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MEETING DOCUMENT

From: To:	Presidency JHA Counsellors on Financial Instruments
N° Cion doc.:	10154/18
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund - Compilation of replies

Delegations will find enclosed a compilation of replies to WK 9620/20 on the above proposal.

ANNEX

WRITTEN COMMENTS SUBMITTED BY THE MEMBER STATES

Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund

WK 9620/20

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BULGARIA

We confirm our position presented in October 2019 as first observations on EP amendments on ISF draft Regulation as follows:

We support the lack of obligation for minimum allocations of funding for each specific objectives as this enables MS to set the areas of support in compliance with their specific priorities and actual needs and to implement NP in more flexible way. The introduction of minimum allocations of funding for each specific objective is considered as a limitation of the NP implementation and for its effectiveness and we could not support it.

CROATIA

Lines 55, 169-173 i 202-206

Croatia can not support EP proposal to introduce minimum allocations of funding for each specific objective because they are limiting the use of allocated funds, which therefore limits the flexibility of member states in spending funds in accordance with their needs and priorities.

Croatia considers that there should be no restrictions of this nature. In fact, the objectives of the Regulation are clear and member states will try to contribute to all specific objectives, but will also do so in accordance of their real needs, so it is possible that in practice they will focus only on one or some specific objectives.

CZECHIA

Lines 56, 169 – 173 and 202 – 206

The Czech Republic does not support the minimum percentages as proposed by the EP.

Introducing such measure would not reflect specific needs of individual member states. Home Funds honor the principle of 3E and introducing quota could arguably lead to ineffectiveness. It would also increase member states' administrative burden, including the Czech Republic.

Decreasing the value of minimal percentages below the one proposed by the EP would not fully solve the issue either. Their hypothetical existence would (in our view) decrease the ability of member states to adapt to their individual unique situations and it would offer very little in return. For national programmes with low allocation the minimum percentages would fragmentize the resources into such low amounts for each objective, that there is high risk that some of the objectives of the Fund would be met. Therefore, the Czech Republic proposes abandoning the concept of minimal percentages in member states' national programmes altogether.

ESTONIA

Estonia fully supports the COM initial proposal and Council mandate, i.e. EE can not agree to introducing minimum allocations of funding for each specific objective in MS national programmes. Priorities and constraints are already in place in the ISF regulation.

There is, however, room for compromise when it comes to the thematic facility.

Justification concerning EE's reluctance to introducing minimum allocations in MS national programmes:

Each MS must be able to choose the most appropriate measures to achieve the objectives of the Fund while taking account the actual challenges and needs in the region. It is important to guarantee the possibility to optimally combine contributions from different sources. It must be borne in mind that in addition to EU funding, each MS uses their national budget for the areas covered by the ISF regulation. ISF offers significant added value to the national budget but it should be up to each MS to decide, which areas receive funding from which source. For example, EE has chosen not to use ISF for cross-border (joint) operations. The nature and amount of cross-border (joint) operations cannot be forecasted; they arise on a rolling basis in each field, and thus EE so far has preferred to finance them from the state budget when the need occurs or use specially earmarked funds (e.g. funding provided by the Commission).

EP consider that some MS use funds only in one direction although there is a need for progress in every specific objective. Also that there is a need to focus on enforcement and implementation of EU legislation.

Article 12 in the draft ISF regulation addresses these concerns:

Art 12(1) precludes the whole program from pursuing only one direction*: „ Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in line with the relevant Union acquis and agreed Union priorities. In defining these priorities of their programmes, Member States shall ensure that the implementing measures as set out in Annex II are adequately addressed in the programme.“*

Art 12(5) ensures that priority must be given to fulfilling the obligations stemming from EU legislation: *"In their programmes, Member States shall give priority to addressing:*

(a) Union priorities and acquis in the area of security in particular information exchange and interoperability of ICT systems;

(b) recommendations with financial implications made in the framework of Regulation (EU) No 1053/2013 on the Schengen evaluation and monitoring mechanism in the area of police cooperation;

(c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption."

Introducing additionally minimum allocations of funding for each specific objective is unnecessary and unduly restrictive.

FINLAND

Regarding both of the proposals, the EP proposes to introduce minimum allocations/percentages of funding for specific policy objectives, both from the thematic facility and for Member states' programmes. Finland agrees with the council's negative view concerning minimum allocations/percentages stated in the JHA counsellors' meeting on 22 September.

Finland does not consider minimum percentages for specific objectives under the thematic facility nor shared management purposeful. These kind of restrictions cause administrative burden and even unnecessary delays and also hinder the flexibility in the implementation of the fund programmes.

Thematic facility should be maintained as a component with maximum reaction capacity which does not fit in well with the proposed restrictions. Maintaining flexibility is very important. When it comes down to shared management, the point of having a shared management is to let the MS decide on how to use the budget (within the framework) as the needs are different in every MS. Minimum % or obligations easily lead to less focus on the real needs.

FRANCE

The French authorities wish to make the following comment regarding establishment of minimum percentages, which according to the Parliament would ensure commitment to all of the objectives pursued by the fund.

We remain committed to the principles of the availability and flexibility of funds, which must confer ability to respond to evolving and unpredictable circumstances. Therefore, we are opposed to 'pre-apportioning' the budget for the thematic facility and for our national programme.

ITALY

Italy does not support PE proposal setting minimum percentages per fund's objectives.

LUXEMBOURG

On the minimum percentage; LU would like to keep as much flexibility as possible. On a national level a minimum percentage would financing some projects very hard considering the Luxembourgish budget and structure. Thus we plead for full flexibility on that point for all three funds.

Concerning the EP's initial request to open up the text to intelligence, we welcome the fact that the EP has abandoned its request. We would like to join the Finnish statement and underline that such a request was never proper in the first place. Luxembourg opposes any inclusion of a reference to intelligence.

POLAND

The draft Regulation of the European Parliament and of the Council establishing the Internal Security Fund takes into account a number of changes to the disputed provisions and the work has been directed in the right direction, as expected by the MS. The document as it stands can be provisionally accepted.

With regard to the percentage distribution of funds for individual specific BMVI, AMF and ISF activities, Poland sees no reason to introduce these changes to the draft Regulations. This will reduce the Member State's influence and flexibility in disposing of the allocation. It should be stressed that Member States, in line with the principle of subsidiarity, are best placed to know their security needs, and it remains the responsibility of Member States towards their citizens to ensure public security. Comments will be made in writing.

PORTUGAL

Lines	Commission proposal COM(2018) 473 final	EP amendments	Council position Partial general approach	PT comments
55		***(38 a) To ensure that the Fund supports actions addressing all the specific objectives of the Fund, and that the allocation of resources among the objectives is proportionate to challenges and needs, so that the objectives can be met, a minimum percentage of allocation from the Fund should be defined for each specific objective of the Fund, both for the national programmes and the thematic facility. [AM27]***		PT does not support establishing minimum percentages for specific objectives. However, if this is the case, PT proposes a minimum percentage of 5% for each objective.
169		***2 a. The funding from the thematic facility shall be allocated as follows:[AM68]***		Idem
170		***a) a minimum of 10 % to the specific objective referred to in point (a) of Article 3(2); [AM68]***		Idem
171		***b) a minimum of 10 % to the specific objective referred to in point (b) of Article 3(2); [AM68]***		Idem

Lines	Commission proposal COM(2018) 473 final	EP amendments	Council position Partial general approach	PT comments
172		***c) a minimum of 30 % to the specific objective referred to in point (c) of Article 3(2); [AM68]***		Idem
173		***d) a minimum of 5% to the specific objective referred to in point (c a) of Article 3(2).[AM68]***		Idem
202		***1 b. Member States shall allocate the resources for their national programmes as follows:[AM77]***		Idem
203		***a) a minimum of 10% to the specific objective referred to in point (a) of Article 3(2);[AM77]***		Idem
204		***b) a minimum of 10 % to the specific objective referred to in point (b) of Article 3(2);[AM77]***		Idem
205		***c) a minimum of 30 % of the to the specific objective referred to in point (c) of Article 3(2);[AM77]***		Idem
206		***d) a minimum of 5% to the specific objective referred to in point (c a) of Article 3(2)(c a).[AM77]***		Idem

ROMANIA

Lines 55, 169 – 173, 202 – 206

RO does not agree with the introduction of minimum or maximum limits on the allocation of funds on certain objectives / actions within both the Thematic Facilities and the National Program.

We consider that the introduction of minimum allocation percentages would contradict even art. Article 12 (5) (c) states that "*In their programs, Member States shall give priority to addressing: (...) country-specific deficiencies with financial implications, as identified in the needs assessments, for example in the corruption recommendations made in the context of the European Semester*".

Thus, the imposition of minimum percentages would prevent Member States from drawing up its National Programs on the basis of National Strategies and needs identified at national level, thus considerably reducing the impact of the Fund on the policy objective set out in Art. 3, paragraph 1, as well as on the degree of flexibility of the fund that must respond to a dynamic and unpredictable security context - red line.

SLOVAKIA

As regard to the draft full mandate on all three funds the Slovak Republic is flexible with view to adopt regulations as soon as possible.

We do not agree that the minimum percentages, which MS must maintain when using funds for the priorities set by their own programs, should be set. Setting % limits loses any flexibility of the financial instrument. **Setting % limits is contrary to recital 24 of the draft regulation**. In case of the approval of the draft ISF regulation is conditional on the setting of % limits, we propose that the % limit for specific objective 3 is reduced. The 30% proposal is inadequately high in relation to specific objective 1 and specific objective 2.

Regarding the setting of % limits when using funds under the **thematic instrument**, we consider that **the EP proposal is in conflict with Art. 8 of the draft ISF Regulation, in particular with para. 2.** The thematic instrument is to be used, also in response to urgent needs (ad-hoc). In ad-hoc situations, it is difficult to meet the minimum % limits.