not appear to be reflected in the document and which deserve explicit mention, as they may represent an important aspect, especially of the objective of preventing radicalisation, which might even enjoy a degree of complicity on the part of certain authorities.

3.6 We are referring here to extreme-right, far-right, neo-Nazi, anti-Semitic, and white supremacist movements, or any others that glorify discrimination based on race, origin, sexual orientation etc., which pose a real threat to security and the rule of law (and come under the EU's remit), especially insofar as such movements, despite being driven by ultra-nationalism, are beginning to see the usefulness of forging international ties and of coordinating with members from other countries who share similar views[5].

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3 Final Report of the High-Level Commission Expert Group on Radicalisation (HLCEG-R).

4 Page 2 of the proposal's explanatory memorandum.

5 Final Report of the High-Level Commission Expert Group on Radicalisation (HLCEG-R); Recommendations on policy areas. 2.5: "Ideology and polarisation"; the Group recognises that attention should also be paid to the rise in right wing extremism and the broader tendency of polarisation in society.

3.7 Protecting and assisting the victims of human trafficking networks is seemingly conditional upon effective and efficient cooperation in pursuing those responsible for such trafficking. However, the fundamental objective of the Union's and the Fund's work must be to protect the victims, and this must not be conditional on better or worse cooperation in prosecuting those responsible for their mistreatment.

3.8 However, using the Fund to provide the necessary resources to victims directly and to those institutions that contribute to their protection and integration will undoubtedly, and quite naturally, result in such cooperation, to the benefit of prosecution and prevention measures at least over the medium term.

3.9 Preventing radicalisation is an important area which must cover more than the risk of only one strand of potential radicalisation, on the grounds that the most serious attacks suffered in recent years were carried out by extremist Islamist groups. We must also be very attentive to the prospect of political and ideological extremism, the origins of which are completely different as are the areas in which it grows and its potential victims.

3.10 Another section of the proposal of which the EESC is critical is the ex-post evaluations, stakeholder consultations and impact assessments. Certainly from the point of view of efficiency in relation to the objectives of the instruments applied, their costs, the reasoning behind them, their relevance, consistency and complementarity, this section is positive. However, the analysis lacks an assessment of whether these instruments have helped improve not only cooperation, the exchange of knowledge and good practices, and trust between authorities, but also aspects of fundamental rights, to which only a short paragraph is dedicated – nothing more than a redundant commitment at the end of Article 3.

3.11 Given that security and fundamental rights have historically been in tension with one another, an instrument such as the one proposed, aimed at increasing the security that is undoubtedly needed, must be accompanied by specific objectives to enhance respect for fundamental rights in the security framework. Improving security must never come at the expense of fundamental rights.

3.12 If a particular country, whether it is a member of the European Union or not, fails to demonstrate the appropriateness of its law enforcement agencies' actions, or does not agree to the necessary training or for its actions to be subject to monitoring mechanisms in this regard, then it should not receive financing from the Fund and will be excluded from it. Compliance with minimum standards of respect for human rights must be a sine qua non to be able to receive support from other EU Member States, either through this Security Fund or any other solidarity mechanism.

3.13 In relation to the section on consistency with other EU policies, we must highlight the need to create synergy and consistency with the Asylum, Migration and Integration Fund and the Integrated Border Management Fund as well as the European Border and Coast Guard Agency. Specifically with regard to this section, doubts have been raised as to whether the actions taken through these funds and by the Agency give too much priority to the security objective over and above other tasks that are the responsibility of all European authorities and levels. This relates directly to the earlier call for more consideration to be given to this, resulting in better guarantees for the respect of fundamental rights.

3.14 The Fund is and must be open to supporting cooperation with third countries; however, these resources cannot be allocated directly to the authorities of those countries, but rather to projects and programmes carried out jointly between the authorities of Member States and third countries. Cooperation must be absolutely conditional on monitoring the funding allocated by the Fund; on respect for human rights by the countries benefiting from this cooperation; and, above all, on the acknowledged public character, in terms of state ownership and management, of the collaborating entities that might receive such funding. The resources from the Fund must at all costs be prevented from ultimately financing uncontrolled groups or cells that might even pose a threat to security in their countries or to the Union itself.

3.15 International maritime law instruments, as well as the Convention relating to the Status of Refugees and the remaining body of law on protecting people in the difficult situation of crossing borders by unconventional means, oblige the EU and all its members to include sea rescue among the main priorities of its border security policy, with due reception at ports located closest to those rescued at sea and incoming stowaways, respect for their fundamental rights, and implementation of return or repatriation procedures that include all the specific guarantees of their rights, especially the right to recognition of their refugee status. The Fund should also be used for these purposes, both by financing the needs of states and by supporting civil society, as discussed above.

Brussels, 18 October 2018

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The president of the European Economic and Social Committee