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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
Subject:	Compilation of comments from Member States on the Internal Security Fund

With reference to the Ad Hoc Working Party on JHA Financial instruments meeting on 15 October 2018, delegations will find a compilation of comments from Member States on the Internal Security Fund.

BULGARIA

Article	Comments/Questions
Article 12 Programmes	With reference to Article 12(4) we would like to raise concerns on the limitation for the purchase of equipment and means of transport to a maximum of 15 % of the allocation of a Member State programme. Taking into account the significance of those activities for the implementation of the objectives of ISF Regulation in relation to exchange of information/interoperability of IT systems and combatting cross-border crime, we consider that the proposed limitation has to be discussed.
Article 14 Specific actions	We consider as positive development the possibility to support specific actions under ISF as well as their implementation through the Member States' national programmes.
Article 15 Operating support	Bulgaria welcomes the inclusion of the Operating Support in the ISF Regulation. However, we consider appropriate increasing the maximum percentage for Operating support in view of the envisaged development of security relevant IT systems and interoperability and in particular in terms of the proposed improvements of SIS II in the field of police and judicial cooperation in criminal matters.

CROATIA

Article 5

No objections.

Article 12, paragraph 4

A 15% limitation of the allocation of a Member State programs may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities – Member States would like an increase in or revocation of the limitation (DE, BG, CZ, PT, EI, EE, LT, HU, FR)

We agree with the above mentioned position stating that the limitation should be revoked or increased.

Article 12, paragraph 2 and 3

The consultation with agencies is unclear and might slow-down procedures.

We support the strengthening of the parts played by Union agencies (EUROPOL, CEPOL, EMCDDA) in the implementation of EU priorities, objectives and activities in the area of security. However, the role of the Union agencies is unclear when it comes to programming and we are sceptical with regard to the manner in which they will, within the area of their competence, associate to the development of the programme. In addition, their potential monitoring and evaluation tasks haven't been sufficiently elaborated. We therefore share with some Member States the concern that the envisaged consultations with Union agencies will slow down procedures.

Article 13 – mid-term review

The 10% payment for the initial allocation, which must be administered in order for Member States to be eligible for receiving additional allocation, is debatable.

Considering that it cannot be assumed with certainty that this limitation will not be an obstacle for drawing on additional funding, we share the opinion that it should be revoked or adjusted.

Article 15 – operating support

An increase has been requested of the 10% of the amount allocated under the Fund to its programme to finance operating support for the public authorities

One of the new proposals mentioned in the Regulation is the financing of operating support for all public authorities but with a limitation of maximum 10% of the amount allocated to the programme which can be invested in operating support. Some Member States propose that the percentage be increased, which we support. However, given the limitations referred to in Article 12, paragraph 4, we find it necessary to make an exhaustive list of all that can be financed in this way.

Note: an Ad hoc meeting was held by the Council Working Party on the MFF 2021-2027 in the area of home affairs. Following the meeting, Member States were invited to deliver written comments to Articles 1, 2, 3 + Annex II, 4 + Annex III, 6, 7-3, 8, 9, 10-4, 11-6 and 11-7

ESTONIA

Preliminary comments¹ on articles 5, 12, 13, 14, 15, 22, Annex IV, Annex VI and Annex VII

Article 12 (Programmes)

- 12(1) - *Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in 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.*

The implementing measures in Annex II must be adequately addressed in the programme. The regulation does not foresee any concrete limitations or minimum requirements in terms of addressing the implementing measures set in Annex II and **we support this approach**. By no means are we trying to put back the minimum requirements for this.

However, it is not quite clear what is meant by “adequately addressed” in the context of this paragraph. Is this up to the MS to decide? It may happen that the MS finds it has addressed all the necessary priorities (taking account the needs of the MS), however, when reading this paragraph, COM may refer at any time that the programme does not address the implementing measures adequately.

We propose to add reference to taking account the actual needs and priorities of the MS into the final phrase of this paragraph to add more weight to the MSs assessment:

“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, **taking account the needs and priorities identified by the Member States**”.

- 12(2) - *The Commission shall ensure that the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) are associated to the development of the programmes at an early stage, as regards the areas of their competence. Specifically, Member States shall consult Europol on the design of their actions in particular when including EU policy cycle or EMPACT actions or actions coordinated by the Joint Cybercrime Action Taskforce (J- CAT) in their programmes. Prior to including training in their programmes, Member States shall coordinate with CEPOL in order to avoid overlaps.*

As regards section two, we would appreciate more practical explanation on how does the COM see the consulting process with the Agencies. One quite logical assumption would be that the COM consults the agencies prior to approving the programmes. However, as the reference in the regulation is made to the MSs and their obligation to consult and coordinate their actions at the early stage of programming it would be good to clarify how this coordination process would look like in practice. Most importantly, this consultation process should not hinder the smooth and timely process of approving programmes.

¹ The official position of EE has not yet been approved by the Parliament of Estonia, this may result in changes or additions in the comments presented in this paper.

- *12(4) - A maximum of 15 % 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.*

EE is very much against this proposal as this is a very abrupt change considering that there is no such limitation under the current period. We believe that this proposal does not take into account the actual needs of Member States nor the specificity of the area. It is extremely important to have and use state of the art technology and equipment when it comes to tackling and fighting all types of crimes. Trainings, cooperation, exchange of best practices and other “soft actions” are similarly essential **but the clear limitation on acquisitions should not be introduced**, or at least the maximum percentage should be considerably higher. Moreover, **the limitation on purchase of equipment should not include the ICT-equipment**. ICT systems, especially large EU IT-systems are a high priority of the union and all these systems need to be accommodated.

We believe that including standard equipment into the list of ineligible costs serves already the purpose explained by the COM (not to finance equipment/means of transport etc which are only used for national purposes). Also, if the calculation of 15% is based on the current period as explained by the COM, we are struggling to understand, why is it necessary to regulate this at all if the number already reflects current practices?

- *12(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.*

We support the idea that if the reference to Annex IV needs to be made in the regulation, it should include clear indication that a MS shall only take these priorities into account while preparing the initial programme (not while amending the programmes as the reasons for amendments result from specific needs).

- *12(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 start of the project.*

Section 8 concerning consulting with the COM prior to the start of the project with or in a third country, needs to be clarified further. What is the reason behind this requirement? At what stage should this consultation process take place (programming level, project selection level, implementing level, reporting level)?

Article 15 (Operating support)

- *15(2) A Member State may use up to 10 % 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.*

10% of the amount allocated to the programme may not be sufficient, considering that ICT-systems and their interoperability is a high priority of the Union and all these systems need to be maintained and upgraded. The proposed percentage may especially prove to be insufficient for the smaller MSs whose national envelopes are smaller. It is worth noting that BMVI benefits from up to 30% for the operative support. We encourage the COM to revise this percentage for the ISF.

- 15(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.

If the MS intends to include operating support into its program, what may be the reasons or on what grounds could the COM refuse to accept to add these measures into the program?

Annex VI (Types of intervention)

- Table 2 (codes for the type of action dimension):

Reference to “excluding equipment” should be removed from point 1. EE supports that the acquisition of hardware necessary for using IT-systems and communication systems is not limited.

Points 8, 9 and 10 include reference to 15% cap. This should be revised. EE supports the lifting of this limit or if this proposal is not supported, increasing the percentage considerably.

Annex VII (Eligible actions for operating support)

Within specific objective *better information exchange*, operating support within the programmes should also cover **maintenance of communication networks** contributing to the achievement of the objectives of the fund.

Projects which aim at improving the interoperability of IT systems and communication networks are considered to have high priority (listed in Annex IV). The operating support should also cover both, IT-systems and communication networks.

Hence, we propose the following wording:

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

- maintenance and helpdesk of Union and where relevant national IT systems **and communication networks** contributing to the achievement of the objectives of this Regulation.

FINLAND

Currently the proposal does not mention hybrid threats as such even though they are mentioned in the impact assessment (page 4) published together with the proposal:

"Finally, cybercrime is an ever-growing threat. On average, globally more than 4 000 ransomware attacks have occurred daily since the beginning of 2016, representing a 300% increase compared to 2015. Studies suggest that the economic impact of cybercrime increased by 500% from 2013 to 2017, and is projected to rise significantly by 2019¹⁷. Threats such as those posed by cyberterrorism and hybrid threats could also increase in the years to come."

We would propose to change the wording of recital 11 as follows (changes in red):

(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 tackling terrorism and radicalisation, serious and organised crime and cybercrime and 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 hybrid threats, with a view to implementing a genuine security union. This should be pursued through financial assistance to support better information exchange, increase operational cooperation and improve national and collective capabilities.

FRANCE

To recap, following on from the meeting of the ad hoc JHA/ISF Working Party on 24 September 2018, the Presidency would like France to submit its proposal for amendment of Article 12 (programmes) of the draft ISF Regulation under the future MFF 2021 – 2027. We are grateful to the Presidency for this request.

We should like to set out the following positions:

Article 12: programmes

Paragraph 2:

Member States shall consult Europol on the design of their actions': the French authorities would prefer to use the verb 'to coordinate' instead of 'to consult', thus suggesting partnership and active cooperation.

The French authorities would like to include a reference to the duties of National EMPACT Coordinators (NECs), which are not mentioned in the draft although they exist in every Member State. According to the terms of reference (10544/2/17 REV 2 COSI), NECs are responsible for ensuring that their countries' commitment to European Operational Action Plans (OAPs) matches the actual involvement of national services; they must also ensure the implementation of COSI decisions and recommendations about the EU policy cycle, in particular where relevant to EMPACT methodology. Their involvement would be justified in a framework such as this.

We therefore propose the following drafting changes:

*The Commission shall ensure that the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) are associated to the development of the programmes at an early stage, on a continuing basis, as regards the areas of their competence. Specifically, Member States shall **coordinate with** Europol on the design of their actions: **through (or with the assistance of) their National EMPACT Coordinators (NECs) when including EU policy cycle or EMPACT actions in their programmes, or through their national contact points when including actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT) in their programmes.** Prior to including training in their programmes, Member States shall coordinate with CEPOL, **via their national units (CNUs)**, in order to avoid overlaps.*

GERMANY

Article 12

Article 12 (4)

- According to Article 12 (4), first sentence, a maximum of only 15% 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. According to Article 12 (4), second sentence, this ceiling may be exceeded only in duly justified cases.
- We believe that a ceiling of 15% is not high enough and are therefore opposed to it. The Member States should have a greater margin of discretion here.
- The construction of security-relevant facilities is an effective and efficient way to use funding.
- In some Member States, purchasing equipment and means of transport is the most efficient way to step up the fight against crime.

Article 12 (5)

- In the interest of consistent terminology, the phrase in Article 12 (5) (a) (“addressing ... interoperability of IT systems”) should be revised in line with the wording in Annex IV (“improving the interoperability of IT systems”). The same applies to Annex II (see para. 1 (b)).

Article 12 (8)

- The aim of this provision is unclear.
- If the provision is intended to create synergies and avoid duplication of funding, we suggest revising the provision to be more specific by replacing the phrase “*the Member State concerned shall consult the Commission prior to the start of the project*” with the following text: “*the Member State concerned shall contact the Commission in advance to coordinate these projects before they start, in order to explore the possibility of synergies and avoid duplication of funding.*”

Article 15 (2)

- According to Article 15 (2), a Member State may use up to 10% 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.
- This limit is too low and in our opinion will affect in particular those Member States which lack sufficient funds to operate the EU IT systems (such as SIS, etc.). This is, however, precisely the area where investing funds makes good sense.
- We fear that, if funding for operating support is limited to 10%, the equipment and IT acquired will no longer be available for the EU IT systems in some Member States.
- We therefore propose increasing the limit in Article 15 (2) to 20%.

Annex IV

- As already explained in the past, we still propose adding projects to fight cyber crime and projects to fight especially harmful structures of organized crime according to EMPACT to the list, as both areas cause major harm to society and related projects are therefore especially worth funding.

GREECE

Comments from the Greek Ministry of Maritime Affairs and Insular Policy.

Article 12 - Programmes

4. A maximum of 15 % 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.

We strongly support that the above percentage must be increased to at least 30% in order to allow to Member States to purchase the appropriate equipment (Patrol Boats, Special Purpose Vehicles).

It is underlined that Greece faces **intense problem in relevance with Migrant Smuggling and furthermore the following intervention fields** (according to table 1 of Annex VI): **Drugs, Firearms Trafficking, Trafficking in Human Beings, Environmental Crime**, especially concerning sea field.

The above amendment in combination with the existing Paragraph 3 of Annex VII about Eligible actions for operating support, will help Greece significantly, to organise operations targeting the constraint of the organised crime in the sea field which Hellenic Coast Guard supervises.

Comments from the Ministry of Citizen Protection, European and Development Programs Agency

Article 5, par. 3

In this paragraph it should be added that in case of resorting to the participation of third country legal entities, the necessity for which this entity is chosen, should be duly justified.

Article 12 par. 4

In this paragraph it is mentioned that a maximum of 15% of the granted programme for each member state shall be used for purchase of equipment, vehicles etc. However, such percentage is not enough for the needs of the member states due to the fact that many actions taking place in the framework of “Preventing and Combating Crime” is based on the equipment and the means of transport used as a means of assisting. Therefore, taking into account the procedures followed in our country, an increase of at least of 5% of this percentage will contribute significantly to the effectiveness of law enforcement agencies.

Article 14

In this article should be added that in case of specific actions, all the procedures followed including the amendment of the programme must be more flexible due to the urgent character of the action.

Article 15 par. 4

The 10% rate for the financing of the operational support of the public authorities responsible for fulfilling the tasks and services constituting a public service for the Union is considered to be particularly low, on the basis of existing needs. Therefore, it is proposed an increase of the percentage of at least 20% (30% total).

Article 15 par. 5

It is proposed to include actions in the field of prevention, detection and investigation of serious and organized crime, not only cross-border.

Article 22

Same as article 14.

ANNEX IV

Should be added "Projects which aim at preventing the crime of Metropolitan Municipalities and Organized Crime".

HUNGARY

Article 5

Please confirm that the work program referred to includes both the National Program of the Member States and the Commission's work program (eg. union action). In this case we recommend clarifying the text.

Article 12 - Programs

With regard to paragraphs 2 and 3:

In our view, the listed EU agencies - Europol, CEPOL and the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) - are over-emphasized. We agree that the Agencies should be involved in monitoring and evaluation tasks, but only if they do not take powers away from the Member States.

With regard to paragraph 4:

The 15% allocation limit for purchase of equipment, means of transport or security-relevant installations is found to be too strict and unjustified. We believe that this severe restriction would make the situation of the Member States more difficult and ultimately result in a deterioration in efficiency. We recommend abolishing the restriction.

Article 13: Mid-term review

We are concerned that evaluations should be completed by 31 March 2024, as the implementation period of the programs is much longer (until 30 June 2029) than the programming period. Based on the experiences of the current programming period, such an early implementation of the evaluations cannot give an objective picture of the situation in the Member States as the outputs and results of the projects will be available in a later phase (we believe that the program can start in due time; however selection of projects and their implementation until relevant results can be seen take time); therefore any transfers deemed necessary will not be well-founded. In view of this we suggest that the date should be postponed to at least one year later.

Article 15 - Operating support

With regard to paragraph 2:

We consider the 10% restriction on operating support to be unjustifiably strict, in our view, this would not provide sufficient resources for the Member States.

In view of this, we recommend abolishing the restriction or at least adapting to the level set out in the Integrated Border Management Fund.

With regard to paragraph 3:

In our view, it is necessary to interpret the provision in the paragraph that "Member State using operating support shall comply with the Union acquis on security", what does this mean specifically in the case of operating support.

Annex IV

We propose to supplement the first point with the anti-terrorism area.

It is proposed to clarify the procedures needed to apply a higher funding rate.

LATVIA

Article 5

Latvia can support the wording proposed by the Commission.

Article 12

1) Latvia would like to request to align the procedure principle of this Article 12 (2) (by splitting it in two paragraphs) according to the procedure principle stipulated in the Regulation proposal for Integrated Border Management Fund Article 12 (2) and (3), as follows:

2. The Commission shall ensure that the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) are associated to the development of the programmes at an early stage, as regards the areas of their competence.

3. It shall consult the EUROPOL on the design of actions in particular when EU policy cycle or EMPACT actions or actions co-ordinated by the Joint Cybercrime Action Taskforce (J-CAT) are included in the programmes, as well as it shall coordinate with CEPOL any training activities that are included in the programmes in order to avoid overlaps.

The principle of the suggestion is to avoid delays in programme development process because experience has proved that the EU Agencies respond to Member State requests much longer than they do to requests made by the European Commission.

2) Latvia would like to have a discussion on the possibility to increase percentage allocated to be used for purchase of equipment, means of transport or the construction of security relevant facilities.

3) Latvia would like to request to change the wording in Article 12 (7), excluding the words “in particular”. There is no justification provided to make the exceptional emphases on the actions listed in Annex IV. Excluding the wording “in particular” Member States are given more flexibility in decision making.

Article 13

Taking into account the fact that the results of the mid-term evaluation are an essential condition for the next allocation of money, Latvia considers that the period for the mid-term evaluation set out in the article is too early and should be determined one year later.

If the European Commission agrees to postpone the mid-term evaluation for one year from 2024 to 2025, Latvia could support other Member States in the request to increase the percentage of the initial allocation described in Article 13 (2).

Article 14

Latvia would like to request clarification with examples on wording used in Article 14 (3) “duly justified circumstances”.

Article 15

Latvia can support the wording proposed by the Commission.

Article 22

Latvia would like to request clarification on the source of financing of Emergency assistance described in Article 22 (2).

Latvia seeks clarifications on the principles according to which emergency assistance can be scheduled in the MS National programmes in order to comply with the provisions of Article 22 (3).

Annex IV

Latvia can support the wording proposed by the Commission.

Annex VI

Latvia can support the wording proposed by the Commission.

Annex VII

Latvia can support the wording proposed by the Commission.

POLAND

PL in principle supports the European Commission's proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund, based on good experience related to the implementation of projects under the current ISF. It should be emphasized that some of the provisions in the abovementioned draft act require changes and clarification.

Chapter II – Financial and implementation framework:

Article 12 para 4

PL indicates the necessity to discuss the provision which introduces a limitation to use a maximum of 15% of the allocated funds for a Member State's given programme for the purchase of equipment, means of transport or construction of security-relevant facilities. The indicated ceiling is insufficient and we propose to consider increasing this level, even up to 50%.

Justification:

According to PL, projects should bring long-lasting usable after their completion. As the previous experience shows, ISF's undertakings will mainly concern the purchase of equipment, infrastructure (including IT infrastructure), because such activities guarantee a permanent increase in security level. The introduction of a 15% limitation on such activities would indispose the Fund to respond to the key needs of services in this area. Soft activities, meetings, exchange of information are important, but without proper facilities and modern technology, they may not be effective enough. Successful actions in the area of EU security require substantial resources and capabilities from the Member States.

Additional questions:

- Under what justification can this limit be exceeded?
- Does not the above provision introduce a large inequality between ISF and BMVI and the possibility of implementing activities important from the MS' point of view?

Article 12 para 2 i 3

PL recommends modifying this provision.

Justification:

Indication of the obligation to consult with the CEPOL Agency on the subject of trainings to be implemented under the ISF may result in the extension of time of preparation of the project documentation (namely time needed for obtaining the relevant consent).

PL points to the necessity of a clear and precise definition who, when and under what circumstances can agree on this topic?

Article 12 para 8

PL expresses the need to discuss the additional obligation to consult the EC about any project implemented with a third country or within its area. PL is willing to know the reasons for such a provision.

Justification:

The need to conduct such consultations introduces an additional limitation that may cause delays in project implementation.

Art. 13 para 2:

As it was mentioned during the ISF Working Group meeting on September 24th, please find attached the proposal of reformulated Article 13(2).

MINIMUM PROPSAL

If less than 10 % of the initial allocation of a programme referred to in Article 11(1)(a) has been covered by payment applications submitted in accordance with Article [85] of Regulation (EU) .../2021 [Common Provisions Regulation], the Member State concerned shall not be eligible to receive the additional allocation for the programme referred to in paragraph 1.

FULL PROPOSAL (same words, but in another sequence, deleted word “concerned”)

The Member State shall not be eligible to receive the additional allocation for the programme referred to in paragraph 1 if less than 10 % of the initial allocation of a programme referred to in Article 11(1)(a) has been covered by payment applications submitted in accordance with Article [85] of Regulation (EU) .../2021 [Common Provisions Regulation].

Article 15

PL expresses the need to discuss the possibility of co-financing such activities (i.e. operating support) under two different funds, i.e. ISF and BMVI.

Justification:

Which of the funds will be appropriate to co-finance measures in the case of systems managed by the Police, which are also used by the Border Guard (in particular SIS and VIS); but this also applies to transfer networks managed by the Police and used by other services?

Annex IV

PL proposes considering adding to the list of "Actions eligible for higher co-financing in-line with art. 11 para. 2 and art. 12 para. 6" projects aimed at preventing and combating terrorism, as an area of interest to MS of paramount importance for public safety and order, also in the light of current international events.

Additional question: Is the purchase of mobile portable terminals a category of *standard equipment* that does not meet the eligibility criteria (Article 4 (3b))?

PORTUGAL

A – Proposals on Articles 7, 10 and 13

At the time of the a.m. meeting, and considering the partition of 60% of the overall budgetary resources for Shared Management / National Programs; and 40% for the Centralised Management / Thematic Facilities, many Delegations representing several Member States have suggested a significant decrease on the amount of resources allocated to the Thematic Facilities.

The European Commission, in turn, has justified, through its Fiche n. 1, this proposal by reinforcing its intention to guarantee two central aspects:

- The allocations foreseen for the Thematic Facilities respect a primary objective to serve as a reinforcement of the allocation to be attributed to the National Programs (namely, through Specific Actions and Emergency Assistance);
- The allocations foreseen for the Thematic Facilities seek to respond to unforeseen challenges and, in particular, to the future entry into force of new technological or operational systems, relevant for the area of integrated border management and visa, which cannot be foreseen at the current time – and, thus, entailing a possible reinforcement of the allocations of the National Programs through the Top Ups, made by the European Commission, to certain policy areas.

Without prejudice to the justifications presented by the European Commission, Portugal is convinced of the need to guarantee further clarity, transparency and predictability in the financial management to be made through Shared Management.

Portugal is also convinced of the need to develop all possible efforts in order to avoid the complex and burdensome exercises, taking place under the current AMIF and ISF, for each revision of the National Programs. As a matter of fact, there have been years where two or even three revisions of the National Programs, per Fund, were imposed, by the European Commission, on the Member States, implying an extra administrative burden, with direct implications on the allocation of human resources and time spent to respond accordingly.

Henceforth, Portugal is of the view that, bearing in mind the policy objectives set out by the European Commission above, the same results could be reached, with a significantly lower administrative burden, as well as with a clearly increased amount of transparency and predictability, if the following changes were made:

- The 40% of the financial allocation to be attributed, under the ISF, to the Thematic Facilities (art. 7, n. 2, b)), should decrease to 30%;
- The remaining 10% of the financial allocation, coming from the Thematic Facilities (current proposal) should increase the 60% of the allocation for Shared Management / National Programs (art. 7, n. 2, a)).
- Nonetheless, these extra 10%, coming from the Thematic Facility, should be added to the 10% already left, under the European Commission's initiative, to be allocated in the context of the Mid Term Review – as foreseen in art.s 10 and 13 of the current Regulation proposal – which would now amount to 20% of budget left for the review taking place in 2024.

In case there is an agreement from the Presidency, from the European Commission, as well as that of the remaining Member States, on this proposal, the subsequent adjustments should be made to the following articles:

- Article 7 (calculations over n. 2 a) and b));
- Article 10 (calculations over n. 1 a) and b));
- Article 13

Portugal is of the view that these changes would much favour all parties involved, and, without doubts, clearly contributing to the concretion of the objectives indicated by the European Commission as regards to channelling the allocations of the Thematic Facilities to the National Programs of the Member States.

The concretion of this proposal would, simultaneously, constitute a significant incentive given to the Member States in order to further engage in guaranteeing a swift and anticipated financial consumption of the Fund, with the purpose of having positive indicators to serve as the basis for the Mid Term Review exercise.

B – Proposal on Article 12(4)

For the reasons shared in the meeting of the 24th of September, Portugal is of the view that the wording of paragraph 4 of Art. 12 should be deleted.

In case the European Commission decides to maintain this limitation, Portugal is of the view that the maximum sealing should be changed to 50% of the National Allocations / National Programs.

C - Proposal on Article 13

Regarding **the Art. 13** (*Mid-term review*), n. 2, and in case the European Commission maintains its original proposal according to which the Member States must accomplish a minimum of 10% of payments until 2024 – in order to qualify for receiving the additional 10% of allocations foreseen for the midterm review – the Portuguese Delegation suggests for the inclusion of a **safeguard clause**, according to which this minimum threshold of payments will only be applicable in case all regulatory framework and associated acts, serving as the basis for the MFF 21-27, have been approved and enter into effect on the 1st of January 2021.

D – Proposal on Article 15 (2)

Portugal strongly supports the extension of the Operating Support to the ISF.

In this context, Portugal considers, nonetheless, that the maximum sealing for the financing to be attributed to this purpose should be increased, from the 10% put forward in the current Regulation proposal, to a new maximum of 30%, as suggested by other delegations.

E - Proposal on Annex IV

Regarding **Annex IV – Actions eligible for higher co-financing in-line with Arts. 12(2) and 13(7)**, Portugal agrees with the definition of a certain number of areas in which the cofinancing can amount to 90% of the approved, having nothing to object to the policy areas mentioned in the current proposal. Considering its importance, Portugal maintains its proposal, for the inclusion of a **third category of projects**, which may be subject to a higher cofinancing of 90%, aiming at:

- o “...equipment, means of transport, communication systems and essential security-relevant facilities” (in line with the penultimate bullet of Annex III);

SLOVAKIA

Article 5

Without any comments.

Article 12

par. 2 - SK does not support the EU agencies' intervention in defining MS's priorities and design of the national programmes.

par. 4 – SK does not support and has reservations to the limit of 15% of the allocation for MS programme for the purchase of equipment, means of transport and security relevant facilities. SK **strongly supports** to increase this limit up-to 50% of the allocation for MS programme. We are of the opinion that focusing on soft activities, as proposed by COM, is ineffective, taking into account the global security situation. There is a need of more intensive cooperation and information exchange between MS; however the most effective way to achieve this goal is through IT communication tools. Moreover, another negative aspect shall be considered; sustainability of actions. We are of the opinion, that sustainability of these types of actions is not realistic.

SK supports the proposal (FI and CZ) on deleting the 1st sentence of par. 7 -

*“The MS shall **in particular** pursue actions (...) listed in Annex IV”*. WE fully agree with the opinion that the proposed obligation is in contradiction with e.g. par. 5 (c) of Art. 12; the obligation is limiting MS in designing their national programmes and in defining national needs and goals.

Article 13

In general, **SK** is of the opinion that the area of security requires immediate response to unexpected situation. That is the reason that the ISF should not be bound to performance framework (Art. 13/2).

Moreover, SK has to take into account the experience from the current programme period, when implementation of projects, including spending of finances is conditioned by procurements (strict procurements rules in case of projects supported by EU funds), the implementation was slowed down in the first years.

The 10% condition proposed in par. 2 of Art. 12 is too restrictive. SK proposes to delete this condition, considering the above given justification.

Article 14

SK does not have any reservations to Specific Actions (SA). However, in order to implement SA effectively, and taking into account experiences from the current programme period we suggest that a kind of implementation rules are in place, especially in case of transnational projects – rules for controls, audits, eligibility rules, etc.

Article 15

par. 2 – SK proposes to increase the percentage up to 30% of the amount allocated for the MS programme.

Article 22

SK would welcome more precise definition, which situation will be considered as emergency; (comparing it to Art. 23/1 of IBM and Art. 26/1 of AMF).

Annexes IV, VI and VII

Without any comments.

SLOVENIA

CHAPTER I – GENERAL PROVISIONS

Article number	Article name	Reservation YES/NO	Content	Suggestions / other remarks
Article 2	Definitions		<i>We would suggest using the agreed definition of the term “critical infrastructure”.</i>	<i>Under point c) we suggest the insertion of the definition of the term “Critical infrastructure” from Council Directive (ES) 114/2008 dated 8th December 2008 to avoid too many definitions of the same term.</i>
Article 4	Scope of support	YES	<i>Current suggestion (point 3) does not foresee informant rewards outside framework of an EMPACT action. We find working with informants a very efficient and indispensable tool in the fight against serious and organised crime. As key element of proactive police work, it provides basis for successful gathering of information in criminal proceedings.</i>	<i>We suggest keeping the possibility of informant rewards also outside framework of an EMPACT action.</i>

CHAPTER II – FINANCIAL AND IMPLEMENTATION FRAMEWORK

Article number	Article name	Reservation YES/NO	Content	Suggestions/ other remarks
SECTION 1 – COMMON PROVISIONS				
Article 7	Budget			We would appreciate additional clarifications regarding conditions for allocation and eligibility rules on technical assistance at the initiative of the Commission.

Article number	Article name	Reservation YES/NO	Content	Suggestions/ other remarks
SECTION 2 - SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT				
<i>Article 12</i>	Programmes	YES	We would have a reservation regarding a ceiling of 15% of the allocation of a Member State programme that may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities as per point 4. This ceiling may be exceeded only in duly justified cases.	We would like to raise the ceiling to 30% allocation of a Member State programme that may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities as per point 4. This ceiling may be exceeded only in duly justified cases. In addition, We would need more information on the consults with agencies such as: the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA): is the scope of these consultations not to finance the same actions (if these agencies are planning calls for proposals) or to avoid double financing?
<i>Article 14</i>	Specific actions			It is important to determine clear rules in case of costs. As it is impossible for leading countries to monitor projects when they involve different rules of different partner countries.

Article number	Article name	Reservation YES/NO	Content	Suggestions/ other remarks
<i>Article 15</i>	Operating support	YES	We support the introduction of operating support but find its ceiling of 10% too low.	We would suggest to raise the ceiling of 10%. In addition, we would require additional clarifications on the fact that 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. Does this mean that not all MS would be eligible for operational support or they will be sorted according to the baselines? Are the projects under operating support implemented as regular projects?
SECTION 3 – SUPPORT AND IMPLEMENTATION UNDER DIRECT AND INDIRECT MANAGEMENT				
<i>Article 17</i>	Union actions			We would kindly ask for more information what is meant by grants, prizes and procurement.
<i>Article 19</i>	Technical assistance at the initiative of the Commission			Also in relation to Article 7 / Point 3 and Article 8 / Point 1 We would ask for additional clarifications on the nature of technical assistance.

ANNEXES

Annex number	Annex name	Reservation YES/NO	Content	Suggestions/ other remarks
II.	Implementation measures	YES	<i>Suggestion to extend in 3(2)© to the area of enforcement of prison sentences.</i>	The Fund shall contribute to the specific objective set out in Article 3(2)(c), by focusing on the following implementation measures: (a) to increase law enforcement and prison sentences enforcement training, exercises, mutual learning, specialised exchange programmes and sharing of best practice including in and with third countries and other relevant actors;.