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WK 4323/2019 INIT

LIMITE

**JAI
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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
N° prev. doc.:	ST 7287/19 INIT
N° Cion doc.:	ST 10153/18 + ADD 1
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.

WK 4323/2019 INIT

LIMITE

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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 14.03.2019)

018/0248 (COD)

GENERAL COMMENTS

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**. We already instructed the respective colleagues in the NDICI WP to suggest that the 10% have to be mentioned in the 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.

CZ: (Comments):

The CZ has further comments on indicators:

- The CZ strongly opposes the proposal to report certain indicators broken down by gender. The indicators should be used for measuring the objective of this Fund. None of this Fund's objective is determined by gender. That is why we see no reason for reporting based on gender.
- The CZ requires to change word "participant" to "supported person". Participant is someone who actively participates on an activity. However this Fund includes also measures and activities in which the clients are not participants however they are "just" supported.

The CZ suggests to include into this Regulation a link to GDPR and to clearly state who is allowed to collect which type of personal data. The GDPR regulation allows to collect data when that is a legal requirement (Regulation No. 2016/679 Article 6), for legal certainty of the beneficiaries and also the RAs it must be clearly stated what data are to be collected.

EE: (Comments):

We support that the mandatory levels are not set for Member States in terms of the specific objectives of the Fund. It should provide Member States with the necessary flexibility to achieve the results of EU policy objectives.

ES: (Comments):

Spain welcomes the recovery of the name: AMIF and the deletion of the term "early integration".

LV: (Comments):

In general Latvia supports the Romanian compromise proposal for the Asylum, migration and integration fund (further – the Fund). Latvia supports deletion of external dimension aspects from the Fund's objectives, measures and indicator/output sections. However, Latvia can agree upon the formulation under the Article 8, paragraph 2a only in the case if the dedicated component for external dimension is financed exclusively from the thematic component, does not affect the budget allocated to the National programmes and is based on voluntary principle.

PT: (Comments):

The Romanian Presidency has circulated a first compromise proposal on the Asylum and Migration Fund – document 930/2019.

This compromise proposal provides for minor, but extremely relevant, adjustments to the initial proposal circulated by the European Commission – doc. 7287/19.

A vast majority of these adjustments take into account the content of the discussions held on the Ad Hoc Working Party on JHA Instruments / MFF 2021-2027, as well as the written comments therein circulated by the Member States.

Portugal would, in this context, like to start by emphasising our **firm support to this first compromise proposal circulated by the Presidency**, taking this opportunity to underline, and to thank, the commitment and engagement of the Romanian Colleagues on further advancing with the negotiations, in view of its possible conclusion during the first semester of 2019.

In this context, and without prejudice to the a.m. support to the overall changes and adjustments proposed by the Presidency, Portugal takes the opportunity, set during the last ADWP of the 14th of March, and, within the set deadline, hereby addresses a **small number of points which Portugal considers could still be improved in the final Council's compromise proposal for the AMIF**.

DRAFTING SUGGESTIONS / COMMENTS

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Asylum, ~~and~~ Migration *and Integration* Fund

AT: (Comments):

AT is in favour of putting “integration” back in the fund’s name.

BG: (Comments):

We support the suggested modification.

EE: (Comments):

EE supports that „integration“ is brought back to the name of the fund.

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

We welcome the new title.

PT: (Comments):

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

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,

Having regard to the opinion of the Committee of the Regions²,

¹ OJ C , , p. .

² OJ C , , p. .

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. SE: (Comments): General comment: Sweden retains its scrutiny reservation on all recitals.
(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. <u>In its conclusions of 28 June 2018, the European Council reconfirmed that a precondition for a functioning EU policy relies on a comprehensive approach to migration which combines more effective control of the EU's external borders, increased external action and the internal aspects, in line with EU's principles and values. The European Council underlined the need for flexible instruments, allowing for fast disbursement, to combat illegal migration. [The Asylum, Migration and Integration Fund should therefore include a dedicated, significant component for external migration management].</u>

AT: (Comments):

AT is in favour of the changes.

ES: (Comments):

Spain welcomes the new recital drafting proposed by the Presidency.

FR: (Comments):

We are strongly opposed to dedicating a fix or a “significant component” for external action, as the Fund needs to keep a sufficient flexibility to represent a real added-value for MSs’.

HR: (Comments):

HR does not support the adding of the following sentence: “[*The Asylum, Migration and Integration Fund should therefore include a dedicated, significant component for external migration management*].”

We do not support setting aside resources from AMF, BMVI and ISF for managing the external dimensions of migration.

We would like to point out that we are not against the concept of funding the external aspect of migration itself, particularly having in mind the importance of cooperating with third countries, the strengthening of their capacities for the prevention of irregular migration and the need for investing in their development with a view to reducing incentives for large-scale migration movements. We understand that additional focus is put on funding the external aspect of migration also because of the intention to ensure a safe funding resource for our cooperation with third countries, which is also emphasised in the European Council conclusions of June, October and December 2018 as well as because of the intention to replace the current *ad hoc* mechanisms (such as the Trust Fund for Africa and the Facility for Refugees in Turkey) with a safe and sufficient funding resources. However, we believe that the funding of this dimension of migration should be ensured from the Neighbourhood, Development and International Cooperation Instrument (NDICI) and the Development Cooperation Instrument (DCI), so we do not agree with the proposal that the said dimension of migration is funded by setting aside resources from our funds (AMIF, BMVI and ISF) which are relatively “small” in comparison to other instruments.

NL: (Comments):

Scrutiny reservation on the last sentence between brackets. Part of the horizontal discussion on the external dimension.

PT: (Comments):

- Portugal limits its support to the introduction of any fixed amount of allocation, under the AMIF, to be attributed to the external dimension, to the need to obtain confirmation that this amount will exclusively come from the Thematic Facilities – and thus not affect the allocations to the National Programs (as seems to be indicated under Art. 9, new wording under parag. 2);
- Portugal considers that it should be born in mind that the NDICI already includes a minimum threshold of 10% allocated to the external dimension of migrations, in amounts that largely surpass those that may be allocated from the AMIF.

SE: (Drafting):

(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. **In its conclusions of 28 June 2018, the European Council reconfirmed that a precondition for a functioning EU policy relies on a comprehensive approach to migration which combines more effective control of the EU's external borders, increased external action and the internal aspects, in line with EU's principles and values. The European Council underlined the need for flexible instruments, allowing for fast disbursement, to combat illegal migration. [The Asylum, Migration and Integration Fund should therefore include a dedicated, significant component for external migration management].**

SE: (Comments):

Sweden can accept the reference to the European Council conclusions. However, Sweden advocates the deletion of the last sentence in brackets given that Sweden remains hesitant to a dedicated component or *earmarked* funding for external migration management. Earmarking means less flexibility in the use of the funding and there is also a risk of unspent committed amounts, as has been the case with AMIF.

(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 **and Integration** Fund (hereinafter referred to as 'the Fund').

AT: (Comments):

AT is in favour of adding “integration”.

BG: (Comments):

We support the suggested modification.

ES: (Comments):

Spain welcomes this change in the fund nomination. However, Spain presents a scrutiny reservation pending negotiations on CEAS.

FR: (Comments):

We support this modification.

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.

IT: (Drafting):

(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, *inter alia* 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.

DE: (Drafting):

(7) The Fund should support the efficient management of migration flows, *inter alia* by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement **and humanitarian admission** 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 pending negotiations on CEAS.

FR: (Drafting):

(7) The Fund should support the efficient management of migration flows, *inter alia* by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement, **humanitarian admission** 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.

FR: (Comments):

To ensure the consistency with the corpus of the regulation

(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.

ES: (Comments):

Spain presents a scrutiny reservation pending negotiations on CEAS.

PL:(Drafting):

(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.

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)... [EUAA Regulation]³ 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.

DE: (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] 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 **and humanitarian admission** 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 pending negotiations on CEAS.

³ Regulation (EU) No ... of the European Parliament and of the Council of [EUAA Regulation] (OJ L ..., [date], p. ...).

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]⁴ ***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.

⁴ Regulation (EU) No ... of the European Parliament and of the Council of [EUAA Regulation] (OJ L ..., [date], p. ...).

(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: (Comments):

AT is in favour of the change.

DE: (Comments):

We support that the word “early” has been deleted.

ES: (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.

(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 third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State, 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 welcomes the deletion of early integration. Besides, Spain suggests

- a) to delete “legally staying”
- b) to substitute “legally staying third-country nationals” for “third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State” pursuant to article 9 of Regulation 516/2014.

FR: (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, **while taking into account the specific context and conditions of each member States.**

FR: (Comments):

The specific context of MS should be taken into account, as it already is foreseen in the AMIF/ISF regulations (article 3(2) regulation 514/2014)

(12a) Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals such as, but not limited to, actions promoting self-empowerment of third-country nationals through language training and civic orientation courses, providing advice and assistance to third-country nationals in areas such as housing, means of subsistence, administrative and legal guidance, psychological care and health including through one-stop shops for integration. The Fund should also support horizontal measures aiming at building Member States' capacity to develop integration strategies, strengthen exchange and cooperation and promote contact, constructive dialogue and acceptance between the third-country nationals and the receiving society.

AT: (Comments):

AT welcomes the addition of this recital as we have always pressed on adding a more clearly defined separation between integration measures in the AMF and in ESF+.

BE: (Drafting):

Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals such as, but not limited to, actions promoting self-empowerment of third-country nationals through **orientation trajectories** including language training and civic orientation courses, **social activation activities**, providing advice and assistance to third-country nationals in areas such as housing, means of subsistence, administrative and legal guidance, psychological care and health including through one-stop shops for integration. The Fund should also support horizontal measures aiming at building Member States' capacity to develop integration strategies, strengthen exchange and cooperation and promote contact, constructive dialogue and acceptance between the third-country nationals and the receiving society.

BE: (Comments):

In line with our remark below (ANNEX VIII, specific objective 2, point 3) we insist to add the term “**orientation trajectories**” which includes all the activities mentioned after it. Those activities in general reinforces the social inclusion of third country nationals.

Social activation is a policy aiming at setting up activities that will increase the social participation of third country nationals in society, break their isolation and increase their well-being, talents, self-image and self-confidence.

BG: (Comments):

We welcome the introduction of this new recital in view of our position that coordination and demarcation of the measures under the EU funds that provide support in the area of migration is necessary.

CZ: (Drafting):

(12a) Integration measures financed under this Fund should support measures tailor-made to the needs of third-country nationals such as, but not limited to, actions promoting self-empowerment of third-country nationals through language training and civic orientation courses, providing advice and assistance to third-country nationals in areas such as housing, means of subsistence, administrative and legal guidance, psychological care and health including through one-stop shops for integration. The Fund should also support horizontal measures aiming at building Member States’ capacity to develop integration strategies, strengthen exchange and cooperation and promote contact, constructive dialogue and acceptance between the third-country nationals and the receiving society.

CZ: (Comments):

The CZ supports this recital. The CZ suggests to include word “integration” as a first word of this recital. This recital speaks only about integration, in order to eliminate any confusion, we suggest to make the text more accurate.

DE: (Comments):

We support that this paragraph has been added, since it clarifies, by giving examples, what specific measures can be funded. The differentiation of the funds however needs to be subject to further discussion.

ES: (Comments):

Spain supports the deletion of the classification between early and long-term integration. Spain supports this stance on the complementarity between Funds.

FR: (Comments):

We support this modification.

IT: (Drafting):

(12a) Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals such as, but not limited to, actions promoting self-empowerment of third-country nationals through language training and civic orientation courses, providing advice and assistance to third-country nationals in areas such as housing, means of subsistence, administrative and legal guidance, psychological care and health including through one-stop shops for integration and preparatory actions to facilitate access to the labour market. The Fund should also support horizontal measures aiming at building Member States' capacity to develop integration strategies, strengthen exchange and cooperation and promote contact, constructive dialogue and mutual acceptance between the third-country nationals and the receiving society.

SE: (Comments):

SE welcomes the clarifications made in the new recital.

(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) **and the European Agricultural Fund for Regional Development (EAFRD). ESF+ can provide support to measures promoting the socio-economic integration, education and social inclusion of third country nationals, such as work-based language training, vocational education and training, employment and self-employment incentives, and provision of social services. In addition, ERDF can promote integration by supporting investments in infrastructure development of public services, social housing as well as regeneration of deprived urban and rural areas. Furthermore, the EAFRD can contribute to the socio-economic integration of third country nationals for which there is a potential for employment opportunities in rural areas. Member States**

should be able to support the integration of third-country nationals according to their specific situation and needs, by using the most relevant EU Fund, in line with the targeted area of intervention and the objectives to be achieved and in complementarity with other EU Funds.
~~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: (Comments):

AT is in favour of the additions made.

BG: (Comments):

We welcome the modification of the recital in view of our comment on recital 12a.

DE: (Comments):

Each financial instrument should be geared towards distinct purposes. Between AMIF 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.

However, the new wording creates more uncertainty by listing EAFRD. The differentiation of the mentioned funds needs to be subject to further discussion -also in the horizontal working group.

FR: (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) ***and the European Agricultural Fund for Regional Development (EAFRD).*** ~~*ESF+ can provide support to measures promoting the socio-economic integration, education and social inclusion of third-country nationals, such as work-based language training, vocational education and training, employment and self-employment incentives, and provision of social services. In addition, ERDF can promote integration by supporting investments in infrastructure development of public services, social housing as well as regeneration of deprived urban and rural areas. Furthermore, the EAFRD can contribute to the socio-economic integration of third-country nationals for which there is a potential for employment opportunities in rural areas. Member States should be able to support the integration of third-country nationals according to their specific situation and needs, by using the most relevant EU Fund, in line with the targeted area of intervention and the objectives to be achieved and in complementarity with other EU Funds.*~~

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 are not opposed to foreseeing integration measures for TCN in other funds, but AMIF must remain the central instrument supporting integration of third country nationals.

HR: (Comments):

HR does not see it necessary to achieve complementarity of measures funded under AMIF with those funded under the European Agricultural Fund for Regional Development (EAFRD) as we believe that employment possibilities in rural areas are covered by the European Social Fund (ESF).

Even without “including” EAFRD, there are difficulties as to how to avoid overlaps with ESF+ in practice.

(14) In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and establish ~~coordinate~~ ~~ion 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.

AT: (Comments):

The changes are fine with AT.

BG: (Comments):

We support the suggested modification.

DE: (Comments):

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

FI: (Comments):

Should the EAFRD be explicitly mentioned here as it is included in the recital 13 with the 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 **national, regional and** 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.

AT: (Comments):

The changes are fine with AT.

BG: (Comments):

We support the suggested modification.

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?

ES: (Drafting):

*(17) Considering the crucial role played by ~~local and regional~~ **competent** 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, regional and~~ local and regional competent** authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions*

ES: (Comments):

Spain proposes an alternative drafting to this recital

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 **~~national, regional and~~ 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.***

*(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. **The establishment of well-functioning legal migration channels should respect national competence.***

AT: (Comments):

The changes are fine with AT, but we also support what the COM said during the WP on March 14 that if the addition of the sentence presents more questions than it is not necessary to add it. The compliance with the principal of subsidiarity should be without question.

DE: (Comments):

National competences always need to be respected. The explicit statement has no added value and may be interpreted to question the general rule. We therefore suggest deletion.

FR: (Comments):

We support this modification

IT: (Drafting):

(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. **The establishment of well-functioning legal migration channels should fall within the remit of MS.**

NL: (Drafting):

(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. **The establishment of well-functioning legal migration channels should respect national competence.**

NL: (Comments):

Last sentence is not necessary because the basic principle of subsidiarity.

SE: (Drafting):

(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. ~~The establishment of well-functioning legal migration channels should respect national competence.~~

SE: (Comments):

Sweden advocates a deletion of the last sentence regarding national competence. Sweden does not see the added value in underlining what is already a fact.

(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.

ES: (Drafting):

(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 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.

(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 third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State, 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.

ES: (Comments):

Spain suggests

- a) to delete “legally staying”
- b) to substitute “legally staying third-country nationals” for “third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State” pursuant to article 9 of Regulation 516/2014.

(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 Council⁵, 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.

⁵ 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).

AT: (Comments):

AT has no problems with the changes.

DE: (Comments):

We support the modification, since it leads to a better understanding of this paragraph.

IT: (Drafting):

(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 return assistance **and reintegration**~~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.

(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.

FR: (Comments):

Courtesy translation :

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

IT: (Drafting):

Deleted

IT: (Comments):

It seems superfluous, being a repetition of recital 21 in other words

(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 Council⁶ which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.

FR: (Comments):

Can the Commission give examples of actions for which it is considering funding from FAMI under this recital ?

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 Council⁷ which sets forth provisions on assistance, support and protection of victims of trafficking in human beings.

FR: (Comments):

Scrutiny reservation.

⁶ 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).

⁷ 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 Council⁸, therefore contributing to effective European Integrated Border Management, as defined in Article 4 of that Regulation.

IT: (Drafting):

(28) The Fund should complement 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 Council⁹, therefore contributing to effective European Integrated Border Management, as defined in Article 4 of that Regulation.

IT: (Comments):

Deleted: ~~and reinforce~~

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 double financing shall be avoided.

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

⁸ 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).

⁹ 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: (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.

AT: (Comments):

AT has stated our general view on the external dimension at the beginning of the document.

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: (Drafting):

(30) Measures in and in relation to third countries covered by **the external dimension of** 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.

ES: (Comments):

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

HR: (Comments):

As we have already stated in our comment on recital 3, we do not support setting aside resources from AMIF for managing the external dimensions of migration.

(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):

(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, **integration** and migration.

(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?

ES: (Comments):

Spain presents a scrutiny reservation pending negotiations on CEAS.

IT: (Drafting):

(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 an evaluation report under the Schengen or the European Union Agency for Asylum evaluation and monitoring mechanism has identified deficiencies in the relevant area.**

IT: (Comments):

It is a pre-emptive assessment of a possible breach which would regard values and not EU law as it should be.

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: (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.]

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 objective criteria ~~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.]

AT: (Comments):

AT is aware that this recital is bracketed, but wanted to mention nonetheless that the comments made in recital 34 could also be used in recital 35.

BG: (Comments):

We support the suggested modification.

DE: (Comments):

Scrutiny reservation; what is meant by “objective criteria” and what should be the difference to “the absorption rates”?

ES: (Drafting):

[(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 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 **objective criteria** ~~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.]

[(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 third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State, 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 **objective criteria** ~~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.]

ES: (Comments):

Spain suggests

- a) to delete “legally staying”
- b) to substitute “legally staying third-country nationals” for “third-country nationals who are residing legally in a Member State or, where appropriate, who are in the process of acquiring legal residence in a Member State” pursuant to article 9 of Regulation 516/2014.

FR: (Comments):

Scrutiny reservation.

NL: (Comments):

NL favour allocation of additional amounts on the basis of a MTR. Distribution of the additional amounts to MS should take place on basis of actual needs and real performance of MS instead of actual amounts 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.

Additionally, Portugal advocates the need to better clarify what is meant by "objective criteria", in order to avoid future problems ahead of implementation of the Fund.

(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. **The financial envelope allocated to the thematic facility will primarily serve to reinforce programmes.**

AT: (Comments):

AT is in favour of the addition.

BG: (Comments):

We support the suggested modification.

DE: (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 humanitarian admission** and to provide additional support for Member States contributing to solidarity and responsibility efforts via a thematic facility.

DE: (Comments):

The Thematic Facility is regulated in Art. 9. It has over substantive tasks; therefore there should not be a focus on reinforcing the national programmes.

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

FR: (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 humanitarian admission** 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 primarily serve to reinforce programmes.**

FR: (Comments):

To ensure the consistency with the corpus of the regulation.

What would be the objective of the amendment? Which area of national programmes would be reinforced primarily?

NL: (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 primarily serve to reinforce programmes.**

NL: (Comments):

Text is not needed and might create less flexibility.

To respond and address the changes and challenges in the field of migration it is needed that the amount for actions under the thematic facility is sufficient. NL thinks that changing the current allocation between the envelopes from 60-40 to 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):

FR requests an indicative list of actions which could fall under this recital.

(40) The Fund should contribute to supporting operating costs related to **the specific objectives** ~~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.

AT: (Comments):

AT does not oppose the changes.

DE: (Drafting):

(40) The Fund should contribute to supporting operating costs related to the specific objectives **according to article 3 paragraph 2 of this regulation** 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.

DE: (Comments):

We assume that by the term "the specific objectives" the specific objectives according to article 3 paragraph 2 of this regulation are meant. In order to clarify this, we would like to modify the wording as suggested.

FR: (Comments):

Legal migration and integration are covered. We welcome the proposal.

SE: (Comments):

Sweden welcomes that the recital has been 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. Consequently, Sweden can lift its scrutiny reservation on recital 40.

(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.

(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 ~~an 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.

DE: (Drafting):

(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 an 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.

DE: (Comments):

Scrutiny reservation; the terminology of this paragraph should be the same as for the proposals of the Dublin and EUAA regulations.

ES: (Comments):

Spain supports the deletion of large or disproportionate.

NL: (Drafting):

(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 ~~an 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):

NL can not agree to changes in this recital. Emergency assistance should only be used in emergency situations. The word disproportionate reflects a situation other than normal and should therefore remain in the text.

(43) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC¹⁰ 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 writing? 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.

HR: (Comments):

HR would like to ask for a clarification of the use of financial instruments for reaching AMIF objectives and consequently also of the newly added recital 44a) blending operations. We believe that the said recital is not applicable within the framework of AMIF.

NL: (Comments):

Not clear how this recital is relevant to this Fund.

(44a) Blending operations have a voluntary nature and are operations supported by the Union budget combining repayable and/or non-repayable forms of support from the Union budget with repayable forms of support from promotional/ development or other public finance

¹⁰ 2008/381/EC: Council Decision of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

institutions, as well as from commercial finance institutions and investors.

AT: (Comments):

AT is in favour of the changes.

BG: (Comments):

We support the wording providing for voluntary nature of blending operations.

DE: (Comments):

We thank for this clarification and would like to ask for some examples of cases where blending operations have been successfully applied in the past. Without such examples and explanation in written, there is still the need of – at least -a scrutiny reservation.

NL: (Comments):

Not clear how this recital is relevant to this Fund.

(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 management¹¹], for the European Parliament and the Council during the annual budgetary procedure.

AT: (Comments):

AT is in favour of the changes.

¹¹ 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

(46) Regulation (EU, ***Euratom***) ***2018/1046*** 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].

ES: (Comments):

Spain upholds a scrutiny reservation pending the approval of CPR.

(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 ***and Integration*** Fund (AMIF), 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.

AT: (Comments):

AT is in favour of the changes.

BG: (Comments):

We support the suggested modification.

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

It is necessary that the provisions of the CPR and the rules they set are well adapted to the specificities of BMVI and AMIF. They should not constitute an additional administrative burden or create complexities in relation to the rules of the 2014-2020 framework. The management rules of the 2021-2027 framework must provide a real simplification compared to the current framework.

We support the modification "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 **Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council**¹² (the Financial Regulation), Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹³, Council Regulation (Euratom, EC) No 2988/95¹⁴, Council Regulation (Euratom, EC) No 2185/96¹⁵ and Council Regulation (EU) 2017/1939¹⁶, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities **including and** fraud, the recovery

¹² **Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1) OJ C , , p.**

¹³ **Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L 248, 18.9.2013, p. 1) OJ C , , p.**

¹⁴ 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).

¹⁵ **Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2) OJ C , , p.**

¹⁶ Council Regulation (EU) 2017/~~1939~~ **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).

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 **illegal activity** ~~criminal offences~~ affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office ("**the EPPO**") may investigate and prosecute **offences against** ~~fraud and other illegal activities affecting the financial interests of the Union's~~ **financial interests**, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council¹⁷. In accordance with the Financial Regulation, any person or entity receiving Union funds is to **fully** cooperate ~~fully~~ in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, **the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939**, and the European Court of Auditors (**ECA**), and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.]

AT: (Comments):

AT does not oppose the changes.

[(50a) Third countries which are members of the EEA may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorizing officer responsible, OLAF, as well as the European Court of Auditors to comprehensively exert their respective competences.]

AT: (Comments):

AT does not oppose the changes.

ES: (Drafting):

[(50a) Third countries which are members of the EEA may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for

¹⁷ 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).

and access to the authorizing officer responsible, OLAF, as well as the European Court of Auditors to comprehensively exert their respective competences.]

ES: (Comments):

Spain presents an alternative drafting to this recital.

FR: (Comments):

Scrutiny reservation (brackets)

NL: (Comments):

How will this work in practice?

(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/EU¹⁸, 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'¹⁹, endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their national

¹⁸ 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).

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.

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.

CZ: (Drafting):

delete

CZ: (Comments):

The CZ requires deleting this recital. The CZ understands the Union's commitments in the climate policies, however the financial instruments in Home Affairs are not the tools which should be used for achieving the climate targets.

DE: (Comments):

Scrutiny reservation. It is unclear how climate protection goals should be implemented in connection with the AMIF.

FR: (Comments):

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

(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 Council²⁰. 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.~~

AT: (Comments):

AT does not oppose the changes.

FR: (Comments):

²⁰ 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).

Scrutiny reservation.
(58) Since the objective of this Regulation, namely to contribute to an effective management of migration flows in the Union, in accordance with 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],
HAVE ADOPTED THIS REGULATION:
CHAPTER I GENERAL PROVISIONS
Article 1 Subject matter

1. This Regulation establishes the Asylum, ~~and~~ Migration **and Integration** Fund ('the Fund').

AT: (Comments):

AT is in favour of putting "integration" back in the fund's name.

BG: (Comments):

We support the suggested modification.

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

We support this modification.

2. This Regulation lays down the objectives of the Fund, the budget for the period from 2021 to 2027, the forms of Union funding and the rules for providing such funding.

Article 2 **Definitions**

FR: (Comments):

It would be relevant to ensure that - without prejudice to ongoing negotiations - the arrangements that can be set up in border procedures can benefit from financial support of the Fund, and the appropriate definitions should be included in this perspective.

For the purpose of this Regulation, the following definitions shall apply:
(a) 'applicant for international protection' means an applicant as defined in point [x] of Article 2 of Regulation (EU) ... [Asylum Procedure Regulation] ²¹ ;
(b) 'beneficiary of international protection' within the meaning of point (2) of Article [2] of Regulation (EU) ... [Qualification Regulation] ²² ;
(c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of <i>pursuant to Article 2(6) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council</i> ²³ the Financial Regulation, combining non-repayable forms of support or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
(d) 'family member' means any third-country national as defined under the Union law relevant to the policy area of action supported under the Fund;
(e) 'humanitarian admission' within the meaning of Article [2] of Regulation (EU) ... [Union Resettlement [and Humanitarian Admission] Framework] ²⁴ ;
(f) 'removal' means 'removal' as defined in point (5) of Article 3 of Directive 2008/115/EC;

²¹ OJ C , , p. .

²² OJ C , , p. .

²³ ***Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).***

²⁴ OJ C , , p. .

(g) 'resettlement' means 'resettlement' as defined in Article [2] of Regulation (EU) ... [Union Resettlement [and Humanitarian Admission] Framework];
(h) 'return' means 'return' as defined in point (3) of Article 3 of Directive 2008/115/EC;
(i) 'third-country national' means any person who is not a citizen of the Union as defined in Article 20(1) of the TFEU. Reference to third-country nationals shall be understood to include stateless persons and persons with undetermined nationality;
(j) 'vulnerable person' means any person as defined under the Union law relevant to the policy area of action supported under the Fund.
NL: (Drafting): (k) 'Border procedure' the procedure where a third country national is obligated to leave after a refusal of entry under application of Article 14 of the Schengen Borders Code and the procedures leading to the refusal of entry, including the examination of applications for international protection prior to deciding on the entry to the territory of a third-country national under application of article 41 of the procedures directive/41 of the Procedures regulation).
Article 3 Objectives of the Fund
1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows in line with the relevant Union <i>acquis</i> and in compliance with the Union's commitments on fundamental rights.
AT: (Drafting): 1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows, including their external dimension , in line with the relevant Union <i>acquis</i> and in compliance with the Union's commitments on fundamental rights.
AT: (Comments):

Instead of only mentioning the external dimension in para 2(a) , it is very important in our point of view to mention the external dimension already in para 1 to cover all three objectives of the fund.

ES: (Drafting):

*The policy objective of the Fund shall be to contribute to an efficient management of migration flows, **including their external dimensions**, in line with the relevant Union acquis and in compliance with the Union.*

ES: (Comments):

Spain would like the Presidency to re-introduce in article 3.1 a reference to the external dimension of the Fund in third countries given its importance in the AMIF related matters. This inclusion will provide coherence to the whole text due to the relationships among different AMIF related questions in a globalized and transnational context with interconnected dependencies. The European Council conclusions of 28th June 2018 mandate to include a specific reference to the external dimension in the Regulation of the JHA Funds.

2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:

(a) to strengthen and develop all aspects of the Common European Asylum System, including its external dimension;

AT: (Drafting):

(a) to strengthen and develop all aspects of the Common European Asylum System, ~~including its external dimension;~~

AT: (Comments):

If the external dimension is mentioned in para 1, it would be an option to delete it here.

HR: (Comments):

See the comment on recital 3.

(b) to support legal migration to the Member States ~~and including~~ to contribute to the integration of third-country nationals;

FR: (Drafting):

(b) to support legal migration to the Member States ~~and including~~ to contribute to the integration of third-country nationals **in particular the integration of beneficiaries of international protection**;

FR: (Comments):

La France renouvelle sa demande, tendant à conférer plus de visibilité à cette mission essentielle au vu de l'évolution du contexte international, liée à l'intégration des bénéficiaires d'une protection internationale

(c) to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries.

NL: (Drafting):

(d)) to support the border control executed by the Member States at the external borders, including the support of the examination of applications for international protection in a border procedure prior to deciding on the entry to the territory of a third-country national and the return procedures where the application has been rejected)

SE: (Drafting):

(d) to enhance solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows, including through practical cooperation.

SE: (Comments):

Sweden retains its reservation on article 3. Sweden strongly advocates the reinsertion of the objective concerning increased solidarity and improved responsibility sharing, as it stands in the current AMIF regulation article 3 (d) and in TFEU article 80.

3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

ES: (Comments): Spain proposes, in line with the European Parliament, to establish minimal allocation thresholds consisting in 20% for S01 and 20% for SO2
Article 4 Scope of support ES: (Comments): Spain welcomes the changes introduced by the Romanian Presidency on this article.
1. Within the objectives referred to in Article 3, and in line with the implementation measures listed in Annex II, the Fund shall in particular support the actions as those listed in Annex III. NL: (Drafting): 1. Within the objectives referred to in Article 3, and in line with the implementation measures listed in Annex II, the Fund shall in particular support the actions as those such as listed in Annex III. NL: (Comments): NL is in favour of using the word ‘such as’ because this is in line with the wording in ANNEX II. PT: (Comments): PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.
2. To achieve the objectives of this Regulation, the Fund may support the actions in line with the Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 5 and 6.

3. The objectives of this Regulation shall support actions focusing on one or more target groups within the scope of Articles 78 and 79 of the Treaty on the Functioning of the European Union.

SE: (Comments):

In order to bring more clarity to the Regulation Sweden advocates that the target groups of the Fund should be listed in the proposal.

[Article 5

Third countries associated to the Fund

The Fund shall be open to third countries in accordance with the conditions laid down in a specific agreement covering the participation of the third country to the ~~Asylum and Migration~~ Fund, provided that the agreement:

HR: (Comments):

HR supports possible establishment of cooperation with third countries with a view to achieving the Fund's objectives through implementation measures set out in Annex II, but we also suggest further clarification of what the said cooperation may include.

We also support the adding of the new Article 5a) regulating the protection of the financial interests of the Union.

– ensures a fair balance as regards the contributions and benefits of the third country participating in the Fund;

– lays down the conditions of participation in the Fund, including the calculation of financial contributions to the Fund and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article {21(5)} of **Regulation (EU, Euratom) 2018/1046** ~~the Financial Regulation~~;

– does not confer to the third country a decisional power on the Fund;

– guarantees the rights of the Union to ensure sound financial management and to protect its financial interests./

[Article 5a

Protection of the financial interests of the Union

AT: (Comments):

AT has no problem with the addition made.

FR: (Comments):

Scrutiny reservation (brackets).

SE: (Comments):

Sweden can accept the new article 5a.

Where a third country participates in the Programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the European Court of Auditors to comprehensively exert their respective competences. In the case of the OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office.]

ES: (Drafting):

Where a third country participates in the Programme by a decision under an international agreement or by virtue of any other legal instrument, the above mentioned framework should specify European Union bodies granted righst and access to comprehensively exert their respective competences.

ES: (Comments):

Spain proposes an alternative drafting.

NL: (Comments):

See also comment on recital 50a. How does this work in practice?

Article 6

Eligible entities

~~1. The following entities may be eligible:~~

~~(a) legal entities established in any of the following countries:~~

~~(1) a Member State or an overseas country or territory linked to it;~~

~~(2) third country associated to the Fund;~~

~~(3) third country listed in the work programme under the conditions specified therein;~~

~~(b) any legal entity created under Union law or any international organisation.~~

~~2. Natural persons are not eligible.~~

~~3. Legal entities established in a third country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.~~

~~4. Legal entities participating in consortia of at least two independent entities, established in different Member States or overseas countries or territories linked to those states or in third countries are eligible.~~

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

Section 1 Common provisions

Article 7 **General principles**

1. Support provided under this Regulation shall complement national, regional and local intervention, and shall focus on adding value to the objectives of this Regulation.

2. The Commission and the Member States shall ensure that the support provided under this Regulation and by the Member States is consistent with the relevant activities, policies and priorities of the Union and is complementary to other Union instruments.

FR: (Drafting):

2. The Commission and the Member States shall ensure that the support provided under this Regulation and by the Member States is consistent with the relevant activities, policies and priorities of the Union and is complementary to other Union instruments, **while respecting the division of competencies in the Member States.**

3. The Fund shall be implemented in shared, direct or indirect management in accordance with Articles [62(1) (a), (b) and (c)] of **Regulation (EU, Euratom) 2018/1046** ~~the Financial Regulation~~.

Article 8

Budget

FR: (Comments):

Scrutiny reservation (brackets).

PT: (Comments):

Pertaining to **Arts. 8 (Budget), 11 (Budgetary Resources) and 14 (Mid Term Review)** - PT recalls written contributions on this matter, advocating the attribution of clear priority, in terms of the budget available, to the National Programs, in detriment of the Thematic Facilities.

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

- The 40% of the financial allocation to be attributed, under the AMIF, to the Thematic Facilities (art. 7, n. 2, b)), should decrease to 30%;
- The remaining 10% of the financial allocation, coming from the Thematic Facilities (current proposal) should increase the 60% of the allocation for Shared Management / National Programs (art. 7, n. 2, a)).
- Nonetheless, these extra 10%, coming from the Thematic Facility, should be added to the 10% already left, under the European Commission's initiative, to be allocated in the context of the Mid Term Review – as foreseen in art.s 11 and 14 of the current Regulation proposal – which would now amount to 20% of budget left for the review taking place in 2024.

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

- Art. 8 (calculations over n. 2 a) and b));
- Art. 11 (calculations over n. 1 a) and b));

Art. 14.

1. The financial envelope for the implementation of the Fund for the 2021-2027 period shall be EUR [10 415 000 000] in [current prices].

BG: (Comments):

We consider necessary an indicative breakdown of allocations for the MS under AMF to be provided at the earliest possible stage.

IT: (Comments):

IT stance on a different ratio is confirmed: 70% to shared programmes, 30 % to thematic facility.

2. The financial resources shall be used as follows:

(a) EUR [6 249 000 000] shall be allocated to the programmes implemented under shared management;

ES: (Drafting):

(a) EUR [7 290 500 000] shall be allocated to the programmes implemented under shared management;

ES: (Comments):

Spain proposes that 70% of the resources shall be allocated to national programmes and 30% to the thematic facility.

(b) EUR [4 166 000 000] shall be allocated to the thematic facility.

ES: (Drafting):

(b) EUR [3 124 500 000] shall be allocated to the thematic facility.

[2a. The above amounts include a dedicated, significant component for external migration management.]²⁵

AT: (Comments):

AT thinks that the external dimension should be primarily funded under the thematic facility with an additional amount besides the already stated budget. Furthermore, the possibility to fund the external dimension in the NPs should be explicitly open to MS.

BG: (Drafting):

[2a. The ~~above~~ amounts in point b) includes a dedicated, ~~significant~~ envelope for external migration management.]

BG: (Comments):

We consider that the Home Affairs financial instruments should provide complementary support for the external migration and the basic funding should be provided by the external instruments. We consider appropriate that such a dedicated component should be integrated only in the thematic facility which will ensure better coordination. The dedicated funding for the external dimensions should not affect the national programmes and the adequate level of funding for already set objectives of the Fund.

EE: (Comments):

EE supports the possibility of financing the external dimension of migration in the frame of thematic facility and not from the national envelopes.

ES: (Comments):

Spain welcomes the inclusion of [2a] and awaits the horizontal negotiations of the mentioned “*negotiating boxes*”. In this sense, in light of several European Council Conclusions, pointing out the need to boost the external dimension of JHA Funds, we consider that budget should allow Member States to allocate –without any imposition and according to their will- funds of the National Programmes. On the other hand, Spain proposes that the Thematic Facility shall include thresholds to carry out external actions in the AMF framework.

FR: (Comments):

²⁵ **Discussions on the external dimension of migration should be treated at horizontal level.**

We are strongly opposed to dedicating a fix or a “significant component” for external action, as the Fund needs to keep a sufficient flexibility to represent a real added-value for MSs’.

HR: (Comments):

Although the text is in brackets, we would like to point out that we do not support setting aside resources from AMIF for managing the external dimensions of migration, as we have already stated in our comment on recital 3.

IT: (Drafting):

[2a. The amount under 2(b) include a dedicated, significant component for external migration management. The amount under 2(a) may include a component for external migration management in accordance with national programmes.]²⁶

LU: (Comments):

As exposed in relevant horizontal discussions, we deem important that the original purpose of these funds be preserved. The use of NDICI and other important instruments for financing external aspects must be taken into account. If there is no separate instrument exclusively devoted to financing the external aspects of migration bringing together the different sources of funding for external aspects, it is important to clarify and circumscribe the remit of the JHA funds. To do so, a precise and exhaustive list of activities that can be financed by these funds in terms of external aspects should be established when the funds are adopted. In addition, the amount allocated to the funding of the external aspects of migration in the JHA funds should be charged only to the thematic facility, and not to the national programs.

MT: (Comments):

Malta reiterates that it is against the amounts for external migration management being taken from national programmes. Malta considers that the funding for external migration management should be provided through the thematic facility, over and above the amounts proposed by the EU Commission, and without impinging on the amounts for the national programmes under paragraph (2)(a).

NL: (Comments):

Scrutiny reservation. Relates to the horizontal discussion on the external dimension.

PT: (Drafting):

[2a. The above amounts include a dedicated, ~~significant~~ component, supported by the Thematic Facilities, for external migration management.]

PT: (Comments):

- Portugal limits its support to the introduction of any fixed amount of allocation, under the AMIF, to be attributed to the external dimension, to the need to obtain confirmation that this amount will exclusively come from the Thematic Facilities – and thus not affect the allocations to the National Programs (as seems to be indicated under Art. 9, new wording under parag. 2);
- Portugal considers that it should born in mind that the NDICI already includes a minimum threshold of 10% allocated to the external dimension of migrations, in amounts that largely surpass those that may be allocated from the AMIF.

SE: (Comments):

Sweden retains its scrutiny reservation on art 8.2(a).

Sweden remains hesitant a dedicated component or earmarked funding for external migration management. Earmarking means less flexibility in the use of the funding and there is also the risk of remaining committed amounts, as has been the case with AMIF.

Furthermore, the external dimension should primarily be funded through the *thematic facility* and be voluntary for Member States.

The external dimension must be funded by prioritizing the financial means for these actions within the funds. Additional financial means should not be allocated to the funds and the overall MFF framework should not be extended.

A horizontal discussion on the external migration would be very much welcome.

3. Up to 0.42 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission as referred to in Article 29 of the Regulation EU ../.. [Common Provisions Regulation].

Article 9

General provisions on the implementation of the thematic facility

1. The financial envelope referred to in Article 8(2)(b) shall be allocated flexibly through the thematic facility using shared, direct and indirect management as set out in work programmes. Funding from the thematic facility shall be used for its components:
(a) specific actions;
(b) Union actions;
(c) emergency assistance;
(d) resettlement <u><i>[and humanitarian admission]</i></u> ; DE: (Comments): We support that humanitarian admission is mentioned expressis verbis. FR: (Comments): We support the modification PT: (Comments): Portugal strongly supports the inclusion of humanitarian admission.
(e) support to Member States contributing to solidarity and responsibility efforts;
and

(f) **and** European Migration Network.

Technical assistance at the initiative of the Commission shall also be supported from the financial envelope for the thematic facility.

2. Funding from the thematic facility shall address priorities with a high added value to the Union or be used to respond to urgent needs in line with agreed Union priorities as outlined in Annex II, **including the overall migratory evolution**.

AT: (Drafting):

2. Funding from the thematic facility shall address priorities with a high added value to the Union or be used to respond to urgent needs in line with agreed Union priorities as outlined in Annex II, **including the overall migratory evolution-development**.

AT: (Comments):

Besides the suggestion for the wording, AT is fine with these changes.

BG: (Comments):

We support the suggested modification.

DE: (Comments):

We support this addition.

FR: (Comments):

We support the modification

NL: (Drafting):

2. Funding from the thematic facility shall address priorities with a high added value to the Union or be used to respond to urgent needs in line with agreed Union priorities as outlined in Annex II, including the overall migratory evolution

NL: (Comments):

NL in favour of the original text of this article.

3. When funding from the thematic facility is granted in direct or indirect management to Member States, it shall be ensured that selected projects are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure or the performance of projects.

4. When funding from the thematic facility is implemented in shared management, the Commission shall, for the purposes of Articles 18 and 19(2) of Regulation EU ... [Common Provisions Regulation], assess whether the foreseen actions are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure or the performance of the projects.

5. The Commission shall establish the overall amount made available for the thematic facility under the annual appropriations of the Union budget. The Commission shall **by means of implementing acts** adopt financing decisions as referred to in Article [110] of **Regulation (EU, Euratom) 2018/1046** ~~the Financial Regulation~~ for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of its components as referred to in paragraph 1. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).**

AT: (Comments):

AT is fine with these changes.

BG: (Comments):

We support the suggested modification.

DE: (Comments):

We support that the examination procedure is mentioned *expressis verbis*.

FR: (Comments):

Proposal linked to the examination procedure : we support the modification

SE: (Comments):

Sweden very much welcomes the amendments made by the Presidency (implementing acts adopted in accordance with the *examination procedure*).

6. The thematic facility shall in particular, support actions falling under the implementation measure 2(b) of Annex II that are implemented by the ***national, regional and*** local ~~and regional~~ authorities or civil society organisations.

AT: (Comments):

AT is fine with the changes

BG: (Comments):

We support the proposed modification of the provision.

PT: (Comments):

Portugal supports this change.

7. Following the adoption of a financing decision as referred to in paragraph 5, the Commission may amend the programmes implemented under shared management accordingly.

8. These financing decisions may be annual or multiannual and may cover one or more components of the thematic facility.
Section 2 Support and implementation under shared management
Article 10 Scope
1. This section applies to the part of the financial envelope referred to in Article 8(2)(a), and additional resources to be implemented under shared management according to the Commission decision for the thematic facility referred to in Article 9.
2. Support under this section shall be implemented under shared management in accordance with Article [63] of Regulation (EU, Euratom) 2018/1046 the Financial Regulation and the Regulation EU ... [Common Provisions Regulation].
Article 11 Budgetary resources
PT: (Comments): Pertaining to Arts. 8 (Budget), 11 (Budgetary Resources) and 14 (Mid Term Review) - PT recalls written contributions on this matter, advocating the attribution of clear priority, in terms of the budget available, to the National Programs, in detriment of the Thematic Facilities. In this context, and bearing in mind the policy objectives set out by the European Commission above, the same results could be reached, with a significantly lower administrative burden, as well as with a clearly increased amount of transparency and predictability, if the following changes were made: - The 40% of the financial allocation to be attributed, under the AMIF, to the Thematic Facilities (art. 7, n. 2, b)), should decrease to 30%; - The remaining 10% of the financial allocation, coming from the Thematic Facilities (current proposal) should increase the 60% of the

allocation for Shared Management / National Programs (art. 7, n. 2, a)).

- Nonetheless, these extra 10%, coming from the Thematic Facility, should be added to the 10% already left, under the European Commission's initiative, to be allocated in the context of the Mid Term Review – as foreseen in art.s 11 and 14 of the current Regulation proposal – which would now amount to 20% of budget left for the review taking place in 2024.

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

- Art. 8 (calculations over n. 2 a) and b));
- Art. 11 (calculations over n. 1 a) and b));

Art. 14.

1. Resources referred to in Article 8(2)(a) shall be allocated to the national programmes (the 'programmes') implemented by Member States under shared management indicatively as follows:

FR: (Comments):

Scrutiny reservation (brackets)

(a) EUR [5 207 500 000] to the Member States in accordance with [Annex I];

(b) EUR [1 041 500 000] to the Member States for the adjustment of the allocations for the programmes as referred to in Article 14(1).

~~2. Where the amount referred to in paragraph 1(b) is not allocated, the remaining amount may be added to the amount referred to in Article 8(2)(b).~~

AT: (Comments):

AT has a scrutiny reservation until the actual amounts and the allocation and the questions if Art. 14 will remain or not is clear.

BG: (Comments):

We support the proposed deletion of the provision.

FR: (Comments):

We support the modification.

SE: (Drafting):

2. Where the amount referred to in paragraph 1(b) is not allocated, the remaining amount may be allocated *to the Member States that meet the criteria referred to in Article 14(2) according to the updated data at the mid-term review.*

SE: (Comments):

Sweden advocates the reinsertion of paragraph 2 and the suggested wording by the Austrian Presidency in doc 15207/18 that was discussed in the Ad-hoc Working Group on December 17th 2018.

Article 12

Co-financing rates

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure of a project.

2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.

3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.

4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.

5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance.

5a. *Within the limits set out in Article 30(5)(v) of the Regulation (EU) No [CPR], technical assistance of Member States may be financed up to 100 % of the Union budget contribution.*

AT: (Comments):

AT is fine with the changes.

BG: (Comments):

We support the proposed modification of the provision.

DE: (Comments):

We support that the relevant paragraph is of the CPR is mentioned here.

EE: (Drafting):

5a. ~~Within the limits set out in Article 31(2)(d) of the Regulation (EU) No [CPR],~~ The contribution from the Union budget to the technical assistance **at the initiative of Member States may be financed up to 100 % of the **total eligible expenditure**. ~~Union budget contribution.~~**

EE: (Comments):

EE supports the PRES proposal to add a clear reference to financing the TA up to 100%. However, there is no need to refer to the CPR as art 12 in the AMF regulation addresses the co-financing rate (not the overall proportion of the TA). EE suggests to use similar wording as in the current period. Moreover, the 100% co-financing rate should apply both to flat rate financing and financing not linked to costs for TA.

6. The Commission decision approving a programme shall set the co-financing rate and the maximum amount of support from this Fund for the types of actions referred to in paragraphs 1 to 5. ES: (Comments): Concerning point 6, Spain asks the Presidency/Commission to propose an alternative drafting in order to include National Programmes' flexibility when a change of circumstances occurs. The Spanish position is based on Member States' need to count with a certain margin of reaction if there is a change of circumstances.
7. For each <u>type of action</u> specific objective, the Commission decision <i>approving a programme</i> shall set out whether the co-financing rate for the <u>type of action</u> specific objective is to be applied to <i>either of the following</i>: AT: (Comments): AT is fine with the changes. DE: (Drafting): For each <u>specific objective</u>, the Commission decision <i>approving a programme</i> shall set out whether the co-financing rate for the <u>specific objective</u> is to be applied to <i>either of the following</i>: DE: (Comments): We reject this modification; we would like to keep the original wording. FI: (Comments): It seems that the term "type of action" is used in two different meanings in the Regulation (in art. 12(7) and in annex VI table 2. Please crosscheck

term “type of action” with CPR to ensure that its use of is coherent throughout the Regulations.

FR: (Drafting):

7. For each ~~type of action~~ specific objective, the Commission decision ~~approving a programme~~ shall set out whether ~~the~~ **the co-financing rate for the type of action specific objective is to be applied to the total contribution, including the public and private contributions ~~either of the following~~:**

FR: (Comments):

It should be possible, as it is for 2014-2020 programmes, for a project to be financed by the EU fund and private cofinancing, without public cofinancing (when the beneficiary is an NGO).

Therefore, cofinancing should be applied to the total contribution, including public and private contribution.

(a) the total contribution, including the public and private contributions; ~~or~~

FR: (Drafting):

~~(a) the total contribution, including the public and private contributions; or~~

(b) the public contribution only.

FR: (Drafting):

~~(b) the public contribution only.~~

Article 13
Programmes

ES: (Comments):

Spain welcomes the changes introduced by the Romanian Presidency on article 13

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with, and respond to, the Union priorities and challenges in the area of migration management and are fully in line with the relevant Union *acquis* and agreed Union priorities, **while taking into account the specific context of each Member State**. In defining the priorities of their programmes Member States shall ensure that the implementation measures set out in Annex II are adequately addressed.

AT: (Comments):

AT is fine with the changes.

BG: (Comments):

We support the proposed modification of the provision.

DE: (Comments):

We do not see the added value of the modification and suggest deletion.

FR: (Comments):

We support this modification.

NL: (Drafting):

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with, and respond to, the Union priorities and challenges in the area of migration management and are fully in line with the relevant Union *acquis* and agreed Union priorities, **while taking into account the specific context of each Member State**. In defining the priorities of their programmes Member States shall ensure that the implementation measures set out in Annex II are adequately addressed.

NL: (Comments):

NL in favour of original text of this article.

2. ~~The Commission shall ensure that the European Union Agency for Asylum and the European Border and Coast Guard Agency are associated to the process of developing the programmes at an early stage, as regards the areas of their competence.~~ The Commission shall consult the European Border and Coast Guard Agency and the European Union Agency for Asylum ***as regards the areas of their competence*** on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States. ***The consultation shall be conducted in a timely manner without delaying the approval and implementation of the programmes.***

AT: (Comments):

AT welcomes the changes.

FR: (Drafting):

2. ~~The Commission shall ensure that the European Union Agency for Asylum and the European Border and Coast Guard Agency are associated to the process of developing the programmes at an early stage, as regards the areas of their competence.~~ The Commission shall consult the European Border and Coast Guard Agency and the European Union Agency for Asylum ***as regards the areas of their competence*** on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States. **The results of the consultation shall be notified to the concerned member State, which may present its observations.** ***The consultation shall be conducted in a timely manner without delaying the approval and implementation of the programmes.***

FR: (Comments):

We deem necessary that MS have the opportunity to introduce their observations on the Agencies analysis of their national program.

We support this modification (“The consultation shall be conducted in a timely manner without delaying the approval and implementation of the programmes.”)

HR: (Comments):

HR welcomes the amendment of Article 13 stating that the Commission only **consults with** the European Border and Coast Guard Agency and the European Union Agency for Asylum on the draft programme.

Despite the said amendment, we would appreciate it if you could provide us with a more detailed clarification of the competency and role of the said agencies in the process of drafting national programmes of Member States.

3. The Commission may associate the European Union Agency for Asylum and European Border and Coast Guard Agency in monitoring and evaluation tasks as referred to in Section 5 where appropriate in particular in view of ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

4. Further to a monitoring exercise as carried out in accordance with Regulation (EU) [../..] [EUAA Regulation] or the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned shall examine, together with the Commission, ~~and where relevant with the European Union Agency for Asylum and the European Border and Coast Guard Agency,~~ how to address the findings *and* ~~, including any shortcomings or issues of capacity and preparedness, and shall implement the~~ recommendations through its programme ***with the support of this Fund, where appropriate.***

AT: (Comments):

AT welcomes the changes.

BG: (Comments):

We support the proposed modification of the provision.

FR: (Comments):

We support this modification.

PL: (Drafting):

4. Further to a monitoring exercise as carried out in accordance with Regulation (EU) [../..] [EUAA Regulation] or the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned

shall examine, together with the Commission, ~~and where relevant with the European Union Agency for Asylum and the European Border and Coast Guard Agency,~~ how to address the findings *and* ~~, including any shortcomings or issues of capacity and preparedness, and shall implement the recommendations through its programme~~ ***with the support of this Fund, where appropriate.***

PL: (Comments):

Scrutiny reservations due to the ongoing negotiations on the EUAA Regulation proposal. PL would like to underline its objection to the scope of the proposed monitoring mechanism and possible follow – up measures in the new EUAA proposal. In our opinion, 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. Moreover, the consequences of such monitoring exercise should not affect the sovereign competences of a Member State.

SE: (Drafting):

Further to a monitoring exercise as carried out in accordance with Regulation (EU) [../..] [EUAA Regulation] or the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned shall examine, together with the Commission, and where relevant with the European Union Agency for Asylum and the European Border and Coast Guard Agency, how to address the findings, including any shortcomings or issues of capacity and preparedness, and shall implement the recommendations through its programme.

SE: (Comments):

Sweden advocates the reinsertion of the original text by the Commission where reference is made to EUAA, EBCG and to shortcomings or issues of capacity and preparedness.

5. Where necessary, the programme in question shall be amended to take into account the recommendations referred to in paragraph 4. Depending on the impact of the adjustment, the revised programme may be approved by the Commission.

6. In cooperation and consultation with the Commission and the relevant agencies in accordance with their competence, as applicable, resources under the programme may be reallocated with the aim of addressing recommendations, as referred to in paragraph 4 that have financial implications.

7. Member States ~~may~~ ~~shall in particular~~ pursue the actions eligible for higher co-financing as listed in Annex IV. In the event of unforeseen or new circumstances or in order to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend the list of actions eligible for higher co-financing as listed in Annex IV.

AT: (Comments):

AT is fine with the changes.

PT: (Comments):

PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.

8. 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 **approve the project after informing** ~~consult~~ the Commission ~~prior to the approval~~ ~~start of the project~~.

AT: (Comments):

AT is in general fine with the changes.

DE: (Comments):

Projects in third countries need to be streamlined within the EU. We therefore see the need to consult the Commission before starting a project. We therefore support the original wording.

SE: (Drafting):

8. 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** ~~inform~~ the Commission prior to the start of the project.

SE: (Comments):

Sweden cannot accept the amendments made by the Presidency and strongly advocates the reinsertion of “consult”. Especially when it comes to *new* projects in or with a third country it is of outmost importance to *consult* the Commission prior to the start of the project in order to avoid overlapping or the financing of measures that might fall outside of the scope of AMF.

9. Programming as referred to in Article 17(5) of Regulation EU) .../2021 [Common Provisions Regulation], shall be based on the types of intervention set out in Table 21 of Annex VI.

**[Article 14
Mid-term review**

FR: (Comments):

Scrutiny reservation.

PT: (Comments):

Pertaining to **Arts. 8 (Budget), 11 (Budgetary Resources) and 14 (Mid Term Review)** - PT recalls written contributions on this matter, advocating the attribution of clear priority, in terms of the budget available, to the National Programs, in detriment of the Thematic Facilities.

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

- The 40% of the financial allocation to be attributed, under the AMIF, to the Thematic Facilities (art. 7, n. 2, b)), should decrease to 30%;
- The remaining 10% of the financial allocation, coming from the Thematic Facilities (current proposal) should increase the 60% of the allocation for Shared Management / National Programs (art. 7, n. 2, a)).
- Nonetheless, these extra 10%, coming from the Thematic Facility, should be added to the 10% already left, under the European Commission’s initiative, to be allocated in the context of the Mid Term Review – as foreseen in art.s 11 and 14 of the current Regulation proposal – which would now amount to 20% of budget left for the review taking place in 2024.

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

- Art. 8 (calculations over n. 2 a) and b));
- Art. 11 (calculations over n. 1 a) and b));

Art. 14.

1. In 2024, the Commission shall allocate to the programmes of Member States concerned the additional amount referred to in Article 11(1)(b) in accordance with the criteria referred to in paragraphs 1(b) to 5 of Annex I. Funding shall be effective for the period as of the calendar year 2025.

FR: (Comments):

Scrutiny reservation.

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

AT: (Comments):

AT is in general fine with the deletion of this para.as long as the strategy of the Presidency to have a better negotiation basis with the EP (30%) pays off.

AT would prefer the initial text and the 10%.

BG: (Comments):

We support the proposed deletion of the provision.

DE: (Drafting):

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

DE: (Comments):

Scrutiny reservation. We think that the actual use of the funds is an important factor to take into account when it comes to additional allocation of funds; hence, we reject this deletion and would like to keep the original wording.

FR: (Comments):

Without commenting on a specific amount, the idea of providing a minimum threshold of the initial allocation covered by payment applications in order to receive the additional allocation is, according to us, in principle, a good idea. Moreover, we will need this measure at a later stage with Parliament.

Scrutiny reservation.

NL: (Drafting):

2. 10% of the funds will be allocated based on a substantive midterm review analysis, which focuses on the latest available statistical data, an update of the actual needs of Member States and the effectiveness of the projects already running.

NL: (Comments):

NL however favour allocation of additional amounts on the basis of a MTR. Distribution of the additional amounts to MS should take place on basis of actual needs and real performance of MS instead of actual amounts spend on actions.

3. The allocation of the funds from the thematic facility as of 2025 shall, ~~where appropriate,~~ take into account the progress made in achieving milestones of the performance framework as referred to in Article [12] of Regulation (EU) .../2021 [Common Provisions Regulation] and identified implementation shortcomings. **L**

FR: (Drafting):

3. The allocation of the funds from the thematic facility as of 2025 shall, ~~where appropriate,~~ take into account the **evolution of the overall migratory situation and, where appropriate,** progress made in achieving milestones of the performance framework as referred to in Article [12] of Regulation (EU) .../2021 [Common Provisions Regulation] and identified implementation shortcomings.

FR: (Comments):

We deem necessary to base the allocation of the thematic facility on the migratory situation, along with the performance framework.

Article 15

Specific actions

1. Specific actions are transnational or national projects in line with the objectives of this Regulation for which one, several or all Member States may receive an additional allocation to their programmes.

2. Member States may in addition to their allocation calculated in accordance with Article 11(1), receive an additional amount, provided that it is earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation.

3. The funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme.

[Article 16

Resources for the Union Resettlement [and Humanitarian Admission] Framework

ES: (Comments):

Spain upholds a scrutiny reservation on this article.

PL: (Drafting):

Article 16

Resources for the Union Resettlement [and Humanitarian Admission] Framework

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.

1. Member States shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR **[10 000]** for each resettled person in accordance with the targeted Union resettlement scheme. That contribution shall take the form of financing not linked to costs in accordance with Article {125} of the Financial Regulation.

ES: (Comments):

Even if the resettlement contribution is not fixed, Spain considers that the estimation of 10.000€ is insufficient since it is well below its real cost. Thus, Spain upholds a substantive reservation pending CEAS negotiations.

IT: (Comments):

A higher lump sum would be desirable in order to more effectively face the integration tailor made programmes for each resettled person.

PT: (Drafting):

1. Member States shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR **[20 000]** for each resettled person in accordance with the targeted Union resettlement scheme. That contribution shall take the form of financing not linked to costs in accordance with Article {125} of the Financial Regulation.

PT: (Comments):

Portugal considers that the amount to be attributed to the Lump Sums must increase to 20.000euros. The reasons are associated with inflation, with the increased life costs and with the experience felt in the current programming period.

2. The amount referred to in paragraph 1 shall be allocated to the Member States through the amendment of their programme provided that the person in respect of whom the contribution is allocated was effectively resettled in accordance with the Union Resettlement [and Humanitarian

Admission] Framework.
3. The funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme.
4. Member States shall keep the information necessary to allow the proper identification of the resettled persons and of the date of their resettlement./
[Article 17 Resources to support the implementation of Regulation ../.. [Dublin Regulation] ES: (Comments): Spain upholds a scrutiny reservation on this article. IT: (Comments): Scrutiny reservation in connection to the reform of Dublin regulation. PL: (Drafting): [Article 17 Resources to support the implementation of Regulation ../.. [Dublin Regulation] PL: (Comments): <i>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.</i>
1. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR <u>[[10 000]]</u>

for each applicant for international protection for whom that Member State becomes responsible as from when that Member State is in challenging circumstances as defined in Regulation (EU) ... [Dublin Regulation].

ES: (Comments):

Even if the resettlement contribution is not fixed, Spain considers that the estimation of 10.000€ is insufficient since it is well below its real cost. Thus, Spain upholds a substantive reservation pending CEAS negotiations.

PT: (Drafting):

1. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR **[[20 000]]** for each applicant for international protection for whom that Member State becomes responsible as from when that Member State is in challenging circumstances as defined in Regulation (EU) ... [Dublin Regulation].

PT: (Comments):

Portugal considers that the amount to be attributed to the Lump Sums must increase to 20.000euros. The reasons are associated with inflation, with the increased life costs and with the experience felt in the current programming period.

2. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR **[[10 000]]** for each applicant for international protection allocated to that Member State who is above the benefitting Member State's fair share.

PT: (Drafting):

2. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR **[[20 000]]** for each applicant for international protection allocated to that Member State who is above the benefitting Member State's fair share.

PT: (Comments):

Portugal considers that the amount to be attributed to the Lump Sums must increase to 20.000euros. The reasons are associated with inflation, with the increased life costs and with the experience felt in the current programming period.

3. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR ~~[[10 000]]~~ per applicant who has been granted international protection for the implementation of integration measures.

PT: (Drafting):

3. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR ~~[[10 000]]~~ **[[20 000]]** per applicant who has been granted international protection for the implementation of integration measures.

PT: (Comments):

Portugal considers that the amount to be attributed to the Lump Sums must increase to 20.000euros. The reasons are associated with inflation, with the increased life costs and with the experience felt in the current programming period.

4. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR ~~[[10 000]]~~ per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 11(d) of Regulation (EU) ../.. [Eurodac Regulation] that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

PT: (Drafting):

4. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR ~~[[10 000]]~~ **[[20 000]]** per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 11(d) of Regulation (EU) ../.. [Eurodac Regulation] that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

PT: (Comments):

Portugal considers that the amount to be attributed to the Lump Sums must increase to 20.000euros. The reasons are associated with inflation, with the increased life costs and with the experience felt in the current programming period.

5. A Member State shall receive, in addition to its allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [[500]] for each applicant of international protection transferred from one Member State to another, for each applicant transferred pursuant to point (c) of the first paragraph of Article 34(i) of Regulation (EU) ../... [Dublin Regulation] and, where applicable, for each applicant transferred pursuant to point (g) of Article 34 (j) of Regulation (EU) ../.. [Dublin Regulation].

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article {125} of the Financial Regulation.

7. The additional amounts referred to in paragraphs 1 to 5 shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) ../.. [Dublin Regulation].

8. This funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme./

Article 18

Operating support

1. Operating support is a part of a Member State's allocation which may be used as support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union;

2. A Member State may use up to ~~10~~ **20** % of the amount allocated under the Fund to its programme to finance operating support under objectives in Article 3(2)~~(a) and (c)~~.

AT: (Comments):

AT is in favour of the changes made.

BG: (Comments):

We express the opinion that further increase of the share for operating support is necessary in view of the specificities of the fund.

EE: (Comments):

EE supports the increase of the operating support to 20%.

ES: (Comments):

Spain welcomes the increase in the percentage that may be used to finance operating support.

FR: (Comments):

We support an increase in the operational support ceiling.

(a) and (c) deleted : France supports the inclusion of legal migration and integration.

HR: (Comments):

HR supports the increase of the rate for operating support from 10 to 20%. The increase of the amount available for operating support will help in maintaining appropriate reception and accommodation standards of third-country nationals.

PT: (Drafting):

2. A Member State may use up to ~~10~~ **30** % of the amount allocated under the Fund to its programme to finance operating support under objectives in Article 3(2).

PT: (Comments):

Portugal welcomes the spirit of the proposal set by the Presidency, by way of increasing the percentage of maximum allocation for the Operating Support, but maintains its conviction that this **percentage should still be increase from the 10% indicated by the European Commission to a minimum of 30%**;

Portugal supports that the operational support should also be applicable to the Integration area (including art. 18, n° 2, parag. (b) of the n° 2 of art. 3).

3. The Member States using operating support shall comply with the Union *acquis* on asylum and return.

4. Member States shall justify in the programme and in the annual performance report as referred to in Article 30 the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall, ~~with the European Union Agency for Asylum and the European Border and Coast Guard Agency in line with Article 13,~~ assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available in the light of the monitoring exercises, as carried out in accordance with Regulation (EU) ... [EUAA Regulation] and Regulation (EU) No 1053/2013, which are within the scope of this Regulation.

AT: (Comments):

AT is in favour of the changes made.

BG: (Comments):

We support the modification of the provision.

FR: (Drafting):

4. Member States shall justify in the programme and in the annual performance report as referred to in Article 30 the use of operating support to ~~achieve~~ **contribute to** the objectives of this Regulation. Before the approval of the programme, the Commission shall, ~~with the European Union Agency for Asylum and the European Border and Coast Guard Agency in line with Article 13,~~ assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available in the light of the monitoring exercises, as carried out in accordance with Regulation (EU) ... [EUAA Regulation] and Regulation (EU) No 1053/2013, which are within the scope of this Regulation.

5. Operating support shall be concentrated on specific tasks and services as laid down in Annex VII.

6. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend the list of specific tasks and services in Annex VII.

Section 3

Support and implementation under direct and indirect management

Article 18a

Eligible entities

AT: (Comments):

AT is fine with the changes made.

FR: (Comments):

We support this modification. These provisions should be applicable only to the direct and indirect management (section 3). For shared management, the eligible entities should be specified in each national programme.

1. The following entities may be eligible:

(a) legal entities established in any of the following countries:

(1) a Member State or an overseas country or territory linked to it;

(2) a third country associated to the Fund;

(3) a third country listed in the work programme under the conditions specified therein;

(b) any legal entity created under Union law or any international organisation.
2. Natural persons are not eligible.
3. Legal entities established in a third country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action. ES: (Drafting): <i>Legal entities established in a third country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.</i> ES: (Comments): Spain prefers the previous Presidency proposal to article 18A.3 due to the fact that the previous proposed drafting allowed a more flexible range of actions in the future period of Fund application, without limiting Member States actions, and giving the necessary flexibility to the fund to react in any circumstance. If the term “ <i>exceptionally</i> ” remains in the text, it would be necessary to specify when the exceptional circumstances apply
4. Legal entities participating in consortia of at least two independent entities, established in different Member States or in overseas countries or territories linked to those states or in third countries are eligible.
Article 19 Scope
Support under this section Union shall be implemented either directly by the Commission in accordance with point (a) of Article 62(1) of Regulation (EU, Euratom) 2018/1046 the Financial Regulation, or indirectly in accordance with point (c) of that Article.

Article 20 Union actions
1. Union actions are transnational projects or projects of particular interest to the Union implemented in line with the objectives of this Regulation.
2. At the Commission's initiative, the Fund may be used to finance Union actions concerning the objectives of this Regulation as referred to in Article 3 and in accordance with Annex III.
3. Union actions may provide funding in any of the forms laid down in Regulation (EU, Euratom) 2018/1046 the Financial Regulation in particular grants, prizes and procurement. They may also provide financing in the form of financial instruments within blending operations.
4. Grants implemented under direct management shall be awarded and managed in accordance with [Title VIII] of Regulation (EU, Euratom) 2018/1046 the Financial Regulation .
5. The evaluation committee assessing the proposals may be composed of external experts.
6. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under Regulation (EU, Euratom) 2018/1046 the Financial Regulation . The provisions laid down in [Article X of] Regulation (EU) ... [successor of the Regulation on the Guarantee Fund] shall apply.
Article 21 European Migration Network
1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.

2. The amount made available for the European Migration Network under the annual appropriations of the Fund and the work programme laying down the priorities for its activities shall be adopted by the Commission, after approval by the Steering Board in accordance with Article 4(5)(a) of Decision 2008/381/EC (as amended). The decision of the Commission shall constitute a financing decision pursuant to Article [110] of Regulation (EU, Euratom) 2018/1046 the Financial Regulation. To ensure the timely availability of resources, the Commission may adopt the work programme for the European Migration Network in a separate financing decision.
3. Financial assistance provided for the activities of the European Migration Network shall take the form of grants to the national contact points referred to in Article 3 of Decision 2008/381/EC and procurements as appropriate, in accordance with Regulation (EU, Euratom) 2018/1046 the Financial Regulation.
Article 22 Blending operations
Blending operations decided under this Fund shall be implemented in accordance with the [InvestEu regulation] and Title X of Regulation (EU, Euratom) 2018/1046 the Financial Regulation.
Article 23 Technical assistance at the initiative of the Commission
The Fund may support technical assistance measures implemented at the initiative of, or on behalf of, the Commission. Those measures may be financed at the rate of 100%.
Article 24 Audits
Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union institutions or

bodies, shall form the basis of the overall assurance pursuant to Article 127 of Regulation (EU, *Euratom*) **2018/1046** [~~Regulation on the financial rules applicable to the general budget of the Union~~].

Article 25

Information, communication and publicity

ES: (Comments):

Spain would like a horizontal drafting of this article in the ISF, AMF and BMVI. The previous Presidency proposal that made reference to Council Decision 2013/488/EU seemed suitable. In any case, Spain supports the Commission point of view making reference, independently of article 25, to the EU and national framework on the matter.

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public, *except where it is restricted due to its classified or confidential nature, particularly concerning security, public order and the protection of personal data, according the applicable law.*

AT: (Comments):

AT is fine with the changes made.

BG: (Comments):

We support the modification of the provision.

EE: (Comments):

EE supports the proposed wording of this paragraph. However, this mitigation should be extended to shared management, so **EE proposes to move this article to the CPR.**

ES: (Comments):

Spain welcomes the establishment of boundaries to the publicity of sensitive information

FR: (Drafting):

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding, ~~in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public,~~ ***except where it is restricted due to its classified or confidential nature, or its sensitivity particularly concerning security, public order and the protection of personal data, according the applicable law.***

FR: (Comments):

Considering confidentiality or sensitivity of several projects financed by this fund, obligations related to information, communication and publicity should be substantially lightened both for managing authority and beneficiaries, and aligned to what is done for 2014-2020 AMIF programmes.

PT: (Comments):

Portugal supports this change.

2. The Commission shall implement information and communication actions relating to the Fund and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication on the political priorities of the Union, as far as they are related to the objectives of this Regulation.

Section 4

Support and implementation under shared,
direct and indirect management

Article 26

Emergency assistance

ES: (Comments):

Spain welcomes overall the alternative drafting proposed by the Presidency

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of an emergency situation resulting from one or more of the following:

(a) heavy migratory pressure in one or more Member States characterised by ~~an 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;

AT: (Comments):

AT is fine with the changes made.

DE: (Drafting):

(a) heavy migratory pressure in one or more Member States characterised by **a 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;

DE: (Comments):

Scrutiny reservation; the terminology of this paragraph should be the same as for the proposals of the Dublin and EUAA regulations.

ES: (Comments):

Spain welcomes the deletion of large or disproportionate.

NL: (Drafting):

(a) 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;

NL: (Comments):

NL can not agree to changes in this article. Emergency assistance should only be used in emergency situations. The word disproportionate reflects a situation other than normal and should therefor remain in the text.

(b) ***an event of mass influx of displaced persons*** ~~the implementation of temporary protection mechanisms~~ within the meaning of Directive 2001/55/EC²⁷;

FR: (Drafting):

(b) ***an event of mass influx of displaced persons*** ~~the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC~~²⁸;

FR: (Comments):

It should be necessary to add a definition of “mass influx of displaced persons” under Article 2

NL: (Comments):

Wording in this paragraph is unclear therefore NL prefers original text.

(c) heavy migratory pressure in third countries, including where persons in need of protection may be stranded due to political developments or conflicts, notably where it might have an impact on migration flows towards the EU.

²⁷ 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).

²⁸ 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).

2. Emergency assistance may take the form of grants awarded directly to the decentralised agencies. ES: (Comments): Invert the order with paragraph 3 of this article.
3. Emergency assistance may be allocated to Member States' programmes in addition to their allocation calculated in accordance with Article 11(1) and Annex I, provided that it is earmarked as such in the programme. This funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme. ES: (Comments): Invert the order with paragraph 2 of this article.
4. Grants implemented under direct management shall be awarded and managed in accordance with [Title VIII] of Regulation (EU, Euratom) 2018/1046 the Financial Regulation.
5. <i>The Commission shall regularly inform Member States about the available financial means for emergency assistance and the types of action which may be eligible.</i> AT: (Comments): AT is fine with the changes made. BG: (Comments): We support the modification of the provision.

ES: (Comments):

Spain supports the new drafting regarding the information on Emergency Assistance

PT: (Comments):

Portugal supports this change.

Article 27

Cumulative, complementary and combined funding

1. An action that has received a contribution under the Fund may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

2. Actions awarded a seal of Excellence certification, or which comply with the following cumulative comparative conditions:

(a) they have been assessed in a call for proposals under the instrument;

(~~ba~~) they comply with the minimum quality requirements of that call for proposals;

(~~cb~~) they may not be financed under that call for proposals due to budgetary constraints.

may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund+ or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [67] of Regulation (EU) ../.. [Common Provisions Regulation] and Article

[8] or Regulation (EU) ... [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply.

Section 5 Monitoring, Reporting and evaluation

sub section 1 Common Provisions

Article 28 **Monitoring and reporting**

1. In compliance with its reporting requirements pursuant to Article ~~43(3)(h)(i)(iii)~~ **41(3)(h)(iii)** of **Regulation (EU, Euratom) 2018/1046** the ~~Financial Regulation~~, the Commission shall present to the European Parliament and the Council information on performance in accordance with Annex V.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend Annex V in order to make the necessary adjustments to the information on performance to be provided to the European Parliament and the Council.

FR: (Drafting):

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend Annex V in order to make the necessary adjustments to the information on performance to be provided to the European Parliament and the Council. **If a new and strictly necessary indicator is created, it will start to apply in the first accounting year following the year of adoption of the implementing ted act.**

FR: (Comments):

We would like to insure the indicators used in the report will not be used to stress some aspects of the implementation of the Regulation that were not initially foreseen.

3. The indicators to report on progress of the Fund towards the achievement of the objectives of this Regulation are set in Annex VIII. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.

FR: (Drafting):

3. The indicators to report on progress of the Fund towards the achievement of the objectives of this Regulation are set in Annex VI. For output indicators, baselines shall be set at zero. ~~The milestones set for 2024 and targets set for 2029 shall be cumulative.~~

FR: (Comments):

We are not in favour of multiplying indicators, notably performance indicators tending to add-up through the whole MFF period.

4. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and where relevant Member States.

5. In order to ensure effective assessment of the progress of the Fund towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend Annex VIII to review and complement the indicators where necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including for project information to be provided by the Member States. ***Any amendment to Annex VIII shall only start to apply in the first accounting year following the year of adoption of the delegated act.***

AT: (Comments):

AT is fine with the changes made.

BG: (Comments):

We support the modification of the provision.

ES: (Comments):

Spain welcomes the new drafting proposal of the current Presidency for article 28.5.

PT: (Comments):

Portugal supports this change.

Article 29 Evaluation

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under the Fund.

2. The mid-term and the retrospective evaluation shall be carried out in a timely manner to feed into the decision-making process *in accordance with the timeline set out in Article 40 of Regulation (EU) No .../... [CPR]*.

sub section 2
rules for shared management

Article 30 Annual performance reports

ES: (Comments):

Spain presents a scrutiny reservation and would support any proposals aimed at reducing administrative burdens without risking financial and performance controls.

1. By 15 February 2023 and by the same date of each subsequent year up to and including 2031, Member States shall submit to the Commission the annual performance report as referred to in Article 36(6) of Regulation (EU).../2021 [Common Provisions Regulation]. The report submitted in 2023 shall cover the implementation of the programme in the period to 30 June 2022.
2. The annual performance report shall in particular set out information on:
(a) progress in the implementation of the programme and in achieving the milestones and targets, taking into account the latest data as required by Article [37] of Regulation (EU) .../2021 [Common Provisions Regulation];
(b) any issues affecting the performance of the programme and the action taken to address them;
(c) the complementarity between the actions supported by the Fund and support provided by other Union funds, in particular those in or in relation to third countries;
(d) contribution of the programme to the implementation of the relevant Union <i>acquis</i> and action plans;
(e) the implementation of communication and visibility actions;
(f) the fulfilment of the applicable enabling conditions and their application throughout the programming period;
ES: (Drafting):
(f) — the fulfilment of the applicable enabling conditions and their application throughout the programming period;
ES: (Comments):

Spain upholds a scrutiny reservation as regards applications of CPR to AMIF. Under this approach Spain does not agree with this point (f) until a definitive CPR is attained

FR: (Drafting):

~~(f) — the fulfilment of the applicable enabling conditions and their application throughout the programming period;~~

FR: (Comments):

Enabling conditions should not apply to this fund since they don't exist for AMIF 2014-2020. Indeed, they would not introduce the essential simplification wished both by European commission and member states. In particular, the one concerning state aids is not relevant for this fund since it doesn't target private beneficiaries.

(g) the number of persons resettled with the help of the Fund in line with the amounts referred to in Article 16(1);

(h) the number of applicants for or beneficiaries of international protection transferred from one Member State to another in line with Article 17.

ES: (Comments):

Spain upholds a substantive reservation pending negotiation on CEAS

3. The Commission may make observations on the annual performance report within two months of the date of its receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt an implementing act establishing the template for the annual performance report. This implementing act shall be adopted in accordance with the **examination** advisory procedure referred to in Article 33(2).

AT: (Comments):

AT is fine with the changes made.

Article 31

Monitoring and reporting

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) .../... [Common Provisions Regulation] shall be based on the types of intervention set out in Tables 1, 2, ~~and 3~~ **and 4** in Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of the funding, the Commission shall be empowered to adopt delegated acts to amend the types of intervention in accordance with Article 32.

FR: (Drafting):

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) .../... [Common Provisions Regulation] shall be based on the types of intervention set out in Tables 1, 2, ~~and 3~~ **and 4** in Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of the funding, the Commission shall be empowered to adopt delegated acts to amend the types of intervention in accordance with Article 32. **Except for correcting material error, the modification shall apply only for projects selected after the adoption of the modification.**

2. These indicators *set in Annex VIII* shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) .../2021 [Common Provisions Regulation].

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 32

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 13, 18, 28 and 31 shall be conferred on the Commission until 31 December 2028.
3. The delegation of powers referred to in Articles 13, 18, 28 and 31 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall simultaneously notify the European Parliament and to the Council thereof.
6. A delegated act adopted pursuant to Articles 13, 18, 28 and 31 shall enter into force only if neither the European Parliament nor the Council has expressed an objection within two months of being notified of it or if, before the expiry of that period, they have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.
Article 33 Committee procedure ES: (Comments): Spain supports the new drafting proposed by the Presidency taking into account the changes introduced in article 9.
1. The Commission shall be assisted by the Coordination Committee for the Asylum, and Migration and Integration Fund, the Internal Security Fund and the Border Management and Visa Instrument. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

PT: (Comments):

Portugal supports this change.

2. Where reference is made to this paragraph, Article 54 of Regulation (EU) No 182/2011 shall apply.

FR: (Comments):

We support the modification.

~~3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act. This shall not apply to the implementing act referred to in Article 30(4).~~

FR: (Drafting):

~~3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act. This shall not apply to the implementing act referred to in Article 30(4).~~

FR: (Comments):

We prefer referring to examination procedures with a no-opinion clause

Article 34

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned under the Asylum, Migration and Integration Fund for the period 2014-2020 established by Regulation (EU) No 516/2014, which shall continue to apply to the actions concerned until their closure.

2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessor, the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014.

Article 35

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg,

For the European Parliament For the Council

The President The President

[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):

The reference period for Annex I data should be as close as possible to the beginning of the next framework in order to take into account the migration trends and the needs of Member States as closely as possible.

PT: (Comments):

As regards to **Annexes I, V and VIII**, Portugal reserves its position to further discussions of the Ad Hoc Working Party on its content and extent.

SE: (Comments): General remark

Sweden would like to underline that the negotiations on Annex I should be conducted in the horizontal MFF group and not in the Ad hoc group, it being understood that the entire Annex I is put within square brackets. Sweden therefore avails itself the possibility to come back with further comments/ suggestions at a later stage and in connection with the negotiations in the horizontal MFF group.

1. [The available resources referred to in Article 11 shall be broken down between the Member States as follows:

(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):

(a) Each Member State shall receive a fixed amount of EUR ~~5~~**10** 000 000 from the Fund at the start of the programming period only;

CZ: (Comments):

The CZ suggests to increase the fixed amount to 10 000 000. The reason for that is to keep the ratio between the fixed amount and the one based on criteria as similar to the period 2014-2020 as possible. And because the amount for 2021-2027 AMIF has been increased, the fixed amount must also be increased.

ES: (Comments):

Spain considers that the pre-funding is very low and may endanger the Fund implementation.

Spain suggests to increase the fixed initial pre-funding and increase the percentage of annual pre-funding envisaged in the CPR.

IT: (Comments):

Italy advocates a higher fixed amount.

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 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.

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.

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

ES: (Comments):

Regarding allocation, we propose the following criteria weight:

40% for asylum

30% for legal migration

30% for irregular migration including returns

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; ES: (Drafting): – 40 % for asylum; PT: (Drafting): 35 % for asylum;
– 30 % for legal migration and integration; ES: (Drafting): – 30 % for legal migration and integration; PT: (Drafting): 35 % for legal migration and integration;
– 40 % for countering irregular migration including returns.

ES: (Drafting):

- 30% for countering irregular migration including returns

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.

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

IT: (Drafting):

(a) 30 % in proportion to the number of persons **granted international protection according to the EU legislation:**

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

IT: (Drafting):

Deleted

– Any third-country national or stateless person enjoying a form of subsidiary protection with the meaning of recast Directive 2011/95/EU²⁹; IT: (Drafting): Deleted
– Any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC³⁰ IT: (Drafting): Deleted
(b) 60 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection. 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):

²⁹ 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).

³⁰ 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).

Criteria (percentages) for the 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.

IT: (Drafting):

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

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.

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

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.

IT: (Drafting):

(d) 20% in proportion to the number of incoming “Dublin” transfers to the submitting MS.

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.

(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.

(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.

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

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

PL: (Drafting):

This paragraph shall be removed from the regulation

PL: (Comments):

Third country nationals being issued a work-related first residence permits valid for less than 12 months need to be supported with integration measures as much as other third country nationals in the respective country. Taking into account this fact and necessity to deliver integration measures for third country nationals being issued a work-related first residence permit valid for less than 12 months, this group shall be taken into account while calculating amount of money available for each country.

– Third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC³¹ or when applicable the Directive (EU) 2016/801³²;

³¹ 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).

– Third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC ³³ 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.
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.
(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 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;

³² 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).

³³ 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).

IT: (Drafting):

(a) **60 %** 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 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):

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.

(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.

IT: (Drafting):

(b) **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.

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.↓

ANNEX II
Implementation measures

ES: (Comments):

Spain upholds the complementarity between ESF and AMIF, their synergies and the necessity to avoid duplicities.

1. The Fund shall contribute to the specific objective set out in Article 3(2)(a) by focusing on the following implementation measures:

(a) ensuring a uniform application of the Union *acquis* and of the priorities related to the Common European Asylum System;

(b) supporting the capacity of Member States' asylum systems as regards infrastructures and services where necessary;

EE: (Comments):

(c) enhancing solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migratory flows, as well as providing support to Member States contributing to solidarity efforts;

(d) enhancing solidarity and cooperation with third countries affected by migratory flows, including through resettlement and other legal avenues to protection in the Union as well as partnership and cooperation with third countries for the purpose of managing migration.

ES: (Drafting):

*enhancing solidarity and cooperation with third countries affected by migratory flows, including through resettlement and other legal avenues to protection in the Union as well as partnership and cooperation with third countries for the purpose of managing migration **including its external dimension.***

ES: (Comments):

The Kingdom of Spain would like to reintroduce the alternative drafting of the previous Presidency.

2. The Fund shall contribute to the specific objective set out in Article 3(2)(b), by focusing on the following implementation measures:

(a) supporting the development and implementation of policies promoting legal migration and the implementation of the Union legal migration *acquis*;

(b) promoting ~~early~~ integration measures for the social and economic inclusion of third-country nationals, preparing their active participation in and their acceptance by the receiving society, ~~in particular~~ with the involvement of ***national and, in particular, regional or local or regional*** authorities and civil society organisations ***in synergy with the European Social Fund (ESF+) which besides other objectives funds measures supporting access of migrants to the labour market.***

AT: (Comments):

AT welcomes the changes.

BG: (Comments):

We support the modification of this provision. We consider that clear distinction of the support under AMF and ESF+ needs to be set.

ES: (Comments):

Spain welcomes the deletion of early integration and the modification of the wording regarding ESF+.

HR: (Comments):

It was suggested, in general, that ESF+ covers long-term socio-economic integration of third-country nationals, while AMIF centres on (short-term) integration measures related to reception (support for specific needs of Member States, language learning, citizenship education courses) as well as

the development of national integration strategies and increase of Member States' capacities.

Starting from the existing dynamics and achieved absorption of funds under AMIF, HR supports the proposal that the new AMIF, same as the current AMIF, regulates short-term and mid-term integration whereas long-term integration would be funded under ESF+.

One of the issues relates to the manner in which interventions can be separated under AMIF and ESF+ in practice. Each Member State decides for itself where it will place the focus for integration. Where access to the labour market is concerned, ESF+ is relevant. If a Member State is facing a large migration-related challenge, activities should also be planned within the framework of ESF+.

The new approach aims to encompass and connect all forms of integration (integration in the location of residence, integration in the workplace and integration through the education process) for achieving the highest possible level of success when it comes to measures of integration.

IT: (Drafting):

(b) promoting ~~early~~ integration measures for the social and economic inclusion of third-country nationals, preparing their active participation in and their acceptance by the receiving society **including preparatory actions to facilitate access to the labour market, in particular** with the involvement of ***national and, in particular, regional or*** local ~~or regional~~ authorities and civil society organisations ***in synergy with the European Social Fund (ESF+) which besides other objectives funds measures supporting access of migrants to the labour market.***

SI: (Comments):

There is still no clear distinction between AMF measures and measures falling under the ESF +. It is not acceptable for this to be dependent on the Member States. There are differences between Member States and the audit may ultimately conclude that a Member State's decision is incorrect,...

3. The Fund shall contribute to the specific objective set out in Article 3(2)(c), by focusing on the following implementation measures:

(a) ensuring a uniform application of the Union *acquis* and policy priorities regarding infrastructure, procedures and services;

(b) supporting an integrated and coordinated approach to return management at the Union and Member States' level, to the development of capacities for effective and sustainable return and reducing incentives for irregular migration;

(c) supporting assisted voluntary return and reintegration;
(d) strengthening cooperation with third countries and their capacities to implement readmission agreements and other arrangements, and enable sustainable return.
ES: (Drafting): <i>strengthening the external dimension through cooperation with third countries and their capacities to implement readmission agreements and other arrangements, and enable sustainable return.</i>
ES: (Comments): The Kingdom of Spain would like to reintroduce the alternative drafting of the previous Presidency.
ANNEX III Scope of support
1. Within the policy objective referred to in Article 3(1), the Fund shall in particular support actions such as the following:
PT: (Comments): PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.
(a) the establishment and development of national strategies in asylum, legal migration, integration, return and irregular migration;

(b) the setting up of administrative structures, **and** systems, **including the development of IT systems and the interoperability of databases and**, tools and training of staff, including local authorities and other relevant stakeholders;

AT: (Comments):

AT welcomes the changes.

BG: (Comments):

We support the modification of this provision.

EE: (Comments):

EE welcomes the addition of the reference to IT systems in Annex III and VII. However, as the term „ICT“ has been used in ISF regulation, it should be synchronized between the funds.

(c) the development, monitoring and evaluation of policies and procedures including on collection, ~~and~~ exchange **and analysis** of information and data, ~~development~~ and application of common statistical tools, methods and indicators for measuring progress and assessing policy developments;

(d) the exchanges of information, best practices and strategies, mutual learning, studies and research, the development and implementation of joint actions and operations and the setting-up of transnational cooperation networks;

(e) assistance and support services consistent with the status and the needs of the person concerned, in particular the vulnerable groups;

(f) actions aimed at enhancing awareness of asylum, integration, legal migration and return policies among stakeholders and the general public;

ES: (Drafting):

g) actions to enhance the external dimension of migration management.

ES: (Comments):

Spain would like to reintroduce letter g) of the previous Presidency.

2. Within the specific objective referred to in Article 3(2)(a), the Fund shall in particular support ***actions such as*** the following actions:

PT: (Comments):

PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.

(a) providing material aid, including assistance at the border;

(b) conducting asylum procedures ***(i.e. staff, operational needs) to ensure compliance with the asylum acquis;***

AT: (Comments):

AT welcomes the changes.

(c) identifying applicants with special procedural or reception needs;

(d) establishing or improving reception accommodation infrastructure, including the possible joint use of such facilities by more than one Member State;

(e) enhancing the capacity of Member States to collect, analyse and disseminate country of origin information;
(f) actions related to the conducting of procedures for the implementation of the Union Resettlement [and Humanitarian Admission] Framework or national resettlement schemes that are compatible with the Union Resettlement Framework;
(g) transfers of beneficiaries of international protection;
ES: (Comments): Spain upholds a scrutiny reservation pending negotiations on CEAS.
FR: (Drafting):
(g) transfers of <u>applicants or</u> beneficiaries of international protection;
(h) enhancing capacities of third countries to improve the protection of persons in need of protection;
(i) establishing, developing and improving effective alternatives to detention, in particular in relation to unaccompanied minors and families.
3. Within the specific objective referred to in Article 3(2)(b), the Fund shall in particular support actions such as the following :
PT: (Comments): PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.
(a) information packages and campaigns to raise awareness of legal migration channels to the Union, including on the Union legal migration

<i>acquis</i> ;
(b) development of mobility schemes to the Union, such as circular or temporary migration schemes, including training to enhance employability;
(c) cooperation between third countries and the recruitment agencies, the employment services and the immigration services of Member States;
(d) the assessment of skills and qualifications acquired in a third country, as well as their transparency and compatibility with those of a Member State;
(e) assistance in the context of applications for family reunification within the meaning of Council Directive 2003/86/EC ³⁴ ;
(f) assistance in relation to a change of status for third-country nationals already legally residing in a Member State, in particular in relation to the acquisition of a legal residence status defined at Union level;
ES: (Comments): Spain suggests further clarification in this specific action.
(g) early integration measures such as tailored support in accordance with the needs of third-country nationals and integration programmes focusing on education, language and other training such as civic orientation courses and professional guidance, <i>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;</i>

³⁴ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, (OJ L 251, 03/10/2003 p. 12 – 18.).

AT: (Comments):

AT welcomes the changes made.

BE: (Drafting):

~~early~~ integration measures such as tailored support in accordance with the needs of third-country nationals and integration programmes focusing on education, language, **orientation trajectories** 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;***

BE: (Comments):

In line with our remark below (ANNEX VIII, specific objective 2, point 3) we insist to add the term “**orientation trajectories**” which includes all the activities mentioned after it. Those activities in general reinforces the social inclusion of third country nationals.

BG: (Comments):

We support the proposed modification of this provision in view of our position that clear distinction of the support under AMF and ESF+ needs to be set.

ES: (Comments):

Spain welcomes the deletion of early integration.

(h) actions promoting equality in the access and provision of public and private services to third-country nationals, including adapting them to the needs of the target group;

(i) cooperation between governmental and non-governmental bodies in an integrated manner, including through coordinated integration-support centres, such as one-stop shops;

(j) actions enabling and supporting third-country nationals' introduction to and active participation in the receiving society and actions promoting acceptance by the receiving society;
(k) promoting exchanges and dialogue between third-country nationals, the receiving society and public authorities, including through the consultation of third-country nationals, and intercultural and inter-religious dialogue.
4. Within the specific objective referred to in Article 3(2)(c), the Fund shall in particular support actions such as the following :
PT: (Comments): PT strongly supports this change and considers it fundamental in the final version to be adopted for the current Regulation. The actions listed in Annex III must be considered as indicative, and not as exclusive.
(a) infrastructure for reception or detention, including the possible joint use of such facilities by more than one Member State;
ES: (Comments): Spain supports the alternative drafting proposed by the Hellenic Republic during the 14.03.19 meeting and include renovation of infrastructure.
IT: (Drafting):
(a) infrastructure for reception or detention, including renovation and the possible joint use of such facilities by more than one Member State;
(b) introduction, development and improvement of effective alternative measures to detention, in particular in relation to unaccompanied minors and families;
(c) introduction and reinforcement of independent and effective systems for monitoring forced return, as laid down in Article 8(6) of Directive

2008/115/EC³⁵;

ES: (Drafting):

(c) introduction and reinforcement of effective systems for monitoring forced return, as laid down in Article 8(6) of Directive 2008/115/EC;

ES: (Comments):

Spain would prefer to delete the word “independent” in the systems for monitoring forced return to prevent the possible interference of other entities apart from the State Public Administration in charge of this task. Furthermore the Article 8(6) of Directive 2008/115/EC³⁶ states “an effective systems for monitoring forced return” and does not introduce the word “independent” Furthermore the Article 8(6) of Directive 2008/115/EC³⁷ states “an effective systems for monitoring forced retrn” and does not introduce the word “independent”

(d) countering incentives for irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, or information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC³⁸;

EE: (Comments):

In p 4(d) it is brought out that the information and awareness-raising campaigns should be organized to inform employers and irregular migrants about their rights and obligations. We suggest that also the persons who carry out the migration monitoring activities (e.g. in universities, local municipalities etc) should be taken into account. In addition, the Fund should support the controls based on the IT solutions through which it would

³⁵ 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).

³⁶ 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).

³⁷ 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).

³⁸ 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. 24–32).

be possible to offer the information exchange between the private and public sector to prevent the illegal migration more efficiently.

FR: (Drafting):

(d) countering incentives for irregular migration, including the employment of irregular migrants, **the establishment of control mechanisms and sanctions, as well as information and awareness campaigns for employees and migrants** through effective and adequate inspections based on risk assessment, the training of staff, the setting up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, or information and awareness raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC³⁹;

FR: (Comments):

The specific means and modalities to be used to combat irregular migration incentives and eligible for funding are the choice and responsibility of the Member States and must not be set by the AMIF Regulation

(e) preparation of return, including measures leading to the issuing of return decisions, the identification of third-country nationals, the issuing of travel documents and family tracing;

(f) cooperation with the consular authorities and immigration services or other relevant authorities and services of third countries with a view to obtaining travel documents, facilitating return and ensuring readmission including through the deployment of third-country liaison officers;

(g) return assistance, in particular assisted voluntary return and information about assisted voluntary return programmes;

(h) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of coercive equipment;

³⁹ 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. 24–32).

(i) measures to support the returnee's durable return and reintegration, *including cash-incentives, training, placement and employment assistance and start-up support for economic activities*;

AT: (Comments):

AT is fine with the changes.

DE: (Drafting):

Comprehensive measures to support the returnee's durable return and reintegration, *including cash-incentives, training, placement and employment assistance, start-up support for economic activities, mental health and psychosocial support (MHPSS) and community-based approaches*;

DE: (Comments):

MHPSS is a key component for sustainable reintegration; support in this area is frequently prerequisite for earning a livelihood (e.g. trauma from trafficking.

Including communities in some reintegration measures can ensure a 'do no harm' approach and reduce incentives for irregular migration

PT: (Comments):

Portugal supports this change.

(j) facilities and services in third countries ensuring appropriate temporary accommodation and reception upon arrival, including for unaccompanied minors and other vulnerable groups in line with international standards;

(k) cooperation with third countries on countering irregular migration and on effective return and readmission, including in the framework of the implementation of readmission agreements and other arrangements;

(l) measures aimed at raising awareness of the appropriate legal channels for immigration and the risks of illegal immigration;

(m) support for and actions in third countries, including on infrastructure, equipment and other measures, provided these contribute to enhancing effective cooperation between third countries and the Union and its Member States on return and readmission.

ANNEX IV

Actions eligible for higher co-financing in line with Articles 12(2 3) and 13(7)

– Integration measures implemented by local and regional authorities and civil-society organisations;

FR: (Drafting):

– Integration measures implemented by local, and regional and national authorities and as well as civil-society organisations;

– Actions to develop and implement effective alternatives to detention;

– Assisted Voluntary Return and Reintegration programmes and related-activities;

– Measures targeting vulnerable persons and applicants for international protection with special reception and/or procedural needs, including measures to ensure effective protection of children in migration, in particular those unaccompanied;

FR: (Drafting):

– Measures targeting vulnerable persons and applicants **and beneficiaries of** international protection with special reception and/or procedural needs, including measures to ensure effective protection of children in migration, in particular those unaccompanied, **and to ensure health services including psychological and physical assistance;**

– ***Projects in third countries that aim at tackling high migration pressure on Member States.***

AT: (Comments):

AT welcomes the addition.

DE: (Comments):

Please delete. We do not see the added value of 90% financing projects in third countries.

ES: (Comments):

Spain welcomes the introduction of this action eligible for higher co-financing

PT: (Comments):

- Portugal limits its support to the introduction of any fixed amount of allocation, under the AMIF, to be attributed to the external dimension, to the need to obtain confirmation that this amount will exclusively come from the Thematic Facilities – and thus not affect the allocations to the National Programs (as seems to be indicated under Art. 9, new wording under parag. 2);

- Portugal considers that it should born in mind that the NDICI already includes a minimum threshold of 10% allocated to the external dimension of migrations, in amounts that largely surpass those that may be allocated from the AMIF.

PT: (Drafting):

Projects supporting the capacity of Member States' asylum systems as regards to infrastructure and services where necessary;

PT: (Comments):

Regarding **Annex IV** – *Actions eligible for higher co-financing in-line with Arts. 12(2) and 13(7)*, Portugal agrees with the definition of a certain number of areas in which the cofinancing can amount to 90% of the approved, having nothing to object to the policy areas mentioned in the current proposal.

Moreover, Portugal would like to proposal of the inclusion of a 5th (or 6th) group, in line with al. b), n. 2, of the Annex, with the following wording:

Projects supporting the capacity of Member States' asylum systems as regards to infrastructure and services where necessary;

ANNEX V

Core performance indicators referred to in Article 28(1)

PT: (Comments):

As regards to **Annexes I, V and VIII**, Portugal reserves its position to further discussions of the Ad Hoc Working Party on its content and extent.

Specific objective 1: To strengthen and develop all aspects of the Common European Asylum System, including its external dimension:

1. Number of persons resettled with the support of the Fund.

Data source: Member States

2. Number of persons in the reception system as compared to the number of asylum applicants.

Data source: Eurostat

3. Convergence of protection recognition rates for asylum seekers from the same country.

BG: (Comments):

The indicator is partial in view of the principle each application to be examined individually considering all facts and circumstances. In this connection we consider that this indicator have to be deleted.

ES: (Drafting):

~~3. — Convergence of protection recognition rates for asylum seekers from the same country.~~

ES: (Comments):

Spain upholds a scrutiny reservation and requests its deletion.

Data source: Eurostat

Specific objective 2: To support legal migration to the Member States and including to contribute to the integration of third-country nationals:

1. Number of persons who participated in pre-departure measures supported by the Fund.

Data source: Member States

2. Number of persons who participated in integration measures supported by the Fund reporting that the measures were beneficial for their early integration as compared to the total number of persons who participated in the integration measures supported by the Fund.

BG: (Drafting):

Number of persons who participated in integration measures supported by the Fund ~~reporting that the measures were beneficial for their early integration as compared to the total number of persons who participated in the integration measures supported by the Fund.~~

BG: (Comments):

The indicator is not objective in our opinion as it reflects the considerations of the TCNs. We suggest deleting the last part of the phrase.

ES: (Comments):

Spain upholds a scrutiny reservation. Considering that the proposal includes just 2 indicators in this specific objective, it would be not reasonable that one of them is based merely on opinion

FR: (Drafting):

2. Number of persons who participated in integration measures supported by the Fund ~~reporting that the measures were beneficial for their early integration as compared to the total number of persons who participated in the integration measures supported by the Fund.~~

IT: (Comments):

Indicators based on personal perceptions are difficult to be measured and compared. Deletion is proposed where an alternative wording is not found.

LU: (Drafting):

2. Number of persons who participated in integration measures supported by the Fund reporting that the measures were beneficial for their ~~early~~ integration as compared to the total number of persons who participated in the integration measures supported by the Fund.

SI: (Comments):

We have a problem with indicator under specific objective 2/2 - how to measure how many people benefited from the measures? How do we get this information? With the survey, in the media campaign project (broad target audience)? This simply can not be measured.

Data source: Member States

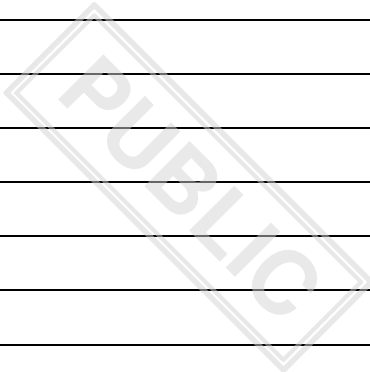
Specific objective 3: To contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries:
1. Number of returns following an order to leave compared to the number of third-country nationals ordered to leave.
Data source: Eurostat
2. Number of returnees who have received pre or post-return reintegration assistance co-financed by the Fund, as compared to the total number of returns supported by the Fund.
Data source: Member States
ANNEX VI Types of intervention
AT: (Comments): AT is fine with the changes made in this ANNEX.
ES: (Comments): Spain upholds scrutiny reservation due to the complexiy of matching real intervention withs the proposed codes
TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. CEAS
001 Reception conditions
002 Asylum procedures
003 Implementation of the Union acquis
004 Children in migration
ES: (Drafting):
004 Children in migration
ES: (Comments):
This code should be moved to table II
005 Persons with special reception and procedural needs
006 Resettlement <i>[or humanitarian admissions]</i>
007 Solidarity efforts between Member States
008 Operating support

008 Vulnerable persons
II. Legal migration and integration
ES: (Comments): Spain suggests to include the code for Children in migration from Table I
ES: (Drafting): Children in migration
001 Development of integration strategies
FR: (Drafting): 002 Beneficiaries of international protection
002 Vulnerable persons/ UAMs especially v victims of trafficking in human beings
003 Integration measures – information and orientation, one stop shops
004 Integration measures – language training
005 Integration measures – civics and other training
006 Integration measures – Introduction, participation, exchanges host society

007 Integration measures – basic needs
008 Pre-departure measures
009 Mobility schemes
010 Acquisition of legal residence
III. Return
001 Alternatives to detention
002 Reception/detention conditions
003 Return procedures
004 Assisted voluntary return
005 Reintegration assistance
006 Removal/Return operations

007	Forced-return monitoring system
008	Vulnerable persons/UAMs
009	Measures addressing incentives for irregular migration
010	Operating support
IV. Technical assistance	
001	<i>Technical assistance</i> Information and communication
002	Preparation, implementation, monitoring and control
003	Evaluation and studies, data collection
004	Capacity building
TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION	
ES: (Comments):	
Spain suggests to include a code for Children.	



001	Development of national strategies
002	Capacity building
003	Education and training for third-country nationals
004	Development of statistical tools, methods and indicators
005	Exchange of information and best practices
006	Joint actions/operations (between MS)
007	Campaigns and information
008	Exchange and secondment of experts
009	Studies, pilot projects, risk assessments
010	Preparatory, monitoring, administrative and technical activities
011	Provision of assistance and support services to TCN
012	Infrastructure

013 Equipment
TABLE 3: CODES FOR THE IMPLEMENTATION MODALITIES DIMENSION
<u>001 Actions as per Art. 12(1)</u>
<u>002 Specific actions</u>
<u>003 Actions listed in Annex IV</u>
<u>004 Operating support</u>
<u>005 Emergency assistance</u>
001 Specific action
002 Emergency assistance
003 Cooperation with third countries

004 – Actions in third countries

005 – Strategic Union priorities

TABLE 4. CODES FOR SECONDARY IMPLEMENTATION DIMENSION

001 – Cooperation with third countries

002 – Actions in third countries

ANNEX VII

Eligible actions for operating support

AT: (Comments):

AT welcomes the changes in this ANNEX.

Within the specific objective to strengthen and develop all aspects of the Common European Asylum System, including its external dimension, and the specific objective to contribute to countering irregular migration, ensuring effectiveness of return and readmission in third countries ***and the***

specific objective to support legal migration to the Member States and to contribute to the integration of third-country nationals, operating support shall cover:

BG: (Comments):

We support the suggested modification of the provision.

PT: (Comments):

- Portugal limits its support to the introduction of any fixed amount of allocation, under the AMIF, to be attributed to the external dimension, to the need to obtain confirmation that this amount will exclusively come from the Thematic Facilities – and thus not affect the allocations to the National Programs (as seems to be indicated under Art. 9, new wording under parag. 2);

- Portugal considers that it should be born in mind that the NDICI already includes a minimum threshold of 10% allocated to the external dimension of migrations, in amounts that largely surpass those that may be allocated from the AMIF.

– staff costs;

FR: (Drafting):

- **Member States**' staff costs;

– service costs, such as maintenance or replacement of equipment *or IT systems*;

FR: (Drafting):

- **Member States**' service costs, such as maintenance or replacement of equipment *or IT systems*;

– service costs, such as maintenance and repair of infrastructure.

FR: (Drafting):

- **Member States**' service costs, such as maintenance and repair of infrastructure.

ANNEX VIII

Output and result indicators referred to in Article 28(3)

DE: (Comments):

In general, we welcome the streamlining of the output and result indicators.

ES: (Comments):

Spain would like the Commission and/or the Presidency to propose an alternative drafting of this Annex indicating data sources.

HR: (Comments):

New indicators have been proposed in Annex VIII: output and result indicators.

HR supports the new proposal underlining that the said indicators must be developed so that they could apply to as many projects as possible.

We believe that sometimes it will be very difficult to differentiate between output and result indicators in practice and that every Member State will have to adjust individual indicators to achieve their purpose.

PT: (Comments):

As regards to **Annexes I, V and VIII**, Portugal reserves its position to further discussions of the Ad Hoc Working Party on its content and extent.

Specific objective 1: To strengthen and develop all aspect of the Common European Asylum System, including its external dimension:

AT: (Comments):

AT is fine with the changes made in SO1.

SE: (Comments):

Sweden can accept the proposed result- and output indicators listed under SO1.

Output indicators

ES: (Comments):

Spain would like the Commission and/or the Presidency to explain the usefulness of further breaking down the number of participants supported.

1. Number of participants supported;*

FR: (Comments):

We are opposed to breakdown by gender, which might generate a disproportionate administrative burden for beneficiaries as well as managing authorities.

– **of which number of participants who received legal assistance;***

ES: (Comments):

Spain would like the Commission and/or the Presidency to explain what do we understand by “*legal assistance*”

FR: (Drafting):

- of which number of ~~participants~~ beneficiaries who received legal assistance;*

FR: (Comments):

We are opposed to breakdown by gender, which might generate a disproportionate administrative burden for beneficiaries as well as managing authorities.

- of which number of vulnerable participants assisted;*

FR: (Drafting):

- of which number of vulnerable ~~participants~~ beneficiaries assisted;*

FR: (Comments):

We are opposed to breakdown by gender, which might generate a disproportionate administrative burden for beneficiaries as well as managing authorities.

2. Number of participants in training activities;*

FR: (Drafting):

2. Number of ~~participants~~ beneficiaries in of training activities;*

FR: (Comments):

We are opposed to breakdown by gender, which might generate a disproportionate administrative burden for beneficiaries as well as managing

authorities.

SI: (Comments):

Indicator 2 is ambiguous; it is not clear what indicator 2 (“training activities”) includes – what kind of projects can be considered training activities, what kind of training does the indicator refer to? As regards the number of participants in training activities (broken down by gender), it can be assumed that the indicator refers to participants from target groups and no longer to staff dealing with target groups, which was the case in the previous draft. It will be difficult to disaggregate data by gender. The present indicator leaves room for subjective interpretation.

3. Number of reception infrastructure built/renovated;

ES: (Comments):

Spain considers that the indicators should go beyond “*reception infrastructure*” due to the fact that CEAS covers others

SI: (Comments):

With regard to indicator 3 (number of reception infrastructure built/renovated), we need an explanation what is meant by »reception infrastructure«? Does it refer to the number of reception facilities that were built or renovated?

4. Number of reception equipment purchased.

ES: (Comments):

Spain considers that the indicators should go beyond “*reception equipment*” due to the fact that CEAS covers others.

Result indicators

1. Number of newly created places in reception infrastructure;

– <u>of which number of newly created places for unaccompanied minors;</u>
<u>2. Number of renovated/ refurbished places in reception infrastructure;</u>
– <u>of which number of renovated/ refurbished places for unaccompanied minors;</u>
SI: (Comments): Indicators 1 and 2 should be explained. What is meant by “newly created places in reception infrastructure”? Isn’t it the same as indicator 3? Does it refer to the number of beds provided?
<u>3. Number of applicants for and beneficiaries of international protection transferred from one Member State to another;*</u>
ES: (Comments): Spain presents a scrutiny reservation. FR: (Drafting): <u>3. Number of <u>persons</u> transferred from one Member State to another according to the [Dublin regulation] or, where applicable, ad hoc arrangements</u> FR: (Comments): <i>Not to preempt the substance of Dublin and arrangements discussions</i>
<u>4. Number of persons resettled.*</u>

* Broken down by gender.

FR: (Comments):

We are opposed to breakdown by gender, which might generate a disproportionate administrative burden for beneficiaries as well as managing authorities.

~~1. Number of target group persons provided with assistance with the support of the Fund;~~

~~(a) Number of target group persons benefiting from information and assistance throughout the asylum procedures;~~

~~(b) Number of target group persons benefiting from legal assistance and/ or representation;~~

~~(c) Number of vulnerable persons, victims of trafficking in human beings, and unaccompanied minors benefiting from specific assistance.~~

~~2. Capacity (number of places) in new reception accommodation infrastructure set up in line with the common requirements for reception conditions set out in the Union acquis and of existing reception accommodation infrastructure, improved in accordance with the same requirements as a result of the projects supported by the Fund and percentage in the total reception accommodation capacity;~~

~~3. Number of places adapted for unaccompanied minors (UAM) supported by the Fund as compared to the total number of places adapted for unaccompanied minors;~~

~~4. Number of persons trained in asylum-related topics with the assistance of the Fund, and that number as a percentage of the total number of staff trained in those topics;~~

~~5. Number of applicants for international protection transferred from one Member State to another with support of the Fund;~~

~~6. Number of persons resettled with the support of the Fund.~~

Data source: Member States

Specific objective 2: To support legal migration to the Member States ~~and including~~ to contribute to the integration of third-country nationals:

Output indicators

AT: (Comments):

AT is fine with the output indicators.

1. Number of participants in pre-departure measures;*

FR: (Comments):

It does not seem relevant at all to subdivide the data provided by gender (administrative burden).

2. Number of local and regional authorities supported to implement integration measures;

FR: (Drafting):

~~2. Number of local and regional authorities supported to implement integration measures~~

FR: (Comments):

We ask for the suppression of this indicator, which does not take into account the administrative organisation of each Member States.

*

Broken down by gender.

3. Number of participants supported;

BE: (Comments):

Belgium has no principal objection to this stipulation. However, due to practical reasons the scope of the notion “participant” should be defined better or diminished. We can not accept an obligation to register all data of participants of more informal activities of integration (for example parents who participate in school activities), because this would create a larger burden for potential participants and could result in a lower participation in integration projects.

FR: (Drafting):

3.2 ~~Number of participants supported;~~ of target group persons assisted by the Fund through integration measures in the framework of national, local and regional strategies.

For the purposes of annual implementation reports, this indicator shall be further broken down in sub-categories such as:

- number of target group persons assisted through measures focusing on education and training, including language training and preparatory actions to facilitate access to the labour market,**
- number of target group persons supported through the provision of advice and assistance in the area of housing,**
- number of target group persons assisted through the provision of health and psychological care,**
- number of target group persons assisted through measures related to democratic participation;**

Number of target group persons assisted by the Fund through integration measures in the framework of national, local and regional strategies.

- of which number of participants in a language course;***

DE: (Comments):

Language course are mostly financed by German federal funds, so that participants of such courses could be counted as indicators for the AMIF.

FR: (Drafting):

- of which number of participants in a language course;***

– *of which number of participants in an orientation course.**

BE: (Drafting):

of which number of participants in an **orientation trajectories, such as civic orientation courses, social activation trajectories, initiatives providing advice and assistance to third-country nationals in areas such as housing, means of subsistence, administrative and legal guidance, psychological care and health**

BE: (Comments):

Orientation course is a very specific term, we insist to use the term “**orientation trajectory**”, so that all the examples mentioned above (article 12a) are included. All these actions contribute to the general social inclusion of third country nationals.

DE: (Comments):

Orientation course are mostly financed by German federal funds, so that participants of such courses could be counted as indicators for the AMIF.

FR: (Drafting):

— *of which number of participants in an orientation course.**

IT: (Drafting):

– *of which number of participants in an orientation course** and other integration measures.

DE: (Drafting):

- **Of which number of participants in any other courses that are linked to integration**
- **Of which number of persons who receive support before, during or after the attendance of such courses.**

DE: (Comments):

These indicators would allow to count the large number of other activities that could be supported by the AMIF that are neither language nor orientation courses, or that supplement such courses (for example child care for mothers who are attending a language course, so that they are able to participate in a language course).

FR: (Drafting):

3. Number of local, regional and national policy frameworks/measures/tools in place for the integration of third- country nationals.

SI: (Comments):

As regards indicator 3b, we wonder what kind of projects or activities can be included in »orientation courses«, does it mean everything but language courses?

Result indicators

SI: (Comments):

Within the specific objective 2, result indicators 1 and 2 are ambiguous.

Slovenia cannot agree with the EC proposals and insists on the original proposal. The new EC proposal does not seem to fully understand language progress made by foreigners. As regards indicator 1, how should an improvement of proficiency level be assessed, how to obtain relevant data? As regards indicator 2, it is difficult to assess progress three months after the end of the support. We suggest amending the text to read: “within 3 months”. This allows a questionnaire on progress to be completed right after the end of an activity (e.g. language course), as participants disperse later on. Monitoring the indicators without concrete pre-determined methods to assess progress leaves room for subjective interpretation.

1. Number of participants in language courses who have improved their proficiency level in the host-country language upon leaving the language course by at least one level in the Common European Framework of Reference for Languages or national equivalent *.

FR: (Comments):

Scrutiny reservation.

It does not seem relevant at all to subdivide the data provided by gender.

LU: (Drafting):

1. Number of participants in language courses who report to have substantially improved their proficiency level in the host-country language upon leaving the language course.

LU: (Comments):

Measuring progress in language learning means organizing a kind of exams at the beginning and at the end of the course. This will conduct in using AMIF funds for organization of exams, and not language teaching. This indicator should be amended or deleted.

SE: (Comments):

SE can accept the proposed result indicator 1 as long as it contains a reference to “or national equivalent”.

2. Number of participants who report progress in their integration three months after the end of the support*

AT: (Drafting):

2. Number of participants who report progress in their integration three months after the end of the support* Suggestion: Number of participants who report, after the end of the support, that the activity was perceived from their point of view to be helpful for their long-term integration in the Member State.

AT: (Comments):

AT supports the suggestion of SE for a new wording with a small addition.

BE: (Drafting):

Number of participants who report progress in their integration ~~three months after~~ at the end of the support*

BE: (Comments):

We think that contacting the participants three months after the support is a very difficult task for the project executors. Moreover, the participant must be willing to be contacted again by the project implementers after three months and to give information about his new situation. What if the participant refuses to cooperate? It seems more achievable to us to evaluate the progress of the participant when the support ends.

BG: (Comments):

We consider this result indicator is not objective and moreover it will provide administrative burden for beneficiaries and for the responsible authorities.

CZ: (Drafting):

delete

CZ: (Comments):

The CZ suggests deleting this indicator.

This indicator is impossible to collect. This indicator would require not mere collection, however massive sociological study which would last for the whole programming period and would be extremely costly.

The three month period also causes insoluble problems with collection as it would require questioning the participants on constant and daily basis throughout the whole programming period. There will be large number of activities, which will end on different dates and the persons should be questioned exactly 3 months after the activity ended, in order to ensure the same condition for each participant. The beneficiaries, who will be the owners of data on supported persons, would have to prolong the projects just to be able to cover costs with questioning the participant.

The RA will not be in possession of the data on supported persons as the CPR sets up a rule for storing data on individual participant in Annex XIV 4.1.1 only for indicators when provided in the Regulation (by regulation it is meant CPR), there are no indicators for DG HOME Funds set up in CPR, and they cannot be, as CPR sets up only financial rules for DG HOME Funds. Moreover the CPR requires IT system for DG HOME Funds only since 1. 1. 2023. There won't be any existing tool in the period from 1.1.2021-31.12.2022.

This indicator is invalid because it is built on subjective feeling. It will be based only on the personal reporting of the persons which might be biased by the fact that it is the Ministry of the Interior who is asking (or the provider of the service and they can feel obliged to answer positively). Moreover the progress in integration is not only subjective, however the progress is influenced by large number of variables and participation on a

course supported by the Fund might not be the reason why they are more integrated. And even if we find a correlation, it must be stressed out that it would be non-scientific to claim, that correlation means causality. As it was mentioned at the beginning – massive sociological study which would have to be conducted throughout the programming period could be the only way how to receive reliable results, however this analysis would be extremely costly.

DE: (Drafting):

~~2. — Number of participants who report progress in their integration three months after the end of the support*~~

DE: (Comments):

It is not clear how data for this indicator should be collected. Any thinkable way would be linked to an enormous amount of administrative burden. Thus, this indicator should be deleted.

EE: (Comments):

EE considers this indicator problematic as it might not be possible to collect the necessary data three months after the end of the support. We support the proposal to measure the perception of the participants right after the training/activity to find out in which way this has helped or will help to better integrate in the future.

FR: (Drafting):

~~2. — Number of participants who report progress in their integration three months after the end of the support*~~

IT: (Comments):

Indicators based on personal perceptions are difficult to be measured and compared. Deletion is proposed where an alternative wording is not found.

LU: (Drafting):

2. Number of participants who report at the end of the supporting measure that the support will be beneficial for their integration process.

LV: (Drafting):

Number of participants who report, after the end of the support, that the activity was perceived to be helpful for their long-term integration in the Member State

LV: (Comments):

Latvia supports Swedish proposal in formulation of the given indicator in order to simplify and methodologically improve the process of data gathering as well as to promote the added value of data received.

NL: (Drafting):

~~2. Number of participants who report progress in their integration three months after the end of the support*~~

NL: (Comments):

NL favours deletion of this indicator. This indicator does not measure the result of the Fund

SK: (Drafting):

We suggest to delete/amend/make the indicator optional.

SK: (Comments):

- Due to the fact that Slovakia is a transit country for TCNs (irregular migrants), the data collected would statistically be unsubstantial. This is due to the fact that significant number of persons granted international protection (that are highly dependent on AMIF support as well as receive considerable amount from the grant) do leave to another EU country in short time periods.
- Collecting such indicator would create project prolongation, longer administration periods along with additional costs such as project management and research activities that would be necessary for project completion. This period prolongation would affect project reporting to RA.
- It should be clear to MSs how the data should be processed, evaluated and be comparable within EU taking into consideration that RA would be administrator of such data. Should these data be reported to EUROSTAT?

SE: (Drafting):

Number of participants who report, after the end of the support, that the activity was perceived to be helpful for their long-term integration in the Member State.

SE: (Comments):

The current wording is problematic both from a practical and methodological perspective:

From a *practical/operational* point of view, this indicator places high demand on the Responsible Authority (RA) and the beneficiaries. To be able to measure this indicator, a follow-up exercise directed towards the target group would be required.

- If the requirement to follow-up is placed on the beneficiaries, it would be difficult for the beneficiaries to meet this requirement. The beneficiaries would be required to conduct surveys up to three months after the end of the project. This means that they need to have an administration in place after the completion of the project to carry out these surveys. It would lead to additional costs and administrative burden for the project.
- If the requirement of conducting the follow-up surveys is on the RA, the RA needs to collect relevant data from all integration related projects and conduct surveys of the target group. This imposes an unnecessary administrative burden on RA and does not comply with the principle of proportionality.
- If the indicator leads to an unproportionate administrative/financial burden, there is a risk that fewer projects will be carried out in the integration area (at least as regards AMF funded actions).

From a *methodological* point of view, the scientific relevance of such a survey could be questioned given the weak causality. The experience of progress in an individual's integration three months after the end of the support might not have a direct link to a specific project or to the AMF, given that there may be other factors affecting the individual's integration. To claim that the support from the AMF has improved an individual's integration might be misleading.

Proposal by Sweden: Instead, Sweden suggests measuring how individuals perceive their integration *directly after* the support/project/course has been carried out and whether they believe that the support/project/course will help them in their long-term integration. In this way, the surveys in all MS would be more uniform and more statistically reliable given that the individual's opinion could be directly linked to the intervention that the individual has received.

~~1. Number of persons who participated in pre-departure measures supported by the Fund.~~

2. Number of local local and regional authorities that have implemented integration measures with the support of the Fund.
3. Number of persons who participated in measures supported by the Fund focusing on:
(a) education and training;
(b) labour market integration;
(c) access to basic services; and
(d) active participation and social inclusion.
4. Number of persons who participated in integration measures supported by the Fund reporting that the measures were beneficial for their early integration as compared to the total number of persons who participated in the integration measures supported by the Fund;
<u>Data source: Member States</u>
Specific objective 3: To contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries: AT: (Comments): AT is fine with the changes. SE: (Comments):

Sweden can accept the proposed result and output indicators listed under SO3.

Output indicators

1. Number of participants in training activities;*

FR: (Drafting):

1. Number of participants in training activities;*

FR: (Comments):

It does not seem relevant at all to subdivide the data provided by gender.

SI: (Comments):

Within the specific objective 3, indicator 1 is ambiguous – number of participants in training activities (broken down by gender). There is a similar consideration with indicator 2 of the specific objective 1. As the indicator in the previous draft referred to staff, who does the present indicator refer to?

2. Number of equipment /IT systems purchased;

3. Number of returnees who received reintegration assistance.*

FR: (Drafting):

* **Broken down by gender.**

* **Broken down by gender.**

3. Number of returnees who received reintegration assistance.*

FR: (Comments):

It does not seem relevant at all to subdivide the data provided by gender

IT: (Drafting):

3. Number of returnees who received return assistance.*

IT: (Drafting):

4. Number of returnees who received reintegration measures.

IT: (Comments):

Voluntary returns may be supported by only assistance measures or by also reintegration measures. Therefore the relevant indicators should take both possibilities into consideration, enabling to count both outputs

Result indicators**1. Number of places in detention centres created;****2. Number of places in detention centres refurbished/ renovated;****3. Number of returnees voluntarily returned;***

FR: (Drafting):

*

Broken down by gender.

3. Number of returnees voluntarily returned;*

FR: (Comments):

*It does not seem relevant at all to subdivide the data provided by gender.***4. Number of returnees who were removed;***

FR: (Drafting):

4. Number of returnees who were removed;*

FR: (Comments):

*It does not seem relevant at all to subdivide the data provided by gender.***5. Number of returnees subject to alternatives to detention.***

FR: (Drafting):

5. Number of returnees subject to alternatives to detention.*

FR: (Comments):

It does not seem relevant at all to subdivide the data provided by gender.

*

Broken down by gender.

<u>1. Number of places in detention centres created/renovated with support from the Fund, as compared to the total number of created/renovated places in detention centres.</u>
<u>2. Number of persons trained on return-related topics with the assistance of the Fund.</u>
<u>3. Number of returnees whose return was co-financed by the Fund as compared to the total number of returns following an order to leave:</u>
<u>(a) persons who returned voluntarily:</u>
<u>(b) persons who were removed:</u>
<u>4. Number of returnees who have received pre or post return reintegration assistance co-financed by the Fund, as compared to the total number of returns supported by the Fund.</u>
<u>Data source: Member States</u>
End