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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.

CZECHIA

Article 3

The CZ does not support the wording in paragraph 2 letter c) and would like to propose to delete the test “in particular through increased cooperation between public authorities, civil society and private partners across the Member States“. That is why we suggest deleting it as too limiting for the flexibility of national programmes, otherwise we request further clarifications by the EC.

Article 11

The CZ disagrees with paragraphs 6 and 7. The CZ strongly supports the current mechanisms for AMIF 2014-2020. The new proposal would mean huge impact on flexibility of the national programme and increase of administrative burden (fixing the co-financing rate in the programme). It gives to the EC more power than it had in 2014-2020. The paragraph 7 is especially dangerous as it suggests that the co-financing rate could be calculated only from the public resources (letter b). This new set up would also mean increase of administration with reporting to the EC, currently for AMIF 2014-2020 only EU contribution is reported, which makes the reporting easy and clear. The new regulation would require reporting all resources of the project in order to calculate the co-financing. The CZ sees no reason for changing a good practice. This needs to be reflected also in CPR (art. 17)

Article 12

The CZ strongly disagrees with the wording of paragraph 4. The regulation prohibits the usage of Fund for standard equipment, which CZ supports. There is no reason for limiting the usage of Fund of all specific equipment which helps to reach to goals of the Fund on 15 %. **The CZ suggests to delete the paragraph 4.** It will also significantly increase the administrative burden in the reporting phase. The payments will need to be reported separately and it will have to be clearly identified what part was used for equipment. Having on mind the co-financing rate and exchange rate for MS which do not use euros, this can make the process really complicated. From this point the CZ does not suggest to increase the percentage but to remove it fully. If the percentage is increased, it will mean the same increase of administrative burden. Moreover if the EC uses as an argument fact, that the amounts on equipment in 2014-2020 period was around 15 %, than there is apparently no need for regulation, because it is self regulatory.

The CZ strongly disagrees with further limitation of the focus of national programmes. MS face different security threats and this limitation is not beneficial for the security level in the EU. The CZ suggests to delete paragraphs 5 and 7 as redundant. The CZ thinks that higher co-financing rate for actions in Annex IV are sufficient tool to motivate MS and beneficiaries to implement them. The wording of par. 7 saying “*The MS shall **in particular** pursue actions (...) listed in Annex IV*” extremely limits the national programmes and it goes against the previous articles which listed numerous actions in Annexes II and III.

Article 14

The CZ would welcome more specific rules for implementation of specific actions, for example in a form of EC's delegated regulation. The specific actions are in general good concept. However based on current experiences from 2014-2020 period it lacks clear rules for implementation, especially as regards the jurisdiction of MS' RAs, the responsibilities, the legal basis for controls and the usage of common rules.

Article 28

We put for discussion if the EC should have power to change the monitoring indicators during the programming period. Change of indicators during the implementation might cause huge troubles of lacking data or data not be comparable.

Annex V

Although the aims of the Fund are quite wide and the number of supportable activities is high, the proposed indicators of core performance are proposed in a very narrow way. Through these indicators it will not be possible to fully and correctly monitor the outcomes which the Fund delivered. The CZ would suggest further debate concentrated on the indicators.

Annex VIII

In general there are number of activities of the Fund which are not connected to any indicator (for example fighting crime through purchasing special equipment). It must be clearly stated, that not having a corresponding indicator does not prevent an action to be implemented. More over the indicators are targeted also to the areas which might not be supported by the Fund in a given member state which will force the MS to report on indicators which are not relevant for its programme and it will lead to increase of administrative burden (e.g. indicator no. 3 [the MS will need to collect information on number of total users], no. 7 [this indicator does not speak about any connection to the Fund], no. 14 [this indicator does not speak about any connection to the Fund and will request collection of huge amount of data]). The CZ would suggest further debate concentrated on the indicators.

In general the indicators must be read in line with CPR Art. 12 and 13. These articles requires clear methodology. This we find especially complicated for indicators which includes a comparison with „total number of something“. For the Managing Authority it will be extremely administratively difficult to set up a methodology and system which will ensure 100 % accuracy of the overview of the actions which have been done by different state authorities by other resources than BMVI.

ESTONIA

Article 3 (Objectives of the Fund)

- 1) Current ISF proposal does not address crisis management to the same extent as it has been prioritized under the period 2014-2020. It should be clear that the objectives of the fund include all different aspects of dealing with the crimes, **including prevention, preparedness, resilience and consequence management**. EE supports larger scope of the regulation as these are essential components of ensuring internal security. The COM has explained in Fiche no. 4 from 10 October 2018 (WK 12061/2018 INIT) that the objectives of the ISF address the whole range of actions from prevention to dealing with the event and the consequences thereof. We appreciate the explanation provided by the COM; however, this is not explicitly mentioned in the text of the regulation. To prevent possible different interpretations at the later stage of implementation, a clear reference to risk and crisis management should be made in Art 3, as it is the case in the current period. This is a horizontal objective, which applies to all types of crimes.

The most transparent solution would be to include another specific objective in Art 3 concerning risk and crisis management or integrate this into one of the already proposed specific objectives. Additionally, the relevant definition(s) should be added to Art 2 (in the current period „risk and crisis management“, „prevention and preparedness“ and „consequence management“ have all been defined).

Another option is to define „tackling“ in the policy objective of the Fund (Art 3(1)). This would mean that the explanations provided by the COM in the Fiche no. 4 should be reflected in the regulation.

- 2) Art 3(2)b makes a clear reference only to serious and organised crime with no room for interpretation. This definition is too restrictive as cross-border joint operations and cooperation between Member States is also necessary in the area of **fight against terrorism** which is a high priority of the Union. It is important to facilitate and improve the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms (not only in the context of the EU Policy Cycle). The COM has explained in Fiche no. 4 from 10 October 2018 (WK 12061/2018 INIT) that the actions in Annex II which relate to Art 3(2)b could also be performed outside the scope of EMPACT actions. However when reading the Article in question, there seem to be no flexibility in this Article. So EE still proposes to revise the wording of Art 3(2)b to include fight against terrorism. This would consequently mean the appropriate revision of implementation measures in Annex II.
- 3) Art 3(2)c should be revised. Currently, the emphasis is on cooperation between different authorities (“in particular”), however, this horizontal objective should cover **all possible types of actions for strengthening the capabilities of MSs** (e.g also trainings and purchase of equipment). To our understanding the specific objectives laid down in Article 3 should be considered as an “umbrella definition” under which the implementation measures and eligible actions should fit. Current wording is somewhat misleading as it puts the emphasis on increased cooperation. We understand that incorporating the cooperation between public authorities, civil society and private partners across the MSs into the regulation, is necessary to give the relevant mandate but this should be stipulated differently, i.e by using “including through increased...” or “among other relevant measures through increased...” not “in particular through increased...” which gives a different meaning to the objective.

Annex II

The list of implementation measures should serve more as a guidance or set of examples which are considered most desirable by the COM. However, it should be possible for the MSs to choose other relevant measures within the objectives of the ISF, if deemed necessary. The implementation period is long and the priorities and possible measures for intervention may change in time.

Annex III

Even though the list of actions presented in the Annex III is not exhaustive, EE proposes to revise the following bullet point (proposed revision in bold):

„IT systems and **communication networks and relevant equipment for their operation** contributing to the achievement of the objectives of this Regulation, training on the use of such systems, testing and improving interoperability and data quality of such systems.“

The (radio and data) communication networks are vital for rapid and timely operative communication between law enforcement agencies for preventing and combating crimes. Currently, the limited list of implementation measures and actions does not cover all the aspects of ICT development. IT-equipment and communication systems equipment should be mentioned under this bullet point as these should not be included when calculating the 15%.

Article 7 (Budget)

EE can support the proposal to increase the allocation to the programmes under shared management by decreasing the allocation to the thematic facility.

Article 11 (Co-financing rates)

It would be more clear to all Member States if the regulation included a reference to financing Technical Assistance at the initiative of the Member States up to 100% of the Union budget as it has been in the current period and under the SOLID funds:

Art 11(8): „The contribution from the Union budget to the technical assistance at the initiative of Member States may amount to 100 % of the total eligible expenditure.“

The 100% co-financing rate should apply both to flat rate financing and financing not linked to costs for TA. Considering that the allocations under the DG HOME funds are very small compared to the Structural and Investment funds, the provision for allowing the technical assistance to be financed 100% from the Union budget, should not be removed for the 2020+ period.

Article 12 (Programmes)

- 1) The role of the Agencies and the consultation process should be explained further. Most importantly, this consultation process should not hinder the smooth and timely process of approving programmes.
- 2) EE is very much against the proposal to limit the allocation for the the purchase of equipment, means of transport or the construction of security-relevant facilities to a maximum of 15 % of the allocation of a Member State programme. 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. 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, it is not clear, why is it necessary to regulate this at all if the number already reflects current practices?
- 3) EE can support the idea that if the reference to Annex IV needs to be made in Art 12(7), 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).

Article 15 (Operating support)

10% of the amount allocated to the programme may not be sufficient for operating support, 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. EE encourages the COM to revise this percentage for the ISF.

Article 21 (Information, communication and publicity)

The regulation does not stipulate any **exceptions or mitigations concerning the requirements for visibility**. Under the 2014-2020 ISF it is possible to mitigate these requirements in the area of internal security when it includes sensitive information which is not public according to national legislation (e.g. investments, trainings and other activities carried out by the law enforcement agencies related to counter-terrorism and in fight against organized and serious crime). The possibility for exceptions should be foreseen both in the CPR and in the ISF regulations.

Article 23 (Cumulative, complementary and combined funding)

The principle in relation to purchasing and using multi-purpose equipment for maritime operations (BMVI regulation Art 12(12)c) should be extended to other domains and also to ISF and AMF. To illustrate with an example: when purchasing an item or ICT system that would be used in majority for the purpose of the ISF but to smaller extent also for the purpose of BMVI, it should be possible to finance the purchase of this item in full from the ISF. Obviously, the ratio of use under the ISF should be explained and proof should be available to justify this (most likely statistical data of use by the purpose). Indeed, this requires keeping the documents to prove the use of the equipment but this should be the case anyhow, if a MS would like to finance a project under different Funds. However, the simplification for the beneficiaries and also for the Managing Authority is considerable – applying once from one fund, reporting under one fund, payments under one fund. It goes without saying that the equipment should be used fully to contribute to the priorities of the EU (clear added value), but it should be possible for the MS to choose one source of financing if it is possible to show that the equipment will be used in majority for the purpose of one fund.

EE proposes to add a respective sub-paragraph in Art 23:

“Member States may decide to purchase equipment or develop ICT-systems for multi-purpose use provided that these items and systems when operated by the relevant national authorities are in a majority used for the actions which fall under the scope of the Fund or instrument. The costs of these actions may be included in full to the Fund or instrument”

OR

“Member States may finance multi-purpose equipment or ICT-systems provided that these items and systems contribute to the EU priorities. The cost of the purchase or development may be included in full to the Fund into which it contributes the most.”

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, EE proposes 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. “

Annexes V and VIII (Indicators)

As expressed by several Member States during the Council Working Party, the indicators need to be revised carefully bearing in mind their importance and relevance in terms of giving adequate and accurate information about the performance of the fund.

The lists of output and result indicators include ones that are questionable in terms of giving relevant information on the use of the Fund. For example value of illicit drug seizures achieved with involvement of cross-border cooperation between law enforcement agencies – it is questionable what added value does this indicator give about the use of ISF, because the cooperation between law enforcement agencies takes place regardless the presence of ISF funding.

There are also indicators, which are difficult to measure (e.g the estimated value of assets frozen, estimated value of assets confiscated with the help of the Fund) – it is nearly impossible to differentiate the contribution of the ISF from the contribution of the state budget. The latter is always present and mostly prevails in this domain. **Hence, EE proposes that this indicator should be discarded.**

FINLAND

General

FI is of the opinion that the ISF should be located under the same budget heading as the AMF and BMVI funds in order for them to form a meaningful entity within the area of justice, freedom and security.

Article 3

The current ISF-P wording is shorter and therefore broader: "The general objective of the Instrument shall be to contribute to ensuring a high level of security in the Union" vs. the current proposal "The policy objective of the Fund shall be 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."

If the more detailed wording is to be left here it should contain 'preparadness' in some form. Another issue to be mentioned here is 'hybrid threats'. Also, in addition to 'assisting' and 'protecting' the victims of crime we would like to see the 'prevention' mentioned here.

An easier option could be to keep the ISF-P wording, which is shorter and therefore broader.

Article 3.2(a and b)

Much focus is given to information exchange and cross-border co-operations, which is all very well, but we would like the information exchange and co-operation between different national authorities to be explicitly mentioned, too. Again, we refer to the current ISF-P wording which is more developed in this sense.

In particular, we think that it would be important to mention the judicial and other administrative authorities (such as criminal sanctions authorities) here, too. This applies also to the Annex II and especially to point b under the section concerning Art. 3.2(b).

Article 3.2(c)

The victims of crime should be mentioned, too.

Article 7.2

FI supports the 70-30 distribution between the National Programmes and the Thematic Facility that has been proposed in the ad hoc WP.

Article 10

The numbering of the paragraphs is wrong.

In Art. 10.2 (or 10.4 as the paragraph is numbered currently) FI supports adding the unallocated amounts to the amount referred to in Article 7(2)(a) instead of Article 7(2)(b).

Article 11

The 100 % financing of the Technical Assistance for the Member States should be clearly mentioned in the regulation.

Article 12.2

In principle FI supports the involvement of the agencies. However, it must not cause delays to the approval of the Programmes. One mean towards this end could be clearly defined time-limits for the agencies to respond to these consultations.

Article 12.4

FI is of the opinion that IT equipment should be excluded from this 15 % ceiling. FI shares the view of many Member States that the ceiling is too low.

Article 12.7

FI proposes to change the wording as follows: "Member States shall pursue in their initial National Programmes in particular the actions listed in Annex IV...".

Article 12.9

The intervention types must not become a structural hindrance in the way the current national objectives are.

Article 15

FI supports the views on increasing the ceiling for the Operating Support.

Article 21

In principle FI supports publicity measures. However, due to the nature of the Fund the measures are likely to contain some classified information. The regulation could acknowledge this aspect better.

Annex II

(See above.)

In particular it would be important to mention the judicial and other administrative authorities (such as criminal sanctions authorities) here, too. This applies also to the Annex II and especially to point b under the section concerning Art. 3.2(b).

The points b and c in the connection to the section concerning Art. 3.2(b) in the Annex should be applied also to section that covers the Art. 3.2(c).

The section covering Art. 3.2(c) and in particular point c should include crime prevention and the crime victim's access to information.

Annex III

We propose the following to be added: monitoring and control of IT systems (1st bullet point), crime prevention (9th bullet point)

FRANCE

Annex V: performance indicators referred to in Article 26

In general, the French authorities would draw the Commission's attention to the large number of reports and the resulting administrative burden. We therefore request that an objective of relevance be pursued in these reports rather than reporting of raw indicators.

Specific Objective 3: Strengthened capabilities to combat and to prevent crime

Indicator (1): why limit the indicator to law enforcement officials when training concerns all officers?

Indicator (2): we would reiterate our concern as regards the publication of sensitive information. In France, a distinction is made between:

- classified information (e.g. confidential-defence, secret-defence, etc.): this is sensitive information protected by its classification; it may be handled only by duly authorised officers; it may be neither communicated nor published;
- information which, though not classified, is clearly of a sensitive nature owing to the area it concerns. We believe that such information must not be published as cross-checking it with other information may compromise state security.

This is why we have reservations as to the merits of the indicator regarding the number of sensitive infrastructures. The issue is not so much knowing the number of critical infrastructures strengthened with the help of the Fund (sensitive information) but knowing the percentage of European funding allocated to the strengthening of infrastructures and the protection of public spaces. We would therefore like this indicator to be reworded: percentage of the national envelope allocated to the strengthening of critical infrastructures and the protection of public spaces.

Annex VIII: output and result indicators referred to in Article 24(3)

Specific Objective 1: Better information exchange

Indicator (1) (a) to (d): we would like 'consultations' to be considered, rather than 'searches'.

Indicator (1) (b): we would draw attention to the fact that this indicator is to be used with caution as DNA hits are not indicative of the number of hits verified or the number of offenders identified.

Indicator (1) (c): we would draw attention to the fact that this indicator is to be used with caution as not all SIENA messages concern operational matters; some messages may be practical information (e.g. organisation of a meeting).

Indicator (d): we would draw attention to the fact that this indicator is to be used with caution as some Member States (in particular FR) use the Europol Information System (EIS) in a targeted manner according to live cases, while others use it as the extension of a national information system.

Indicator (3): if this indicator were to be applied to PNR, would it relate to users of the national API-PNR system with access to the system? In France: it is a case of PIU staff and users from the competent authorities.

Specific Objective 3: Strengthened capabilities to combat and to prevent crime

Indicator (1): why limit the indicator to law enforcement officials when training concerns all officers?

We would emphasise the sensitive nature of the information requested in connection with counter-terrorism and enter a reservation regarding the circulation of this information at any level.

PUBLIC

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.

MALTA

Malta would like to reiterate its comments on Article 12 and 13, as follows:

Article 12

With regard to the role of the Agencies as set out in paragraphs 2 and 3, Malta would like to emphasise the importance of avoiding additional layers at the programming, monitoring and evaluation levels to ensure more effective and efficient programming and implementation. In this context, further information is required to understand how the Commission will “associate” the Agencies at programming stage, as well as in the monitoring and evaluation phases of the programmes.

With regard to paragraph 8, further clarity is required to understand how this will be implemented in practice and the extent of involvement of the Commission in this process.

Article 13

We consider the conditionality proposed under sub paragraph 2 of this Article as too restrictive and that it will constitute excessive burden on Member States which may result in the unnecessary loss of funds. In this context, Malta believes that sub paragraph 2 on the percentage which needs to be reached to be eligible for top-ups (10%) should be deleted as the scope of the mid-term review should not be to add undue burden on national authorities but to re-adjust national programmes in order to address any possible shift in needs.

With regard to paragraph 3, given that the nature of the sector is very dynamic and that the needs and responses can change very quickly, we are not convinced about the application of the performance framework to this Fund because it will not be practicable and may result in the unnecessary loss of funds.

THE NETHERLANDS

Article 8

Thematic facility: the Netherlands would like to thank the Commission for the clarifications in fiche no 4 on the thematic facility. However, can the Commission elaborate on what the procedure of presenting the work programs to the Coordination Committee for the AMF, ISF and IBMF will look like in practice? The answers provided earlier were insufficiently clear. A few questions:

- What mode will be used for the presentation and discussion (oral discussions/written procedure/workshops with experts from the MS) about the proposed priorities, corresponding amounts and suggested implementation modes?
- How much time will the Committee have to discuss the work programmes?
- Does the Committee have to agree with the work programme before a financing decision can be taken?
- How will the rules of the procedure be recorded (e.g. guidance document, implementing regulation)?

Article 12

According to paragraph 2 the Commission shall ensure that certain agencies (Europol, CEPOL and EMCDDA) are associated in an early stage of the process of developing the programmes. It is however unclear how long this consultation process will last. To be sure that MS can execute and implement national programmes a.s.a.p.- preferably at the start of the eligible period- the Netherlands suggest setting terms for the duration this consultation process may take.

In paragraph 7 it is stated that MS '*shall in particular*' pursue the actions eligible for higher co-financing as listed in Annex IV'. NL proposes to delete this sentence. This since the higher co-financing for the actions listed in Annex IV already motivates choosing these actions for programming, it is not necessary to add an extra obligation to do so.

Article 14

Specific Actions: The fact that general applicable rules (rules for controls, audits, eligibility rules, etc.) at EU level are currently lacking for the implementation of the Specific Actions (transnational projects) has been addressed several times during the AMIF-ISF committee meetings. The participating Member States in Specific Actions recommended that these be provided in 2021-2027 (if decided to continue the use of Specific Actions). Specific Actions are included in the proposals, but general applicable rules are unfortunately lacking both in the Fund-specific proposals and in the CPR. The NL would like to stress the importance of having such rules at EU level to ensure the efficient implementation of transnational projects.

Annex V

With regard to the indicators, the Netherlands has concerns about their usefulness, validity and measurability, as many of the other MS do. The proposed performance indicators in Annex V SO 1 no 1 (use of EU information exchange mechanisms), SO 2 no 3 (Value of illicit drugs seizures achieved with involvement of cross-border cooperation between law enforcement agencies) and SO 3 no 7 (number of initiatives to prevent radicalization leading to violent extremism) are not directly aimed at measuring the impact of the fund. We propose:

To add to SO no 1 use of EU information exchange mechanisms *supported by the Fund*.

To add to SO 2 no 3 Value of illicit drugs seizures achieved with involvement of cross-border cooperation between law enforcement agencies *supported by the Fund*.

To add to SO 3 no 7 number of initiatives to prevent radicalization leading to violent extremism *supported by the Fund*.

Annex VIII

With regard to the indicators, the Netherlands has concerns about their usefulness, validity and measurability, as many of the other MS do. The proposed performance indicators in Annex VIII SO 1 no 1 a-e, SO 2 no 7 and SO 3 no 14 are not directly aimed at measuring the impact of the fund. We propose to add *supported by the Fund* to them all.

POLAND

General questions to annex V and VIII

- a) Are the Member States obliged to include all the indicators in their national programmes (Annex VIII)?
- b) How and by whom will the base and target values of the indicator be determined?

Annex V

- a) Specific Objective 1, point 1

Indicators should be countable. How is the Specific Objective indicator No. 1, point 1 – *Use of EU information exchange mechanism* going to be measured? Is it going to be in the 0-1 system?

- b) Specific Objective 2, point 3

In Specific Objective No. 2, point 3, there is a provision regarding *the value of illicit drug seizures (...)*. However, the value of these substances is debatable and sometimes impossible to estimate. The very estimation may vary depending on the market or the country; and the chemical composition (i.e. purity) of the substance. Even more so, given the fact that the indicators will be assessed by the beneficiaries themselves. It would be much more precise to replace the criterion of value with a quantity one, as it applies to other points in the annexes above.

- c) Specific Objective 2, point 4

In our opinion, the provision is not thoroughly precise and needs clarification. It should be understood that after the Schengen Evaluation, Member States receive recommendations for implementation (partly with the support of the Fund). Doubts arise here: if a Member State is well prepared and have received a positive evaluation (few recommendations), how is it to report in practice using this indicator? What about countries that do not belong to the Schengen Area?

- d) Specific Objective 3, point 5

Does this indicator also include public administration officials who are not law enforcement officials? We are not entirely sure whether this indicator should be limited only to law enforcement officials. Very often a large part of training, exercises or learning platforms within state's internal security supported by fund involves public administration officials (from public bodies), especially during implementation of crime preventive measures.

- e) Specific Objective 3, point 6

It is recommended to change the provision of the indicator: *The number of critical infrastructures and public spaces improved with the help of the Fund*. We would like such a project to relate to critical infrastructure and public spaces separately, not as one entity, since a critical infrastructure isn't necessary a public space. Such a solution would enable us to implement a wider range of projects.

Annex VIII

- a) Specific Objective 2, point 7

A similar situation as in Annex V (see point b above).

- b) Specific Objective 2, point 9

A similar situation like in Annex V (see point c above).

- c) Specific Objective 3, point 10

The division of indicators into individual thematic groups should be clarified. For example, in abovementioned indicator, there is a possibility that a training would apply to two or even three of the proposed areas, as in counter terrorism, within the framework of organised crime, including cybercrime.

Also a similar situation as in Annex V (see point d above)

- d) Specific Objective 3, point 13

A similar situation as in Annex V (see point e above).

- e) Specific Objective 3

In Specific Objective No. 3: *Strengthened capabilities to combat and prevent crime*, there is no indicator that would refer to the action in Annex III, which will be supported by the Fund, i.e. the purchase of equipment, means of transport, communication systems and necessary security-related facilities. Same goes for Annex V. Unless this is changed, it will not be possible to objectively assess the results of projects involving the purchases.

Additional questions

There is yet another comments we would like to add.

- Annex VII

How will the term appearing in Annex VII regarding *maintenance of equipment* be understood: only as normal maintenance costs, or also as an exchange and purchase of new equipment and devices?

- Will the measures to ensure security at the EU's internal borders be eligible under the ISF, e.g. to strengthen the technical capacity necessary to fight and counteract crimes within the territory of the Member States?

PORTUGAL

The Portuguese Delegation hereby address, in written form, to the Presidency and to the European Commission, drafting proposals concerning Art.s 7, 10 and 13.

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 usually justified 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 internal security, 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:

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

I- ANNEX V - Core performance indicators referred to in Article 24(1)

Specific Objective 1: Better information exchange	
Indicator	Observations / Proposals
Use of EU information exchange mechanisms (number)	- It is suggested that the accounting of access to the database should also include the exchange of messages between the various MS.
Specific Objective 2: Increased operational cooperation	
Indicator	Observations / Proposals
Joint operational actions supported by the Fund (number)	
The estimated value of assets frozen, estimated value of assets confiscated with the help of the Fund	- Clarify the unit of measure: euros, thousands of euros, millions of euros? - There are some reservations in obtaining these values
Value of illicit drug seizures achieved with involvement of cross-border cooperation between law enforcement agencies	- Clarify the unit of measure: euros, thousands of euros, millions of euros? - There is difficulty in measuring in financial terms. It is suggested to revise this indicator and change the unit of measure for quantity/weight.
Number of Schengen Evaluation Recommendations with a financial implication in the area of security addressed with the support of the Fund, as compared to the total number of recommendations with a financial implication in the area of security	- Clarify unit of measure: ratio or percentage - Difficulty in collecting data by beneficiary entities. - It is highlighted the difficulty in obtaining these values reliably; their need / relevance is questioned

II- ANNEX VIII - Output and result indicators referred to in Article 24(3)

Specific Objective 1: Better information exchange	
Indicator	Observations / Proposals
Use of EU information exchange mechanisms	Clarify: - If the searches to be counted are manual, automatic and ...; - If any query is recorded, regardless of the existence of occurrence - The accesses are counted even if it has resulted in an error? - What are the assumptions that allow us to incorporate into the general indicator objects differentiated: people, resources, messages and access? In this context it is important to clarify the calculate / analyze the total - It is suggested that the accounting of access to the database should also include the exchange of messages between the various MS.
Number of new connections between security-relevant databases made with support of the Fund	- It can only be counted if there are new connections to the database. It should be noted that the indicator represents difficulties in the feasibility of accounting before new connections exist.
Number of active users of EU and where relevant national security relevant information exchange tools, systems and databases added with support from the Fund, as compared to number of total users.	Clarify -Unit of measure: ratio or percentage -Better clarification of the universes to be considered in the two variables (potential, active, EM, etc.) - It should be noted the complexity that can exist in the collection of data.
Specific Objective 2: Increased operational cooperation	
Indicator	Observations / Proposals
Number of joint operational actions supported by the Fund, including the participating Member States and authorities and broken down by area (counterterrorism, organised crime general, organised crime firearms, cybercrime, other)	
Participation in transnational networks operating with support of the Fund	
The estimated value of assets frozen, estimated value of assets confiscated with the help of the Fund	- There are some reservations in obtaining these values

Value of illicit drug seizures achieved with involvement of cross-border cooperation between law enforcement agencies.	- Clarify the unit of measure: euros, thousands of euros, millions of euros? - Clarify the universe: with or without support from the Fund? - There is difficulty in measuring in financial terms. It is suggested to revise this indicator and change the unit of measure for quantity/weight.
Number of outputs of existing transnational networks generated with the help of the Fund, such as for example manuals on best practices, workshops, common exercises	- It is suggested to disaggregate in specific typologies. It is also suggested that the common exercises performed should be included in the indicators mentioned above.
Number of Schengen Evaluation Recommendations with a financial implication in the area of security addressed with the support of the Fund, as compared to the total number of recommendations with a financial implication in the area of security	- Clarify the unit of measure: ratio or percentage? - Difficulty in collecting data by beneficiary entities. - It is highlighted the difficulty in obtaining these values reliably; their need/relevance is questioned

Specific Objective 3: Strengthened capabilities to combat and to prevent crime

Indicator	Observations / Proposals
Number of law enforcement officials that completed training, exercises, mutual learning or specialised exchange programmes on cross-border related topics provided with the support of the Fund	- "Cross-border related topics" refers only to: Counter terrorism, Organized Crime, Cybercrime, Other areas of operational cooperation?
Number of manuals on best practices and investigation techniques, standard operating procedures and other tools developed with support of the Fund as a result of interaction between different organisations across the EU	
Number of victims of crime assisted with the support of the Fund, broken down by type of crime (trafficking in human beings, migrant smuggling, terrorism, serious and organised crime, cybercrime, child sexual exploitation)	- Difficult to measure; resulting in the integration of a specific program. - - The suggestion is made to replace "migrant smuggling" with "victims of illegal immigration assistance". - It is suggested to include a note / mechanism / procedure in order to avoid double counting in accounting for victims of trafficking in human beings and victims of illegal immigration assistance;

Number of critical infrastructures and public spaces of which the protection against security-related incidents has been improved with the help of the Fund	
Number of initiatives to prevent radicalisation leading to violent extremism	
Number of partnerships established with the support of the Fund contributing to improving support of witnesses, whistle-blowers and victims of crime	- Difficult to measure; resulting in the integration of a specific program.

ROMANIA

Article 2 – Definitions

In order to avoid misunderstandings that lead to ineligible expenditure, we consider necessary to include the definition of "*standard equipment*", "*standard means of transport*" and "*standard facilities*". Also, in order to ensure a better understanding of the eligible actions, we consider including definitions of *relevant activities* (as it is mentioned under Art. 6.2).

Article 3 – Objectives of the Fund

Point 2 (c) – in order to insure a correlation with the indicators stipulated in Annex V, point (6) and Annex VIII, point (13), it's necessary to complete the paragraph with a reference to the protection of critical infrastructure and public spaces.

Also, the text contains an implementing measure "(...) *in particular through increased cooperation* (...)" which suggests that this measure is the most important one.

Therefore, we propose the following text: *c) to support effort at strengthening the capabilities in relation to combatting and preventing crime including terrorism, as well as for improving the protection of critical infrastructure and public spaces.*

Article 4 – Scope of support

In order to avoid a negative impact of the national programme flexibility, RO considers necessary to remove the letter b) from Art. 4 (3) regarding the non-eligibility of actions regarding the purchase or maintenance of standard equipment and standard means of transport, since such procurement directly contributes to the objectives of the Fund, in particular to EMPACT actions and ensuring the interoperability of databases.

The vehicles used for operational surveillance are standard cars, precisely to ensure "*discreet surveillance*", and the acquisition of standard IT equipment (hardware) is required to ensure interoperability of databases. In addition, these acquisitions are intrinsic to the priority implementation measures set out in point (a) and (b) of Annex 2.

Article 8 – General provisions on the implementation of the thematic facility

Further clarification is needed on how the Thematic Facility will be implemented. Considering both the high percentage allocated to the Thematic Facility and the lack of predictability of these financial allocations (a timetable for additional allocations, COM priorities to be funded and the amount of additional allocations), we consider that the predictability of the National Programs is affected and the MS cannot build a clear strategy of funding their priorities.

Annex II – Implementation measures

The implementation of the majority of these measures requires purchase of equipment, means of transport or construction of facilities relevant to security, in which sense the 15% ceiling provided by Art. 12 (4) is very low and it will affect the implementation of the FSI objectives.

For greater flexibility, we propose adding a new paragraph to paragraph 2 and 3 (similar to letter d) of paragraph 1): "*To support relevant national measures if relevant to the implementation of the specific objectives set out in Article 3 (2) (b)*" and for paragraph 3: *to implement the specific objectives set out in Article 3 (2) (c)* ".

Annex III – Actions to be supported by the Fund in-line with Article 4

We appreciate that to be clearer Annex III could be renamed into "*example of actions to be supported by the fund*".

At the same time, it is necessary to clearly define what is meant by "construction of security relevant facilities" essential security-relevant facilities;

We also consider that it is necessary to clarify whether the actions to be supported through the Fund, as set out in Annex III, fall within the 15% ceiling provided for in Art. 12.4 in particular as regards the financing of "IT systems and networks (...) testing and improving interoperability".

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

Regarding Annex VIII, in our opinion this annex must be discussed together with Art. 3 paragraph 2 regarding specific objectives.

Regarding specific objective 1 – better information exchange

- All these indicators must be understood as an instrument for quantitative measure, but they don't reflect the real efforts for preventing and combating crime. We are also interested in how these indicators are relevant and how will be measured in the field of interoperability, when a single search of a police officer will access automatically all large IT systems.
- Regarding the number of active users of EU systems – in some cases, such as Romania, for some systems a centralized solution is used in order to maintain a high quality of information operated through these IT systems. For example, the number of SIENA users was limited to EUROPOL National Unit, there users making all the searches for all the Romanian police officers. The link between EUROPOL and EUROPOL National Unit and between EUROPOL National Unit and Romanian Police internal system is ensured. Furthermore, a clear difference is to be made between how an active user and an inactive user is defined.

Regarding specific objective 2 – increased operational cooperation

- Regarding JIT's, at the EUROPOL level, OAPs are established for every type of crime considered important for EU Policy Cycle approved by JAI. For every OAP there are established annually certain actions that will lead to a better fight against this kind of crime. Following the participation in the meetings of the OAPs, joint action days or operational files are established which turn into JITs following the exchange of messages between participating states. To support activities in the OAPs, COM, through EUROPOL, grants monopoly grants for operational meetings and JITs. In this situation, how will they be differentiated by National Programs funds?
- We will like to be clarified which is the relevance of number of EMPACT priorities indicator, taking into consideration that there are established based on the Europol report by CJA and do not reflect an activity and cannot be influenced by MS
- regarding the indicator no. 5 - participation in transnational networks – considering that, under the umbrella LEWP, operate 16 informal networks operate. Part of these are very active, some not very active. Some of the networks are supported by the COM through dedicated grants to support network secretariat activity (eg ATLAS - network of intervention commanders), others benefit from monopoly funding through H2020 R & D projects, most MS being members of these informal networks. If all or most MSs are already members of these networks, where is the relevance of networking supported by the fund?

- regarding the estimated value of assets frozen and the estimated value of assets confiscated with the help of the fund, it must be taken into consideration that the market value of these goods depends from country to country and from national standard of living and the gross domestic product. In this respect, we consider non-relevant the indicator regarding “value” for measuring the prevention and combating crime. The same situation applies also to indicator no 7 – value of illicit drug seizure achieved (1 tons of cocaine in Bucharest has a value, the same ton has another value in Madrid). We could complete here with the number of destroyed organized crime networks or the number of people arrested / sued. Confiscating a ton of drugs has an impact, arresting a network head or destroying a network that can sell much more drugs may have a greater impact. At the Europol level, a new concept, High Value Targets, is being implemented, meaning the arrest of those important people in a criminal group, the impact on activity being much higher by arrest than by confiscation of a large amount of drugs,

Regarding Specific objective 3 – strengthen capabilities to prevent and to combat crime

- As a general comment - EU and MS have a lot of fighting tools and much less prevention. The preventive part is where MS and EU agencies can be more creative in their activities. To tell a story to the European Parliament, as the COM said, we could leave the MS more freedom to put national activities on prevention.
- Regarding indicator no 10 – all cases of fighting organized crime, terrorism, cybercrime, etc. have an international component, nothing happens on national territory. Lately, most of the specific training and sharing of good practice is done through / with the support of CEPOL. Relevant to the MS in training are the police officers prepared, both by substance and by CEPOL.
- Indicator no. 11 - given that most criminality has cross-border component, we believe that both textbooks and handbook contributions should be considered. Some manuals are developed at informal networks or agencies, based on MS contributions.
- regarding the number of witness protection partnerships (indicator no 15) we have to consider that this information is very sensitive, having the role of protecting the marriages, and the transmission of this information is not always agreed by the judiciary.
- We also propose to add to paragraph 10 the anti-corruption field.

SLOVAKIA

Article 2	SK strongly proposes to add definition on the following areas, with particular attention on the word “standard” with reference to Art. 4 (3) letter b.: - “standard equipment” - “standard means of transport” - “standard facilities”
Article 12	par. 4 – SK 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. Increasing this limit (SK proposes up-to 50% of the allocation for MS programme) will be an more effective and efficient way of using the funds in fight against crime, rather than using focusing on soft activities, as proposed by COM. In most MS there is a need for more intensive cooperation and effective information exchange between the MS. Moreover, two important aspects shall be considered - sustainability of actions and the EU added value, which in case of soft actions are extremely difficult to ensure. SK proposes to delete the 1st sentence of par. 7 - <i>“The MS shall in particular pursue actions (...) listed in Annex IV”</i>. 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 situations. For this reason within the ISF flexibility shall be kept in terms of 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 or at least to decrease the limit to 5%.
Article 15	SK has reservations to para. 2, specifically to the 10% limit set in the proposed ISF regulation. SK proposes to increase the percentage up to 30% of the amount allocated for the MS programme. For example, the BMVI fund benefits from up to 30% limit under the operative support. SK proposes to re-consider the 10% limit and to increase it up to 30% as it the case of the BMVI. The 10% limit is too low and not sufficient enough to cover the costs for the EU system operation.

Article 22	More precise definition on which situations will be considered as “ emergency ” is needed . The Art 22 of the ISF regulation shall be harmonized with relevant Articles of BMVI and AMF (e. g. with Art. 23/1 of BMVI and Art. 26/1 of AMF).
Annex V	The proposed indicators shall be put in compliance with Annex II and Annex III as well as Annex VIII of the proposed ISF regulation. SK has reservations to the indicator No. 3 (value of illicit drug seizures...); the measurement of the proposed indicator is difficult, and taking into account the different “market offers”, the reported data will not be reliable. Indicator No. 13 (number of CI and public spaces....) – shall be put in compliance with Annex III of the ISF regulation. The list of action does not include any activities related to the CI and public spaces protection.
Annex VIII	SK has reservations to the following indicators: Indicator No. 3 (number of active users....) – the indicator shall be reformulated as any LEA authority having an access to the IT system (restricted or open access) is in a certain way an active user. It is necessary to differentiate if the user has right to entering data, editing and processing them etc., or has just a very limited access. Indicator No. 5 (transnational networks/ platforms) shall be reconsidered. For most types of the crimes ad-hoc LEA networks and platforms are already in operations (and financed from the national budgets). Indicator No. 7 (value of illicit drug seizures...); the measurement of the proposed indicator is difficult, and taking into account the different “market offers”, the reported data will not be reliable. Indicator No. 11 (number of manuals....) – irrelevant to the scope of the Fund and out of the framework outlined in Annex III. We propose to delete this indicator. Indicator No. 13 (number of CI and public spaces....) – shall be put in compliance with Annex III of the ISF regulation. The list of action does not include any activities related to the CI and public spaces protection.

SLOVENIA

CHAPTER I – GENERAL PROVISIONS

Article number	Article name	Reservation YES/NO	Content	Suggestions / other remarks
Article 2	Definitions	YES	<i>We would suggest using the agreed definition of the term “critical infrastructure”.</i>	Under point c) we suggest the insertion of the definition of the term “Critical infrastructure” from Council Directive (ES) 114/2008 dated 8 th December 2008 to avoid too many definitions of the same term.
Article 3	Objectives of the Fund	YES	<i>We believe that also considering points 12 and 13 of the recital, the area of crisis management and protection of critical infrastructure was accidentally not included among objectives. We also believe that the notion of protecting victims of crime is too specific, as victims of terrorist attacks and other human-made disasters that are usually of bigger scale and complexity also require assistance.</i>	We suggest an amendment of points 1 and 2 that would include protection of people, public spaces and critical infrastructure from security related incidents, as well as efficient management of security threats and crises, also through developing common policies, in line with points 12 and 13 of the recital. This would also include the area of support to the victims of terrorist acts and human-made disasters.
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. The provision of actions with military or defence purpose not eligible under 3.c is too concise, as crisis management and critical infrastructure protection actions impact defence area in terms of better preparedness and response.</i>	We suggest keeping the possibility of informant rewards also outside framework of an EMPACT action. Clearer or more detailed definition of actions not eligible under 3.c.

CHAPTER II – FINANCIAL AND IMPLEMENTATION FRAMEWORK

Article number	Article name	Reservation YES/NO	Content	Suggestions/ other remarks
SECTION 1 – COMMON PROVISIONS				
SECTION 2 - SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT				
Article 12	Programmes	YES	<i>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.</i>	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.
Article 14	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 15	Operating support	YES	<i>We support the introduction of operating support but find its ceiling of 10% too low.</i>	We would suggest to raise the ceiling of 10%.

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;.
V.	Core performance indicators referred to in Article 24(1)			In accordance with our proposal to Article 3 to the proposed act, add a specific objective in the area of crisis management

				and critical infrastructure protection. As an indicator on the basis of Member States' data we propose: - the number of programs and tools in crisis management, the protection of critical infrastructure and the protection of the population against terrorist acts and human-made disasters, - the number of upgraded or newly exposed infrastructure or information and communication systems in the field of crisis management, the protection of critical infrastructure and the protection of the population against terrorist acts and human-made disasters.
VII.	Eligible actions for operating support			In accordance with our proposal to Article 3 to the proposed act, add measures concerning a specific objective in the field of crisis management and critical infrastructure protection, with the following content: "maintenance of technical equipment, infrastructure or information and communication systems used for crisis management measures, critical infrastructure protection and the protection of the population against acts of terrorism and human-made disasters.

VIII.	Output and result indicators referred to in Article 24(3)			In accordance with our proposal to Article 3 to the proposed act, add a specific objective in the area of crisis management and critical infrastructure protection. As an impact and result indicator based on the data of the Member States, we propose: - the number of programs and tools in crisis management, the protection of critical infrastructure and the protection of the population against terrorist acts and human-made disasters, - the number of upgraded or newly exposed infrastructure or information and communication systems in the field of crisis management, the protection of critical infrastructure and the protection of the population against terrorist acts and human-made disasters.
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SPAIN

Article 1 – Subject matter	No comments at this stage of discussions.
Article 2 - Definitions	No comments at this stage of discussions.
Article 3 – Objectives of the Fund	- We welcome the inclusion of the concept of “<i>victim of crime</i>”. In this sense, in addition to this general reference, we consider the need to include a special reference to “<i>victims of terrorism</i>”, specifically in Art. 3(1) and (4), in line with the importance of this unique group in accordance to the Council of the European Union Conclusions on Victims of Terrorism of 4th June 2018, that stated “<i>that Directive 2012/29/EU, which is applicable to all victims of all crime, recognises that victims of terrorism need attention, support and protection, due to the particular nature of the crime that has been committed against them but ultimately aimed to harm society</i>”. According to the same Conclusions, it is underlined that “<i>Directive 2017/541/EU on combating terrorism includes particular provisions dedicated to the victims of terrorism that respond more directly to the specific needs of victims of terrorism such as emotional and psychological support immediately after a terrorist attack and for as long as necessary, medical care and support in receiving information on any relevant legal, practical or financial matter</i>”. - We ask the Commission to propose an alternative drafting of Article 3 in order to include the external dimension of the Fund in third countries given its importance in the internal security. This inclusion will provide coherence to the whole text due to the relationships among different crimes in a globalized and transnational context with interconnected dependencies as established in several European Council conclusions.
Article 4 – Scope of support	- In order to establish coherence among the actions eligible for funding according to the proposed text, the Kingdom of Spain asks the European Commission to explain how does the financial exclusion of Article 4.3 (b) affects “<i>operational support</i>” foreseen in the same proposal. - We ask the European Commission to propose an alternative drafting of Article 4.3(b) to assure that the financial exclusion will not affect the measures contemplated in “<i>Commission Recommendation of 12.5.2018 on proportionate police checks and police cooperation in the Schengen area</i>”.¹
Article 5 – Eligible entities	The Kingdom of Spain requests the European Commission (i) to specify with an alternative drafting that paragraph 1(a)(ii) refers to direct management actions, and (ii) to relocate the newly drafted paragraph in a different part of the regulation related to direct management. By doing so, confusions would be avoided with the general dispositions settle at the beginning of the proposed Regulation.

¹ Brussels, 12.5.2017 C(2017) 3349 final.

Article 8 – General provisions on the implementation of the thematic facility	- What does the European Commission understand by “<i>shared, direct and indirect management</i>” in the thematic facility? - We ask the Commission to explain how to link Article 8 (3), (4) and (6). More into details, we also want to know how the thematic facility can have an impact on the national programs and which will be the steps to be followed in case the Commission adopts a financing decision related to the thematic facility that will affect the mentioned programs.
Article 11 – Co-financing rates	- We ask the Commission to propose an alternative drafting of Article 11 in order to include a contribution from the Union budget to third countries with an eligible expenditure up to 100%. - In relation to Article 11 (6), we also request the Commission to propose an alternative drafting to introduce flexibility on this matter without the need to modify the national program.
Article 12 – Programmes	- In regards to paragraph (2) we ask the Commission to propose an alternative drafting in order to avoid an obligation for MS to consult EU Agencies. The Kingdom of Spain believes that this consultation/coordination should be carried out only by the Commission and, in exceptional cases where consensus cannot be reached at the EU level, MS could be involved. - In relation with paragraph (4), the effectiveness and capacities of the Police forces rely on the availability of adequate equipment and infrastructures. Thus, limiting the investment in these fields within the ISF projects would hinder to a big extent their development and efficiency. For this reason, we maintain that paragraph (4) is unnecessary. In any case, infrastructure construction financing should not be limited to 15% due to the fact that they represent a heavy price. - In relation with paragraph (8), we ask the Commission to clarify if this disposition shall apply even if a third country has the condition of beneficiary in accordance with Article 5(1)(a)(ii).
Article 13 – Mid-term review	In regards to paragraph (2), we consider necessary a reduction of the percentage to 5%.
Article 14 – Specific actions	In relation with paragraph (1), we ask the Commission to clarify how to differentiate among a specific national action (exclusive to the MS) 90% financed and a normal 75% financed action. More into details, we have our doubts on how the specific actions will be determine according to the proposed Regulation in question.
Article 15 – Operating support	In regards to paragraph (2) we ask the Commission for an alternative drafting in order to increase the percentage at least up to 25% due to the fact that, according to the current ISF, systems maintenance and equipment of Annex VII represent an important amount of the budget. Following the proposals’ philosophy, the reason laying behind the Spanish position is that achieving interoperability, information exchange and new capacities to fight against new forms of terrorism and crime, requires a higher percentage for “ <i>operational support</i> ” in order to cover a series of equally high level maintenance and assistance services such as the ones of the technologies that integrate them.

Article 22 – Emergency assistance	We ask the Commission to clarify how the emergency assistance procedure should be launched.
Annex III – Actions to be supported by the Fund in line with Article 4	Concerning point 4 of the Annex III, the Kingdom of Spain requests the Commission to propose an alternative drafting in order to include “ <i>cybercrime</i> ” and “ <i>cybersecurity</i> ” when referring to the diverse crises’ fields. Crises centers normally cover both lines of actions.
Annex IV – Actions eligible for higher co-financing in-line with Articles 11(2) and 12(6)	We ask the Commission to propose an alternative drafting in order to include: - Projects that aim protecting critical infrastructures given their high cost and that they cover many fields of competence. - All actions aiming to undertake the recommendations adopted in the EU framework Regulation (EU) 1053/2018 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis. - Projects that aim interoperability in general.
Annex V - Core performance indicators referred to in Article 24(1)	- Spain proposes the creation of a subcommittee working group to study, monitor and evaluate possible indicators before being incorporated in the proposed Regulation. - When indicating that the source will come from the “<i>Member State</i>”, the Kingdom of Spain maintains that the Management Authority will only have to provide information available within its ordinary work and, thus, without the obligation to request specific information to other Units/Departments.
Annex VI – Types of intervention	- In regards to table nº 2, we ask the Commission to update the percentages in squares 8, 9 and 10 according to the consensus reached in the EU Council on this matter.
Annex VIII – Output and result indicators referred to in Article 24(3)	- Spain proposes the creation of a subcommittee working group to study, monitor and evaluate possible indicators before being incorporated in the proposed Regulation. - When indicating that the source will come from the “<i>Member State</i>”, the Kingdom of Spain maintains that the Management Authority will only have to provide information available within its ordinary work and, thus, without the obligation to request specific information to other Units/Departments. - In relation to the indicator number 3 of the first specific objective, the Spanish Kingdom does not undertand its usefulness in order to observe the results. More into details, the mere number of active members is neither reliable nor objective.