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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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 Internal Security Fund
- Adopted by the Council on 14 June 2021

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

of ...

establishing the Internal Security 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 Articles 82(1), 84 and 87(2) 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 Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 62, 15.2.2019, p. 189.

² Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) 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 ... (not yet published in the Official Journal).

Whereas:

- (1) While national security remains solely a competence of the Member States, protecting it requires cooperation and coordination at Union level. The Union's objective of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the European Union (TFEU) should be achieved, inter alia, through measures to prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities and other national authorities of the Member States, including coordination and cooperation with relevant Union agencies and other relevant Union bodies, and with relevant third countries and international organisations as well as with the help of the private sector and civil society.
- (2) For the period from 2015 to 2020, the Commission, the Council of the European Union and the European Parliament defined common priorities as set out in the European Agenda on Security of April 2015, which were reaffirmed by the Council in the renewed Internal Security Strategy of June 2015 and by the European Parliament in its Resolution of July 2015, namely preventing and combating terrorism and radicalisation, serious and organised crime and cybercrime. Those common priorities have been reaffirmed for the period from 2020 to 2025 in the Communication of 24 July 2020 from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'the EU Security Union Strategy'.

- (3) In the Rome Declaration signed on 25 March 2017, the leaders of 27 Member States, the European Council, the European Parliament and the European Commission affirmed their commitment to working towards a safe and secure Europe and to building a Union where all citizens feel safe and can move freely, where the external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms, as well as a Europe determined to fight terrorism and organised crime.
- (4) The European Council of 15 December 2016 called for continued delivery on the interoperability of information systems and databases. The European Council of 23 June 2017 underlined the need to improve the interoperability between databases, and on 12 December 2017 the Commission put forward a proposal for a Regulation on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration).
- (5) To preserve the Schengen *acquis* and to contribute to ensuring a high level of security in the Union, Member States have, since 6 April 2017, been obliged to carry out systematic checks against relevant databases on Union citizens who cross the Union's external borders. Furthermore, the Commission issued a recommendation to Member States on making better use of police checks and cross-border cooperation. Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and freedoms and for the rule of law, close attention to the global perspective and the necessary consistency with the external dimension of security should be key principles guiding Union and Member State action towards the development of an effective and genuine security union.

- (6) To achieve this objective, action should be taken at Union level to protect people, public spaces and critical infrastructure from increasingly transnational threats and to support the work carried out by Member States' competent authorities. Terrorism, serious and organised crime, itinerant crime, drug and arms trafficking, corruption, money laundering, cybercrime, sexual exploitation, including the sexual exploitation of children, hybrid threats, as well as chemical, biological, radiological and nuclear threats, and trafficking in human beings, inter alia, continue to challenge the internal security of the Union. Internal security is a shared endeavour to which the Union institutions, relevant Union agencies and Member States should jointly contribute.
- (7) To contribute to the development and implementation of an effective and genuine security union aimed at ensuring a high level of internal security throughout the Union, an Internal Security Fund ('the Fund') should be set up and managed in order to provide Member States with adequate Union financial support.

- (8) Funding from the Union budget should concentrate on actions for which Union intervention can bring greater added value compared with action by Member States alone. In line with Article 84 and Article 87(2) TFEU, the Fund should support measures to promote and support the action of Member States in the field of crime prevention, the joint training of staff and police cooperation, as well as judicial cooperation in criminal matters involving Member States' competent authorities and Union agencies, especially as regards the exchange of information, increased operational cooperation and support for necessary efforts to strengthen capabilities to prevent and combat terrorism and serious and organised crime. The Fund should also support training of relevant staff and experts, in line with the general principles of the European Law Enforcement Training Scheme (LETS). The Fund should not support operating costs and activities related to the essential functions of the Member States concerning the maintenance of law and order and the safeguarding of internal and national security as referred to in Article 72 TFEU.
- (9) The Fund should be implemented in full compliance with the values enshrined in Article 2 of the Treaty on European Union (TEU), the rights and principles enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter') and the Union's international obligations as regards human rights. In particular, the Fund should be implemented in full respect of fundamental rights such as the right to human dignity, the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, the right to protection of personal data, the rights of the child and the right to an effective remedy, as well as in full respect of the principle of non-discrimination.

- (10) In line with Article 3 TEU, the Fund should support activities which ensure that children are protected against violence, abuse, exploitation and neglect. The Fund should also support safeguards and assistance for child witnesses and victims, in particular those who are unaccompanied or otherwise in need of guardianship.
- (11) In line with the shared priorities identified at Union level to ensure a high level of security in the Union, the Fund should support actions aimed at addressing the main security threats and, in particular, at preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, as well as assisting and protecting victims of crime. The Fund should ensure that the Union and the Member States are also well equipped to address evolving and emerging threats, such as trafficking, including via online channels, hybrid threats and chemical, biological, radiological and nuclear threats, in order to establish a genuine security union. This should be pursued through financial assistance to support better information exchange, increase operational cooperation and improve national and collective capabilities.

- (12) The financial assistance provided through the Fund should in particular support exchanges of information, police cooperation, judicial cooperation in criminal matters, and prevention in the fields of serious and organised crime, illicit arms trafficking, corruption, money laundering, drug trafficking, environmental crime, terrorism, trafficking in human beings, the exploitation of refugees and irregular migrants, severe labour exploitation, sexual exploitation and abuse, including the sexual exploitation and abuse of children and women, the distribution of child abuse images and child pornography, and cybercrime. The Fund should also support the protection of people, public spaces and critical infrastructure against security-related incidents and should support the preparedness for and effective management of security-related risks and crises, including through joint training, the development of common policies, such as strategies, policy cycles, programmes and action plans, as well as legislation and practical cooperation.
- (13) The Fund should provide financial support to address the emerging challenges posed by the significant increase in recent years in the scale of certain types of crime being committed via the internet, such as payment fraud, child sexual exploitation and trafficking in weapons.

- (14) The Fund should build on the results and investments of its predecessors: the Prevention of and Fight Against Crime (ISEC) programme, the Prevention, Preparedness and Consequence Management of Terrorism and other Security-related risks (CIPS) programme for the period 2007-2013, and the instrument for police cooperation, preventing and combating crime, and crisis management as part of the Internal Security Fund for the period 2014-2020, established by Regulation (EU) No 513/2014 of the European Parliament and of the Council¹. The scope of the Fund should also allow for new developments to be taken into account.
- (15) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources. The Fund should promote and encourage the active and meaningful involvement of civil society, including non-governmental organisations, as well as the European industrial sector, in the development and implementation of security policy, where relevant with the involvement of other relevant actors, Union bodies, Union agencies and international organisations in relation to the objective of the Fund. However, it should be ensured that support from the Fund is not used to delegate statutory or public tasks to private actors.

¹ Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

- (16) The cross-border nature of terrorism and serious and organised crime requires a coordinated response and cooperation within and between Member States and with competent Union bodies, offices and agencies. All competent authorities of Member States, including specialised law-enforcement services, may hold information that is valuable for effectively fighting terrorism and serious and organised crime. To accelerate exchanges of information, and to improve the quality of the information that is shared, it is crucial to build mutual trust. New approaches to cooperation and exchanging information, including in relation to threat analysis, should be explored and examined, taking into account existing frameworks within and outside the Union framework, such as the EU Intelligence and Situation Centre (INTCEN), Europol's European Counter Terrorism Centre (ECTC), the European Counter Terrorism Coordinator and the Counter Terrorism Group. The Fund should support Member States' competent authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87 TFEU, insofar as their activities are covered by the scope of the Fund. All funded activities should fully respect the legal status of the different competent authorities and European structures and the required principles of information ownership.

- (17) In order to benefit from the knowledge and expertise of decentralised agencies with competences in the areas of law enforcement cooperation and training, drugs and drug addiction monitoring, fundamental rights, justice matters and large-scale IT systems, the Commission should involve the relevant decentralised agencies in the work of the Committee for the Home Affairs Funds set up by Regulation (EU) 2021/... of the European Parliament and of the Council¹⁺, especially at the beginning and mid-term of the programming period. Where appropriate, the Commission should also be able to involve the relevant decentralised agencies in monitoring and evaluation, in particular with a view to ensuring that the actions supported by the Fund comply with the relevant Union *acquis* and agreed Union priorities.

¹ 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. ...).

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

- (18) Within the comprehensive framework of the Union's drugs strategy, which advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under the Fund should support actions aimed at preventing and combating trafficking in drugs through supply and demand reduction, in particular measures targeting the production, manufacture, extraction, sale, transport, importation or exportation of illegal drugs, as well as possession and purchase for the purpose of engaging in drug trafficking activities. The Fund should also cover the prevention aspects of drugs policy. To achieve further synergies and coherence in the area of drugs, those elements of the objectives that relate to drugs, which for the period 2014-2020 were covered by the Justice programme, should be incorporated into the Fund.
- (19) In order to ensure that the Fund makes an effective contribution to a higher level of internal security throughout the Union, and thereby contributes to the development of a genuine security union, the Fund should be used in a way that provides the most Union added value to the actions of the Member States.

- (20) The Fund should support investments in equipment, means of transport and facilities only where such investments have clear Union added value, and only to the extent that those investments are necessary to achieve the objectives of the Fund. For example such investments could include investments in equipment needed for forensics, covert surveillance, explosives and drug detection and any other specialised purpose within the objectives of the Fund. The Fund should not finance investments of purely national relevance or investments that would be necessary for the everyday work of the competent authorities, such as uniforms, cars, buses, scooters, police stations, non-specialised training centres and office equipment.
- (21) In the interests of solidarity within the Union, and in the spirit of shared responsibility for security in the Union, where weaknesses or risks are identified, in particular following a Schengen evaluation, the Member State concerned should adequately address those weaknesses by using resources under its programme to implement recommendations adopted pursuant to Council Regulation (EU) No 1053/2013¹.
- (22) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that the priorities of their programmes address all 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 objectives is proportionate to challenges and needs and ensures that the policy objective can be met.

¹ 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).

- (23) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.
- (24) In order to maximise the effective achievement of policy objectives, to exploit economies of scale and to avoid overlaps between actions, the Fund should be consistent with and complementary to other Union financial programmes in the field of security. In particular, synergies should be ensured with the Asylum, Migration and Integration Fund and the Integrated Border Management Fund, which consists of the Instrument for Financial Support for Border Management and Visa Policy established by Regulation (EU) 2021/...⁺, and the instrument for financial support for customs control equipment established by Regulation (EU) 2021/... of the European Parliament and of the Council¹⁺⁺, as well as with the other Cohesion Policy Funds covered by Regulation (EU) 2021/... of the European Parliament and of the Council²⁺⁺⁺,

⁺ OJ: Please insert in the text the number of the Regulation contained in document ST 6487/21 (2018/0249 (COD)).

¹ 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 customs control equipment (OJ L ..., ..., p. ...).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document ST 7234/21 (2018/0258 (COD)) and insert the number, date and OJ reference in the footnote.

² 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. ...).

⁺⁺⁺ 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 in the footnote.

with the security research part of the Horizon Europe Programme established by Regulation (EU) 2021/695 of the European Parliament and of the Council¹, with the Citizens, Equality, Rights and Values Programme established by Regulation (EU) 2021/692 of the European Parliament and of the Council², with the Justice Programme established by Regulation (EU) 2021/693 of the European Parliament and of the Council³, with the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council⁴ and with the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council⁵. Synergies should be sought in particular in relation to security of infrastructure and public spaces, cybersecurity, the protection of victims and the prevention of radicalisation.

¹ 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).

² Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014 (OJ L 156, 5.5.2021, p. 1).

³ Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice programme and repealing Regulation (EU) No 1382/2013 (OJ L 156, 5.5.2021, p. 21).

⁴ Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

⁵ 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).

- (25) In an effort to strengthen complementarities between the Fund and the Instrument for Financial Support for Border Management and Visa Policy, multipurpose equipment and ICT systems of which the primary use is in accordance with this Regulation should also be able to be used for achieving the objectives of the Instrument for Financial support for Border Management and Visa Policy.
- (26) Measures supported through the Fund in and in relation to third countries should be implemented in synergy and coherence with and should complement other actions outside the Union that are supported through the Union instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action, its foreign policy and its development aid policy in relation to the country or region in question. As regards the external dimension of the Fund, the Fund should enhance cooperation with third countries in areas of relevance to the Union's internal security. In that context, funding from a thematic facility should be used to support actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking and trafficking in human beings, and to contribute to combating cross-border criminal smuggling networks.
- (27) When implementing the thematic facility, the Commission should ensure that the funding addresses the challenges and needs involved in meeting the objectives of the Fund.

- (28) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value as compared to actions by Member States alone. Security has an inherently cross-border dimension and therefore a strong, coordinated Union response is required. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the security area.
- (29) A Member State may be deemed not to be compliant with the relevant Union *acquis* 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 security, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on security, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013 has identified deficiencies in the relevant area.
- (30) The Fund should address the need for increased flexibility and simplification, while respecting requirements in relation to predictability, and ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. The implementation of the Fund should be guided by the principles of efficiency, effectiveness, relevance, coherence, Union added value and quality of spending. Furthermore, the Fund should be implemented in the most user-friendly manner possible.

- (31) 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.
- (32) 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.
- (33) 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.

- (34) 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.
- (35) This Regulation should establish the initial amounts for Member States' programmes, calculated on the basis of the criteria laid down in Annex I.
- (36) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments in security. To take account of changes in internal and external security threats or in the baseline situation, an additional amount should be allocated to the Member States at the mid-term of the programming period and should be based on the statistical data, in accordance with Annex I, taking into account the state of their programme implementation.
- (37) As challenges in the area of security are constantly evolving, there is a need to adapt the allocation of funding to changes in internal and external security threats and a need to steer funding towards the priorities with the highest Union added value. To respond to pressing needs and to 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, Union actions and emergency assistance.

- (38) 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, primarily because of their significant Union added value or their high importance for the Union.
- (39) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions which require cooperation among Member States, or to the implementation of specific actions in situations where new developments in the Union require additional funding to be made available to one or more Member States. The Commission should set out those specific actions in its work programmes.
- (40) The Fund should contribute to supporting operating costs that relate to internal security in order to enable Member States to maintain capabilities which are crucial 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.

- (41) 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 or among certain Member States. The Fund should support Member States' efforts, including at local level, to exchange best practices and to promote joint training, including awareness-raising among law enforcement staff regarding radicalisation, and all forms of discrimination, that could lead to violence, such as antisemitism, anti-gypsyism and other forms of racism. For that purpose, specialised exchange programmes for junior law enforcement staff could be funded.
- (42) In order to strengthen the Union's capacity to react immediately to security-related incidents or to newly emerging threats to the Union, it should be possible to provide emergency assistance, in accordance with the framework set out in this Regulation. Such assistance should not be provided to support mere contingency or long-term measures or to address situations where the urgency to act results from the failure of competent authorities to plan and react properly.

- (43) In order to ensure the necessary flexibility of action and to respond to emerging needs, it should be possible for decentralised agencies to be provided with appropriate additional financial means to carry out certain emergency tasks. In cases where the task to be undertaken is of such an urgent nature that an adjustment of their budgets could not be finalised in time, decentralised agencies should be eligible to be beneficiaries of emergency assistance, including in the form of grants, consistent with priorities and initiatives identified at Union level by Union institutions.
- (44) In light of the transnational nature of Union actions, and in order to promote coordinated action to fulfil the objective of ensuring the highest level of security in the Union, decentralised agencies should exceptionally be eligible to be beneficiaries of Union actions, including in the form of grants, where they assist in the implementation of Union actions falling within the competences of the decentralised agencies concerned and those actions are not covered by the Union contribution to the budget of those decentralised agencies made through the annual budget. To ensure Union added value, such support should be consistent with the priorities and initiatives identified at Union level by Union institutions.
- (45) The policy objective of the Fund should also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523. Such financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have clear Union added value.

- (46) 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.
- (47) This Regulation lays down a financial envelope for 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 resources¹, for the European Parliament and the Council during the annual budgetary procedure.
- (48) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council² ('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.

¹ OJ L 433 I, 22.12.2020, p. 28.

² 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).

- (49) For the purposes 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/...⁺.
- (50) Regulation (EU) 2021/...⁺ establishes the framework for action by the European Regional Development Fund, the European Social Fund Plus, 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.
- (51) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/...⁺, 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.

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

- (52) 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, the 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.
- (53) 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'.

- (54) 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 multi-annual 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.

(55) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹ and Council Regulations (EC, Euratom) No 2988/95², (Euratom, EC) No 2185/96³ and (EU) 2017/1939⁴, 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. 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 Council⁵.

¹ 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).

² 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).

³ 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).

⁴ 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).

⁵ 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).

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 to 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.

- (56) 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.
- (57) Pursuant to Council Decision 2013/755/EU¹, 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.

¹ 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).

- (58) 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 programmes address the specific challenges which the outermost regions face. The Fund should support those Member States with adequate resources to help the outermost regions as appropriate.
- (59) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹, 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.

¹ OJ L 123, 12.5.2016, p. 1.

- (60) 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/...⁺ 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 links to the Member States' websites referred to in Regulation (EU) 2021/...⁺.
- (61) 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 Change¹, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of an overall target of 30 % of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget being spent on biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while taking into account 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 environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council².

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

¹ OJ L 282, 19.10.2016, p. 4.

² 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).

- (62) Regulation (EU) No 514/2014 of the European Parliament and of the Council¹ and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the instrument for financial support for police cooperation, preventing and combating crime and crisis management, as part of the Internal Security 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.
- (63) 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 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.

¹ 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).

(64) In order to supplement and amend non-essential elements in 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 higher co-financing rates set out in 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.

(65) 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 Council¹. 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.

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

- (66) 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.
- (67) In accordance with Article 3 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, Ireland has notified its wish to take part in the adoption and application of this Regulation.
- (68) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093¹.
- (69) 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:

¹ 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

1. This Regulation establishes the Internal Security Fund ('the Fund') for the duration of the multiannual financial framework 2021-2027.
2. This Regulation lays down:
 - (a) the policy objective of the Fund;
 - (b) the specific objectives of the Fund and measures to implement those specific objectives;
 - (c) the budget for the period from 1 January 2021 to 31 December 2027;
 - (d) the forms of Union funding and the rules for providing such funding.

Article 2
Definitions

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

- (1) 'blending operation' means an action supported by the Union budget, including within a blending facility within the meaning of point (6) of Article 2 of the Financial Regulation, that combines non-repayable forms of support and/or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (2) 'competent authorities' means Member State authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87(1) of the TFEU, including police, customs and other specialised law enforcement services;
- (3) 'prevention', in relation to crime, means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, as referred to in Article 2(2) of Council Decision 2009/902/JHA¹;

¹ Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

- (4) 'critical infrastructure' means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, the health, safety, security, economic or social well-being of people, and the disruption, breach or destruction of which would have a significant impact in a Member State or in the Union as a result of the failure to maintain those functions;
- (5) 'cybercrime' means either crimes whose commission necessarily involves information and communications technology systems (ICT systems), either as tools for committing the crime or as the primary targets of the crime (cyber-dependent crimes), or traditional crimes which can be increased in scale or reach by the use of computers, computer networks or other ICT systems (cyber-enabled crimes);
- (6) 'EU policy cycle/EMPACT operational action' means an action undertaken in the framework of the EU policy cycle for organised and serious international crime through the European Multidisciplinary Platform against Criminal Threats (EMPACT), the aim of which is to fight the most important serious and organised crime threats to the Union by encouraging cooperation between Member States, Union institutions, bodies, offices and agencies and, where relevant, third countries and international organisations;

- (7) 'exchange of information' means the secure collection, storage, processing, analysis and transfer of, and access to, information relevant to the authorities referred to in Article 87 of the TFEU as well as to Europol and other relevant Union agencies in relation to the prevention, detection, investigation and prosecution of criminal offences, in particular cross-border, serious and organised crime and terrorism;
- (8) 'organised crime' means punishable conduct relating to participation in a criminal organisation, as defined in point (1) of Article 1 of Council Framework Decision 2008/841/JHA¹;
- (9) 'preparedness' means any action specifically aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents within the scope of this Regulation;
- (10) 'Schengen evaluation and monitoring mechanism' means the evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013;
- (11) 'terrorism' means any of the intentional acts and offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council²;

¹ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

² Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

- (12) 'emergency situation' means any security-related incident, newly emerging threat or newly detected vulnerability within the scope of this Regulation, which has or may have a significant adverse impact on the security of people, public spaces or critical infrastructure in one or more Member States;
- (13) 'flash money' means genuine cash which is shown during a criminal investigation as proof of liquidity and solvency to suspects or to any other persons who have information about availability or delivery, or who act as intermediaries, in order to carry out a fictitious purchase for the purpose of arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group;
- (14) 'radicalisation' means a phased and complex process leading to violent extremism and terrorism and in which an individual or a group of individuals embraces a radical ideology or belief that accepts, uses or condones violence, including acts of terrorism, to reach a specific political, religious or ideological goal;
- (15) 'specific actions' means transnational or national projects that bring Union added value in accordance with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;
- (16) '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, insofar as they contribute to ensuring a high level of security in the Union;

- (17) 'Union actions' means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund.

Article 3

Objectives of the Fund

1. The policy objective of the Fund is to contribute to ensuring a high level of security in the Union, in particular by preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, by assisting and protecting victims of crime, as well as by preparing for, protecting against and effectively managing security-related incidents, risks and crises within the scope of this Regulation.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
 - (a) improving and facilitating the exchange of information between and within competent authorities and relevant Union bodies, offices and agencies and, where relevant, with third countries and international organisations;
 - (b) improving and intensifying cross-border cooperation, including joint operations, between competent authorities in relation to terrorism and serious and organised crime with a cross-border dimension; and

- (c) supporting the strengthening of Member States' capabilities in relation to preventing and combating crime, terrorism and radicalisation, as well as managing security-related incidents, risks and crises, including through increased cooperation between public authorities, relevant Union bodies, offices or agencies, civil society and private partners in different Member States.
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

Respect for fundamental rights

Actions funded under the Fund shall be implemented with full respect for fundamental rights and human dignity. In particular, such actions shall comply with the Charter, with Union data protection law and with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). When implementing actions under the Fund, wherever possible, Member States shall pay special attention to assisting and protecting vulnerable persons, in particular children and unaccompanied minors.

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 actions such as those listed in Annex III.
2. To achieve its objectives, the Fund may support, in line with Union priorities and subject to appropriate safeguards, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 19.
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. Equipment and ICT systems financed under the Fund may be used in the complementary area covered by Regulation (EU) 2021/...⁺. Such equipment and ICT systems shall remain available and deployable for the objectives of the Fund.

The use of equipment in the complementary area referred to in the first subparagraph shall not exceed 30 % of the total period of use of that equipment.

ICT systems used in the complementary area referred to in the first subparagraph shall provide data and services for the prevention, detection and investigation of criminal offences.

Member States shall inform the Commission in their annual performance reports of any such additional use and the place of deployment of equipment and ICT systems.

⁺ OJ: Please insert in the text the number of the Regulation contained in document ST 6487/21 (2018/0249 (COD)).

5. The following shall not be eligible:

- (a) actions limited to the maintenance of public order at national level;
- (b) actions with a military or defence purpose;
- (c) equipment of which the primary purpose is customs control;
- (d) coercive equipment, including weapons, ammunition, explosives and riot batons, except for training purposes;
- (e) informant rewards and flash money outside the framework of an EU policy cycle/EMPACT operational action.

By way of derogation from the first subparagraph, where an emergency situation occurs, actions as referred to in point (a) of the first subparagraph may be considered eligible.

Chapter II

Financial and implementation framework

SECTION 1

COMMON PROVISIONS

Article 6

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

Article 7

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 1 931 000 000 in current prices.
2. The financial envelope shall be used as follows:
 - (a) EUR 1 352 000 000 shall be allocated to the Member States' programmes;
 - (b) EUR 579 000 000 shall be allocated to the thematic facility referred to in Article 8.
3. At the initiative of the Commission, up to 0,84 % of the financial envelope shall be allocated to technical assistance, as referred to in Article 35 of Regulation (EU) 2021/...⁺, for the implementation of the Fund.
4. In accordance with Article 26 of Regulation (EU) 2021/...⁺, 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.

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

Article 8

General provisions on the implementation of the thematic facility

1. The amount referred to in point (b) of Article 7(2) shall be allocated flexibly through a thematic facility, using shared, direct or indirect management as set out in work programmes.

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

- (a) specific actions;
- (b) Union actions; and
- (c) emergency assistance as referred to in Article 25.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/...⁺, shall also receive support from the amount referred to in point (b) of Article 7(2) of this Regulation.

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

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. Funding from the thematic facility shall be used for supporting actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking, trafficking in human beings and combating cross-border criminal smuggling networks.

The allocation of the resources of the thematic facility among the different priorities shall, as far as possible, be proportionate to the challenges and needs, so as to ensure that the objectives of the Fund can be met.

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. 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.

5. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/...⁺, 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.
6. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.
7. 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. Such 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 33(3) of this Regulation.
8. Following the adoption of a financing decision as referred to in paragraph 7, the Commission may amend the Member States' programmes accordingly.

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

SECTION 2

SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT

Article 9

Scope

1. This section applies to the amount referred to in point (a) of Article 7(2) and the additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 8.
2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and with Regulation (EU) 2021/...⁺.

Article 10

Budgetary resources

1. The amount referred to in point (a) of Article 7(2) shall be allocated to Member States' programmes indicatively as follows:
 - (a) EUR 1 127 000 000 in accordance with Annex I;

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

(b) EUR 225 000 000 for the adjustment of the allocations to the Member States' programmes referred to in Article 14(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 7(2).

Article 11
Pre-financing

1. In accordance with Article 90(4) of Regulation (EU) 2021/...⁺, 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 %;

(b) 2022: 3 %;

(c) 2023: 5 %;

(d) 2024: 5 %;

(e) 2025: 5 %;

(f) 2026: 5 %.

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

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 12

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 25.

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 Regulation (EU) 2021/...⁺.
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.

Article 13

Member States' programmes

1. Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in accordance with the relevant Union *acquis* and agreed Union priorities. 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.

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

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

2. For the purposes of paragraph 1, and without prejudice to paragraph 3 of this Article, each Member State shall allocate:
 - (a) a minimum of 10% of the resources allocated under Article 10(1) to the specific objective set out in point (a) of Article 3(2); and
 - (b) a minimum of 10% of the resources allocated under Article 10(1) 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 are taken into account, at an early stage and in a timely manner, in the development of the Member States' programmes.
5. In order to avoid overlaps, Member States shall consult the relevant Union bodies, offices and agencies on the design of their actions, in particular when implementing EU policy cycle/EMPACT operational actions or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT), and on the design of training activities.

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

6. The Commission may involve, where appropriate, relevant decentralised agencies in the monitoring and evaluation tasks 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.
7. A maximum of 35 % of the allocation of a Member State's programme may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities. This ceiling may be exceeded only in duly justified cases.
8. In their programmes, Member States shall give priority to addressing:
 - (a) agreed Union priorities and the *acquis* in the area of security, in particular the efficient exchange of relevant and accurate information and the implementation of the components of the framework for interoperability of EU information systems;
 - (b) recommendations with financial implications made within the framework of Regulation (EU) No 1053/2013 and falling within the scope of this Regulation;
 - (c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption.

9. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/...⁺ to take into account the recommendations referred to in point (b) of paragraph 8 of this Article.
10. Member States shall in particular pursue the actions listed in Annex IV in their programmes. To address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex IV.
11. Whenever a Member State decides to implement a project supported by the Fund with, in or in relation to a third country, 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/...⁺ shall be based on the types of intervention set out in Table 2 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.

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

Article 14
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 10(1) in accordance with the criteria referred to in paragraph 2 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 10(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/...⁺, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 10(1) of this Regulation.
3. When allocating the funds from the thematic facility referred to in Article 8 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/...⁺ and identified shortcomings in implementation.

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

Article 15

Specific actions

1. A Member State may receive funding for specific actions in addition to its allocation under Article 10(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, including covering newly emerging threats.
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 16

Operating support

1. A Member State may use up to 20% of the amount allocated to its programme under the Fund to finance operating support for the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union.
2. When using operating support, a Member State shall comply with the Union *acquis* on security.

3. A Member State shall explain, in its programme and in the annual performance reports referred to in Article 30, how the use of operating support will contribute 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, taking into account the information provided by those Member States, as well as any recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms, as applicable.
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 32 to amend Annex VII in respect of expenditure that is eligible for operating support.

Article 17

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/...⁺ 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/...⁺, 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/...⁺, 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.
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.

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

4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/...⁺, 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/...⁺, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.
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.

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

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/...⁺. 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 that Regulation.
9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/...⁺ shall include the requirements set out in this Article.

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

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; or
 - (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/...⁺ 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.

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

SECTION 3
SUPPORT AND IMPLEMENTATION UNDER DIRECT
OR INDIRECT MANAGEMENT

Article 18

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.

Article 19

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 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)(ii) 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 20

Union actions

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund.
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. Exceptionally, decentralised agencies may also be eligible for funding within the framework of Union actions when they assist in the implementation of Union actions falling within the competence of those decentralised agencies, and those actions are not covered by the Union contribution to the budget of those decentralised agencies through the annual budget.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
5. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.
6. 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 shall apply.

Article 21

Blending operations

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

Article 22

Technical assistance at the initiative of the Commission

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

Article 23

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 Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

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

Article 24

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 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 8. 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 25

Emergency assistance

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations.

In response to such duly justified emergency situations, the Commission may provide emergency assistance within the limits of available resources.

2. Emergency assistance may take the form of grants awarded directly to the decentralised agencies.

3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 10(1), 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 33(4). Such an act shall remain in force for a period not exceeding 18 months.

Article 26

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/...⁺, the European Regional Development Fund or the European Social Fund Plus 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; and
 - (c) they cannot be financed under that call for proposals due to budgetary constraints.

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

SECTION 5
MONITORING, REPORTING AND EVALUATION

SUB-SECTION 1
COMMON PROVISIONS

Article 27

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.
2. The Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex V in order to make the necessary adjustments to the 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 32 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 28

Reporting on the thematic facility

The Commission shall report on the use and distribution of the thematic facility, referred to in Article 8, between its components, including on the support provided to actions in or in relation to third countries under Union actions. When, on the basis of the information presented to it, the European Parliament makes recommendations for actions to be supported under the thematic facility, the Commission shall endeavour to take such recommendations into account.

Article 29
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 Regulation (EU) 2021/...⁺, 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 30 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;
 - (e) the Union added value of actions implemented under the Fund.

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

That midterm evaluation shall take into account the results of the retrospective evaluation of the effects of the Internal Security Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/...⁺, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall 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. The Commission shall ensure that the evaluations do not include information the dissemination of which may jeopardise security operations.
5. 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 13(11) and Article 19.

⁺ 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 30

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/...⁺.

The reporting period shall cover the last accounting year, as defined in point 29 of Article 2 of Regulation (EU) 2021/...⁺, 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/...⁺;

⁺ 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 issued 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) the contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans;
- (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 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/...⁺.
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 33(2).

Article 31

Monitoring and reporting under shared management

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/...⁺ shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. In order to address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 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/...⁺.

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

Chapter III

Transitional and final provisions

Article 32

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.
2. The power to adopt delegated acts referred to in Article 13(10), Article 16(5), Article 27(2) and (5) and Article 31(1) shall be conferred on the Commission until 31 December 2027.
3. The delegation of power referred to in Article 13(10), Article 16(5), Article 27(2) and (5) and Article 31(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 Article 13(10), Article 16(5), Article 27(2) and (5) or Article 31(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 33

Committee procedure

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/...⁺. 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.

⁺ OJ: Please insert in the text the number of the Regulation contained in document ST 6487/21 (2018/0249 (COD)).

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 34

Transitional provisions

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to the Police Instrument of the Internal Security Fund for the period 2014-2020 ('ISF Police'), established by Regulation (EU) No 513/2014. Regulation (EU) No 513/2014 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 ISF Police.

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 pursuant to Regulation (EU) No 513/2014, 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/...⁺;

⁺ 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/...⁺;
- (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/...⁺ 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.

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

Article 35

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

ANNEX I

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

The budgetary resources referred to in Article 10 shall be allocated to the Member States' programmes as follows:

- (1) a one-time fixed amount of EUR 8 000 000 shall be allocated to each Member State at the start of the programming period;
- (2) the remaining budgetary resources referred to in Article 10 shall be distributed according to the following criteria:
 - (a) 45 % of those remaining budgetary resources shall be allocated in inverse proportion to the gross domestic product of each Member State (purchasing power standard per inhabitant);
 - (b) 40 % of those remaining budgetary resources shall be allocated in proportion to the size of the population of each Member State;
 - (c) 15 % of those remaining budgetary resources shall be allocated in proportion to the size of the territory of each Member State.

The initial allocation of the remaining budgetary resources referred to in point (2) of the first paragraph shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2019. For the purposes of the mid-term review, the reference figures shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2023. Where a Member State has not provided the Commission (Eurostat) with the data for a given year, the Commission may instead use the most recent available statistical data preceding the year concerned for that Member State.

ANNEX II

IMPLEMENTATION MEASURES

1. The Fund shall contribute to achieving the specific objective set out in point (a) of Article 3(2) of this Regulation by focusing on the following implementation measures:
 - (a) ensuring the uniform application of the Union *acquis* on security by supporting the exchange of relevant information, for example via Prüm, EU PNR and SIS II, including through the implementation of recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms;
 - (b) setting up, adapting and maintaining security-relevant EU and decentralised information systems, including ensuring their interoperability, and developing appropriate tools to address identified gaps;
 - (c) increasing the active use of security-relevant EU and decentralised information systems, ensuring that those systems are provided with high quality data; and
 - (d) supporting relevant national measures, including the interconnection of security-relevant national databases and the connection of those databases to Union databases, when provided for in relevant legal bases, if relevant to implementing the specific objectives set out in point (a) of Article 3(2).

2. The Fund shall contribute to achieving the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:
- (a) increasing the number of law enforcement operations involving two or more Member States, including, where appropriate, operations involving other relevant actors, in particular through facilitating and improving the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms in the context of the EU policy cycle, with special emphasis on cross-border operations;
 - (b) improving the coordination and increasing the cooperation of competent authorities within and between Member States and with other relevant actors, for example through networks of specialised national units, Union networks and cooperation structures, and Union centres; and
 - (c) improving inter-agency cooperation at Union level between the Member States, and between Member States and relevant Union bodies, offices and agencies, as well as cooperation at national level among the competent authorities within each Member State.

3. The Fund shall contribute to achieving the specific objective set out in point (c) of Article 3(2) by focusing on the following implementation measures:
- (a) increasing training, exercises and mutual learning, specialised exchange programmes and sharing of best practices in and between Member States' competent authorities, including at local level, and with third countries and other relevant actors;
 - (b) exploiting synergies by pooling resources and knowledge and sharing best practices between Member States and other relevant actors, including civil society, through, for example, the creation of joint centres of excellence, development of joint risk assessments, or common operational support centres for jointly conducted operations;
 - (c) promoting and developing measures, safeguards, mechanisms and best practices for the early identification, protection and support of witnesses, whistleblowers and victims of crime and developing partnerships between public authorities and other relevant actors to this effect;
 - (d) acquiring relevant equipment and setting up or upgrading specialised training facilities and other essential security-relevant infrastructure to increase preparedness, resilience, public awareness and adequate response as regards security threats; and
 - (e) protecting critical infrastructure against security-related incidents by detecting, assessing and closing vulnerabilities.
-

ANNEX III

SCOPE OF SUPPORT

Within its objectives, the Fund may support, inter alia, the following types of actions:

- (a) setting up, adapting and maintaining ICT systems that contribute to the achievement of the objectives of this Regulation, training on the use of such systems, and testing and improving the interoperability components and data quality of such systems;
- (b) monitoring of the implementation of Union law and Union policy objectives in the Member States in the area of security-relevant information systems, including data protection, privacy and data security;
- (c) EU policy cycle/EMPACT operational actions;
- (d) actions supporting an effective and coordinated response to crises and linking up existing sector-specific capabilities, expertise centres and situational awareness centres, including those for health, civil protection, terrorism and cybercrime;
- (e) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, in particular projects aimed at testing and validating the outcome of Union-funded security research projects;

- (f) actions that improve resilience as regards emerging threats, including trafficking via online channels, hybrid threats, the malicious use of unmanned aerial systems and chemical, biological, radiological and nuclear threats;
- (g) providing support to thematic or cross-theme networks of specialised national units and national contact points to improve mutual confidence, the exchange and dissemination of know-how, information, experience and best practices, the pooling of resources and expertise in joint centres of excellence;
- (h) education and training for staff and experts in relevant law enforcement and judicial authorities and administrative agencies, taking into account operational needs and risk analyses, in cooperation with CEPOL and, when applicable, the European Judicial Training Network, including education and training on prevention policies, with special emphasis on fundamental rights and non-discrimination;
- (i) cooperation with the private sector, for example in the fight against cybercrime, in order to build trust and improve coordination, contingency planning and the exchange and dissemination of information and best practices among public and private actors, including in the protection of public spaces and critical infrastructure;

- (j) actions empowering communities to develop local approaches and prevention policies, and awareness-raising and communication activities among stakeholders and the general public on Union security policies;
 - (k) financing of equipment, means of transport, communication systems and security-relevant facilities;
 - (l) financing the cost of staff involved in the actions that are supported by the Fund or actions requiring involvement of staff for technical or security-related reasons.
-

ANNEX IV

ACTIONS REFERRED TO IN ARTICLE 12(3) AND ARTICLE 13(10)

- (1) Projects which aim to prevent and counter radicalisation.
 - (2) Projects which aim to improve the interoperability of EU information systems and national ICT systems, insofar as provided for by Union or Member State law.
 - (3) Projects which aim to fight the most important threats posed by serious and organised crime, in the framework of EU policy cycle/EMPACT operational actions.
 - (4) Projects which aim to prevent and fight cybercrime, in particular child sexual exploitation online, and crimes where the internet is the primary platform for evidence collection.
 - (5) Projects which aim to improve the security and resilience of critical infrastructure.
-

ANNEX V

CORE PERFORMANCE INDICATORS AS REFERRED TO IN ARTICLE 27(1)

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

1. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
2. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations
3. Number of participants who consider the training activity useful for their work
4. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

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

5. The estimated value of assets frozen in the context of cross-border operations
6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product¹
7. Quantity of weapons seized in the context of cross-border operations, by type of weapon²
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/ tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations
9. Number of staff involved in cross-border operations
10. Number of Schengen evaluation recommendations addressed

¹ Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

² Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
- other short firearms: revolvers and pistols (including salute and acoustic weapons);
- other long firearms: rifles and shotguns (including salute and acoustic weapons).

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

11. Number of initiatives developed/expanded to prevent radicalisation
 12. Number of initiatives developed/expanded to protect/support witnesses and whistleblowers
 13. Number of critical infrastructure/public spaces with new/adapted facilities protecting against security-related risks
 14. Number of participants who consider the training activity useful for their work
 15. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity
-

ANNEX VI

TYPES OF INTERVENTION

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

001	TER-Countering Terrorist Financing
002	TER-Prevention and countering of radicalisation
003	TER-Protection and resilience of public spaces and other soft targets
004	TER-Protection and resilience of critical infrastructure
005	TER-Chemical Biological Radioactive Nuclear
006	TER-Explosives
007	TER-Crisis Management
008	TER-Other
009	OC-Corruption
010	OC-Economic and Financial Crime
011	OC-Laundering of the proceeds of crime
012	OC-Drugs

- 013 OC-Firearms trafficking
- 014 Trafficking in cultural objects
- 015 OC-Trafficking in Human Beings
- 016 OC-Migrant Smuggling
- 017 OC-Environmental Crime
- 018 OC-Organised Property Crime
- 019 OC-Other
- 020 CC-Cybercrime - Other
- 021 CC-Cybercrime – Prevention
- 022 CC-Cybercrime - Facilitating investigations
- 023 CC-Cybercrime - Victims assistance
- 024 CC-Child Sexual Exploitation - Prevention
- 025 CC-Child Sexual Exploitation – Facilitating investigations
- 026 CC-Child Sexual Exploitation - Victims assistance

- 027 CC-Child Sexual Exploitation, including distribution of child abuse images and child pornography
- 028 CC-Other
- 029 GEN-Information exchange
- 030 GEN-Police or interagency cooperation (customs, border guards, intelligence services)
- 031 GEN-Forensics
- 032 GEN-Victim support
- 033 GEN-Operating support
- 034 TA-Technical assistance - information and communication
- 035 TA-Technical assistance - preparation, implementation, monitoring and control
- 036 TA-Technical assistance - evaluation and studies, data collection
- 037 TA-Technical assistance - capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

- 001 ICT systems, interoperability, data quality (excluding equipment)
- 002 Networks, centres of excellence, cooperation structures, joint actions and operations

- 003 Joint Investigation Teams (JITs) or other joint operations
- 004 Secondment or deployment of experts
- 005 Training
- 006 Exchange of best practices, workshops, conferences, events, awareness-raising campaigns, communication activities
- 007 Studies, pilot projects, risk assessments
- 008 Equipment
- 009 Means of transport
- 010 Buildings, facilities
- 011 Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

- 001 Actions covered by Article 12(1)
- 002 Specific actions
- 003 Actions listed in Annex IV

- 004 Operating support
- 005 Emergency assistance as referred to in Article 25

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

- 001 Cooperation with third countries
 - 002 Actions in or in relation to third countries
 - 003 Implementation of Schengen evaluation recommendations in the area of police cooperation
 - 004 None of the above
-

ANNEX VII

EXPENDITURE ELIGIBLE FOR OPERATING SUPPORT

1. Within the specific objective set out in point (a) of Article 3(2), operating support within the Member States' programmes shall cover:
 - (a) maintenance of and helpdesk for security-relevant EU and, where relevant, national ICT systems that contribute to the achievement of the objectives of this Regulation
 - (b) staff costs that contribute to the achievement of the objectives of this Regulation.
2. Within the specific objective set out in point (b) of Article 3(2), operating support within the Member States' programmes shall cover:
 - (a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension
 - (b) staff costs that contribute to the achievement of the objectives of this Regulation.

3. Within the specific objective set out in point (c) of Article 3(2), operating support within the Member States' programmes shall cover:
 - (a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension
 - (b) staff costs that contribute to the achievement of the objectives of this Regulation.
 4. Expenditure concerning actions which are not eligible under Article 5(5) shall not be covered.
-

ANNEX VIII

OUTPUT AND RESULT INDICATORS AS REFERRED TO IN ARTICLE 27(3)

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

Output indicators

1. Number of participants in training activities
2. Number of expert meetings/workshops/study visits
3. Number of ICT systems set up/adapted/maintained
4. Number of equipment items purchased

Result indicators

5. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
6. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations

7. Number of participants who consider the training useful for their work
8. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity.

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

Output indicators

1. Number of cross-border operations, separately specifying:
 - 1.1 the number of joint investigation teams
 - 1.2 the number of EU policy cycle/EMPACT operational actions
2. Number of expert meetings/workshops/study visits/common exercises
3. Number of equipment items purchased
4. Number of transport means purchased for cross-border operations

Result indicators

5. The estimated value of assets frozen in the context of cross-border operations
6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product¹
7. Quantity of weapons seized in the context of cross-border operations, by type of weapon²
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/ tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations
9. Number of staff involved in cross-border operations

¹ Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

² Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
- other short firearms: revolvers and pistols (including salute and acoustic weapons);
- other long firearms: rifles and shotguns (including salute and acoustic weapons).

10. Number of Schengen evaluation recommendations addressed

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

Output indicators

1. Number of participants in training activities
2. Number of exchange programmes/workshops/study visits
3. Number of equipment items purchased
4. Number of transport means purchased
5. Number of items of infrastructure/security-relevant facilities/tools/mechanisms constructed/ purchased/upgraded
6. Number of projects to prevent crime
7. Number of projects to assist victims of crime
8. Number of victims of crimes assisted

Result indicators

9. Number of initiatives developed/expanded to prevent radicalisation
 10. Number of initiatives developed/expanded to protect/support witnesses and whistleblowers
 11. Number of critical infrastructure/public spaces with new/adapted facilities protecting against security-related risks
 12. Number of participants who consider the training activity useful for their work
 13. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity
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