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From:	Presidency
To:	JHA Counsellors on Financial Instruments
N° Cion doc.:	10153/18 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund

For information purposes, delegations will find, annexed to this note, a possible compromise proposal from the Presidency on the objectives of the Fund and relevant minimum percentages in Articles 3, 9 and 13, for further consideration by the EP and further discussions at the technical level.

Proposal for a Regulation establishing the Asylum and Migration Fund

Council compromise proposal on the objectives in Article 3 and the relevant minimum percentages in the Thematic facility (Article 9) and Programmes (Article 13)

Ln.	Council compromise text	Comments
90.	Article 3 Objectives of the Fund	Agreed on the basis of COM proposal.
91.	1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows / address migration and asylum challenges in an effective and efficient manner in line with while fully respecting the relevant Union <i>acquis</i> and in compliance with the Union's commitments on fundamental rights the international obligations of the Union and the Member States arising from international instruments to which they are signatories.	Commission proposal and the agreed reference to <i>acquis</i> and international obligations.
92.	2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:	Agreed on the basis of COM proposal.
93.	(a) to strengthen and develop all aspects of the Common European Asylum System, including its external dimension;	Agreed on the basis of COM proposal.
94.	(b) to support legal migration to the Member States in accordance with their economic and social needs, including and to contribute to the effective integration and social inclusion of third-country nationals;	Based on current AMIF Regulation and elements from AMs 69 and 70 of the EP.
95.	(c) to contribute to countering irregular migration and ensuring enhancing effectiveness of effective, safe and dignified return, and readmission and initial reintegration in third countries.	Council proposes a compromise to AM 71.
95a.	(ca) to enhance solidarity and responsibility sharing between the Member States, in particular towards those most affected by migration and asylum challenges, including through practical cooperation;	Based on AM 72 and taking into account current AMIF regulation text.
95b.	[...]	To delete
96.	3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.	Agreed on the basis of the COM proposal.

Ln.	Council compromise text	Comments
129	Article 9 General provisions on the implementation of the thematic facility	Agreed on the basis of the COM proposal.
130	1. The financial envelope referred to in Article 8(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:	Agreed on the basis of the COM proposal.
131	a) specific actions;	Agreed on the basis of the COM proposal.
132	b) Union actions;	Agreed on the basis of the COM proposal.
133	c) emergency assistance;	Agreed on the basis of the COM proposal.
134	d) resettlement <i>and humanitarian admission</i> ;	
135	e) support to Member States <i>in transfer of applicants for international protection or beneficiaries of international protection as part of</i> contributing to solidarity and responsibility efforts; and	
136	f) European Migration Network.	Agreed on the basis of the COM proposal.
137	Technical assistance at the initiative of the Commission shall also be supported from the financial envelope for the thematic facility.	Agreed on the basis of the COM proposal.
138	2. Funding from the thematic facility shall address priorities with a high added value to the Union or be used to respond to urgent needs in line with agreed Union priorities as outlined in Annex II.	Provisional agreement reached at technical level on 7 July.
	<i>A significant part of the funding from the thematic facility shall be used for supporting actions in or in relation to third countries in order to address external migration.</i>	Political To be discussed further.
138a	<i>The Commission shall ensure regular engagement with civil society organisations in the preparation, implementation, monitoring and evaluation of work programmes</i>	Council is willing to consider a COM compromise for lines 63a and 138a
138b	[...]	To delete

138c	[...]	To delete
138d	[...]	To delete
138e	<i>A minimum of 10 % of the <u>allocated</u> resources from the thematic facility shall be allocated to the specific objective referred to in point (ca) of the first subparagraph of Article 3(2).</i>	Council can support part of EP AM 93 (as amended) on minimum % on solidarity objective.
139	3. When funding from the thematic facility is granted in direct or indirect management to Member States, projects which are affected by a reasoned opinion by the Commission in respect of an infringement <i>proceedings</i> under Article 258 TFEU that put at risk the legality and regularity of expenditure or the performance of <i>those</i> projects <i>shall not be selected</i> .	Provisional agreement confirmed at trilogue meeting on 7 Oct 2020.
140	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 that puts at risk the legality and regularity of expenditure or the performance of the actions.	Provisional agreement confirmed at trilogue meeting on 7 Oct 2020.
141	Not part of this compromise - to be discussed separately and as part of the horizontal matters	
142	6. The thematic facility shall in particular, support actions falling under the implementation measure 2(b) of Annex II that are implemented by the <i>national, regional</i> and local authorities or civil society organisations. <i>In that regard, a minimum of 5 % of <u>that allocated resources from</u> the thematic facility shall be granted under direct or indirect management to local and regional authorities implementing integration actions.</i>	Presidency proposes willing to accept EP AM 97 (as amended) for a minimum of 5% for local and regional authorities over the entire period of the Fund.

Ln.	Council compromise text	Comments
164.	Article 13 Programmes	Agreed on the basis of COM proposal.
165.	1. Each Member State <i>[and the Commission]</i> shall ensure that the priorities addressed in its programme are consistent with, and respond to, the Union priorities and challenges in the area of asylum and migration management and are fully in line with the relevant Union <i>acquis</i> and agreed Union priorities, while fully respecting the relevant Union acquis and the international obligations of the Union and the Member States arising from international instruments to which they are signatory . In defining the priorities of their programmes Member States shall ensure that the implementation measures set out in Annex II are adequately addressed.	Compromise proposal to EP amendments 103 and 104 (lines 165 - 165e). Para 1b taken from Article 15(1)(a) of current AMIF Regulation.
165a	1a. In that regard, and without prejudice to para 1b below, Member States shall allocate: (a) a minimum of 7% of their allocated resources to the specific objective referred to in point (a) of paragraph 2 of Article 3; and (b) a minimum of 7% of their allocated resources to the specific objective referred to in point (b) of paragraph 2 of Article 3.	
165b	1b. 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.	
165c	[...]	
165d	[...]	
165e	[...]	