Council of the European Union
General Secretariat

Interinstitutional files:
2018/0249(COD)

Brussels, 30 September 2020

WK 10198/2020 INIT

LIMITE

JAI
FRONT
VISA
SIRIS
ASIM
CODEC
COMIX

PUBLIC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

From:	Presidency
To:	JHA Counsellors on Financial Instruments
N° Cion doc.:	10151/18
Subject:	Regulation establishing the border management and visa instrument (BMVI) as part of the Integrated Border Management Fund - Compilation of replies

Delegations will find enclosed a compilation of replies to WK 9666/20 on the above proposal.

ANNEX

WRITTEN COMMENTS SUBMITTED BY THE MEMBER STATES

Regulation establishing the border management and visa instrument (BMVI) as part of the Integrated Border Management Fund

WK 9666/20

PUBLIC

Table of contents

BULGARIA 2

CROATIA 3

CZECHIA 4

ESTONIA 5

FINLAND 6

FRANCE 7

GREECE 8

ITALY 9

LUXEMBOURG 10

POLAND 11

PORTUGAL 12

ROMANIA 13

SLOVAKIA 14

SWITZERLAND 15

BULGARIA

Bulgaria presents hereby the following comments on the EP proposals in Document WK 9666/2020 INIT (BMVI):

We confirm our position presented in October 2019 as first observations on EP amendments on BMVI draft Regulation and also in the framework of a written procedure in October 2019 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.

PUBLIC

CROATIA

Minimum percentages proposed by the EP in lines 38, 163 and 193

As stated before we do not support the Amendments from EP setting the minimal percentages for each specific objective from national programs and Thematic Facility. As stated before, Member States have different needs, especially those located at the external borders of the EU which are more exposed to migration pressures.

PUBLIC

CZECHIA

Lines 38, 163 and 193

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.

PUBLIC

PUBLIC

ESTONIA

Line 163

There is room for compromise when it comes to the thematic facility. EE could agree with 20% for the common visa policy.

Line 193

Estonia fully supports the COM's initial proposal and the Council mandate, and cannot agree to introducing minimum allocations of funding for each specific objective in MS's national programme. Additional flexibility and simplification are the keywords for the next financing period. Furthermore, priorities and constraints are already in place in the BMVI regulation.

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

Each MS must be able to choose the most appropriate measures to achieve the objectives of the Fund while taking into account the actual challenges and needs in the region. It is important to guarantee the possibility to optimally combine contributions from different sources. BMVI offers valuable addition to the national budget. However, in Estonia it is only a very small amount of money of what is invested into implementation of the external border and visa policies. Therefore, it should be up to each MS to decide, which areas receive funding from which source keeping also in mind the objective to minimize administrative burden for the final beneficiary.

EP has an opinion that some of the MSs use funds only in one direction although there is a need for progress in every specific objective.

Article 12 of the draft BMVI regulation addresses these concerns:

Art 12(1) precludes the whole programme from pursuing only one direction*: "/.../ In defining the priorities of their programmes, Member States shall ensure that the implementing measures as set out in Annex II are adequately addressed."*

Art 12(7) ensures that priority must be given to fulfilling the obligations stemming from EU legislation: *"/..., /the Member State concerned shall make the implementation of measures to address any identified deficiencies, especially measures to address serious deficiencies and non-compliant assessments, a priority for its programme."*

Introducing additionally minimum allocations of funding for each specific objective in MS's programme 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.

PUBLIC

FRANCE

We cannot, however, subscribe to the European Parliament's proposal, which would introduce a minimum threshold of 20% of funding for the common visa policy. Please find below a detailed explanation of our positions and our proposals for compromise.

A. On setting minimum and/or maximum thresholds (line 38)

– We are opposed to the setting of minimum and/or maximum percentages. Under shared management, national programmes should address the issues that arise at national level under the European policies supported by the BMVI. Setting minimum percentages does not guarantee that the thematic guidelines linked to the Fund's objectives will, in fact, be respected.

– Indeed,we set great store by the availability and flexibility of resources, as this ensures a real ability to respond when faced with evolving and unpredictable phenomena that may arise throughout the duration of the framework.

– Lastly, there were already guidelines in place relating to the purpose of the Fund under the 2014-2020 financial framework. It therefore does not seem necessary, in our view, to make the management of the Fund more burdensome by setting inflexible thresholds.

B. On the introduction of a minimum threshold for the thematic facility (line 163)

– We are opposed to the threshold of 20% proposed by the European Parliament for the thematic facility, for the reasons previously mentioned. Nonetheless, if the principle of minimum thresholds were to be maintained, we could consider a minimum of 10%.

C. On the introduction of a minimum threshold for actions under shared management (line 193)

We are opposed to the threshold of 20 % proposed by the European Parliament for actions under shared management, for the reasons previously mentioned. Nonetheless, if the principle of minimum thresholds were to be maintained, we could consider a minimum of 10%.

PUBLIC

GREECE

Regarding the introduction of minimum percentage proposed by the EP in line 38 "Recital 26", in line 163 Article 8 "General provisions on the implementation of the thematic facility" (par 2a) and in line 193 Article 12 "Programmes" (par 1a), we consider Article 12 par 1 (line 192) is obligatory enough for the MS.

EL disagrees with EP proposal to set a percentage of 20% as a minimum allocation of funding for the common visa policy objective, because it puts an excessive limitation to the flexibility that MS should have on the implementation of the National Programmes. Instead we propose that the minimum percentage is decreased to 10%.

PUBLIC

ITALY

We believe **EP proposal cannot be supported** given (i) the investment policy that Italy successfully pursued aimed atstrengthening air- and maritime-surveillance capacity at EU external borders, and (ii) Italian exposure as a country of arrivals/transits.

Imposing a 20% minimum of resources dedicated to visa policy would limit
the necessary flexibility of Member States in managing their PNs as well as not consider the significantly higher costs recorded for the purchase and maintenance of means and devices dedicated to borders' control and surveillance rather than for visa policy.

As a matter of fact, in the current programming period, ISF BV is committing about 4% of its resources to Visa policy. Therefore, a shift to 20% is reckoned as excessive.

PUBLIC

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.

PUBLIC

POLAND

The draft Regulation of the European Parliament and of the Council establishing an instrument of financial support for border management and visa within the framework of the Integrated Border Management Fund in its current form 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.

PUBLIC

PORTUGAL

Line 38

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.

PUBLIC

ROMANIA

RO does not agree with the minimum allocation percentages for visa specific objective, because any ceiling would prevent Member States from drawing up their 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 as well as on the degree of flexibility of the fund that must respond to a dynamic and unpredictable security context - red line.

PUBLIC

<u>SLOVAKIA</u>

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

On lines 38 and 193 - we are in favor of the Commission's draft text and the Council's position - we prefer that the regulation does not specify the limited use of funds allocated to National Programs. The decision on what objectives will be allocated funds should be left to the MS in accordance with their needs and priorities. In the current ISF - Borders program, we draw only 6.8% on visa policy. If the EP insists on setting percentages, in the interest of flexibility and the use of funds in accordance with the priorities of the Slovak Republic, we are in favor of setting the lowest possible percentages.

PUBLIC

SWITZERLAND

Switzerland cannot support the proposed amendment.

Such requirements have not proved useful in the context of the ISF Borders. The suggestion here is that these minimum percentages should be met in connection with the national objectives. As a consequence, instead of measures being selected to receive funding on the basis of each country's real needs and priorities, the main focus is placed on complying with the rules as per the legal basis. This approach causes inefficiencies and makes it more difficult to fully utilise the funding available.

PUBLIC