

Brussels, 5 March 2021
(OR. en)

6691/21

Interinstitutional File:
2018/0250(COD)

JAI 224
FRONT 79
ENFOPOL 78
CT 21
CODEC 305
CADREFIN 110

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	10154/18
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund - Political agreement

I. INTRODUCTION

1. On 15 June 2018, the Commission put forward a proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund¹ (hereinafter 'ISF' or the 'Fund') under Heading 5 (Security and defence) of the Multiannual Financial Framework (MFF) 2021-2027.
2. The objective of ISF is to contribute to ensuring a high level of security in the Union, in particular by tackling terrorism and radicalisation, serious and organised crime and cybercrime, and by assisting and protecting victims of crime.

¹ 10154/18 + ADD 1

3. In the European Parliament, the file was assigned to the Civil Liberties, Justice and Home Affairs (LIBE) Committee with Monika Hohlmeier (EPP, DE) as rapporteur. The European Parliament adopted its first-reading position at the plenary session of 13 March 2019.²
4. On 7 June 2019, the Council reached a partial general approach³ on the abovementioned proposal, which constituted the mandate for the negotiations with the European Parliament in the context of the ordinary legislative procedure. A General Approach was adopted by the Council on 12 October 2020⁴.

II. NEGOTIATIONS WITH THE EP

5. The interinstitutional negotiations started in October 2019. Four political trilogues (15 October 2019, 8 September 2020, 26 November 2020 and 10 December 2020) were held. Numerous technical tripartite meetings were held as well as meetings dealing with horizontal provisions with parts of the proposal that were shared with the other two Home Affairs instruments AMIF and BMVI. At the trilogue on 10 December 2020, the co-legislators secured a provisional agreement, which was presented at the meeting of the Permanent Representatives Committee on 16 December 2020⁵.
6. Work continued in 2021 in order to finalise work on recitals, terminology, retroactivity provisions and indicators. The Permanent Representatives Committee analysed and endorsed the final compromise text at its meeting on 24 February 2021⁶.
7. On 1 March 2021, the European Parliament's LIBE Committee confirmed by vote the text agreed in the trilogue. Subsequently, the Chair of the LIBE Committee sent an offer letter to the Chair of the Permanent Representatives Committee, confirming that, should the Council approve this text in first reading, after legal-linguistic revision, the Parliament would approve the Council's position in its second reading.

² 7404/19

³ 10137/19

⁴ 11945/20 + COR 1.

⁵ 13862/1/20 REV 1

⁶ 6106/2/21 REV 2

8. The text of the Regulation, as voted by the LIBE Committee, was attached to the letter. The compromise text submitted by the European Parliament is identical to the compromise text provided to the Permanent Representatives Committee on 24 February 2021, and annexed to document 6106/2/21 REV 2.

III. CONCLUSION

9. On this basis, and without prejudice to further linguistic revisions, the Permanent Representatives Committee is invited to confirm the political agreement on the basis of the consolidated text as set out in Annex to this note, with a view to reaching an early second reading agreement with the European Parliament.
-

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 Committee⁷,

Having regard to the opinion of the Committee of the Regions⁸,

Acting in accordance with the ordinary legislative procedure,

Whereas:

1) While national security-remains solely a competence of the Member States, protecting it requires cooperation and coordination at Union level. Internal security is a shared endeavour to which the EU institutions, relevant Union agencies and Member States, with the help of the private sector and civil society, should jointly contribute. In the period 2015 to 2020, the Commission, the Council of the European Union and the European Parliament have defined common priorities as set out in the European Agenda on Security of April 2015¹⁰, which were reaffirmed by the Council in the renewed Internal Security Strategy of June 2015¹¹ and by the European Parliament in its Resolution of July 2015¹², namely preventing and combating terrorism and radicalisation, serious and organised crime and cybercrime. These common priorities are reaffirmed in the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy for the period 2020-2025⁹.

⁷

⁸

⁹ COM(2020) 605 final of 24 July 2020.

(2) In the Rome Declaration signed on 25 March 2017, leaders of 27 Member States, the European Council, the European Parliament and the European Commission affirmed their determination to a safe and secure Europe and to build 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.

(3) 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 adopted a proposal for a Regulation on establishing a framework for interoperability between EU information systems (Police and judicial cooperation, asylum and migration)¹⁰.

4) 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, among others, 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 Member States, including with relevant Union agencies and other relevant Union bodies, and with relevant third countries and international organisations.

(5) To achieve this objective, actions 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 of children, hybrid threats, as well as chemical, biological, radiological and nuclear threats, trafficking in human beings, among others, continue to challenge the internal security of the Union.

¹⁰ COM(2017) 794 final.

(5 a) The Fund should provide financial support to address the emerging challenges posed by the significant increase in the scale of certain types of crime, such as payment fraud, child sexual exploitation and trafficking in weapons, being committed via the internet in recent years ('cyber-enabled crimes').

(6) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared to action by Member States alone. In line with Articles 84 and 87(2) of the TFEU, funding should support measures to promote and support the action of Member States in the field of crime prevention, joint training and police cooperation and judicial cooperation in criminal matters involving all the Member States' competent authorities and Union agencies concerning especially information exchange, increased operational cooperation and supporting 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 European Law Enforcement Training Scheme (LETS) general principles. 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 of the TFEU.

(6a) In order to optimise the added value from investments funded wholly or in part through the budget of the Union, 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 in an action from the Fund and another Union programme, as long as such cumulative funding does not exceed the total eligible costs of the action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility to declare the same cost or expenditure on a pro-rata basis to the Fund and another Union programme.

(6b) When promoting the actions supported by this Fund, the recipients of Union funding should provide information in the languages relevant to 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 this 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.

(6c) It should be possible for the Commission to use financial resources under this Fund to promote best practices and exchange information as regards to the implementation of the Fund.

(6d) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and update this 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.

(7) 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 EU citizens who are crossing the EU's external borders. Furthermore, the Commission issued a Recommendation to Member States to make 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 the rule of law, a strong attention to the global perspective and the necessary coherence with the external dimension of security should be key principles guiding the Union and Member States' action towards the development of an effective and genuine security union.

(8) To contribute to the development and implementation of an effective and genuine security union aiming at ensuring a high level of internal security throughout the European Union, Member States should be provided with adequate Union financial support by setting up and managing an Internal Security Fund ('the Fund').

(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 and with the Union's international obligations as regards human rights. In particular, this Regulation should be implemented in full respect for 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 principle of non-discrimination, the right to protection of personal data, the rights of the child and the right to have an effective remedy.

(10) Pursuant to Article 3 of the Treaty on European Union (TEU), the Fund should support activities which ensure the protection of children 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 will support actions aimed at addressing the main security threats and in particular preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime as well as assisting and protecting victims of crime. The Fund will ensure that the Union and its Member States are well equipped also to address evolving and emerging threats, such as trafficking, including via online channels, hybrid threats and chemical, biological, radiological and nuclear threats, with a view to implementing a genuine security union. This should be pursued through financial assistance to support better information exchange, to increase operational cooperation and improve national and collective capabilities.

(12) Within the comprehensive framework of the Fund, the financial assistance provided through the Fund should in particular support exchange of information as well as police cooperation and 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, exploitation of refugees and irregular migrants, severe labour exploitation, sexual exploitation and abuse, including of children and women, 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 the preparedness for and effective management of security-related risks and crises, including through joint training, the development of common policies (strategies, policy cycles, programmes and action plans), legislation and practical cooperation.

(13) The Fund should build on the results and investments of its predecessors: the Prevention and fight against crime (ISEC) programme and 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 Council¹¹, and should be extended to take into account new developments.

(14) 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 participation and involvement of civil society, including non-governmental organisations, as well as the European industrial sector in the development and implementation of security policy, including where relevant with involvement of other relevant actors, Union agencies and other Union bodies 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.

(14a) In order to benefit from the knowledge and expertise of the 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 will involve relevant agencies in the work of the Coordination Committee set up by this Regulation, especially at the beginning of the programming phase and at mid-term. Where appropriate, the Commission may also involve the relevant agencies in the monitoring and evaluation, in particular with a view to ensure that the actions supported by the Fund are compliant with the relevant Union acquis and agreed Union priorities.

¹¹ 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).

(15) Within the comprehensive framework of the Union's anti-drugs strategy, which advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under this Fund should support all actions aimed at preventing and combating trafficking in drugs (supply and demand reduction), and in particular measures targeting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including possession and purchase with a view to engaging in drug trafficking activities. The Fund should in particular cover the prevention aspects of the drugs policy. To bring further synergies and clarity in the drugs-related area, these elements of drugs-related objectives — which in 2014-2020 were covered by the Justice programme — should be incorporated into the Fund.

(16) With a view to ensuring that the Fund makes an effective contribution to a higher level of internal security throughout the European Union, to the development of a genuine security union, it should be used in a way that adds most Union value to the action of the Member States.

(16 a) The Fund should support investments in equipment, means of transport and facilities only when they have a clear Union added value and to the extent that they are necessary for achieving the objectives of the Fund. These are, for example, investments in equipment needed for forensics, covert surveillance, explosives and drug detection and any other specialised purpose of relevance to the Fund. The Fund should not finance investments of purely national relevance and necessary for the everyday work of the competent authorities, such as uniforms, cars, buses, scooters, police stations, non-specialised training centres and office equipment.

(17) In the interests of solidarity within the Union, and in the spirit of shared responsibility for the security therein, where weaknesses or risks are identified, in particular following a Schengen evaluation, the Member State concerned should adequately address the matter by using resources under its programme to implement recommendations adopted pursuant to Council Regulation (EU) No 1053/2013¹².

¹² 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).

(18) 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-line with the implementing measures as set out in Annex II and that the allocation of resources between objectives is proportionate to challenges and needs and ensures that the overall policy objective can be met. When implementing the Thematic Facility, the Commission should ensure that the funding addresses the challenges and needs to meet the objectives of the Fund.

(19) Synergies, consistency and efficiency should be sought with other EU funds and overlap between the actions should be avoided.

(20) The Fund should be coherent with and complementary to other Union financial programmes in the field of security. Synergies will be ensured in particular with the Asylum, Migration and Integration Fund, the Integrated Border Management Fund consisting of the border management and visa instrument established by Regulation (EU) X and the customs control equipment instrument established by Regulation (EU) X as well as the other Cohesion Policy Funds covered by Regulation (EU) X [CPR], the security research part of the Horizon Europe programme established by Regulation (EU) X, the Rights and Values programme established by Regulation X, the Justice programme established by Regulation EU X, the Digital Europe programme established by Regulation EU X and the InvestEU programme established by Regulation EU X. Synergies should be sought in particular on security of infrastructure and public spaces, cybersecurity, the protection of victims and the prevention of radicalisation. Effective coordination mechanisms are essential to maximise the effective achievement of policy objectives, exploit economies of scale and avoid overlaps between actions.

(20a) In an effort to strengthen complementarities between the Internal Security Fund and the Border Management and Visa Instrument, the Fund should be able to finance multipurpose equipment and ICT systems of which the primary purpose is in accordance with this Regulation but which also contribute to the achievement of the objectives of the Border Management and Visa Instrument established by Regulation (EU) No .../ ... [BMVI].

(21) Measures in and in relation to third countries supported through the Fund should be implemented in full synergy and coherence with and should complement other actions outside the Union supported through the Union instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of external action, the Union's foreign policy and development aid policy related to the country or region in question. In relation to the external dimension, the Fund should enhance cooperation with third countries in areas of interest to the Union's internal security. In that context, funding from the thematic facility shall 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 combatting and preventing crime, including drug trafficking, trafficking in human beings and combatting cross-border criminal smuggling networks.

(22) Funding from the Union budget should concentrate on activities where 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 will contribute in particular to strengthening national and Union capabilities in the security area.

(23) A Member State may be deemed not to be compliant with the relevant Union *acquis* as regards the use of operating support under this 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 the Member State of the Union's values when implementing the *acquis* on security or if an evaluation report under the Schengen evaluation and monitoring mechanism identified deficiencies in the relevant area.

(24) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring 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 effective and user-friendly manner possible.

(25) This Regulation should establish the initial amounts to Member States calculated on the basis of criteria laid down in Annex I.

(26) These initial amounts 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 mid-term based on the latest available statistical data, as set out in the distribution key, taking into account the state of programme implementation.

(27) 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 steer funding towards the priorities with the highest added value for the Union. To respond to pressing needs, changes in policy and Union priorities and to steer funding towards actions with a high level of Union added value, part of the funding will be periodically allocated to specific actions, Union actions and emergency assistance via a thematic facility.

(28) Member States should be encouraged to use part of their programme allocation to fund actions listed in Annex IV benefiting from a higher Union contribution, primarily because of their significant Union added value or their high importance for the Union.

(29) Part of the available resources under the Fund could also be distributed for the implementation of specific actions which require cooperative effort amongst Member States or where new developments in the Union require additional funding to be made available to one or more Member States. These specific actions should be defined by the Commission in its work programmes.

(30) The Fund should contribute to supporting operating costs related to internal security and enable Member States to maintain capabilities which are crucial to the Union as a whole. Such support consists of full reimbursement of a selection of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes.

(31) To complement the implementation of its policy objective 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 relating 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 practice 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, antiziganism and other forms of racism. For this purpose, specialised exchange programmes for junior law-enforcement staff could be funded.

(31a) The cross-border nature of serious and organised crime and terrorism requires a coordinated response and cooperation within and between Member States and with competent Union bodies. All competent authorities of Member States, including specialised law enforcement services, may hold valuable information to effectively fight serious and organised crime and terrorism. To accelerate information exchange and to improve the quality of information shared, it is crucial to build mutual trust. New approaches to cooperation and information exchange, including on the threat analysis, should be explored and examined, taking into account existing frameworks within and outside the EU 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 competent authorities of Member States responsible for the prevention, detection and investigation of criminal offences as referred to in Article 87 of the 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.

(32) In order to strengthen the Union's capacity to react immediately to security-related incidents or newly emerging threats to the Union, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation. Emergency assistance should not be provided to support mere contingency and long- term measures or to address situations where the urgency to act results from the competent authorities' failure to plan and react properly.

(33) In order to ensure the necessary flexibility of action and respond to emerging needs, it should be made possible for decentralised agencies to be provided with the appropriate additional financial means to carry out certain emergency tasks. In instances where the task to be undertaken is of such urgent nature that an amendment of their budgets could not be finalised in time, decentralised agencies should be eligible as beneficiaries of emergency assistance, including in the form of grants, consistent with priorities and initiatives identified at Union level by the EU institutions.

(33 a) 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 may exceptionally be eligible as beneficiaries of Union actions, including in the form of grants, when they assist in the implementation of Union actions falling within the agencies' competences and those actions are not covered by the Union contribution to the budget of the agencies through the annual budget. Such support should be consistent with the priorities and initiatives identified at Union level by the Union institutions to ensure Union added value.

(34) The policy objective of this Fund will be also addressed through financial instruments and budgetary guarantee under the policy windows of the InvestEU. Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the Internal market. Actions should have a clear Union added value.

(34a) Blending operations have a voluntary nature and are operations supported by the Union budget combining repayable and/or non-repayable forms of support from the Union budget with repayable forms of support from promotional/ development or other public finance institutions, as well as from commercial finance institutions and investors.

(35) This Regulation lays down a financial envelope for the Internal Security Fund (ISF) which is to constitute the prime reference amount, within the meaning of paragraph X of the Interinstitutional Agreement of X between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management¹³, for the European Parliament and the Council during the annual budgetary procedure.

¹³ OJ C 373, 20.12.2013, p. 1.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

(36) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council applies to this Fund. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation is to apply to the actions to be implemented in direct or indirect management under ISF.

(37) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework consisting of this Regulation, Regulation (EU, Euratom) 2018/1046 and the Common Provisions Regulation (EU) No X¹⁴.

(38) Regulation (EU) No X [CPR] establishes the framework for action by the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the Asylum, Migration and Integration Fund (AMIF), Internal Security Fund (ISF) and the instrument for border management and visa (BMVI), as a part of the Integrated Border Management Fund (IBMF), and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for EU funds implemented under shared management. Additionally it is necessary to specify the objectives of the Internal Security Fund in this Regulation and to lay down specific provisions concerning the activities that may be financed with the support of this Fund.

(38a) A pre-financing scheme for the Fund is set out in Article 84 of Regulation EU.../....[CPR] with a specific pre-financing rate set out in this Regulation. In addition, in order to ensure a prompt reaction to an emergency situation, it is appropriate to set up a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that a Member State has the means to provide support to beneficiaries from the start of the implementation of the programme.

¹⁴ Full reference

(39) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the objectives of the actions and to deliver results, taking into account, in particular, the costs of control, the administrative burden, and then expected risk of non-compliance. This should include consideration of 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 Regulation (EU, Euratom) 2018/1046.

(39a) In order to make the most use of the single audit principle, it is appropriate to set up specific rules on the control and audit of projects where international Organisations whose internal control systems have been positively assessed by the Commission are the beneficiaries. For those projects, managing authorities should have the possibility to limit their management verifications provided that the beneficiary delivers all necessary data and information on the progress of the project and 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’.

(39b) In accordance with Article 193(2) of Regulation (EU, Euratom) No 2018/1046, 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, 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 multi-annual financial framework 2021-2027, that costs incurred in respect of actions supported under this Regulation under direct management and which have already started, be considered eligible as of 1 January 2021, even if they were incurred before the grant application or the request for assistance was submitted.

(40) In accordance with Regulation (EU, Euratom) 2018/1046, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁵, Council Regulation (Euratom, EC) No 2988/95¹⁶, Council Regulation (Euratom, EC) No 2185/96¹⁷ and Council Regulation (EU) 2017/1939¹⁸, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may 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 criminal offences affecting the financial interests of the Union. In accordance with Council Regulation (EU) 2017/1939, the European Public Prosecutor's Office ("the EPPO") may investigate and prosecute offences against the Union's financial interest as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council¹⁹. In accordance with Regulation (EU, Euratom) 2018/1046, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests to grant the necessary rights and access to the Commission, OLAF, the EPPO, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors (ECA) 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, agencies and bodies in the protection of the Union's financial interests.

¹⁵ 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).

¹⁶ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

¹⁷ 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).

¹⁸ 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).

¹⁹ 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).

(41) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union 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.

(42) Pursuant to Article 94 of Council Decision 2013/755/EU²⁰, persons and entities established in overseas countries and territories (OCTs) 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.

(43) Pursuant to Article 349 of the TFEU and in line with the Commission Communication "A stronger and renewed strategic partnership with the EU's outermost regions²¹", endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their programmes address the specific challenges the outermost regions face. The Fund supports these Member States with adequate resources to help these regions as appropriate.

(44) Pursuant to paragraph 22 and 23 of the Inter-institutional Agreement of 13 April 2016 on Better Law-Making²⁶, this 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.

²⁰ 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).

²¹ COM (2017)623 final.

(45) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement and its commitment to the United Nations Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of a 30 % target of all MFF expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7.5 % of the Budget reflecting biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while considering the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) No 2020/852.

(46) Through these 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) No X [CPR] and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. The reports should contain information on the progress made in the implementation of programmes. The Commission should translate the summaries of the annual performance reports submitted by the Member States, into all the official languages and make them publicly available on its website together with links to the Member States' websites referred to in Art. 44(1) [CPR].

(46a) Regulation (EU) No 514/2014 or any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported by the Fund under 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 of implementation of certain projects approved by that Regulation, phasing provisions should be laid down. Each individual phase of the phased project should be implemented in accordance with the rules of the programming period under which it receives funding.

(47) 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 as listed in Annex IV, operating support and in order to further develop 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 on Better Law Making of 13 April 2016.

(48) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²². The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on 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 providing information to the Commission in the framework of programming and reporting, given their purely technical nature. Furthermore, given the nature and purpose of emergency assistance provided for by this Regulation, it is appropriate to provide for the use of immediately applicable implementing acts on duly justified imperative grounds of urgency in accordance with Article 8 of Regulation 182/2011 for the adoption of decisions to award such assistance.

(49) 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.

(50) 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 Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified its wish to take part in the adoption and application of this Regulation.

²² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(51) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) .../2021 [Multiannual Financial Framework Regulation]. In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multi-annual financial framework 2021-2027, this Regulation should enter into force as a matter of urgency and should apply from 1 January 2021.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the Internal Security Fund ('the Fund') for the duration of the MFF 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 2021-2027;
 - 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 shall apply:

- (a) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point 6 of Article 2 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council, combining 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;

- (ab) ‘Competent authorities’ means all Member States’ authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87 of the TFEU including police, customs and other specialised law enforcement services.
- (b) ‘crime prevention’ 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/JHA²³;
- (c) ‘critical infrastructure’ means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, 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;
- (d) ‘cybercrime’ means cyber-dependent crimes, that is to say crimes that can be committed only through the use of information and communications technology (ICT) systems, where the systems are either tools for committing the crime or the primary targets of the crime; and cyber-enabled crimes, that is to say traditional crimes, which can be increased in scale or reach by the use of computers, computer networks or other ICT systems;
- (e) ‘EU policy cycle operational action’ means actions undertaken in the framework of the EU Policy Cycle for organised and serious international crime, an intelligence-led and multidisciplinary initiative. Its aim is to fight the most important serious and organised crime threats to the Union by encouraging cooperation between the Member States, the Union institutions-and agencies and where relevant third countries and international organisations.

This action is undertaken through a structured multidisciplinary cooperation platform, EMPACT (European multidisciplinary platform against criminal threats).

²³ 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).

- g) ‘exchange of information’ means the secure collection, storage, processing, analysis, access to and transfer of information relevant to the authorities referred to in Article 87 of the Treaty of the Functioning of the European Union (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;
- j) ‘organised crime’ means punishable conduct relating to participation in a criminal organisation, as defined in Council Framework Decision 2008/841/JHA²⁴;
- k) ‘preparedness’ means any action specifically aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents;
- l) ‘Schengen evaluation and monitoring mechanism’ means the verification of the correct application of the Schengen *acquis* as laid down in Council Regulation (EU) No 1053/2013²⁵, including in the area of police cooperation;
- m) ‘tackling corruption’ covers all areas outlined in the United Nations Convention against corruption, including prevention, criminalisation and law enforcement measures, international cooperation, asset recovery, technical assistance and information exchange;
- n) ‘terrorism’ means any of the intentional acts and offences as defined in Directive (EU) 2017/541 of the European Parliament and of the Council²⁶.
- o) ‘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.

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

²⁵ ***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).***

²⁶ Directive (EU) 2017/741 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).

- (p) 'Flash money' is genuine cash which is shown during a criminal investigation as proof of liquidity and solvency to the suspects or other persons who have information about availability or delivery or who act as intermediaries, in order to carry out a fictitious purchase aimed at arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group.
- (q) 'radicalisation' means radicalisation leading to violent extremism and terrorism, that is a phased and complex process 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.

Article 3

Objectives of the Fund

1. The policy objective of the Fund shall be 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) to improve and facilitate the exchange of information among and within competent authorities of the Member States and relevant Union bodies and, where relevant, with third countries and international organisations;
 - (b) to improve and intensify cross-border cooperation, including joint operations among and within Member States' competent authorities in relation to terrorism and serious and organised crime with a cross-border dimension; and

- (c) to support the strengthening of the 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, the relevant Union agencies, civil society and private partners across the 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
 - 4. Actions funded shall be implemented in full respect for fundamental rights and human dignity. In particular, actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In particular, wherever possible, special attention shall be given by Member States when implementing actions to the assistance and protection of vulnerable persons, in particular children and unaccompanied minors.

Article 4

Scope of support

- 1. Within the objectives referred to in Article 3 and in-line with the implementation measures listed in Annex II, the Fund shall in particular support measures such as those listed in Annex III.
- 2. To achieve the objectives of this Regulation, the Fund may, subject to appropriate safeguards, support the actions in line with Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 15a.

- 2.(a) As regards actions in and in relation to third countries, the Commission and the Member States, together with the EEAS 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 Union instruments;
 - (b) are coherent with the Union's external 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 non-development-oriented measures;
 - (d) and serve the interests of the Union's internal policies and are consistent with activities undertaken inside the Union.
- 2a. Equipment and ICT systems, financed under this Fund, may be additionally used in the complementary area of the Instrument for financial support for border management and visa established by Regulation (EU) No ...[BMVI].

Such equipment and ICT systems shall remain available and deployable for the objectives of this Fund.

The use of equipment in the mentioned complementary areas shall not exceed 30 % of the total period of use of that equipment.

ICT systems developed under this category shall provide data and services for the prevention, detention and investigation of criminal offences.

Member States shall inform the Commission in the annual performance report of any such multiple use and the place of deployment for the multi-purpose equipment and ICT systems.

3. The following actions shall not be eligible:

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

Where an emergency situation occurs, non-eligible actions 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 this Regulation shall complement national, regional and local intervention, and shall focus on bringing Union added value to the objectives of this Regulation.
2. The Commission and the Member States shall ensure that the support provided under this Regulation and by the Member States is consistent with the relevant actions, policies and priorities of the Union, and is complementary to other Union instruments.
3. The Fund shall be implemented under shared, direct or indirect management in accordance with Article 62(1)(a), (b) and (c) of Regulation (EU, Euratom) 2018/1046.
4. In accordance with point (a) of the second subparagraph of Article 193(2) of Regulation (EU, Euratom) No 2018/1046, 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 started may be considered eligible as of 1 January 2021, even if they were incurred before the grant application or the request for assistance was submitted.

Article 7

Budget

1. The financial envelope for the implementation of the Fund for the period 2021-2027 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 programmes implemented under shared management;
 - b) EUR 579 000 000 shall be allocated to the thematic facility.
3. Up to 0.84 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission for the implementation of the Fund.
4. In accordance with Article 21 of Regulation (EU) XX [CPR], up to 5% in total of the initial national allocation from any of the funds of the Common Provisions Regulation under shared management may, at the request of Member States, be transferred to the Fund under direct or indirect management. The Commission shall implement those resources directly in accordance with Article 62(1)(a) of the Financial Regulation or indirectly in accordance with Article 62(1)(c). Those resources shall be used for the benefit of the Member State concerned.

Article 8

General provisions on the implementation of the thematic facility

1. The financial envelope referred to in Article 7(2)(b) shall be allocated flexibly through the thematic facility using shared, direct and indirect management as set out in work programmes. Funding from the thematic facility shall be used for its components:
 - (a) specific actions;
 - (b) Union actions; and
 - (c) emergency assistance.

Technical assistance at the initiative of the Commission shall also be supported from the financial envelope for the thematic facility.
2. Funding from the thematic facility shall address priorities with a high added value to the Union or to be used to respond to urgent needs, in line with agreed Union priorities as outlined in Annex II. The allocation of resources of the thematic facility among the different priorities shall, as far as possible, be proportionate to challenges and needs so as to ensure that the objectives of the Fund can be met. 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 combatting and preventing crime, including drug trafficking, trafficking in human beings and combatting cross-border criminal smuggling networks.
 - 2a. The Commission shall engage with civil society organisations and relevant networks, notably in view of preparing and evaluating the work programmes for Union Actions financed through the Fund.
3. When funding from the thematic facility is granted in direct or indirect management to Member States, projects affected by a reasoned opinion by the Commission in respect of an infringement proceedings under Article 258 TFEU that put at risk the legality and regularity of expenditure or the performance of those projects shall not be selected.

4. For the purposes of Article 18 and Article 19(2) of Regulation (EU) No .../... [CPR], when funding from the thematic facility is implemented in shared management, the Member State shall ensure that, and the Commission shall assess whether, the foreseen actions are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 TFEU on a matter that puts at risk the legality and regularity of expenditure or the performance of the actions.
5. The Commission shall establish the overall amount made available for the thematic facility under the annual appropriations of the Union budget. The Commission shall by means of implementing acts adopt financing decisions as referred to in Article 110 of Regulation (EU, Euratom) 2018/1046 for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of its components as referred to in paragraph 1. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2a).
6. Following the adopting of the financing decision as referred to in paragraph 5, the Commission may amend the programmes implemented under shared management accordingly.
7. These financing decisions may be annual or multiannual and may cover one or more components of the thematic facility.

SECTION 2

SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT

Article 9

Scope

1. This section applies to the part of the financial envelope referred to in Article 7(2)(a) and the additional resources to be implemented under shared management according to the Commission 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 Regulation (EU, Euratom) 2018/1046 Regulation (EU) No [CPR].

Article 10

Budgetary resources

3. Resources referred to in Article 7(2)(a) shall be allocated to the national programmes implemented by Member States under shared management ('the programmes') indicatively as follows:
 - (a) EUR 1 127 000 000 to the Member States in accordance with the criteria in Annex I;
 - (b) EUR 225 000 000 to the Member States for the adjustment of the allocations for the programmes as referred to in Article 13(1).
4. Where the amount referred to in paragraph 1(b) is not allocated, the remaining amount may be added to the amount referred to in Article 7(2)(b).

Article 10a

Pre-financing

In accordance with Article 84(3a) of Regulation EU.../...[CPR], 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 %

Where a programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of adoption.

Article 11

Co-financing rates

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure of 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.
- 5a. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of the Member States within the limits set out in Article 30(x)(x) of Regulation (EU) No [CPR].
6. The Commission decision approving a programme shall set the co-financing rate and the maximum amount of support from this Fund for the types of actions referred to in paragraphs 1 to 5.
7. For each type of action, the Commission decision approving a programme shall set out whether the co-financing rate for the type of action is applied to either of the following:
 - (a) the total contribution, including the public and private contributions;
 - (b) the public contribution only.

Article 12

Programmes

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with, and respond to, the Union priorities and challenges in the area of security and are fully in line with the relevant Union *acquis* and agreed Union priorities. In defining the priorities of their programmes Member States shall ensure that the implementation measures set out in Annex II are adequately addressed. The Commission shall assess the programmes in accordance with Article 18 of Regulation [XXXX/XX] [CPR].

- 1 b. In that regard, and without prejudice to paragraph 1c below, Member States shall allocate:
 - a) a minimum of 10% of their allocated resources to the specific objective referred to in point (a) of paragraph 2 of Article 3; and
 - b) a minimum of 10% of their allocated resources to the specific objective referred to in point (b) of paragraph 2 of Article 3.
- 1 c. Member States may depart from the minimum percentages only where a detailed explanation is included in the programme as to why allocating resources below this level does not jeopardise the achievement of the objective.
2. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies are taken into account in the development of the Member States' programmes at an early stage.
- 2a. In order to avoid overlaps, Member States shall consult relevant agencies on the design of their actions, in particular when implementing EU policy cycle operational actions or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT), and on the design of training activities.
3. The Commission may associate relevant decentralised agencies, where appropriate, in the monitoring and evaluation tasks as specified in Section 5, in particular in view of ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.
4. A maximum of 35 % of the allocation of a Member State 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.

5. In their programmes, Member States shall give priority to addressing:
- 5(a). Union priorities and *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 in 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.
6. Where necessary, the programme in question shall be amended to take into account the recommendations referred to in paragraph 5. Depending on the impact of the adjustment, the revised programme shall be approved by the Commission in line with the procedures set out Article 19 of the [CPR regulation].
7. Member States shall pursue in particular the actions listed in Annex IV. In the event of unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex IV.
8. Whenever a Member State decides to implement projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the approval of the project.
9. Programming as referred to in Article 17(5) of Regulation (EU) No [CPR] shall be based on the types of intervention set out in Table 2 of Annex VI and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective.

Article 13

Mid-term review

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in Article 10(1)(b) in accordance with the criteria referred to in paragraph 2 of Annex I. Funding shall be effective for the period as of the calendar year 2025.
2. If at least 10 % of the initial allocation of a programme referred to in Article 10(1)(a) has not been covered by interim payment applications submitted in accordance with Article 85 of Regulation (EU) No [CPR], the Member State concerned shall not be eligible to receive the additional allocation for the programme referred to in paragraph 1.
3. The allocation of the funds from the thematic facility as from 2025 shall take into account the progress made in achieving the milestones of the performance framework as referred to in Article 12 of Regulation (EU) No X [CPR] and identified implementation shortcomings.

Article 14

Specific actions

1. Specific actions are transnational or national projects bringing Union added value in line with the objectives of this Regulation for which one, several or all Member States may receive an additional allocation to their programmes.
2. Member States may, in addition to their allocation calculated in accordance with Article 10(1), receive funding for specific actions, provided that it is earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation, including covering newly emerging threats.
3. The funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme.

Operating support

1. Operating support is a part of a Member State's allocation which may be used as support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union insofar as they contribute to ensuring a high level of security in the Union.
2. A Member State may use up to 20% of the amount allocated under the Fund to its programme to finance operating support for the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
3. A Member State using operating support shall comply with the Union *acquis* on security.
4. Member States shall justify in the programme and in the annual performance reports, as referred to in Article 26, the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to request operating support, taking into account the information provided by those Member States as well as recommendations from quality control and evaluation mechanisms such as the Schengen evaluation mechanism and other quality control and evaluation mechanisms, as applicable.
5. Operating support shall be concentrated on eligible actions as laid down in Annex VII.
6. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend the eligible actions in Annex VII.

Article 15 a

Management verifications and audits when an international organisation is a beneficiary

1. This Article applies to international organisations or their agencies as referred to in Article 62 (1) (c) (ii) of Regulation (EU, Euratom) No 2018/1046 (the ‘Financial Regulation’) whose systems, rules and procedures have been assessed ex ante as appropriate 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, hereinafter referred as ‘international organisations’.
2. Without prejudice to Article 77 (a) [CPR] and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary, the managing authority is not required to carry out the management verifications referred to in Article 68 (1)(a) [CPR] provided that the international organisation submits to the managing authority the documents required by Article 155 (1) (a), (b) and (c) of the Financial Regulation.

Without prejudice to Article 155 (1) (c) of the Financial Regulation, the management declaration shall confirm that the project complies with applicable law and the conditions for support of the project.

In addition, where costs are to be reimbursed pursuant to Article 48(1)(a) [CPR], the management declaration shall confirm that:

- a) the verification of invoices and proof of their payment by the beneficiary has been carried out;
- b) verification of the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority has been carried out.

Where the costs are to be reimbursed pursuant to points (b), (c) and (d) of Article 48(1) [CPR], the management declaration shall confirm that the conditions for reimbursement of expenditure have been met.

The documents referred to in Article 155 (1) (a) and (c) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.

The beneficiary shall submit to the managing authority annually and not later than 15 October the accounts accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. This opinion shall establish whether the control systems put in place function properly and are cost-effective, and whether the underlying transactions are legal and regular. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations, including information on suspicion of fraud. It shall provide assurance on the expenditure included in the payment claims submitted by the international organisation to the managing authority.

Without prejudice to existing possibilities for carrying out further audits referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in Article 68 (1)(f) [CPR] based on these documents, instead of relying on the management verifications referred to in Article 68 (1) [CPR].

The document setting out the conditions for support referred to in Article 67(4) [CPR] shall include the requirements set out in this Article.

3. Paragraph 2 shall not apply where:

- a) the 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 the managing authority the documents listed in paragraph 2;
- c) the documents listed in paragraph 2 and submitted by the international organisation are incomplete.

4. Where a project initiated or initiated and implemented by an international organisation is part of a sample referred to in Article 73 [CPR], the audit authority may perform its work based on a sub-sample of transactions within this 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.

SECTION 3

SUPPORT AND IMPLEMENTATION UNDER DIRECT AND INDIRECT MANAGEMENT

Article 15a

Eligible entities

1. The following entities may be eligible:
 - (a) legal entities established in any of the following countries:
 - (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) any legal entity created under Union law or any international organisation relevant for the purposes of the Fund.
2. Natural persons are not eligible.
3. Entities referred to in paragraph (1)(a)(ii), above, shall participate as part of a consortium with at least two independent entities at least one of which is established in a Member State. Those entities shall ensure that the actions in which they participate are in compliance with the principles enshrined in the Charter of Fundamental Rights of the European Union and contribute to the achievement of the objectives of the Fund as laid down in Article 3 of this Regulation.

Article 16

Scope

Support under this section shall be implemented either directly by the Commission in accordance with point (a) of Article 62(1) of Regulation (EU, Euratom) 2018/1046 or indirectly in accordance with point (c) of that Article.

Article 17

Union actions

1. Union actions are transnational project or projects of particular interest to the Union, in line with the objectives of this Regulation.
2. At the Commission's initiative, the Fund may be used to finance Union actions concerning the objectives of this Regulation as referred to in Article 3 and in accordance with Annex III.
3. Union actions may provide funding in any of the forms laid down in Regulation (EU, Euratom) 2018/1046, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.
- 3 a. 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 agencies' competence and those actions are not covered by the Union contribution to the budget of the agencies through the annual budget.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of Regulation (EU, Euratom) 2018/1046.
5. The evaluation committee, assessing the proposals, may be composed of 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 Regulation (EU, Euratom) 2018/1046. The provisions laid down in [Article X of] Regulation X [successor of the Regulation on the Guarantee Fund] shall apply.

Article 18

Blending operations

Blending operations decided under this Fund shall be implemented in accordance with the InvestEU Regulation²⁷ and Title X of Regulation (EU, Euratom) 2018/1046.

Article 19

Technical assistance at the initiative of the Commission

In accordance with Article 29 of Regulation (EU) No [CPR], the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission at a financing rate of 100 %.

Article 20

Audits

Audits on the use of Union contribution carried out by persons or entities, including by other than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 Regulation (EU, Euratom) 2018/1046.

Article 21

Information, communication and publicity

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

²⁷ Full reference.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to this Fund, its actions and results. Financial resources allocated to this Fund shall also contribute to the corporate communication on the political priorities of the Union, as far as they are related to the objectives of this Regulation.
- 2 a. The Commission shall publish the programmes of the thematic facility. For support provided under direct and indirect management, the Commission shall publish the information referred to in Article 38(2) of Regulation (EU, Euratom) 1046/2018 on a publicly available website and shall update that information regularly. This information shall be published in open, machine-readable format which allows data to be sorted, searched, extracted and compared.

SECTION 4

SUPPORT AND IMPLEMENTATION UNDER SHARED, DIRECT AND INDIRECT MANAGEMENT

Article 22

Emergency assistance

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of a duly justified emergency situation, as defined in point (o) of Article 2. In response to such a duly justified emergency situation, the Commission may decide to 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 their allocation calculated in accordance with Article 10(1), provided that it is earmarked as such in the programme. This funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the 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 Regulation (EU, Euratom) 2018/1046.
 - 4a. Where necessary for the implementation of the action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance, but not prior to 1 January 2021.
 - 4b. To ensure a timely availability of resources, the Commission may separately adopt a financing decision for emergency assistance by way of immediately applicable implementing acts in accordance with the examination procedure referred to in Article 29(2b).

Cumulative and alternative-funding

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 each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and 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. Actions awarded a seal of Excellence certification, which comply with the following cumulative comparable 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.

may receive support from the European Regional Development Fund or the European Social Fund+, in accordance with paragraph 5 of Article [67] of Regulation (EU) ../.. [Common Provisions Regulation].

SECTION 5

MONITORING, REPORTING AND EVALUATION

Sub-section 1

Common provisions

Article 23a

Reporting on the thematic facility

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

Article 24

Monitoring and reporting

1. In compliance with its reporting requirements pursuant to Article 41(3)(h)(iii) of Regulation (EU, Euratom) 2018/1046, the Commission shall present to the European Parliament and the Council information on performance in accordance with Annex V.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex V in order to make the necessary adjustments to the information on performance to be provided to the European Parliament and the Council.
3. Indicators to report on progress of the Fund, towards the achievement of the specific objectives set out in Article 3, are set out in Annex VIII. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.

4. The performance reporting system shall ensure that data for monitoring programme implementation and results 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 relevant Member States.
5. In order to ensure effective assessment of the progress of the Fund towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex VIII to review and complement the indicators where necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including for project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after its entry into force.

Article 25

Evaluation

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. [In addition to Article 40(1) of the Regulation [CPR],] the mid-term evaluation shall assess the following:
 - (a) the effectiveness of the Fund, including the progress made towards the achievement of the objectives of this Regulation, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 26 and the output and result indicators set out in Annex VIII;
 - (b) the efficiency of the use of resources allocated to the Fund and of the management and control measures put in place to implement it;
 - (c) the continued relevance and appropriateness of the implementation measures set out 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-

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

- 1 a. [In addition to Article 40(2) of the Regulation [CPR],] the retrospective evaluation shall include the elements listed in paragraph 1. In addition, the impacts of the Fund shall be evaluated.
- 2. The mid-term and the retrospective evaluation shall be carried out in a timely manner to feed into the decision-making process, including, where appropriate, revisions of this Regulation.
- 2a. The Commission shall ensure that the evaluations do not include information the dissemination of which may jeopardise security operations.
- 3. In its mid-term and retrospective evaluations, the Commission shall pay particular attention to the evaluation of actions by, in or in relation to third countries in accordance with Article 5 and 12 (8).

Sub-section 2

Rules for shared management

Article 26

Annual performance reports

1. By 15 February 2023 and by the same date of each subsequent year up to and including 2031, Member States shall submit to the Commission the annual performance report as referred to in Article 36(6) of Regulation (EU).../2021 [Common Provisions Regulation].

The reporting period shall cover the last accounting year as defined in Article 2(28) of Regulation (EU).../... [CPR], 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 report shall in particular set out information on:
 - (a) the progress in the implementation of the programme and in achieving the milestones and targets, taking into account the latest data as required by Article 37 of Regulation (EU) No [CPR];
 - (b) any issues affecting the performance of the programme and the action taken to address them, including information on any reasoned opinion issued by the Commission in respect of an infringement under Article 258 TFEU linked to the implementation of the Fund;
 - (c) the complementarity between the actions supported under this Fund and the support provided by other Union funds, in particular those in or in relation to third countries;
 - (d) the contribution of the 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 report shall include a summary covering all the points set out in this paragraph. The Commission shall ensure that the summaries provided by the Member States are translated into all official languages and made publicly available.

- 3. The Commission may make observations on the annual performance report within two months of the date of its 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 Member States' websites referred to in Art. 44(1) [CPR].
- 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. This implementing act shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

Article 27

Specific monitoring and reporting requirements under shared management'

- 1. Monitoring and reporting, in accordance with Title IV of Regulation (EU) No [CPR], shall be based on types of intervention set out in Tables 1, 2, 3 and 4 of Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts to amend Annex VI in accordance with Article 28.
- 2. The indicators set in Annex VIII shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) No [CPR].

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 28

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 Articles 12, 15, 24 and 27 shall be conferred on the Commission until 31 December 2028.
3. The European Parliament or the Council may revoke the delegation of powers referred to in Articles 12, 15, 24 and 27 at any time. A decision of revocation 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 on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council thereof.
6. A delegated act adopted pursuant to Articles 12, 15, 24 and 27 shall enter into force only if neither the European Parliament nor the Council has expressed an objection within two months of being notified of it or if, before the expiry of that period, they 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 the Council.

Article 29

Committee procedure

1. The Commission shall be assisted by the Coordination Committee for the Asylum, ~~and~~ Migration and Integration Fund, the Internal Security Fund and the Border Management and Visa Instrument. 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.
- 2a. 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.
- 2b. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply. Immediately applicable implementing acts adopted pursuant to this regulation shall remain in force for a period of 18 months.

Article 30

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under the Police Instrument of the Internal Security Fund, which shall continue to apply to those actions concerned 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 under its predecessor, the Police Instrument of the Internal Security Fund established by Regulation (EU) No 513/2014.

3. Where Member States continue after 1 January 2021 to support a project selected and started under Regulation (EC) No 513/2014, in accordance with Regulation 514/2014, they shall ensure that the following cumulative conditions are met:
- (a) the project so selected 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) 514/2014. Expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) No .../... [CPR];
 - (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) No .../... [CPR];
 - (e) the Member State commits to complete the project, render it operational and report it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) No .../... [CPR] shall apply to the second phase of the project.

This paragraph shall apply only to projects, which have been selected under shared management pursuant to Regulation (EU) 514/2014.

Article 31

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 Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

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

The financial envelope 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 will be allocated to each Member State at the start of the programming period to ensure a critical mass for each programme and to cover needs that would not be directly expressed through the criteria indicated below;
- (2) the remaining resources will be distributed according to the following criteria:
 - (a) 45 % in inverse proportion to their gross domestic product (purchasing power standard per inhabitant),
 - (b) 40 % in proportion to the size of their population,
 - (c) 15 % in proportion to the size of their territory.

The initial allocation shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2019. For the mid-term review, the reference figures shall be the annual statistical data produced by the Commission (Eurostat) covering the year 2023 prior to the mid-term review in 2024. Where a Member State has not provided the Commission (Eurostat) with the data for a given year, the Commission may instead use the latest available statistical data preceding the year concerned for the Member State.

ANNEX II

Implementation measures

1. The Fund shall contribute to achieving the specific objective set out in Article 3(2)(a) 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 mechanism and 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 these are fed with high quality data; and
 - (d) supporting relevant national measures including the interconnection of security-relevant national databases and their connection to Union databases when foreseen in relevant legal bases, if relevant to implement the specific objectives set out in Article 3(2)(a).

The Fund shall contribute to achieving the specific objective set out in Article 3(2)(b), by focusing on the following implementation measures;

- (a) increasing law enforcement operations between Member States, including, where appropriate, with other relevant actors, in particular 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) increasing coordination and 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, Union centres;
- (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 at national level among the competent authorities in each Member State.

The Fund shall contribute to achieving the specific objective set out in Article 3(2)(c), by focusing on the following implementation measures;

- (a) increasing training, exercises and mutual learning, specialised exchange programmes and sharing of best practice 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 among Member States and other relevant actors, including civil society through, for instance, the creation of joint centres of excellence, the 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, whistle-blowers and victims of crime and to develop 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 to security threats.
- (d a) protecting critical infrastructure against security-related incidents by detecting, assessing and closing vulnerabilities

ANNEX III

Scope of support

Support from the Internal Security Fund may, inter alia, be targeted towards the following types of actions:

- setting up, adapting and maintaining ICT systems contributing to the achievement of the objectives of this Regulation, training on the use of such systems, testing and improving the interoperability components and data quality of such systems
- 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;
- EU policy cycle operational actions;
- actions supporting an effective and coordinated response to crisis linking up existing sector-specific capabilities, expertise centres and situation awareness centres, including those for health, civil protection, terrorism and cybercrime;
- actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating the outcome of Union-funded security research projects;
- actions that improve resilience to emerging threats including trafficking via online channels, hybrid threats, malicious use of unmanned aerial systems and chemical, biological, radiological and nuclear threats.
- support to thematic or cross-theme networks of specialised national units and national contact points to improve mutual confidence, exchange and dissemination of know-how, information, experiences and best practices, pooling of resources and expertise in joint centres of excellence

- education and training of staff and experts of relevant law enforcement and judicial authorities and administrative agencies, taking into account operational needs and risk analyses, and in cooperation with CEPOL and, when applicable, the European Judicial Training Network including on prevention policies with special emphasis on fundamental rights and non-discrimination
- cooperation with the private sector, for instance 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;
- 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;
- equipment, means of transport, communication systems and security-relevant facilities;
- 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 Articles 11(3) and 12(6)

- Projects which aim to prevent and counter radicalisation.
- projects which aim at improving the interoperability of EU information systems and national ICT systems insofar as provided for by Union or Member State law.
- Projects which aim to fight the most important threats posed by serious and organised crime, in the framework of EU policy cycle operational actions.
- 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.
- Projects which aim at improving the security and resilience of critical infrastructure

ANNEX V

Core performance indicators referred to in Article 24(1)

Specific Objective 1: Better information exchange

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/EU agencies/international organisations/third countries
3. Number of participants who consider the training 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 the training

Specific Objective 2: Increased operational cooperation

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 product²⁸
7. Quantity of weapons seized in the context of cross-border operations by type of weapon²⁹
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/EU agencies/international organisations/third countries
9. Number of staff involved in cross-border operations
10. Number of Schengen Evaluation Recommendations addressed

²⁸ Breakdown of types of drugs (Based on the categories used in reports on illicit drugs: EU Drug Market 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.

²⁹ Breakdown of types of weapons (Based on existing legislation, namely the 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 of 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 3: Strengthened capabilities to combat and to prevent crime

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

ANNEX VI

Types of intervention

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

1	TER-Countering Terrorist Financing
2	TER-Prevention and countering of radicalisation
3	TER-Protection and resilience of public spaces and other soft targets
4	TER- Protection and resilience of critical infrastructure
5	TER-Chemical Biological Radioactive Nuclear
6	TER-Explosives
7	TER-Crisis Management
8	TER-Other
9	OC-Corruption
10	OC-Economic and Financial Crime
10a	OC - Laundering of the proceeds of crime
11	OC-Drugs
12	OC-Firearms trafficking
12a	Trafficking of cultural objects
13	OC-Trafficking in Human Beings

- 14 OC-Migrant Smuggling
- 15 OC-Environmental Crime
- 16 OC-Organised Property Crime
- 17 OC-Other
- 18 CC-Cybercrime - Other
- 19 CC-Cybercrime – Prevention
- 20 CC-Cybercrime - Facilitating investigations
- 21 CC-Cybercrime - Victims assistance
- 22 CC-Child Sexual Exploitation - Prevention
- 23 CC-Child Sexual Exploitation – Facilitating investigations
- 24 CC-Child Sexual Exploitation - Victims assistance
- 25 CC - Child Sexual Exploitation, including distribution of child abuse images and child pornography
- 26 CC-Other
- 27 GEN-Information exchange
- 28 GEN-Police or interagency cooperation (customs, border guards, intelligence services)
- 29 GEN-Forensics
- 30 GEN-Victim support
- 31 GEN-Operating support

- 32 TA-Technical assistance - information and communication
- 33 TA-Technical assistance - preparation, implementation, monitoring and control
- 34 TA-Technical assistance - evaluation and studies, data collection
- 35 TA-Technical assistance - capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

- 1 ICT systems, interoperability, data quality (excluding equipment)
- 2 Networks, centres of excellence, cooperation structures, joint actions and operations
- 3 Joint Investigation Teams (JITs) or other joint operations
- 4 Secondment or deployment of experts
- 5 Training
- 6 Exchange of best practices, workshops, conferences, events, awareness raising campaigns, communication activities
- 7 Studies, pilot projects, risk assessments
- 8 Equipment
- 9 Means of transport
- 10 Buildings, facilities
- 11 Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION MODALITIES DIMENSION

- 1 Actions as per Art. 11.1
- 2 Specific Actions
- 3 Actions listed in Annex IV
- 4 Operating support
- 5 Emergency Assistance

TABLE 4: CODES FOR SECONDARY IMPLEMENTATION MODALITIES DIMENSION

- 1 Cooperation with third countries
- 2 Actions in third countries
- 3 Implementation of Schengen evaluation recommendations in the area of police cooperation

ANNEX VII

Eligible actions for operating support

Within specific objective *better information exchange*, operating support within the programmes shall cover:

- Maintenance and helpdesk of security relevant EU and, where relevant, national ICT systems contributing to the achievement of the objectives of this Regulation.
- staff costs contributing to the achievement of the objectives of this Regulation

Within specific objective *increased operational cooperation*, operating support within the national programmes shall cover:

- 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.
- staff costs contributing to the achievement of the objectives of this Regulation

Within specific objective *strengthened capabilities to prevent and to combat crime*, operating support within the national programmes shall cover:

- 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.
- staff costs contributing to the achievement of the objectives of this Regulation

Actions which are not eligible under Article 4(3) shall not be covered.

ANNEX VIII

Output and result indicators referred to in Article 24(3)

Specific Objective 1: Better information exchange

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/EU agencies/international organisations/third countries
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 the training

Specific Objective 2: Increased operational cooperation

Output indicators

1. Number of cross-border operations
 - 1.1 Of which number of joint investigation teams
 - 1.2 Of which number of EU policy cycle 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 product³⁰
7. Quantity of weapons seized in the context of cross-border operations by type of weapon³¹
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/EU agencies/international organisations/third countries
9. Number of staff involved in cross-border operations
10. Number of Schengen Evaluation Recommendations addressed

³⁰ Breakdown of types of drugs (Based on the categories used in reports on illicit drugs: EU Drug Market 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.

³¹ Breakdown of types of weapons (Based on existing legislation, namely the 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 of 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 3: Strengthened capabilities to combat and to prevent crime

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 whistle-blowers
11. Number of critical infrastructure/public spaces with new/adapted facilities protecting against
security related risks
12. Number of participants who consider the training useful for their work
13. Number of participants who report three months after leaving the training that they are using
the skills and competences acquired during the training