



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0248(COD)**

Brussels, 08 March 2019

WK 2700/2019 INIT

LIMITE

**JAI
FRONT
ASIM
MIGR**

WORKING PAPER

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

WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund

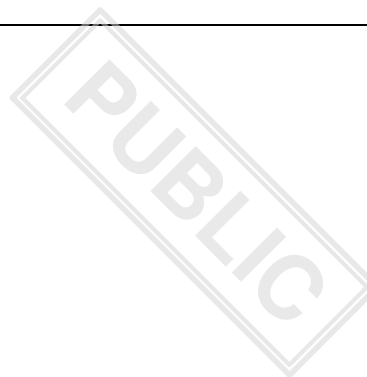
Delegations will find enclosed a compilation of comments from Member States on the Asylum and Migration Fund.

Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund

(Compilation of comments following the Working Party meeting on 13.02.2019 (Recitals and ANNEX I))

018/0248 (COD)

GENERAL COMMENTS	
SE: (Comments):	
General comment: Sweden has a scrutiny reservation on all recitals.	
DRAFTING SUGGESTIONS / COMMENTS	
Proposal for a	
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	
establishing the Asylum and Migration Fund	
EE:(Comments):	
EE suggests that the recitals should be harmonized throughout with the compromise text.	
EE welcomes that „integration“ is brought back to the name of the fund in the compromise text and it should be harmonized throughout the	



regulation.

EL: (Comments):

We welcome the inclusion of the term ‘Integration’ in the Fund title.

IT: (Drafting):

establishing the Asylum **Integration** and Migration Fund

IT: (Comments):

“Integration” added

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2) and Article 79(2) and (4) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

¹ OJ C , , p. .

Having regard to the opinion of the Committee of the Regions ¹ ,
Acting in accordance with the ordinary legislative procedure,
Whereas:
(1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration and migration systems of Member States, prevent and adequately handle situations of pressure and replace irregular and unsafe arrivals with legal and safe pathways, investing in efficient and coordinated migration management in the Union is key to realising the Union's objective of constituting an area of freedom, security and justice pursuant to Article 67(2) of the Treaty on the Functioning of the European Union.
(2) The importance of a coordinated approach by the Union and the Member States is reflected in the European Agenda on Migration of May 2015, which stressed the need for a consistent and clear common policy to restore confidence in the Union's ability to bring together European and national efforts to address migration and work together in an effective way, in accordance with the principles of solidarity and fair sharing of responsibility, and was confirmed in its mid-term review of September 2017 and the progress report of March and May 2018.
(3) In its conclusions of 19 October 2017, the European Council reaffirmed the need to pursue a comprehensive, pragmatic and resolute approach to migration management that aims to restore control of external borders and reduce irregular arrivals and the number of deaths at sea, and should be based on a flexible and coordinated use of all available Union and Member State instruments. The European Council further called to ensure significantly enhanced returns through actions at both EU and Member States level, such as effective readmission agreements and arrangements.
ES: (Comments):

¹ OJ C , , p. .

In line with Hungary, the Spain asks the current Presidency to propose an alternative drafting of this recital to include the June 28th 2018 Conclusions referred to migration.

HU: (Comments):

Hungary has two very important elements regarding the fund's objectives. One is the flexibility and the other is the external dimension. We would specifically refer in this connection to the conclusion of the European Council on 28 June 2018, where it was set out a clear objective to address migration in the external dimension. The preamble refers to the Council's conclusions of 19 October 2017, and it is suggested that in the Preamble the much more up-to-date and migration-relevant changes the conclusions of 28 June 2018 should be included.

(4) In order to support efforts to ensure a comprehensive approach to management of migration grounded on mutual trust, solidarity and responsibility sharing among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of the Asylum and Migration Fund (hereinafter referred to as 'the Fund').

EE: (Comments):

EE welcomes that „integration“ is brought back to the name of the fund in the compromise text and it should be harmonized throughout the regulation.

ES: (Comments):

Spain presents a scrutiny reservation

IT: (Drafting):

In order to support efforts to ensure a comprehensive approach to management of migration grounded on mutual trust, solidarity and responsibility sharing among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and

immigration, Member States should be supported by adequate financial resources in the form of the Asylum **Integration** and Migration Fund (hereinafter referred to as ‘the Fund’).

IT: (Comments):

“Integration” added to the denomination fo the Fund

LU: (Drafting):

(4) In order to support efforts to ensure a comprehensive approach to management of migration grounded on mutual trust, solidarity and responsibility sharing among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum, **integration and** immigration, Member States should be supported by adequate financial resources in the form of the Asylum and Migration Fund (hereinafter referred to as ‘the Fund’).

LU: (Comments):

LU suggests to add “integration” in this rectial in order to align the recitals with the articles.

PL: (Comments):

Reservation due to ungoing discussion on the balance between solidarity and responsibility.

PT: (Drafting):

Asylum, Migration and Integration Fund

PT: (Comments):

Portugal advocates the reintroduction of “Integration” in the name of the Fund

(5) The Fund should be implemented in full compliance with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and with the Union's international obligations as regards fundamental rights.
(6) The Fund should build on the results and investments achieved with the support of its predecessors: the European Refugee Fund established by the Decision 573/2007/EC of the European Parliament and the Council, the European Fund for the Integration of third-country nationals established by the Council Decision 2007/435/EC, the European Return Fund established by the Decision 575/2007/EC of the European Parliament and the Council for the period 2007-2013 and the Asylum, Migration and Integration Fund for the period 2014-2020, as established by Regulation (EU) 516/2014 of the European Parliament and of the Council. It should at the same time take into account all relevant new developments.
(7) The Fund should support the efficient management of migration flows, <i>inter alia</i> by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and the transfer of applicants for or beneficiaries of international protection between Member States, supporting integration strategies and a more effective legal migration policy, so as to ensure the Union's long-term competitiveness and the future of its social model and reduce incentives for irregular migration through a sustainable return and readmission policy. The Fund should support the strengthening of cooperation with third countries to reinforce management of flows of persons applying for asylum or other forms of international protection, avenues on legal migration and to counter irregular migration and ensure sustainability of return and effective readmission to third countries. ES: (Comments): Spain presents a scrutiny reservation PL: (Comments): Reservation due to ongoing discussion on EU asylum reform.
(8) The migration crisis highlighted the need to reform the Common European Asylum System to ensure that efficient asylum procedures to prevent secondary movements, to provide uniform and appropriate reception conditions for applicants for international protection, uniform standards for the granting of international protection and appropriate rights and benefits for beneficiaries of international protection. At the same time, the reform was needed to put in place a fairer and more effective system of determining Member States' responsibility for applicants for international protection as well as a Union framework for Member States' resettlement efforts. Therefore, it is appropriate for the Fund to provide

increased support to Member States' efforts to fully and properly implement the reformed Common European Asylum System.

CY: (Comments):

In relation to article 3 para 2 the following phrase should be added (as point d), (in favour of obligatory reallocation): 'to prevent and manage of disproportionate migratory pressures.'

EE: (Comments):

It seems that in the first sentence a word or a phrase is missing to complement or complete the wording "to ensure that efficient asylum procedures to prevent secondary movements".

ES: (Comments):

Spain presents a scrutiny reservation

PL: (Comments):

Scrutiny reservations due to the ongoing discussions on the CEAS reform. Poland would like to underline that according to our previous position, further works on the CEAS reform should be based on the package approach which ensure coherence between all legislative proposals.

(9) The Fund should also complement and reinforce the activities undertaken by the European Union Agency for Asylum (EUAA) established by Regulation (EU) No ... [EUAA Regulation]¹ with a view to facilitating and improving the functioning of the common European asylum system, by coordinating and strengthening practical cooperation and information exchange between Member States, promoting Union law and operational standards on asylum in order to ensure a high degree of uniformity based on high protection standards as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, enabling a sustainable and fair distribution of applications for international protection, facilitate convergence in the assessment of applications for international protection across the Union, support the

¹ Regulation (EU) No ... of the European Parliament and of the Council of [EUAA Regulation] (OJ L ..., [date], p. ...).

resettlement efforts of the Member States and provide operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.

ES: (Comments):

Spain presents a scrutiny reservation

HU: (Comments):

Hungary has a scrutiny reservation for reference to the EUAA Regulation.

PL: (Drafting):

(9) The Fund should also complement and reinforce the activities undertaken by the European Union Agency for Asylum (EUAA) established by Regulation (EU)... [EUAA Regulation] ***that fully respect the principle of proportionality and Member States' national competences***, with a view to facilitating and improving the functioning of the common European asylum system, by coordinating and strengthening practical cooperation and information exchange between Member States, promoting Union law and operational standards on asylum in order to ensure a high degree of uniformity based on high protection standards as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, enabling a sustainable and fair distribution of applications for international protection, facilitate convergence in the assessment of applications for international protection across the Union, support the resettlement efforts of the Member States and provide operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.

PL: (Comments):

Poland supports the position according to which the Agency should not have had the power to take action on its own initiative in the territory of a Member State without the consent of that state.

(10) The Fund should support the efforts by the Union and the Member States relating to the enhancement of the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under existing Union law.

(11) Partnerships and cooperation with third countries are an essential component of Union asylum policy to ensure the adequate management of flows of persons applying for asylum or other forms of international protection. With the aim of replacing the unsafe and irregular arrivals with legal and safe arrival to the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, helping achieve the Union's migration policy objectives by increasing the Union's leverage *vis-à-vis* third countries, and of effectively contributing to global resettlement initiatives by speaking with one voice in international fora and with third countries, the Fund should provide financial incentives to the implementation of the Union Resettlement [and Humanitarian Admission] Framework.

CY: (Comments):

Positive, given that there would be measurable criteria in these agreements to control the effectiveness of the measures to be taken by the third country. It should also be ensured that the third country keeps its commitments towards all MS. A significance in assessing the effectiveness of measures should also be given to neighboring MS or first-line countries, which are likely to receive migratory flows from that specific third country. Moreover, the absorption of Funds from third countries should not reduce the amount that MS will be receiving from the Fund.

(12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for early integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

AT: (Drafting):

(12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for ~~early~~ integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

BG: (Drafting):

12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

BG: (Comments):

The suggested deletion is relevant to unification of the text of the recitals with the provisions of the compromise proposal.

CZ: (Drafting):

Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for ~~early~~ integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

CZ: (Comments):

The CZ suggests deleting the word "early" to make the recital in line with the latest version of the proposal of the regulation.

DE: (Comments):

The word "early" should be deleted as we reject a time-based differentiation of the funds when supporting integration measures.

EE: (Comments):

EE suggests that the restraint „early“ should been deleted throughout the text.

ES: (Drafting):

Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

ES: (Comments):

Spain suggests to delete any reference to “early” integration in the recitals as well as throughout the articles. Spain upholds that integration is a continuous process that cannot be divided into phases.

FR: (Drafting):

(12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for **early** integration of legally staying third-country nationals, ~~including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.~~, **while taking into account the specific context and conditions of each Member State.**

FR: (Comments):

The EU supports Member States in their integration policies. In 2016, the Commission adopted a communication “Action Plan on integration of third-country nationals”. The Council and the Representatives of the Governments of the Member States took into consideration the communication.

HR: (Comments):

HR proposes the deletion of the word “early” from the text of the recital considering that MS have agreed on the deletion of the said term at

previous working group meetings.

IT: (Drafting):

Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for early integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

IT: (Comments):

“Early” has been deleted when referred to integration

LU: (Drafting):

(12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for early integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.

LU: (Comments):

LU suggest to delete “early” in order to align the recitals with the articles.

MT: (Drafting):

(12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for ~~early~~ integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third country nationals adopted by the Commission in 2016.

MT: (Comments):

This recital should be aligned with the operative part of the text and the term ‘early’ should therefore be deleted.

(13) In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union’s response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals that are generally implemented in the early stage of integration, and horizontal actions supporting Member States’ capacities in the field of integration, whereas interventions for third-country nationals with a longer-term impact should be financed under the ERDF and ESF+.

AT: (Drafting):

(13) In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union’s response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals that are generally implemented in the ~~early stage of integration, and~~ horizontal actions supporting Member States’ capacities in the field of integration, ~~whereas interventions for third-country nationals with a longer-term impact should be financed under the ERDF and ESF+.~~ **Actions in complementarity with the European Social Fund (ESF+) are welcomed taking into account that the ESF+ is explicitly funding measures that can target both EU and third-country nationals such as improving access to the labour market and promote employment, vocational training and job placement, promoting social inclusion and access to services, improving living and working conditions while combating discrimination and inequalities, thus contributing to the long-term socio-economic integration of third-country nationals.**

The integration measures funded through the AMF are focusing on education, language and other training such as civic orientation courses and professional guidance, administrative and legal guidance, one-stop shops for integration providing general advice and assistance to third country nationals in areas such as housing, means of subsistence, psychological care, health care, etc. Overlaps between

Funds should in general be avoided, but may be eligible in exceptional cases, where an overlap can be considered as “healthy”.

BG: (Comments):

We support the text on complementarity and specificity of AMIF supported actions as regards ESF+ and ERDF.

CZ: (Drafting):

delete

CZ: (Comments):

The CZ suggests to delete this recital as it is not in line with the division of activities between AMF and ESF+. This recital divides the integration between AMF and ESF+ based on timeline and presumes that only ESF+ actions have long term impact.

CZ: (Drafting):

In order to support stability, continuity and certainty every integration measure that could be funded within the AMIF 2014-2020 will continue to be eligible in the programming period 2021-2027.

CZ: (Comments):

The CZ suggests new recital which have been presented by the RO PRES in the previous version of the questionnaire as footnote no. 17.

CZ: (Drafting):

Actions in complementarity with the European Social Fund (ESF+) are welcomed taking into account that the ESF+ is explicitly funding measures that can target both EU and third-country nationals such as improving access to the labour market and promote employment, vocational training and job placement, promoting social inclusion and access to services, improving living and working conditions while combating discrimination and

inequalities, thus contributing to the long-term socio-economic integration of third-country nationals.

CZ: (Comments):

The CZ suggests new recital which have been presented by the RO PRES in the previous version of the questionnaire as footnote no. 18.

DE:(Comments):

Each financial instrument should be geared towards distinct purposes. Between AMF and EU structural funds, the specific objective and thus the type of measure should be clearly differentiated. Overlaps need to be avoided, so that there is no possibility for double financing.

EE: (Comments):

EE suggests that the restraint „early“ should be deleted throughout the text.

ES: (Drafting):

In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union's response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF).

ES: (Comments):

Spain suggests clarification on the complementarity between AMIF and ESF+, which Spain supports. Contrariwise, Spain opposes COM's proposal to limit AMIF to “early” integration, and ESF+ and ERDF to long-term actions.

FR: (Drafting):

In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union's response to foster the

integration of third-country nationals, actions financed under the Fund should be ~~specific and~~ complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals ~~that are generally implemented in the early stage of integration~~, and horizontal actions supporting Member States' capacities in the field of integration., ~~whereas interventions for third-country nationals with a longer-term impact should be financed under the ERDF and ESF+.~~

FR: (Comments):

We deem necessary to detail the synergies between AMIF, ESF+ and ERDF.

HU: (Comments):

The integration of third-country nationals is not considered by Hungary to be supportable from the Cohesion Fund, integration should be financed only by AMF without restrictions.

IT: (Drafting):

In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union's response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals *aimed at enhancing their integration into the receiving society that are generally implemented in the early stage of integration*, and horizontal actions supporting Member States' capacities in the field of integration; ~~whereas~~ interventions for *integration of* third-country nationals ~~*with a longer-term impact*~~ should be *synergic with those* financed under the ERDF and ESF+, *especially in the field of labour market integration.*

IT: (Comments):

Considering that AMIF will finance both early and medium-long term integration and that ESF+ doesn't foresee any distinction between early and medium-long term integration, the difference between the two funds is related to the actions they can finance: ESF+ is focused on the social and labour integration of third countries nationals as it allows to provide direct support to TCN (active employment measures through vocational training, internships, etc.). Such actions have to be carried out by AMIF and ESF+ in a synergic way, through a strong coordination between national managing authorities.

MT: (Drafting):

(13) In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union's response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support **integration** measures tailor-made to the needs of third-country nationals ~~that are generally implemented in the early stage of integration,~~ and horizontal actions supporting Member States' capacities in the field of integration, **complemented by** ~~whereas~~ interventions **to promote the socio-economic integration of** third country nationals ~~with a longer term impact should be financed under the ERDF and ESF+.~~

MT: (Comments):

This recital should be aligned with the operative part of the text and the term 'early' should therefore be deleted and the distinction with ERDF and ESF+ should be made by reference to 'socio-economic' integration instead.

SK: (Drafting):

...in the ~~early~~ stage of integration...

(14) In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and establish coordination mechanisms with the authorities identified by Member States for the purpose of the management of the interventions of the

ESF+ and of the ERDF and wherever necessary with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals.

CZ: (Drafting):

In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate ~~and establish coordination mechanisms~~ with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and of the ERDF and wherever necessary with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals

CZ: (Comments):

The CZ suggests to delete the duty to establish coordination mechanisms. The recital should not constitute a concrete duty and mechanisms. The recital should just generally state that there should be cooperation. The concrete form of cooperation should not be mentioned here.

DE: (Comments):

Since in GER different ministries are responsible for the respective funds, a coordination mechanisms is difficult to implement in practice. The partnership agreement foreseen in the CPR should not be a obligatory requirement for AMF.

FR: (Drafting):

(14) In this context, the authorities of the Member States responsible for the implementation of the Fund should be required ~~to cooperate and establish coordination mechanisms with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and of the ERDF and wherever necessary with their managing authorities and~~ with the managing authorities of other Union funds contributing to the integration of third-country nationals.

FR: (Comments):

We deem necessary to detail the synergies between AMIF, ESF+ and ERDF.

(15) The implementation of the Fund in this area should be consistent with the Union's common basic principles on integration, as specified in the common programme for integration.

(16) It is appropriate to allow those Member States that so wish to provide in their programmes that integration actions may include immediate relatives of third-country nationals, to the extent that this is necessary for the effective implementation of such actions. The term 'immediate relative' should be understood as meaning spouses, partners and any person having direct family links in descending or ascending line with the third-country national targeted by the integration action, and who would otherwise not be covered by the scope of the Fund.

DE: (Comments):

GER welcomes the possibility of involving close relatives in order to increase the effectiveness of integration measures.

FR: (Comments):

*We would prefer to reintegrate the definition within the regulation corpus (Article 2 **Definitions**).*

(17) Considering the crucial role played by local and regional authorities and civil society organisations in the field of integration and to facilitate the access of these entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by local and regional authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions.

DE: (Comments):

Scrutiny reservation regarding higher co-financing rates for actions in the field of integration by local and regional authorities or civil society organisations. Do MS need to define the respective rates in the national programmes?

FR: (Drafting):

(17) Considering the crucial role played by local and regional authorities and civil society organisations in the field of integration and to facilitate the access of these entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by local and regional authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions, **while respecting the division of competencies in the Member States.**

IT: (Comments):

National authorities will be involved not only as managing authorities but also as beneficiaries of funding (competent national authorities in the field of education, anti-trafficking, etc. could be involved in projects' implementation)

LU: (Drafting):

(17) Considering the crucial role played by local and regional authorities and civil society organisations in the field of integration and to facilitate the access of these entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by **national**, local and regional authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions.

LU: (Comments):

LU suggest to add "national" to this recital

MT: (Drafting):

'...the Fund should facilitate the implementation of actions in the field of integration by **national, regional and local** ~~local and regional~~ authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions.'

MT: (Comments):

Concerning Recital 17, Malta suggests the following textual amendment in ***bold italics/strikethrough*** as seen in the second column, to bring it in line with the amendments included in the compromise text for Article 9 and Annex VIII (ref:WK930/2019). The implementation of actions in the field of integration should respect the administrative set ups and competences in place in a member state where this may also include national authorities, apart from local and regional authorities.

Furthermore, Annex IV would need to be aligned to reflect this proposed textual amendment.

(18) Considering the long-term economic and demographic challenges faced by the Union, it is crucial to establish well-functioning legal migration channels to the Union to maintain the Union as an attractive destination for migrants and ensure the sustainability of welfare systems and growth of the Union economy.

HU: (Comments):

Please delete paragraph 18. Hungary does not support any proposals that encourage immigration.

PL: (Drafting):

(18) Considering the long-term economic and demographic challenges faced by the Union, it is crucial to establish, **while respecting national competences, well – managed and effective** ~~well-functioning~~ legal migration channels to the Union ~~to maintain the Union as an attractive destination for migrants and~~ to ensure the sustainability of welfare systems and growth of the Union economy.

PL: (Comments):

Poland would like to keep its drafting suggestions due to the fact that legal migration policy cannot affect the existing national competences and cannot create pull factors into EU.

(19) The Fund should support Member States in setting up strategies organising legal migration, enhancing their capacity to develop, implement, monitor and evaluate in general all immigration and integration strategies, policies and measures for legally staying third-country nationals, including Union legal instruments. The Fund should also support the exchange of information, best practices and cooperation between different departments of administration and levels of governance, and between Member States.

(20) An efficient return policy is an integral part of the comprehensive migration approach the Union and its Member States pursue. The Fund should support and encourage efforts by the Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council¹, and of an integrated and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as the reintegration of returnees.

DE: (Drafting):

(20) An efficient return policy is an integral part of the comprehensive migration approach the Union and its Member States pursue. The Fund should support and encourage efforts by the Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council , and of an integrated and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as the **sustainable** reintegration of returnees.

DE: (Comments):

Reintegration programmes should also be sustainable and this should be reflected throughout the regulation

(21) Member States should give preference to voluntary return. In order to promote voluntary return, Member States should envisage incentives such as preferential treatment in the form of enhanced return assistance should be envisaged for the voluntary return of persons. This kind of voluntary return is in the interests of both returnees and the authorities in terms of its cost-effectiveness.

FR: (Comments):

What does the notion of “enhanced return assistance” cover ? What would be the difference with the “specific support measures for returnees” in recital 23 ?

¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

(22) Voluntary and enforced returns are nevertheless interlinked, with mutually reinforcing effect, and Member States should therefore be encouraged to reinforce the complementarities between these two forms of return. The possibility of removals is an important element contributing to the integrity of the asylum and legal migration systems. The Fund should therefore support actions of Member States to facilitate and carry out removals in accordance with the standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.
(23) Specific support measures for returnees in the Member States and in the countries of return can improve conditions of return and enhance their reintegration. DE: (Drafting): (23) Specific support measures for returnees in the Member States and in the countries of return can improve conditions of return and enhance their sustainable reintegration. DE: (Comments): Reintegration programmes need to be sustainable and this should be reflected throughout the regulation
(24) Readmission agreements and other arrangements are an integral component of the Union return policy and a central tool for the efficient management of migration flows, as they facilitate the swift return of irregular migrants. Those agreements and arrangements are an important element in the framework of the dialogue and cooperation with third countries of origin and transit of irregular migrants and their implementation in third countries should be supported in the interests of effective return policies at national and Union level.
(25) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to counter irregular migration, address incentives for illegal migration or the circumventing of existing legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.
(26) The employment of irregular migrants creates a pull factor for illegal migration and undermines the development of a labour mobility

policy built on legal migration schemes. The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council¹ which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.

FR: (Comments):

Could the Commission detail the actions to be financed, under the reference of those directives?

PL: (Drafting):

(26) Lack of effective barriers to employ irregular migrants creates a pull factor for illegal migration and undermines the development of a labour mobility policy built on legal migration schemes.

The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council which prohibits employing illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.

PL: (Comments):

This wording better stresses the causes generating illegal migration.

(27) The Fund should support Member States, either directly or indirectly, in their implementation of Directive 2011/36/EU of the European Parliament and of the Council² which sets forth provisions on assistance, support and protection of victims of trafficking in human beings.

¹ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

² Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

(28) The Fund should complement and reinforce the activities undertaken in the field of return by the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 of the European Parliament and of the Council¹, therefore contributing to effective European Integrated Border Management, as defined in Article 4 of that Regulation.

SE: (Comments):

The recital needs to be further clarified as regards what kind of return measures carried out by the EBCG that shall be funded by the AMF-fund.

This given that also other funds are involved in the return area and overlapping and dubble financing shall be avoided.

(29) Synergies, consistency and efficiency should be sought with other Union funds and overlap between actions should be avoided.

AT: (Drafting):

(29) Synergies, consistency and efficiency should be sought with other Union funds and overlap between actions should **in general** be avoided, **but may be eligible in exceptional cases, where an overlap can be considered as “healthy”**.

DE: (Comments):

Please clarify responsibilities of each Fund.

(30) Measures in and in relation to third countries supported through the Fund should complement other actions outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action and foreign policy in respect of the country or region in question and the Union international commitments. In relation to the external dimension, the Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

AT: (Comments):

General remark on external dimension: The Council Decision of June 2018 clearly states that the Home Funds should hold a significant component for the external migration management.

In general, in AT's opinion, all aspects concerning migration should be funded under the AMIF. AT also thinks that the funding of the external dimension will be essential for preventing uncontrolled migration flows in the future.

We know that another idea is, that external instruments like NDICI should mainly be responsible for funding the external dimension, but we have the opinion that the Home Funds and especially the AMF should be able to fund the external dimension in the framework of migration – let migration experts deal with the topic.

The complementarity with the external instruments for example with the NDICI is not clear yet. Yes, it is mentioned that the NDICI reserves 10% of the financial envelope to address the root causes of irregular migration and forced displacement and to support migration management, **but it is only mentioned in the recitals (30) and not under the budgetary articles.**

It is the wish of the European leaders that the external dimension is funded under the Home Funds, a considerable additional amount should be given to the AMIF.

For example, if measures in countries of origin can be supported and perspectives can be created there, irregular migration to Europe would be easier to prevent and handle.

CY: (Comments):

Positive, given that there would be measurable criteria in these agreements to control the effectiveness of the measures to be taken by the third country. It should also be ensured that the third country keeps its commitments towards all MS. A significance in assessing the effectiveness of measures should also be given to neighboring MS or first-line countries, which are likely to receive migratory flows from that specific third country. Moreover, the absorption of Funds from third countries should not reduce the amount that MS will be receiving from the Fund.

DE: (Comments):

A coherent approach of Union action in third countries is very important. Please explain how the complementarity of AMIF measures in and in relation to third countries with other actions outside the Union can be achieved in practice.

ES: (Comments):

Spain welcomes the inclusion the external dimension of the Fund and understands that it should be linked to the proposed Spanish drafting for recital number 3.

HR: (Comments):

HR does not support setting aside resources from AMF, BMVI and ISF for managing external dimensions of migration.

We emphasize that we are not against the very concept of external dimensions, but we do not support providing the funding by setting aside resources from our funds (AMIF, ISF and BMVI), which are relatively “small” compared to other instruments available.

We believe that Foreign Policy Instruments should be used to tackle the causes of migration. Therefore, we cannot be in favour of setting aside resources from AMF, BMVI and ISF for managing external dimensions of migration

IT: (Comments):

Clarification is needed on the current or foreseen mechanisms in place, or to be put in place, to avoid conflicts between this Fund’s external dimension and the Union’s external action, so as to fulfil the stated objective of ensuring the “full coherence ... with the principles and general objectives of the Union’s external action and foreign policy in respect of the country or region in question and the Union international commitments”.

(31) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared to action undertaken by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national

and Union capabilities in the areas of asylum and migration.

IT: (Drafting):

Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared to action undertaken by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the areas of asylum, integration and migration.

IT: (Comments):

“Integration” has been added

(32) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under this Fund, if it has failed to fulfil its obligations under the Treaties in the area of asylum and return, if there is a clear risk of a serious breach by the Member State of the Union’s values when implementing the *acquis* on asylum and return or if an evaluation report under the Schengen or the European Union Agency for Asylum evaluation and monitoring mechanism has identified deficiencies in the relevant area.

DE: (Comments):

Please explain the respective consequences. Does this include the obligation to repay funds?

HU: (Comments):

HU has a scrutiny reservation on paragraph 32. This wording may result that some Member States will not receive resources from the Fund if it does not comply with the EU *acquis*.

PL: (Comments):

Reservation. Recital opens possibility of double penalising of MS through AMF regulation and through the proposal for EU Agency for Asylum (under negotiations).

SE: (Comments):

The recital needs to be further clarified as regards the practical consequences for those Member States failing to fulfil their obligations under the Treaties in the area of asylum and return. It also needs to be clarified in what way the operating support is affected.

(33) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the policy and specific objectives laid down in this Regulation.

(34) This Regulation should establish the initial amounts to Member States consisting of a fixed amount and an amount calculated on the basis of criteria laid down in Annex I, which reflect the needs and pressure experienced by different Member States in the areas of asylum, integration and return.

AT: (Drafting):

(34) This Regulation should establish the initial amounts to Member States consisting of a fixed amount and an amount calculated on the basis of criteria laid down in Annex I, which reflect the needs and pressure experienced by different Member States in the areas of asylum, integration and return. **The 5 Member States that were effected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015 and 2016, will receive a bonus of 3% of their total envelope for their efforts in addition to the initial amounts.**

AT: (Comments):

AT thinks that if the COM would grant additional financial bonuses to those MS that were effected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015/16, it would send a positive message and a sign of acknowledgement for the commitment that the MS showed during the crisis.

FR: (Comments):

Scrutiny reservation

(35) These initial amounts should form a basis for Member States' long-term investments. To take account of changes in migration flows and to address needs in the management of asylum and reception systems and integration of legally staying third-country nationals, and counter irregular migration through efficient and sustainable return policy, an additional amount should be allocated to the Member States at mid-term taking into account the absorption rates. This amount should be based on the latest available statistical data as set out in Annex I to reflect the changes in the baseline situation of Member States.

FR: (Comments):

Scrutiny reservation

IT: (Comments):

This recital is not currently aligned with the latest compromise text presented by the Presidency which removed the mid-term review.

NL: (Comments):

Scrutiny Reservation. Recital is linked to the discussion about article 14.

NL is in favour of a mid term review in order to allocate additional amounts to MS. In the opinion of NL the percentage to be divided on the basis of the MTR could even be more than 10%. Allocation however should take place on basis of the actual needs and real performance of MS instead of only the amount spend on actions.

PT: (Comments):

Portugal does not agree with the terms of Art. 14 of the Commission's Regulation proposal. Portugal has tabled drafting proposals as regards to the need for a safeguard clause.

The a.m. proposals stand valid and should be born in mind once analysing the current n. 35.

(36) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that their programmes include actions addressing the specific objectives of this Regulation, that the priorities chosen are in line with the implementation measures as set out in Annex II and that the allocation of resources between the objectives ensures that the overall policy objective can be met.

PT: (Comments):

Portugal reiterates its support to the Presidency's proposal on Annex II, in particular underlining that the actions mentioned in the a.m. Annex do not constitute an exhaustive list, but rather an indicative suggestion of some of the actions which can be financed under the Fund

(37) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding will be periodically allocated to specific actions, Union actions, emergency assistance, resettlement and to provide additional support for Member States contributing to solidarity and responsibility efforts via a thematic facility.

AT: (Drafting):

(37) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding will be periodically allocated to specific actions, Union actions, emergency assistance, resettlement and to provide additional support for Member States contributing to solidarity and responsibility efforts via a thematic facility.

The financial envelope allocated to the thematic facility will primary serve to reinforce programmes (through top-ups, emergency assistance and specific actions).

DE: (Comments):

Please explain the allocation mechanism for the funds under the Thematic Facility.

NL: (Comments):

To address these challenges properly the Commission should have enough funds to respond. NL questions whether the current allocation (60-40) addresses this enough or that a higher allocation for the Commission (eg. 50-50) would be more logical.

(38) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a higher Union contribution.
(39) Part of the available resources under the Fund could also be allocated to Member States' programmes for the implementation of specific actions in addition to the initial allocation. These specific actions should be identified at Union level and should concern actions which require cooperative effort or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States. FR: (Comments): <i>It is necessary to establish a non-exhaustive list for specific actions, in a new Annex for example.</i>
(40) The Fund should contribute to supporting operating costs related to asylum and return and enable Member States to maintain capabilities which are crucial for that service for the Union as a whole. Such support consists of full reimbursement of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes. FR: (Drafting): (40) The Fund should contribute to supporting operating costs related to asylum, integration, and return and enable Member States to maintain capabilities which are crucial for that service for the Union as a whole. Such support consists of full reimbursement of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes. SE: (Drafting): (40) The Fund should contribute to supporting operating costs related to asylum, legal migration and integration and return and enable Member States to maintain capabilities which are crucial for that service for the Union as a whole. Such support consists of full reimbursement of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes.

SE: (Comments):

Scrutiny reservation. The recital needs to be amended in line with the changes made in article 18 and Annex VII which imply that that the legal migration and integration related objective in art. 3.2(b) is covered by the operating support as well.

(41) To complement the implementation of the policy objective of this Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund relating to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.

NL: (Comments):

See comments recital 37

(42) In order to strengthen the Union's capacity to immediately address unforeseen or disproportionate heavy migratory pressure in one or more Member States characterised by a large or disproportionate inflow of third-country nationals, which places significant and urgent demands on their reception and detention facilities, asylum and migration management systems and procedures, heavy migratory pressures in third countries due to political developments or conflicts, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.

NL: (Comments):

See comments recital 37

PL: (Comments):

Scrutiny reservation due to lack of final definition of "disproportionate migratory pressure" within the CEAS package.

(43) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC ¹ and should provide financial assistance in accordance with its objectives and tasks.
(44) The policy objective of this Fund will be also addressed through financial instruments and budgetary guarantee under the policy windows of the InvestEU. Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the Internal market. Actions should have a clear European added value. DE: (Comments): Please explain the possible use financial support of InvestEU. What is the practical procedure here? Could COM provide detailed examples in written. The mandate of the AMF serves with the fulfilment of official duties; since no action is taken in the economic sector, no return is expected. It is requested, that the COM comments in writing on how to define “financial instruments” and what applications are possible.
(45) This Regulation lays down a financial envelope for the entire Asylum and Migration Fund which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management²], for the European Parliament and the Council during the annual budgetary procedure. EE: (Drafting): This Regulation lays down a financial envelope for the entire Asylum and Migration Fund which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional

¹ 2008/381/EC: Council Decision of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

² OJ C 373, 20.12.2013, p. 1;
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management¹], for the European Parliament and the Council during the annual budgetary procedure.

EE: (Comments):

In the recital 4 it is referred “hereinafter referred to as ‘the Fund’”.

IT: (Drafting):

This Regulation lays down a financial envelope for the entire Asylum Integration and Migration Fund which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management²], for the European Parliament and the Council during the annual budgetary procedure.

(46) Regulation (EU) No .../... [Financial Regulation] applies to this Fund. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees.

(47) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework consisting of this Regulation, Financial Regulation and Regulation (EU) .../2021 [Common Provisions Regulation].

¹ OJ C 373, 20.12.2013, p. 1;
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

² OJ C 373, 20.12.2013, p. 1;
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

ES: (Comments):

Spain considers that JHA Funds shall not fall under the scope of CPR Regulation and therefore upholds a scrutiny reservation.

(48) Regulation (EU) .../2021 [Common Provisions Regulation] establishes the framework for action for ERDF, ESF+, the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the Asylum and Migration Fund (AMF), the Internal Security Fund (ISF) and the Border Management and Visa Instrument (BMVI) as a part of the Integrated Border Management Fund (IBMF), and lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. It is therefore necessary to specify the objectives of AMF, and to lay down specific provisions concerning the type of activities that may be financed by AMF.

EE: (Comments):

EE welcomes that „integration“ is brought back to the name of the fund in the compromise text and it should be harmonized throughout the regulation.

ES: (Comments):

Spain considers that JHA Funds shall not fall under the scope of CPR Regulation and therefore upholds a scrutiny reservation.

IT: (Drafting):

(48) Regulation (EU) .../2021 [Common Provisions Regulation] establishes the framework for action for ERDF, ESF+, the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the Asylum Integration and Migration Fund (AMF), the Internal Security Fund (ISF) and the Border Management and Visa Instrument (BMVI) as a part of the Integrated Border Management Fund (IBMF), and lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. It is therefore necessary to specify the objectives of AMIF, and to lay down specific provisions concerning the type of activities that may be financed by AMIF.

IT: (Comments):

Integration and I (in AMIF)

(49) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.

(50) In accordance with the Financial Regulation¹, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council², Council Regulation (Euratom, EC) No 2988/95³, Council Regulation (Euratom, EC) No 2185/96⁴ and Council Regulation (EU) 2017/1939⁵, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other criminal offences affecting the financial interests of the Union.

In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁶. In accordance with the Financial Regulation, any person or entity receiving Union funds is to cooperate fully in the protection of the Union's

¹ OJ C , , p. .

² OJ C , , p. .

³ Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.95, p. 1).

⁴ OJ C , , p. .

⁵ Council Regulation (EU) 2017/1371 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁶ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

financial interests to grant the necessary rights and access to the Commission, OLAF and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
(51) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 of the TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.]
(52) Pursuant to Article 94 of Council Decision 2013/755/EU ¹ , persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
(53) Pursuant to Article 349 of the TFEU and in line with the Commission Communication 'A stronger and renewed strategic partnership with the EU's outermost regions' ² , endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund supports these Member States with adequate resources to help these regions manage migration sustainably and handle possible situations of pressure.
(54) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this Fund on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, common indicators and related targets should be established in relation to each specific objective of the Fund. Through these common indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund, in accordance with the relevant provisions of Regulation (EU) .../2021 of the European Parliament and of the Council [Common Provisions Regulation] and this Regulation.

¹ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).

² COM(2017)623 final.

ES: (Comments):

Spain upholds a scrutiny reservation as regards the inclusion of AMIF in the Common Provisions Regulation.

(55) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate actions and to the achievement of an overall target of [25 %] of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes.

DE: (Comments):

Please explain how climate protection goals should be implemented in connection with the AMF.

FR: (Comments):

FR fully supports the objective set out in this recital. The terms and conditions of concrete contribution for AMF, the actions concerned, and the terms and conditions for measuring the contribution to the fight against climate change should be indicated.

HU: (Comments):

How should the paragraph be interpreted in relation to the Home Affairs Funds, and how can the Home Affairs Funds meet climate policy goals?

NL: (Comments):

For NL is not clear how this recital will or should be reflected in this Fund. Does this mean that the actions as mentioned in Annex II and III should be changed?

(56) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the list of actions eligible for higher co-financing as listed in Annex IV, operating support and in order to develop further the common monitoring and evaluation framework. It is of

particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that these consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016.

(57) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the arrangements for providing information to the Commission in the framework of programming and reporting, given their purely technical nature.

FR: (Comments):

Scrutiny reservation.

NL: (Drafting):

(57) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council². The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on the provision of information to the Commission, and ~~the advisory procedure should be used~~ for the adoption of implementing acts relating to the arrangements for providing information to the Commission in the framework of programming and reporting, given their purely technical nature.

NL: (Comments):

This recital should be changed accordingly to the changes in the compromise proposal.

(58) Since the objective of this Regulation, namely to contribute to an effective management of migration flows in the Union, in accordance with

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

the common policy on asylum and international protection and the common immigration policy, cannot be sufficiently achieved by the Member States acting alone and can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(59) In accordance with Article 3 of the Protocol on the position of [the United Kingdom] and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland [is not taking part in the adoption of this Regulation and is not bound by it or subject to its application / has notified its wish to take part in the adoption and application of this Regulation].

(60) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(61) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) .../2021 [Multiannual Financial Framework Regulation],

[ANNEX I]

[Criteria for the allocation of funding to the programmes under shared management]

AT: (Comments):

In general AT has a scrutiny reservation regarding the whole Annex

DE: (Comments):

In brackets. Negotiations will take place in the horizontal working group.

FR: (Comments):

Scrutiny reservation.

1. [The available resources referred to in Article 11 shall be broken down between the Member States as follows: HR: (Comments): Croatia welcomes the provision to have a fixed allocation for each Member State. In this regard, Croatia proposes to increase the fixed amount in point 1(a) from €5 million to €15 million for each of the EU-26 to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%). In spite of the fact that the budget for this Fund increased, the proposed fixed amount remained the same. Increasing the fixed amount ensures an adequate critical mass, also in view of the uncertainty involved till 2021 regarding the initial national allocation. MT: (Comments): Malta welcomes the provision to have a fixed allocation for each Member State. In this regard, Malta proposes to increase the fixed amount in point 1(a) from €5 million to €15 million for each of the EU-26 to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%). In spite of the fact that the budget for this Fund increased, the proposed fixed amount remained the same. Increasing the fixed amount ensures an adequate critical mass, also in view of the uncertainty involved till 2021 regarding the initial national allocation. SE: (Comments): Sweden has a scrutiny reservation on the entire Annex I. Given that the Annex is set within brackets it needs to be further clarified which parts are supposed to be discussed in the Ad hoc Working Group on AMF and in the Council's special MFF Working Group respectively.
(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only;

AT: (Drafting):

(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only; **The 5 Member States that were effected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015 and 2016, will receive a bonus of 3% of their total envelope for their efforts in addition to the initial amounts.**

CZ: (Drafting):

Each Member State shall receive a fixed amount of EUR **10 000 000** from the Fund at the start of the programming period only;

CZ: (Comments):

The EC's proposal uses the same amount of 5 million euros as was used for AMIF 2014-2020. It is suggested that the amount for AMF 2021+ should be almost triple of that in 2014-2020 (from 2,4 billion euros for shared management in 2014-2020 to 6,3 billion euros in 2021-2027), in order to keep the ratio between fixed amount and the rest at least similar to the current one the CZ suggest to increase the fixed amount to 10 million euros.

EL: (Drafting):

Each Member State shall receive an amount of at least 10% of the Program from the Fund at the start of the programming period only. In case of migratory flows and/or increased reception and integration challenges the amount can be at least doubled.

EL: (Comments):

We opt for a higher initial allocation of funds compared to the fixed proposed amount of 5.000.000, and the migratory flows, the increased reception and integration challenges have to be taken into account.

ES: (Comments):

Spain considers that the pre-funding is very low and may endanger the Fund implementation. Hence, it proposes an increase to 15.000.000 EUR per MS.

HR: (Comments):

As stated above, the fixed allocation should be increased to EUR15 million, such that the fixed allocation continues to amount to around 7% of the total initial allocation for Member States' programmes

MT: (Drafting):

a) Each Member State shall receive a fixed amount of EUR **15** 000 000 from the Fund at the start of the programming period only;

MT: (Comments):

As stated above, the fixed allocation should be increased to EUR15 million, such that the fixed allocation continues to amount to around 7% of the total initial allocation for Member States' programmes

PT: (Drafting):

Each Member State shall receive a fixed amount of EUR **10** 000 000 from the Fund at the start of the programming period only

PT: (Comments):

In line with the suggestion of other Member States, Portugal does not concur with the fact that the fixed amount, proposed by the Commission, stays unchanged once compared with the previous MFF. In this regard, and considering the indications of the Commission for a significant increase on the overall amounts attributed to this policy area, Portugal advocates that the fixed amount should be increased in a 100%.

It should be underlined that the fixed amount is the only objective, and fair criteria, which equally benefits all Member States

SK: (Drafting):

(a) Each Member State shall receive a fixed amount of EUR 15 000 000 from the Fund at the start of the programming period only;

SK: (Comments):

Slovakia proposes to increase the fixed amount in 1 (a) from €5 million to €15 million for each of the EU-26 to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%). In spite of the fact that the budget for this Fund increased, the proposed fixed amount remained the same. Increasing the fixed amount ensures an adequate critical mass, also in view of the uncertainty involved till 2021 regarding the initial national allocation.

CZ: (Drafting):

Each Member State shall receive a fixed amount of EUR **10 000 000** from the Fund at the start of the programming period only;

CZ: (Comments):

The EC's proposal uses the same amount of 5 million euros as was used for AMIF 2014-2020. It is suggested that the amount for AMF 2021+ should be almost triple of that in 2014-2020 (from 2,4 billion euros for shared management in 2014-2020 to 6,3 billion euros in 2021-2027), in order to keep the ratio between fixed amount and the rest at least similar to the current one the CZ suggest to increase the fixed amount to 10 million euros.

(b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:

EL: (Drafting):

The proposed percentages must be indicative and not obligatory, as the relevant populations and their needs cannot be stratified in such detail at this stage.

Flexibility should be available to be exercised at every stage, planning and implementation.

EL: (Comments):

The M-S currently assesses that the CEAS procedures is the area of the highest funding needs.

PT(Comments)

Portugal advocates a different partition between the three may criteria, thus proposing:

- 35% for asylum;
- 35% for integration and legal migration;
- 30% for return.

The reasons for these proposals are:

- The clear tendency for the continuation of migratory fluxes coming to the territory of the Union (asylum seekers and economic migrants);
- The responsible and solidar approaches of the EU towards those seeking international protection;
- The need to promote legal channels for migration and to respond to labour market shortages, as well as to the current demographic challenges;
- The need to guarantee a proper integration policy, one that prevents situations of racism and xenophobia;
- The prevention and fight against irregular migration, as a larger part of the migration management policy, one that should not have a stronger role than the other humanist traditions of the Union

- 30 % for asylum;

EL: (Drafting):

- 40 % for asylum;

EL: (Comments):

The funding needs are much higher in the common European asylum system procedures, according to the current period. Also, it has to be taken into account that the procedures have to be followed for everyone that applies for asylum or international protection, regardless of the outcome.

ES: (Drafting):

- 40 % for asylum;

ES: (Comments):

Spain suggest to increase the asylum criterium to 40%

PT: (Drafting):

35 % for asylum;

- 30 % for legal migration and integration;

EL: (Drafting)

- 35 % for legal migration and integration

EL: (Comments)

Integration measures are much higher, according to the needs documented in the current period. Also, it has to be taken into account that the population in need for such measures is larger than initially planned and very young in age, making the integration effort challenging.

PT: (Drafting):

– **35 %** for legal migration and integration;

– 40% for countering irregular migration including returns.

EL: (Drafting)

– 25 % for countering irregular migration including returns

ES: (Drafting):

– 30% for countering irregular migration including returns.

ES: (Comments):

Spain suggests to lower the return criterium to 30%

PT: (Drafting):

30 % for countering irregular migration including returns.

2. The following criteria in the area of asylum will be taken into account and shall be weighted as follows:

DE: (Comments):

Generally, in order to correctly reflect the migration related expenses in each Member State, the criteria for calculating the distribution key need to take into account how many migrants are actually living in the respective Member States.

EL: (Drafting)

The proposed percentages must be indicative.

EL: (Comments):

The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage

(a) 30 % in proportion to the number of persons who fall into one of the following categories:

– Any third-country national or stateless person having been granted the status defined by the Geneva Convention;

– Any third-country national or stateless person enjoying a form of subsidiary protection with the meaning of recast Directive 2011/95/EU¹;

– Any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC¹

¹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9–26).

(b) 60 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection.

CY: (Drafting):

b) 55 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection

CY: (Comments):

Please see below.

DE: (Comments):

Accordingly, with regard to the criteria in the area of asylum, especially ANNEX I, No. 2 letter b needs to be revised (60% in proportion to the number of third-country nationals or stateless persons who have applied for international protection). The application for international protection can only be a relevant criterion in case the applicant is still living in the respective Member State. The relevant criterion needs to be the place of actual residence.

HR: (Comments):

Criteria (percentages) for allocation of funds must reflect the actual burden taken on by Member States. We believe that a greater percentage of funds should be allocated according to the number of persons who have applied for international protection and a lower percentage based on the number of persons to whom that status has already been granted

¹ Data to be taken into account only in case of the activation of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12–23).

PT: (Drafting):

40 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection.

PT: (Comments):

Portugal advocates a fairer approach towards the different criteria at stake

(c) 10 % in proportion to the number of third-country nationals or stateless persons who are being or have been resettled in a Member State.

CY: (Drafting):

(c) 5% in proportion to the number of incoming Dublin transfers by submitting country.

CY: (Comments):

(Addition as point 2d, in supporting Italy's proposal.)

However, the percentage of this criterion, should be at 5%, so that the amount to be allocated for the application procedure for international protection is not reduced. Moreover, the rate may result in a double funding, since a MS will receive a percentage over funding for the same person, both when entering and submitting an application and when returning under the Dublin Regulation from one Member State to the first host country.

FI: (Drafting):

10 % in proportion to the number of third-country nationals or stateless persons who ~~are being or~~ have been resettled in a Member State

FI: (Comments):

We strongly support the inclusion of resettlement in the allocation criteria as it takes into account the solidarity efforts taken by the Member States

in the policy area. However, we would suggest that the wording would be amended in a way that the persons who are being resettled are excluded and only those who have effectively been resettled are included. This wording would be more clear and be based on actual figures as is the case with other criteria too.

Alternatively, the definition "who are being" should at least be clarified and possibly defined in the recitals to those who "have been accepted" to a Member State through resettlement.

PT: (Drafting):

30 % in proportion to the number of third-country nationals or stateless persons who are being or have been resettled in a Member State

PT: (Comments):

Portugal advocates a fairer approach towards the different criteria at stake.

3. The following criteria in the area of legal migration and integration will be taken into account and shall be weighted as follows:

DE: (Comments):

Concerning criteria in the area of legal migration and integration, the actual expenses in the Member States need to be reflected. For this purpose, e.g. the number of people profiting from integration measures or the costs of language courses and other integration measures should be taken into account.

EL: (Drafting):

The proposed percentages must be indicative.

EL: (Comments):

The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage

(a) 40% in proportion to the total number of legally residing third-country nationals in a Member State.

PT:(Drafting)

50 % in proportion to the total number of legally residing third-country nationals in a Member State.

PT:(Comments)

Portugal advocates a fairer approach towards the different criteria at stake

SI: (Comments):

We have a problem with the allocation of resources: we have to increase the national envelope and replace % in Annex I 3a and b: 60% for valid residence permits and 40% for first residence permits.

(b) 60% in proportion to the number of third-country nationals who have obtained a first residence permit.

EE: (Comments):

We would like to point out that for EE the criteria for the allocation concerning the 60% in proportion to the number of third-country national who have obtained a first residence permit is problematic. Estonia is among the MSs who is issuing the smallest number of first residence permits while the number of third-country nationals staying legally in the country is quite remarkable.

For the majority of third-country nationals, who have stayed and worked in a country less than a year, has been issued a visa and not a residence permit (which is a base for allocation criteria). Therefore, we are in favor of the exclusion which does not count among the first residence permits those permits that have been issued for the aim of working and are valid less than a year. In this way, the statistical figures of other MSs would be more equal with the numbers of Estonia, especially of those countries where the number of residence permits with the validity less than a year is remarkable.

PT:(Drafting)

50 % in proportion to the number of third-country nationals who have obtained a first residence permit

PT:(Comments)

Portugal advocates a fairer approach towards the different criteria at stake.

SI: (Comments):

We have a problem with the allocation of resources: we have to increase the national envelope and replace % in Annex I 3a and b: 60% for valid residence permits and 40% for first residence permits.

(c) However, for the purpose of the calculation referred to in paragraph 3(b), the following categories of persons shall not be included:

HU: (Comments):

Although integration is not a priority for Hungary, we do not understand why the third-country nationals holding a work permit for less than 12 months and the holders of residence permit for study or research purposes have been excluded from weighting? These groups may stay for years in the Member States. Please review this criterion.

SI: (Comments):

Wrong letters!!! There should be (a), (b) and (c).

- Third country nationals being issued a work-related first residence permits valid for less than 12 months;

EE: (Drafting):

- **Third-country** nationals being issued a work-related first residence permits valid for less than 12 months;

PL: (Comments):

PL takes the position that all persons who have received a residence permit should be included in the calculation. According to the record of the persons to whom the first visa was issued in order to work for less than 12 months, they are excluded from the calculations, whereas if a person receives a second document of this type, it is included in the calculation.

Integration activities financed from the Fund should be addressed to all persons receiving a residence permit. Migration is cyclical in PL. The exclusion of this group of people is not consistent with the scope of FAM support including early integration. This provision excludes one of the target groups of early integration. In addition, the scope of support [Annex III point 3 b)] includes the development of mobility programs - circular or temporary migration, including training to improve employability.

- Third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC¹ or when applicable the Directive (EU) 2016/801²;

¹ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12–18).

² Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21–57).

– Third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC¹ or when applicable the Directive (EU) 2016/801.
4. The following criteria in the area of countering irregular migration including returns will be taken into account and shall be weighted as follows: DE: (Comments): With regard to the criteria in the area of countering irregular migration including returns, it is of high importance that persons, whose deportation has been suspended (“Geduldete”), are to be included in the calculation of the distribution key as these persons also receive assistance in the Member States. EL: (Drafting): The proposed percentages must be indicative. EL: (Comments): The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage
(a) 50% in proportion to the number of third-country nationals who do not or no longer fulfil the conditions for entry and stay in the territory of

¹ Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15–22).

the Member State and who are subject to a return decision under national and / or Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;
PT: (Drafting) (a1) 10% in proportion to the number of third-country nationals who no longer fulfil the conditions for entry and stay in the territory of the Member State; PT: (Comments) Portugal suggests the inclusion of this new criteria, as it is considered the only one which can effectively measure the operational activities, developed by the competent authorities, in order to prevent and detect those irregularly staying in the EU.
(b) 50% in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion. FI: (Drafting): 50% in proportion to the number of third-country nationals who have actually left the territory of the Member State <u>to a third country</u> following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion. FI: (Comments): Focus should be paid on the removals from the union area to a third country, not to the area of other Member States PT: (Drafting) 40 % in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.
5. For initial allocation the reference figures shall be the latest annual statistical data produced by the Commission (Eurostat) covering the preceding three calendar years on the basis of data provided by Member States on the date of the applicability of this Regulation in accordance with

Union law. For the mid-term review, the reference figures shall be the latest annual statistical data produced by the Commission (Eurostat) covering the preceding three calendar years available at the time of the mid-term review in 2024 on the basis of data provided by Member States in accordance with Union law. Where Member States have not supplied the Commission (Eurostat) with the statistics concerned, they shall provide provisional data as soon as possible.

AT: (Drafting):

5. For initial allocation the reference figures shall be the latest annual statistical data produced by the Commission (Eurostat) covering the preceding three calendar years on the basis of data provided by Member States on the date of the applicability of this Regulation in accordance with Union law. **The 5 Member States that were effected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015 and 2016, will receive a bonus of 3% of their total envelope for their efforts in addition to the initial amounts.**

For the mid-term review, the reference figures shall be the latest annual statistical data produced by the Commission (Eurostat) covering the preceding three calendar years available at the time of the mid-term review in 2024 on the basis of data provided by Member States in accordance with Union law. Where Member States have not supplied the Commission (Eurostat) with the statistics concerned, they shall provide provisional data as soon as possible.

BG: (Comments):

The provision of a fair distribution of funds with due regard of the situation in the Member States is particularly important to us. We consider that in the initial allocation reference figures should cover the entire financial period of 2014-2020. Given the dynamics of the situation in the EU in the asylum and migration, this approach will better reflect the actual situation in the Member States.

DE: (Comments):

The distribution of funds between the Member States has to reflect the actual migration situation in the Member States, which is - of course - a result of the influx of previous years. Therefore, the allocation of funds to Member States should take account of the actual needs such as expressed by the number of asylum seekers that were received by a given Member State from 2015, the peak year of the migration crisis, onwards.

The allocation process and the distribution key remains unclear; it needs to be clarified which Eurostat-data is going to be used. A sample calculation would be helpful.

PL: (Comments):

PL recommends thoroughly discussing the criteria for allocation of funds under shared management and working on preliminary estimates regarding the future allocation for MS before the start of the perspective.

National programming requires prior knowledge of the available resources.

PL also asks for the criteria set out in Annex I to oblige the MS to divide funds into national programs in the same proportion. If such an obligation is imposed, PL is of the opinion that MS should, in accordance with the flexibility assumptions, retain the possibility of deciding on the distribution of funds under the division into objectives.

Imposing the obligation to spend in accordance with the criteria provided for in Annex I will hinder national programming. National programming requires prior knowledge of the available resources.

6. Before accepting these data as reference figures, the Commission (Eurostat) shall evaluate the quality, comparability and completeness of the statistical information in accordance with normal operational procedures. At the request of the Commission (Eurostat), Member States shall provide it with all the necessary information to do so.]