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WORKING PAPER

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From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	WK 2137/20
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund – Comments from the delegations

Following the JHA Counsellors on Financial Instruments meeting on 28 February 2020, please find in the annex to this note, comments from delegations to the above mentioned proposal (WK 2137/20).

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EN

Written comments submitted by the Member States

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Asylum and Migration Fund

(WK 2137/20)

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AUSTRIA:

- **References to Charter and international obligations of Member States** (various lines): In line 91, the European Parliament suggests a solution along the text of Article 3(4) of the current ISF Regulation (515/2014). The European Parliament also requests to keep the reference to the Charter in key provisions, mainly those related to third countries and programmes.
AT position: AT primarily supports the Council position, but is willing to accept the term “obligations” instead of “commitments” and also the EP compromise.
- **Reference to gender equality and non-discrimination** (Article 4a - lines 100 and 100b) - Delegations are invited to examine the possible compromise proposal suggested by the Commission.
AT position: In general AT is fine with the wording in the PGA, but is willing to compromise with the COM proposal for Art. 4a, if the text is changed as follows in para 1: “The Member States and the Commission shall ensure that equality between men and women, gender mainstreaming and the integration of gender perspective are taken into account. ~~and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes and projects.”~~”
- **Partnership** (Article 3a - lines 96a, 96b and 96c): Following further discussions, the European Parliament amended its possible compromise proposal. Delegations are invited to comment on the latest EP's compromise proposal.
AT position: AT is supporting the Council position that says to wait for the outcome of the CPR, but is willing to accept the EP's compromise proposal.
- **Support to international organisation** (Article 9 - line 135): Delegations are invited to comment on the possibility of including reference to international organisation as proposed by the European Parliament.
AT position: AT is willing to compromise with the EP amendments.
- **Co-financing NGO Projects** (Article 12 - line 155): Following further clarifications from the EP on AM 101, the Commission suggested an addition in recital 17 as a possible compromise proposal.
AT position: AT supports the Council position, but is willing to compromise with the COM proposal text for recital 17.
- **Adding “immediate relatives”** (Article 13 - line 171a): The Presidency suggests accepting EP AM 109.
AT position: AT is fine with the EP amendment.
- **Projects in third countries** (Article 13 - line 172): The Presidency invites delegations to agree that the Presidency proposes the following as a possible compromise proposal: *“Whenever a Member State decides to implement **new** projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the **approval** start of the project.”*
AT position: AT supports the Presidency proposal.

- Involvement of EU Agencies in assessment of baseline situation** (Article 18 - line 201): The EP maintains its strong position on the extent of involvement of the EU Agencies to the point that in Article 13, the EP insists on looking at this aspect horizontally. In Article 18 (line 201), this matter is still being looked at from an AMF perspective. The EP remains adamant that EBCG, EASO and FRA remain involved (not just consulted) in the Commission's assessment of the baseline situation in Member States. The Council has opposed this in accordance with the mandate. The Presidency invites delegations to indicate any possible changes in position, if any or to provide additional reasons for objections to further aid the Presidency in the negotiations.

AT position: AT primarily supports the Council position, because the involvement of the agencies in the approval of the programme could cause delays and this should be prevented if possible. The only option that would be possible for AT, would be to have an addition in the wording that any delays have to be prevented and the agencies are only consulted and not involved.
- Institutional care and reference to children / minors** (Annex IV - Line 389 and 391): Following further discussions, the Commission proposed a possible compromise proposal in line 391 to EP AM 229. In addition, discussions on the right terminology are also ongoing. In this regard, the Presidency invites delegations consider replacing the term 'children', with 'minors' in line 391.

AT position: AT can support the COM proposal in line 391 and does accept the replacement of “minors” instead of “children”.
- Terminology** (Article 18 - lines 202 and 203): The Presidency suggests accepting AM 126 and 127 which aim to align terminology with Annex VII.

AT position: AT accepts the amendments 126 and 127.

BULGARIA:

References to Charter and international obligations of Member States (various lines)

In line 91, the European Parliament suggest a solution along the text of Article 3(4) of the current ISF Regulation (515/2014). The European Parliament also requests to keep the reference to the Charter in key provisions, mainly those related to third countries and programmes.

BG: We support the text of this provision as per the PGA.

Reference to gender equality and non-discrimination (Article 4a - lines 100 and 100b) -

Delegations are invited to examine the possible compromise proposal suggested by the Commission.

BG: We could support the COM compromise text.

Partnership (Article 3a - lines 96a, 96b and 96c)

Following further discussions, the European Parliament amended its possible compromise proposal. Delegations are invited to comment on the latest EP's compromise proposal. We do not support the proposal of the EP and the compromise text. In the course of the negotiations on the CPR Bulgaria raised concerns on the implementation of Art. 6 and 6a in the Home Affairs funds.

BG: *We prefer to adhere to the Council's text of Article 6 in order not to impose too strict obligations on Member States as regards the Partnership Principle which do not reflect the individual situation and the legal basis in the Member States.*

Concerning Article 6a as regards the Home Affairs Funds we consider difficult or even impossible to implement part of the horizontal principles included in new Article 6a in the preparation and implementation of the programmes, except from these included in rows 31 and 33.

Support to international organisation (Article 9 - line 135)

Delegations are invited to comment on the possibility of including reference to international organisation as proposed by the European Parliament.

Co-financing NGO Projects (Article 12 - line 155)

Following further clarifications from the EP on AM 101, the Commission suggested an addition in recital 17 as a possible compromise proposal. We support the text of the PGA

Adding "immediate relatives" (Article 13 - line 171a)

The Presidency suggests accepting EP AM 109.

Projects in third countries (Article 13 - line 172)

The Presidency invites delegations to agree that the Presidency proposes the following as a possible compromise proposal:

"Whenever a Member State decides to implement new projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the approval start of the project."

Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201)

The EP maintains its strong position on the extent of involvement of the EU Agencies to the point that in Article 13, the EP insists on looking at this aspect horizontally. In Article 18 (line 201), this matter is still being looked at from an AMF perspective. The EP remains adamant that EBCG, EASO and FRA remain involved (not just consulted) in the Commission's assessment of the baseline situation in Member States. The Council has opposed this in accordance with the mandate. The Presidency invites delegations to indicate any possible changes in position, if any or to provide additional reasons for objections to further aid the Presidency in the negotiations.

BG: We support the consultation role of the EU Agencies as set in the PGA of the AMF draft regulation concerning also the roles of the agencies in lines 166,167 and 168.

Institutional care and reference to children / minors (Annex IV - Line 389 and 391)

Following further discussions, the Commission proposed a possible compromise proposal in line 391 to EP AM 229. In addition, discussions on the right terminology is also ongoing. In this regard, the Presidency invites delegations consider replacing the term 'children', with 'minors' in line 391.

Terminology (Article 18 - lines 202 and 203)

The Presidency suggests accepting AM 126 and 127 which aim to align terminology with Annex VII.

GERMANY:

AMF

- **Co-financing rates (Lines 155, 157, 161, 162)**
We can support the proposal of the EP as a political demand. In this respect, we support the COM proposal. However, anything beyond this touches on the financial sovereignty of the Member States, we therefore strongly reject it.

The establishment of a uniform financing quota is preferred, as it provides a clear planning basis for all parties involved. Otherwise, the financing quota would have to be specifically defined for each project, which would unnecessarily increase uncertainty, particularly for NGOs and local authorities, within the context of essential financing matters.

- **References to Charter and international obligations of Member States** (various lines). In line 91, the European Parliament suggest a solution along the text of Article 3(4) of the current ISF Regulation (515/2014). The European Parliament also requests to keep the reference to the Charter in key provisions, mainly those related to third countries and programmes.

Approval

- **Reference to gender equality and non-discrimination** (Article 4a - lines 100 and 100b)
- Delegations are invited to examine the possible compromise proposal suggested by the Commission.

Approval of the new compromise by COM. It should be noted that the different words “gender” and “sex” are a question of the English language alone, and that other languages, as German, would only provide for one word (*Geschlecht* in German). In English, “gender” might be preferable, as German law e.g. provides for three genders of humans, while the word “sex” has a dualistic connotation.

- **Partnership** (Article 3a - lines 96a, 96b and 96c) Following further discussions, the European Parliament amended its possible compromise proposal. Delegations are invited to comment on the latest EP's compromise proposal.

GER prefers “may” instead of “shall” (or other non-binding wording). The partnership principle is important, but a mandatory inclusion is too strict. While we foster the exchange with organizations, which could be called this way, in no case, we would accept mandatory inclusion of each and any “refugee and migrant-led organisations”, at least until the exact meaning of this term is defined in an acceptable manner. This also forms a significant difference to the CPR.

- **Support to international organisation** (Article 9 - line 135) Delegations are invited to comment on the possibility of including reference to international organisation as proposed by the European Parliament.

Rejection. The indirect financing of international organizations (which not all MS are necessarily members of) through the EU can pose a very general problem. This is a red line. The inclusion of regional bodies, which is supposed to be the main aim of the EP, does not raise any concerns.

- **Co-financing NGO Projects** (Article 12 - line 155) Following further clarifications from the EP on AM 101, the Commission suggested an addition in recital 17 as a possible compromise proposal.

Approval of the new compromise by COM.

- **Adding “immediate relatives”** (Article 13 - line 171a) The Presidency suggests accepting EP AM 109.

Approval of the new compromise.

- **Projects in third countries** (Article 13 - line 172) The Presidency invites delegations to agree that the Presidency proposes the following as a possible compromise proposal:

*“Whenever a Member State decides to implement **new** projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the **approval** ~~start~~ of the project.”*

Conditional approval. A consultation with the Commission prior to approval of an AMF funded project could lead to a significant delay and unnecessary bureaucracy before implementation. It would not be in line with the need of timely implementation in several different settings. A fair equilibrium between practicability and safeguards is still needed, even though the requirement of additional prior consultation is currently not obvious.

- **Involvement of EU Agencies in assessment of baseline situation** (Article 18 - line 201) The EP maintains its strong position on the extent of involvement of the EU Agencies to the point that in Article 13, the EP insists on looking at this aspect horizontally. In Article 18 (line 201), this matter is still being looked at from an AMF perspective. The EP remains adamant that EBCG, EASO and FRA remain involved (not just consulted) in the Commission's assessment of the baseline situation in Member States. The Council has opposed this in accordance with the mandate. The Presidency invites delegations to indicate any possible changes in position, if any or to provide additional reasons for objections to further aid the Presidency in the negotiations.

Rejection, unnecessary bureaucracy should be avoided. The main concern is not the timeframe (which the COM maintains does not pose any problem), but rather the administrative burden involved.

- **Terminology** (Article 18 - lines 202 and 203) The Presidency suggests accepting AM 126 and 127 which aim to align terminology with Annex VII.

Approval

- **Institutional care and reference to children / minors** (Annex IV - Line 389 and 391)
Following further discussions, the Commission proposed a possible compromise proposal in line 391 to EP AM 229. In addition, discussions on the right terminology is also ongoing. In this regard, the Presidency invites delegations consider replacing the term 'children', with 'minors' in line 391.

Approval

ESTONIA:

- **References to Charter and international obligations of Member States** (various lines)

In line 91, the European Parliament suggest a solution along the text of Article 3(4) of the current ISF Regulation (515/2014). The European Parliament also requests to EE the reference to the Charter in key provisions, mainly those related to third countries and programmes.

EE prefers the partial general approach. The general obligation to respect these rights and principles is already stipulated in other articles.

- **Reference to gender equality and non-discrimination** (Article 4a - lines 100 and 100b) -
Delegations are invited to examine the possible compromise proposal suggested by the Commission.

EE prefers the partial general approach, however we can support the COM compromise proposal without the term 'and promoted' in paragraph 1.

- **Partnership** (Article 3a - lines 96a, 96b and 96c)
Following further discussions, the European Parliament amended its possible compromise proposal. Delegations are invited to comment on the latest EP's compromise proposal.

EE agrees with the Council to await outcome of negotiations on Partnerships under the CPR.

- **Support to international organisation** (Article 9 - line 135)
Delegations are invited to comment on the possibility of including reference to international organisation as proposed by the European Parliament.

EE can in principle support the compromise drafting.

- **Co-financing NGO Projects** (Article 12 - line 155)
Following further clarifications from the EP on AM 101, the Commission suggested an addition in recital 17 as a possible compromise proposal.

EE can in principle support the compromise drafting.

- **Adding “immediate relatives”** (Article 13 - line 171a)
The Presidency suggests accepting EP AM 109.

EE can in principle accept the compromise drafting.

-

Projects in third countries (Article 13 - line 172)

The Presidency invites delegations to agree **EE** that the Presidency proposes the following as a possible compromise proposal:

*“Whenever a Member State decides to implement **new** projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the **approval** start of the project.”*

EE can support the PRES compromise proposal.

- **Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201)**

The EP maintains its strong position on the extent of involvement of the EU Agencies to the point that in Article 13, the EP insists on looking at this aspect horizontally. In Article 18 (line 201), this matter is still being looked at from an AMF perspective. The EP remains adamant that EBCG, EASO and FRA remain involved (not just consulted) in the Commission's assessment of the baseline situation in Member States. The Council has opposed this in accordance with the mandate. The Presidency invites delegations to indicate any possible changes in position, if any or to provide additional reasons for objections to further aid the Presidency in the negotiations.

EE supports the Council's position.

- **Institutional care and reference to children / minors (Annex IV - Line 389 and 391)**
Following further discussions, the Commission proposed a possible compromise proposal in line 391 to EP AM 229. In addition, discussions on the right terminology is also ongoing. In this regard, the Presidency invites delegations consider replacing the term 'children', with 'minors' in line 391.

EE prefers the term „children“ and not „minors“ as rather the term „child“ is inherent in our legal system. We can also support the COM compromise wording.

- **Terminology (Article 18 - lines 202 and 203)**

The Presidency suggests accepting AM 126 and 127 which aim to align terminology with Annex VII.

EE can accept the amendments.

FINLAND:

References to Charter and international obligations of Member States (various lines)

As the application of the Charter or any international obligations do not depend on whether they are mentioned in a secondary legislation or not, **FI** does not necessarily see the added value of repeating the references in the Regulation. However, taking into account the obvious significance of the matter for the EP, this is something FI can be flexible on especially if confirmed by the CLS and the COM that there is no risk of additional administrative responsibilities for the MSs. In general terms, FI prefers an approach of gathering the references to Charter, international obligations of Member States as well as to fundamental and human rights in certain dedicated provisions rather than scattering them all over the Regulation.

The text in the current regulation could serve as a reference point here and therefore FI could be flexible with a formulation in line with the article 3(4) of the current ISF-B Regulation (515/2014).

Reference to gender equality and non-discrimination (Article 4a - lines 100 and 100b)

As noted earlier, **FI** sees this issue as a part of the overall discussions on human and fundamental rights. Nevertheless, FI supports the draft compromise text by the Commission.

Partnership (Article 3a - lines 96a, 96b and 96c)

FI would rather refer to the CPR than define partnerships in the Regulation. Moreover, the new EP compromise proposal seems to contain somewhat ambiguous wordings. For instance, definition of a migrant-led organization as compared to just a migrant organization is all but clear.

Earlier FI comment on partnerships: *FI considers partnerships vital for the implementation of the Fund. However, as there is an apparent overlap with the CPR art 6, FI is hesitant for an inclusion of a new article on partnership. CPR art 6, based on Commission Delegated Regulation (EU) No 240/2014, namely the European code of conduct on partnership, provides for the participation of relevant partners and makes possible the inclusion of NGOs suggested by the EP.*

Support to international organisation (Article 9 - line 135)

Article 9(1e) refers to support based on article 17 which is to be financial compensation for the MSs taking part in the solidarity measures. Support to *local and regional authorities, and to international and non-governmental organisations* is already included in other components of the Thematic Facility as well as in the Programmes. Finland does not support the EP amendment.

Co-financing NGO Projects (Article 12 - line 155)

FI considers that all beneficiaries should maintain certain, also financial ownership on the implemented measures supported by the Fund. In addition, NGOs are already entitled to a higher co-financing rate on the basis of Annex IV for integration measures. Consequently, FI does not support such an inclusion in the key provisions but could - despite some hesitation on the grounds of the reasons mentioned before - live with the suggested amendment in recital 17.

Adding “immediate relatives” (Article 13 - line 171a)

FI can support the suggested acceptance.

Projects in third countries (Article 13 - line 172)

FI can support the presidency compromise proposal. The current developments in areas close to the EU show us that efficiency and timeliness are of great importance when tailoring effective measures with or in third countries. This should not in any circumstances undermine common goals and consistency with the other similar actions and the Commission is in the best position to take care of this role of overall coordination.

FI is very negative on the EP reference to their own amendment in article 4(2) (the maximum percentage for third country co-operation).

Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201)

The position is unchanged and horizontal across the three Funds. FI is concerned over the possible delays this suggested involvement might cause for the processes. Also, administrative burden for the MS and the capacity of the Agency to deal with this are of concern.

Institutional care and reference to children / minors (Annex IV - Line 389 and 391)

FI is flexible for the COM compromise proposal. For the terminology issue on line 391, minors could indeed be more appropriate word in this case.

Terminology (Article 18 - lines 202 and 203)

FI is flexible with suggested amendments.

FRANCE:

- **Références à la Charte et aux obligations internationales des États membres**

Concernant la ligne 91 :

Nous ne sommes pas favorables à l'amendement proposé par la Parlement.

La rédaction de la première partie de l'amendement n'est pas acceptable. Ce règlement ne saurait préempter la manière dont l'Union met en œuvre les traités et l'équilibre entre responsabilité et solidarité en matière migratoire.

La rédaction de la deuxième partie d'amendement dans la lignée de l'article 3.4 du FSI actuel pourrait être acceptable. Cependant, nous réservons notre avis à la présentation d'une telle solution.

De manière générale sur la Charte et les obligations internationales :

Le respect de la Charte des droits fondamentaux et des obligations internationales par l'ensemble des politiques européennes s'applique en vertu de normes supérieures. Le rappel constant de leur existence est redondant.

Dans le cas des dispositions en lien avec les pays tiers, nous nous opposons aux amendements du Parlement. Ils apparaissent disproportionnés et rendent difficile la mise en œuvre des règlements.

À titre de compromis, nous pouvons accepter une mention générale figurant dans les considérants rappelant que la mise en œuvre du fonds se fait conformément aux obligations européennes et internationales en matière de droits fondamentaux.

- **Référence à l'égalité des genres et à la non-discrimination** (Article 4a - lignes 100a et 100b)

Nous ne sommes pas favorables au compromis de la Commission.

Bien que nous soyons en accord avec l'esprit, conformément au droit de l'Union et aux conventions internationales en la matière, la rédaction fait peser sur les États la charge de la preuve de ce respect dans toutes les étapes listées. Cela poserait de sérieuses difficultés dans la mise en œuvre du fonds.

- **Partenariats** (Article 3a - lignes 96a, 96b et 96c)

Nous continuons de nous opposer formellement à l'ajout de l'article 3(a). Il s'agit d'un point dur pour la France.

Les accords de partenariats sont couverts par le RPDC / CPR et les fonds JAI en sont exclus.

De plus, les autorités décentralisées de certains États membres n'ont pas nécessairement de compétence dans la gestion des migrations.

- **Financement des organisations internationales** (Article 9 - ligne 135)

Nous n'avons pas d'opposition de principe à inclure les organisations internationales dans les bénéficiaires de la facilité thématique.

- **Cofinancement pour les projets d'ONG** (Article 12 - ligne 155)

Nous ne sommes pas favorables au compromis de la Commission. Les dispositions d'un texte législatif européen n'ont pas à préciser ce que les États devraient faire sur des domaines relevant de leur compétence propre.

Si cette formulation devait prospérer, nous souhaitons maintenir impérativement le terme « *encouraged* ».

- **Ajout de “immediate relatives”** (Article 13 - ligne 171a)
Nous soutenons l’amendement du Parlement qui propose d’inclure les « *immediate relatives* » pour les actions de l’article 3a de l’annexe III dans les cas où cela est nécessaire à leur mise en place (périmètre de l’intégration).
- **Projets dans les pays tiers** (Article 13 - ligne 172)
Nous soutenons la proposition du Conseil.
Le Conseil a un devoir d’information envers la Commission. Il serait trop rigide et hors de son mandat de recueillir son accord pour chaque action menée dans ce cadre. Toutefois, si nous ne parvenons pas à conserver la notion d’information, il faudra prévoir un délai de réponse maximal de la Commission en cas de consultation de celle-ci.
Compte tenu du caractère transversal de cette obligation, la mention spécifique des droits fondamentaux est superflue.
- **Rôle des agences européennes** (Article 18 - ligne 201 en lien avec les lignes 166, 167, 168 de l’article 13)
Concernant l’ajout de l’agence européenne pour les droits fondamentaux, nous continuons de nous opposer à l’ajout du Parlement. Il est superflu et risque de faire obstacle à la mise en œuvre rapide et effective des programmes.
[Ligne 201] Nous continuons à soutenir le mandat du Conseil. Le retrait de la mention des agences n’empêche pas la Commission de solliciter leur expertise et évite l’ajout de niveaux additionnels de validation/consultation pour la bonne gestion des fonds.
Nous pourrions nous montrer flexibles et soutenir la version initiale de la Commission sous réserve de l’ajout de la mention « *when necessary* ».
De manière générale, nous soutenons la position du Conseil aux lignes 166, 167 et 168. Les formulations proposées nous semblent appropriées et les termes « *associated* » ou « *consulted* » utilisés de façon pertinente.
- **Alternatives aux soins en institution et références aux enfants/mineurs** (Annexe IV - Ligne 389 et 391)
De manière générale, nous sommes favorables à l’ajout des soins en institution qui accroît le périmètre applicable.
Nous souhaiterions néanmoins avoir des précisions concernant le paramètre de cette mention.
Nous sommes favorables au compromis de la Commission, remplaçant le terme « enfants » par « mineurs » à la ligne 391.
- **Terminologie** (Article 18 - lignes 202 et 203)
Nous pouvons accepter les amendements du Parlement.

HUNGARY:

References to Charter and international obligations of Member States (line 91, etc.)

We still maintain that all these human rights references will make to enforce the rules of the Regulation more difficult.

The suggested solution by the EP along the text of Art 3(4) of the current ISF Regulation (515/2014) is not acceptable as that provision is even more extensive than the original EP amendment. We must see first exactly what would appear in the horizontal provision therefore, we do not consider it appropriate to include the relevant text of the current ISF Regulation in Article 3 of the Fund. For the time being we can accept the reference in the recital, as in the current draft is written.

Since the Horizontal Enabling Conditions (in Annex III of CPR) are contain such provision we find that enough to mention such issues there.

Reference to gender equality and non-discrimination (Article 4a - lines 100a and 100b)

We still do not see the added value of Article 4a given the relevant provision of the CPR. We can accept the Commission's proposal, although we still think this Article is not necessary here.

Partnership (Article 3a - lines 96a, 96b and 96c)

We consider that – regardless of the ongoing negotiations on Partnerships under the CPR - point (c) of Article 6(1) of the CPR is sufficiently detailed therefore we do not support the EP and the compromised proposal neither.

Support to international organisation (Article 9 - line 135)

On the basis of the information given at the meeting on 28 February 2020, Hungary does not support the EP proposal. Hungary does not plan to participate in the implementation of resettlement or relocation programs.

Co-financing NGO Projects (Article 12 - line 155)

In Hungary since the “SOLID Funds” the 25% own distribution is provided by the state regardless the beneficiary is a state or a non-state actor. The compromised proposal of recital 17 is acceptable for Hungary.

Adding “immediate relatives” (Article 13 - line 171a)

We can accept the EP amendment in line 171a as long as the "may" clause is retained in line 171.

Projects in third countries (Article 13 – line 172)

Hungary supports the following text of the Presidency proposal: “Whenever a Member State decides to implement new projects with or in a third country with the support of the fund/instrument, the Member State concerned shall approve the project after informing the Commission.” But also has a flexible approach to the Presidency proposal.

Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201)

We do not accept the extended role of agencies. We remind the Presidency that Hungary even rejected the Council position, because of – among others – the monitoring role of the EUAA also mentioned in this provision.

Institutional care and reference to children/minors (Annex IV - Line 389 and 391)

Hungary can accept a higher level of support for measures concerning the non-institutional care of unaccompanied minors. We support the compromise proposal. We support the COM proposal that defining the meaning of non-institutionalized form would cause inflexibility.

Terminology (Article 18 - lines 202 and 203)

Hungary accepts the terminology correction in line with Annex VII as suggested by EP.

LUXEMBOURG:

- On lines 155 and 157 AMIF: we would like to stick to the council position
- In line 91 AMIF: LU supports the addition of the reference to the principle of solidarity
- In line 100: we want to replace the expression “equality between men and women” by “gender equality”. Gender equality is not only more inclusive but also the expression used by the EU in other legislation.
- In lines 389 and 391: we support the proposal made by the Commission

PORTUGAL:

- **References to Charter and international obligations of Member States:**

PT prefers the wording “obligations” to “commitment”.

- **Reference to gender equality and non-discrimination:**

PT considers this matter relevant, and the entire programming cycle must ensure that there is no discrimination of any kind. As for “promoting” gender equality, PT considers that this issue is outside the scope of FAM (eventually it will be closer to the ESF +).

- **Partnership:**

PT does not oppose the reference to urban authorities (PT has two: AML and AMP). PT supports the introduction of the expression “or its representative associations” as a way of replacing local, regional, urban and other authorities (otherwise, the partnership becomes ingestible). The involvement of these and other entities makes sense, but PT questions the meaning of “in a meaningful way”.

- **Support to international organisation:**

PT is flexible on this matter..

- **Co-financing NGO Projects:**

PT does not support the reference to the need to guarantee a national counterpart for civil society entities, given that this is a national issue.

- **Adding “immediate relatives”:**

PT supports the reference to immediate relatives.

- **Projects in third countries:**

PT continues to support the text of the Council's Partial general approach.

- **Instituional care and reference to children / minors:**

PT supports the replacement of the term “child” by the term “minor”.

- **Terminology:**

PT is not opposed to aligning terminology.

SLOVAKIA:

References to Charter and international obligations of Member States –
it will be solved at political level

Reference to gender equality and non-discrimination (Article 4a - lines 100 and 100b)
preference for EP's text, but flexibility.

Partnership (Article 3a - lines 96a, 96b and 96c) – EC –
the discussion at the political level is needed

Support to international organisation (Article 9 - line 135) –
preference for the COM's text, but flexibility

Co-financing NGO Projects (Article 12 - line 155) -
preference for the COM's text, agreement with the text in recital 17, at the same time flexibility

Adding “immediate relatives” (Article 13 - line 171a) -
flexibility

Projects in third countries (Article 13 - line 172) -
political

Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201) -
political

Institutional care and reference to children / minors (Annex IV - Line 389 and 391) –
preference for the COM's text, at the same time flexibility

Terminology (Article 18 - lines 202 and 203) –
preference for the COM's text, at the same time flexibility

SPAIN:

References to Charter and international obligations of Member States

Spain would rather prefer maintaining Council drafting for these lines. CEAS reform pending, therefore all references to it should accordingly be left at least in square brackets.

Reference to gender equality and non-discrimination

Spain supports the Commission compromise proposal.

Partnership

Spain is flexible regarding the amendment of this article.

Support to international organisation

Spain would rather prefer maintaining Council drafting for these lines

Co-financing NGO Projects

Spain supports the Commission compromise proposal.

Adding “immediate relatives”

Spain upholds the inclusion of immediate relatives

Projects in third countries

Spain would rather prefer maintaining Council drafting for these lines

Involvement of EU Agencies in assessment of baseline situation

Spain would rather prefer maintaining Council drafting for this line.

Institutional care and reference to children / minors

Spain supports the Presidency compromise.

Terminology

Spain supports the Presidency compromise.

SWEDEN:

References to Charter and international obligations of Member States

Sweden has a flexible approach as regards the amendments proposed by the EP (reference to the Charter in key provisions).

Line 91: Sweden welcomes the reference to the principle of solidarity proposed by the EP. Sweden strongly advocates the reinsertion of the objective concerning increased solidarity and improved responsibility sharing, as it stands in the current AMIF and in article 80 TFEU.

Reference to gender equality and non-discrimination (Article 4a - lines 100 and 100b)

Line 100: Sweden's overall assessment is that the proposal by the Commission seems to be applicable. However, SE advocates the deletion of promoted. Furthermore, it is still not clear what is meant by "appropriate steps". Even though the wording is taken from the CPR, it should be clarified in the article or in a recital.

Partnership

(Article 3a - lines 96a, 96b and 96c)

Sweden does not see the need nor the added value of regulating the composition of partnerships in AMF given that it is already regulated in the Common Provisions Regulation.

Support to international organisations (Article 9 - line 135)

Sweden maintains its support for the position of the Council.

Co-financing NGO Projects (Article 12 - line 155)

Sweden supports the compromise text proposed by the Commission.

Adding "immediate relatives"

(Article 13 - line 171a) - The Presidency suggests accepting EP AM 109.

Sweden's assessment is that it can be difficult to verify "immediate relatives" in the target group. Therefore, Sweden maintains its support for the position of the Council.

Projects in third countries (Article 13 - line 172)

The Presidency invites delegations to agree that the Presidency proposes the following as a possible compromise proposal: "Whenever a Member State decides to implement new projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the approval start of the project."

Sweden supports the amendment proposed by the EP.

Comment: Sweden strongly advocates thereinsertion of “consult the Commission” in line with the original EC proposal or the use of “request the approval of the Commission” in line with the EP proposal. Especially when it comes to new projects in or with a third country it is of outmost importance to consult request the approval of the Commission prior to the start of the project in order to avoid overlapping, double financing or the financing of measures that might fall outside of the scope of AMF.

A possible compromise could be to set a time limit for the consultation/request for approval from the EC. I.e. if the EC has not answered the MS concerned within 15 days, it shall be interpreted as a silent accept and consequently the MS can proceed and approve the project.

Involvement of EU Agencies in assessment of baseline situation (Article 18 - line 201)

Sweden has a flexible approach as regards the reference to EASO, FRA and Frontex. A relevant question here is if the agencies mentioned above support the proposal of the EP and if they have the capacity to assist the Commission in this regard?

Institutional care and reference to children / minors (Annex IV - Line 389 and 391)

Sweden cannot accept the compromise proposal by the Commission. It needs to be further clarified, in the article or in a recital, what is meant by” non- institutionalized care”.

SE supports the suggested wording by the EP. Minor is the terminology used in several legislative acts and in the CEAS-files (Asylum procedure Directive, Qualifications Directive, Reception conditions directive and Eurodac).

Terminology

(Article 18 - lines 202 and 203)

Sweden supports the amendments proposed by the EP in line 202 and 203.