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WK 435/2019 INIT

LIMITE

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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund - Presidency compromise proposal

Delegations will find attached compromise proposals by the Presidency.

Changes vis-à-vis the original Commission proposal are highlighted in ***bold italics*** and ~~strikethrough~~.

New changes introduced in this compromise, vis-à-vis the original Commission proposal, are highlighted in ***bold italics underlined*** and ~~strikethrough underlined~~.

Both recitals and bracketed provisions are out of the scope of this compromise.

WK 435/2019 INIT

LIMITE

EN

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the Internal Security 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 Articles 82(1), 84 and 87(2) 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,

Acting in accordance with the ordinary legislative procedure,

¹

²

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the Internal Security Fund ('the Fund').
2. It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules providing for such funding.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of ***Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council³*** ~~the Financial Regulation~~, combining non-repayable forms of support and/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;

³ ***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).***

- (b) ‘crime prevention’ means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens’ feeling of insecurity, as referred to in Article 2(2) of Council Decision 2009/902/JHA⁴;
- (c) ‘critical infrastructure’ means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption, breach or destruction of which would have a significant impact in a Member State or in the Union as a result of the failure to maintain those functions;
- (d) ‘cybercrime’ means cyber-dependent crimes, that is to say crimes that can be committed only through the use of information and communications technology (ICT) devices and systems, where the devices and systems are either tools for committing the crime or the primary targets of the crime; and cyber-enabled crimes, that is to say traditional crimes, such as child sexual exploitation, which can be increased in scale or reach by the use of computers, computer networks or other forms of ICT;
- (e) ‘EMPACT actions’ means actions undertaken in the framework of the European multidisciplinary platform against criminal threats (EMPACT)⁵. EMPACT is a structured multidisciplinary cooperation platform of the relevant Member States, Union institutions and agencies, as well as third countries, international organisations and other public and private partners to address prioritised threats of organised and serious international crime under the EU Policy Cycle;
- (f) ‘EU Policy Cycle’ refers to an intelligence-led and multidisciplinary initiative with the aim to fight the most important serious and organised crime threats to the Union by encouraging cooperation between the Member States, the Union institutions, the agencies and where relevant third countries and organisations;

⁴ Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

⁵ Conclusions of the Council of Justice and Home Affairs Ministers, 8 and 9 November 2010.

- (g) ‘exchange of and access to information’ means the secure collection, storage, processing, analysis and exchange of information relevant to the authorities referred to in Article 87 **of the Treaty on the Functioning of the European Union (TFEU)** as well as to Europol in relation to the prevention, detection, investigation, and prosecution of criminal offences, in particular cross-border organised crime **and terrorism**;
- (h) ‘judicial cooperation’ means judicial cooperation in criminal matters;
- (i) ‘LETS’ means the European Law Enforcement Training Scheme, aimed at equipping law enforcement officers with the knowledge and skills they need to prevent and combat cross-border crime effectively through efficient cooperation, as outlined in the Commission Communication of 27 March 2013 on establishing a European LETS⁶ and further referred to in the CEPOL Regulation⁷;
- (j) ‘organised crime’ means punishable conduct relating to participation in a criminal organisation, as defined in Council Framework Decision 2008/841/JHA⁸;
- (k) ‘preparedness’ means any measure aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents;
- (l) ‘Schengen evaluation and monitoring mechanism’ means the verification of the correct application of the Schengen *acquis* as laid down in **Council** Regulation (EU) No 1053/2013⁹, including in the area of police cooperation;
- (m) ‘tackling corruption’ covers all areas outlined in the United Nations Convention against corruption, including prevention, criminalisation and law enforcement measures, international cooperation, asset recovery, technical assistance and information exchange;

⁶ COM(2013) 172 establishing a European Law Enforcement Training Scheme (LETS).

⁷ Regulation (EU) 2015/2219 of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL).

⁸ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

⁹ **Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).**

- (n) 'terrorism' means any of the intentional acts and offences as defined in Directive (EU) 2017/541 of the European Parliament and of the Council on combating terrorism¹⁰.
- (o) *'emergency situation' means any security-related incident or newly emerging threat which has or may have a significant adverse impact on the security of people in one or more Member States.*

Article 3

Objectives of the Fund

1. The policy objective of the Fund shall be to contribute to ensuring a high level of security in the Union in particular by ***preventing and*** tackling terrorism and radicalisation, serious and organised crime and cybercrime, ***by managing effectively security-related risks and crises,*** and by assisting and protecting victims of crime.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
 - (a) to ~~increase~~ ***enhance*** the exchange of information among and within ~~the Union~~ law enforcement and other competent authorities and ~~other relevant Union bodies~~ as well as with third countries and international organisations ***and to enhance the related capacities of the Member States;***
 - (b) to intensify cross-border joint operations among and within ~~the Union~~ law enforcement and other competent authorities in relation to ***all forms of crime, in particular to terrorism and*** serious and organised crime with a cross-border dimension; and

¹⁰ Directive (EU) 2017/741 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

- (c) to support effort at strengthening the capabilities in relation to combatting and preventing crime ~~including~~ **and** terrorism **including** ~~in particular~~ through increased cooperation between public authorities; ***and all the relevant actors*** ~~including civil society and private partners across the Member States.~~
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.
4. Actions funded shall be implemented in full respect for fundamental rights and human dignity. In particular, actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In particular, wherever possible, special attention shall be given by Member States when implementing actions to the assistance and protection of vulnerable persons, in particular children and unaccompanied minors.

Article 4

Scope of support

1. Within the objectives referred to in Article 3 and in-line with the implementation measures listed in Annex II, the Fund shall **support actions as those** ~~in particular support the actions~~ listed in Annex III.
2. To achieve the objectives of this Regulation, the Fund may support the actions in-line with Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 5.
3. The following actions shall not be eligible:
- (a) actions limited to the maintenance of public order at national level;
- ~~(b) actions covering the purchase or maintenance of standard equipment, standard means of transport or standard facilities of the law enforcement and other competent authorities referred to in Article 87 TFEU;~~

- (c) actions with a military or defence purpose;
- (d) equipment of which ~~at least one of the~~ **primary** purposes is customs control;
- (e) coercive equipment, including weapons, ammunition, explosives and riot sticks, except for training;
- (f) informant rewards and flash money¹¹ outside the framework of an EMPACT action.

Where an emergency situation occurs, non-eligible actions referred to in this paragraph may be considered eligible.

Article 5

Eligible entities

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

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

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

~~(ii) 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.~~

¹¹ 'Flash money' is genuine cash which is shown (exhibited) during a criminal investigation as proof of liquidity and solvency to the suspects or other persons who have information about availability or delivery or who act as intermediaries, in order to carry out a fictitious purchase aimed at arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group.

- ~~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 6

General principles

1. Support provided under this Regulation shall complement national, regional and local intervention, and shall focus on bringing added 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.
3. The Fund shall be implemented under 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 7

Budget

1. The financial envelope for the implementation of the Fund for the period 2021-2027 shall be [EUR 2 500 000 000] in [current prices].
2. The financial envelope shall be used as follows:
 - (a) [EUR 1 500 000 000] shall be allocated to the programmes implemented under shared management;

(b) [EUR 1 000 000 000] shall be allocated to the thematic facility.

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

3. Up to 0.84 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission for the implementation of the Fund.

Article 8

General provisions on the implementation of the thematic facility

1. The financial envelope referred to in Article 7(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;
 - ~~(a)~~ **(b)** Union actions; and
 - ~~(b)~~ **(c)** emergency assistance.

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 to be used to respond to urgent needs, in line with agreed Union priorities as outlined in Annex II.
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 Article 18 and Article 19(2) of the Regulation (EU) No [CPR], 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 at 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 the objectives and actions to be supported and specifying the amounts for each of its components as referred to 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 advisory procedure referred to in Article 29(2).**
6. Following the adopting of the financing decision as referred to in paragraph ~~5~~ 3, the Commission may amend the programmes implemented under shared management accordingly.
7. 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 9

Scope

1. This section applies to the part of the financial envelope referred to in Article 7(2)(a) and the additional resources to the implemented under shared management according to the Commission decision for the thematic facility referred to in Article 8.

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) No [CPR].

Article 10

Budgetary resources

31. Resources referred to in Article 7(2)(a) shall be allocated to the national programmes implemented by Member States under shared management ('the programmes') indicatively as follows:
 - (a) [EUR 1 250 000 000] to the Member States in accordance with the criteria in [Annex I];
 - (b) [EUR 250 000 000] to the Member States for the adjustment of the allocations for the programmes as referred to in Article 13(1).

~~4. 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 7(2)(b).~~

Article 11

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 31(2)(d) of Regulation (EU) No [CPR], technical assistance of Member States may be financed up to 100 % of the Union budget contribution.***
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.
7. For each specific objective, the Commission decision **approving a programme** shall set out whether the co-financing rate for the specific objective is ~~to be~~ applied to **either of the following**:
 - (a) the total contribution, including the public and private contributions; ~~or~~
 - (b) the public contribution only.

Article 12

Programmes

1. Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in line with the relevant Union *acquis* and agreed Union priorities. In defining these priorities of their programmes, Member States shall ensure that the implementing measures as set out in Annex II are adequately addressed in the programme.

2. The Commission shall ensure that the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) are ~~associated to the development of the programmes~~ **consulted** at an early stage, as regards the areas of their competence.
- 2a. Specifically, Member States shall ~~consult~~ **inform** Europol **or EMCDDA** on the design of their actions in particular when ***the planned actions are falling within the Agencies' mandates*** including EU policy cycle or EMPACT actions ~~or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT) in their programmes~~. Prior to including training in their programmes, Member States shall ~~coordinate with~~ **inform** CEPOL in order to avoid overlaps.
3. The Commission may associate ~~the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)~~ where appropriate in the monitoring and evaluation tasks as specified in Section 5 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. A maximum of 15 % of the allocation of a Member State programme may be used for the purchase of equipment, means of transport or the construction of security relevant facilities. This ceiling may be exceeded only in duly justified cases.~~

OR

4. A maximum of ~~15~~ **50%** of the allocation of a Member State programme may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities. This ceiling may be exceeded only in duly justified cases.
5. In their programmes, Member States shall give priority to addressing:
- (a) Union priorities and *acquis* in the area of security in particular information exchange and interoperability of IT systems;

- (b) recommendations with financial implications made in the framework of Regulation (EU) No 1053/2013 on the Schengen evaluation and monitoring mechanism in the area of police cooperation;
 - (c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption.
6. Where necessary, the programme shall be amended to take into account the recommendations referred to in paragraph 5. Depending on the impact of the adjustment, the revised programme may be approved by the Commission.
7. Member States ~~may shall~~ pursue ~~in particular~~ the actions listed in Annex IV. In the event of 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 28 to amend Annex IV.
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 inform ~~consult~~ the Commission prior to the approval ~~start~~ of the project.
9. Programming as referred to in Article 17(5) of Regulation (EU) No [CPR] shall be based on the types of intervention set out in Table 1 of Annex VI.

Article 13

Mid-term review

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in Article 10(1)(b) in accordance with the criteria referred to in paragraph 2 of Annex I. Funding shall be effective for the period as of the calendar year 2025.

- ~~2. If at least 10 % of the initial allocation of a programme referred to in Article 10(1)(a) has not been covered by interim payment applications submitted in accordance with Article 85 of Regulation (EU) No [CPR], the Member State concerned shall not be eligible to receive the additional allocation for the programme referred to in paragraph 1.~~
3. The allocation of the funds from the thematic facility as from 2025 shall, where appropriate, take into account the progress made in achieving the milestones of the performance framework as referred to in Article 12 of Regulation (EU) No [CPR] and identified implementation shortcomings.

Article 14

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 10(1), receive funding for specific actions, provided that it is earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation, including covering newly emerging threats.
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 15

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 ~~40~~ 30 % of the amount allocated under the Fund to its programme to finance operating support for the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
3. A Member State using operating support shall comply with the Union *acquis* on security.
4. Member States shall justify in the programme and in the annual performance reports, as referred to in Article 26, the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to request operating support, taking into account the information provided by those Member States as well as recommendations from quality control and evaluation mechanisms such as the Schengen evaluation mechanism and other quality control and evaluation mechanisms.
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 28 to amend the specific tasks and services in Annex VII.

SECTION 3

SUPPORT AND IMPLEMENTATION UNDER DIRECT AND INDIRECT MANAGEMENT

Article 15a

Eligible entities

1. *The following entities may be eligible:*
 - (a) *legal entities established in any of the following countries:*
 - (i) *a Member State or an overseas country or territory linked to it;*
 - (ii) *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.*

Article 16

Scope

Support under this section 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 17

Union actions

1. Union actions are transnational project or projects of particular interest to the Union, 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, Eutatom) 2018/1046** ~~the Financial Regulation~~, in particular grants, prizes and procurement. It may also provide financing in the form ~~or 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, Eutatom) 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, Eutatom) 2018/1046** ~~the Financial Regulation~~. The provisions laid down in [Article X of] Regulation X [successor of the Regulation on the Guarantee Fund] shall apply.

Article 18

Blending operations

Blending operation decided under this Fund shall be implemented in accordance with the InvestEU Regulation¹² and Title X of **Regulation (EU, Eutatom) 2018/1046** ~~the Financial Regulation~~.

¹² Full reference.

Article 19

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 20

Audits

Audits on the use of 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 the Regulation (EU) No [Regulation on the financial rules applicable to the general budget of the Union] **Regulation (EU, Euratom) 2018/1046**.

Article 21

Information, communication and publicity

1. The recipient 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 media and the public, **except where it is restricted due to its classified or confidential nature, particularly concerning security, public order, criminal investigations and the protection of personal data, according to applicable law**.
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 of 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 22

Emergency assistance

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of an emergency situation ~~resulting from a security-related incident or newly emerging threat within the scope of this Regulation which has or may have a significant adverse impact on the security of people in one or more Member States;~~
2. Emergency assistance may take the form of grants awarded directly to the decentralised agencies.
3. Emergency assistance may be allocated to Member States' programmes in addition to their allocation calculated in accordance with Article 10(1), 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.
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~~.

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 comparable conditions:
 - (a) they have been assessed in a call for proposals under the Fund;
 - (a) they comply with the minimum quality requirements of that call for proposals;
 - (b) 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) X [CPR] and Article [8] or Regulation (EU) X [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 24

Monitoring and reporting

1. In compliance with its reporting requirements pursuant to Article [43(3)(h)(i)(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 28 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.
3. The indicators to report on progress of the Fund, towards the achievement of the specific objectives set out in Article 3, are set out 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.
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 28 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 the content of Annex VIII shall only start to apply in the first accounting year following the year of adoption of the delegated act.***

Article 25

Evaluation

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under this 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 Article 40 of Regulation (EU) No [CPR].

Sub-section 2 Rules for shared management

Article 26

Annual performance reports

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) No [CPR]. The report submitted in 2023 shall cover the implementation of the programme until 30 June 2022.
2. The annual performance report shall in particular include information on:
 - (a) the 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) No [CPR];
 - (b) any issues affecting the performance of the programme and the actions 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) the contribution of the programme to the implementation of the relevant Union *acquis* and action plans;
 - (e) the implementation of communication and visibility actions;
 - (f) the fulfilment of the enabling conditions and their application throughout the programming period.
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 within 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 29(32).

Article 27

Monitoring and reporting

1. Monitoring and reporting, in accordance with Title IV of Regulation (EU) No [CPR], shall be based on types of intervention set out in Tables 1, 2 and 3 of Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts to amend Annex VI in accordance with Article 28.
2. The indicators *set in Annex VIII* shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) No [CPR].

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 28

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 12, 15, 24 and 27 shall be conferred on the Commission until 31 December 2028.
3. The European Parliament or the Council may revoke the delegation of powers referred to in Articles 12, 15, 24 and 27 at any time. 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 notify it simultaneously to the European Parliament and to the Council thereof.
6. A delegated act adopted pursuant to Articles 12, 15, 24 and 27 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 29

Committee procedure

1. The Commission shall be assisted by a Coordination Committee for the Asylum and Migration Fund, the Internal Security Fund and the Instrument for Border Management and Visa. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council¹³.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
- ~~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 26(4).~~

Article 30

Transitional provisions

- ~~1. Regulation (EU) No 513/2014 is repealed with effect from 1 January 2021.~~
- ~~2. Without prejudice to paragraph 1, t~~ This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under the Police Instrument of the Internal Security Fund, which shall continue to apply to those actions concerned until their closure.
3. 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 Police Instrument of the Internal Security Fund established by Regulation (EU) No 513/2014.

¹³ 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.

Article 31

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 Brussels,

For the European Parliament
The President

For the Council
The President

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

[The financial envelope referred to in Article 10 shall be allocated to the Member States programmes as follows:

- (1) a one-time fixed amount of EUR 5 000 000 will be allocated to each Member State at the start of the programming period to ensure a critical mass for each programme and to cover needs that would not be directly expressed through the criteria indicated below;
- (2) the remaining resources will be distributed according to the following criteria:
 - (a) 45 % in inverse proportion to their gross domestic product (purchasing power standard per inhabitant),
 - (b) 40 % in proportion to the size of their population,
 - (c) 15 % in proportion to the size of their territory.

The initial allocation shall be based on the latest annual statistical data produced by the Commission (Eurostat) covering the preceding calendar year. For the mid-term review, the reference figures shall be the latest annual statistical data produced by the Commission (Eurostat) covering the preceding calendar year available at the time of the mid-term review in 2024.]

ANNEX II

Implementation measures

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

- (a) to ensure the uniform application of the Union *acquis* on security supporting information exchange for example via Prüm, EU PNR and SIS II, including through the implementation of recommendations from quality control and evaluation mechanisms such as the Schengen evaluation mechanism and other quality control and evaluation mechanisms;
- (b) to set up, adapt and maintain security relevant Union ***and national*** IT systems and communication networks, including their interoperability, and to develop appropriate tools to address identified gaps;
- (c) to increase the active use of Union ***and national*** security relevant information exchange tools, systems and databases ensuring that these are fed with high quality data;
- (d) to support relevant national ***and Union*** measures if relevant to implement the specific objectives set out in Article 3(2)(a).

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

- (a) to increase law enforcement operations between Member States, including when appropriate with other relevant actors, in particular to facilitate and improve the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms in the context of the EU Policy Cycle (EMPACT), with special emphasis on cross-border operations;
- (b) to increase coordination and cooperation of law enforcement and other competent authorities within and between Member States and with other relevant actors, for example through networks of specialised national units, Union networks and cooperation structures, Union centres;

- (c) to improve inter-agency cooperation ~~and~~ at Union level between ~~the~~ Member States, ~~or between Member States, on the one hand,~~ and the relevant Union bodies, offices and agencies ~~on the other hand~~ as well as at national level among the national authorities in each Member State.

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

- (a) to increase law enforcement training, exercises, mutual learning, specialised exchange programmes and sharing of best practice including in and with third countries and other relevant actors;
- (b) to exploit synergies by pooling resources and knowledge among Member States and other relevant actors, including civil society through, for instance, the creation of joint centres of excellence, the development of joint risk assessments, or common operational support centres for jointly conducted operations;
- (c) to promote and develop measures, safeguards, mechanisms and best practices for the early identification, protection and support of witnesses, whistle-blowers and victims of crime and to develop partnerships between public authorities and other relevant actors to this effect;
- (d) to acquire relevant equipment and to set up or upgrade specialised training facilities and ~~other essential~~ security relevant infrastructure to increase preparedness, resilience, public awareness and adequate response to security threats.

ANNEX III

List of indicative actions to be supported by the Fund in-line with Article 4

- ICT systems and networks contributing to the achievement of the objectives of this Regulation, training on the use of such systems, testing and improving interoperability and data quality of such systems;
- monitoring of the implementation of Union law and Union policy objectives in the Member States in the area of security information systems;
- EMPACT actions implementing or facilitating the implementation of the EU Policy Cycle;
- actions supporting an effective and coordinated response to crisis linking up existing sector-specific capabilities, expertise centres and situation awareness centres, including those for health, civil protection and terrorism;
- actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating the outcome of Union-funded security research projects;
- support to thematic or cross-theme networks of specialised national units to improve mutual confidence, exchange and dissemination of know-how, information, experiences and best practices, pooling of resources and expertise in joint centres of excellence;
- education and training of staff and experts of relevant law-enforcement and judicial authorities and administrative agencies taking into account operational needs and risk analyses, based on the LETS and in cooperation with CEPOL and, when applicable, the European Judicial Training Network;
- cooperation with the private sector in order to build trust and improve coordination, contingency planning and the exchange and dissemination of information and best practices among public and private actors including in the protection of public spaces and critical infrastructure;

- actions empowering communities to develop local approaches and prevention policies, and awareness-raising and communication activities among stakeholders and the general public on Union security policies;
- equipment, means of transport, communication systems and essential security-relevant facilities;
- cost of staff involved in the actions that are supported by the Fund or actions requiring involvement of staff for technical or security-related reasons.

ANNEX IV

Actions eligible for higher co-financing in-line with Articles 11(23) and 12(67)

- Projects which aim to prevent and counter radicalisation.
- Projects which aim at improving the interoperability of ICT systems and communication networks.¹⁴
- *Projects which aim to fight all forms of cyber-crime.*
- *Projects which aim at strengthening critical infrastructures.*

¹⁴ In line with the Commission Communication on stronger and smarter information systems for borders and security COM(2016) 205.

ANNEX V

Core performance indicators referred to in Article 24(1)

Specific Objective 1: Better information exchange

- (1) *Number of searches performed in the Schengen Information System (SIS), in the system for transnational exchange of forensic data (DNA, fingerprints, number plates) and between Member States (Prüm automated data exchange system); Use of EU information exchange mechanisms;*

data source: Europol, EU-LISA, Council, Member States

Specific Objective 2: Increased operational cooperation

- (1) Number of joint operational actions supported by the Fund.

data source: Europol, Eurojust, Member States

- ~~(2) The estimated value of assets frozen, estimated value of assets confiscated with the help of the Fund.~~

~~*data source: Member States*~~

- (3) ~~The Value~~ *quantity* of illicit drug seizures achieved with involvement of cross-border cooperation between law enforcement agencies.

data source: Member States, Union action grant beneficiaries

- ~~(4) Number of Schengen Evaluation Recommendations with a financial implication in the area of security addressed with the support of the Fund, as compared to the total number of recommendations with a financial implication in the area of security.~~

~~*data source: Member States*~~

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

- (5) Number of *participants who completed* ~~law enforcement officials that completed~~ trainings, exercises, mutual learning or specialised exchange programmes on cross-border related topics provided with the support of the Fund.

data source: Member States

- (6) Number of critical infrastructures and public spaces of which the protection against security-related incidents has been improved with the help of the Fund.

data source: Member States

- (7) Number of initiatives to prevent radicalisation leading to violent extremism.

data source: RAN

ANNEX VI

Types of intervention

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

1	TER-Countering Terrorist Financing
2	TER-Prevention and countering of radicalisation
3	TER-Protection and resilience of public spaces and other soft targets
4	TER- Protection and resilience of critical infrastructure
5	TER-Chemical Biological Radioactive Nuclear
6	TER-Explosives
7	TER-Crisis Management
8	TER-Other
9	OC-Corruption
10	OC-Economic and Financial Crime
11	OC-Drugs
12	OC-Firearms trafficking
13	OC-Trafficking in Human Beings
14	OC-Migrant Smuggling
15	OC-Environmental Crime
16	OC-Organised Property Crime
17	OC-Other
18	CC-Cybercrime - Other
19	CC-Cybercrime – Prevention

20	CC-Cybercrime - Facilitating investigations
21	CC-Cybercrime - Victims assistance
22	CC-Child Sexual Exploitation - Prevention
23	CC-Child Sexual Exploitation – Facilitating investigations
24	CC-Child Sexual Exploitation - Victims assistance
25	CC- Child Sexual Exploitation – Other
26	CC-Other
27	GEN-Information exchange
28	GEN-Police or interagency cooperation (<u>e.g.</u> customs, border guards, intelligence services)
29	GEN-Forensics
30	GEN-Victim support
31	GEN-Operating support
32	TA-Technical assistance –information and communication
33	TA-Technical assistance – preparation, implementation, monitoring and control
34	TA-Technical assistance – evaluation and studies, data collection
35	TA-Technical assistance – capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

1	IT-systems, interoperability, data quality, communication systems (excluding equipment)
2	Networks, centres of excellence, cooperation structures, joint actions and operations
3	Joint Investigation Teams (JITs) or other joint operations
4	Secondment or deployment of experts
5	Training
6	Exchange of best practices, workshops, conferences, events, awareness raising campaigns, communication activities
7	Studies, pilot projects, risk assessments
8	Equipment (included in calculation of 15% cap)
9	Means of transport (included in calculation of 15% cap)
10	Buildings, facilities (included in calculation of 15% cap)
11	Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION MODALITIES DIMENSION

1	Cooperation with third countries
2	Actions in third countries
3	Implementation of Schengen evaluation recommendations in the area of police cooperation
4	Specific Actions (not known at programming stage)
5	Emergency Assistance (not known at programming stage)
6	Actions listed in Annex IV

ANNEX VII

Eligible actions for operating support

Within specific objective *better information exchange*, operating support within the programmes shall cover:

- maintenance and helpdesk of Union and where relevant national ICT systems and networks contributing to the achievement of the objectives of this Regulation.
- staff costs contributing to the achievement of the objectives of this Regulation

Within specific objective *increased operational cooperation*, operating support within the national programmes shall cover:

- maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension.
- staff costs contributing to the achievement of the objectives of this Regulation

Within specific objective *strengthened capabilities to prevent and to combat crime*, operating support within the national programmes shall cover:

- maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension.
- staff costs contributing to the achievement of the objectives of this Regulation

Actions which are not eligible under Article 4(3) shall not be covered.

ANNEX VIII

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

Specific Objective 1: Better information exchange

- (1) Use of EU information exchange mechanisms measured through the:
- (a) number of searches performed in the Schengen Information System (SIS);
 - (b) number of searches in the system for transnational exchange of forensic data (DNA, fingerprints, number plates) between Member States (Prüm automated data exchange system);
 - ~~(c) number of messages exchanged through Europol's Secure Information Exchange Network Application (SIENA);~~
 - (d) number of searches performed *information objects fed into* in Europol's Information System (EIS);
 - (e) total number of passengers whose EU Passenger Name Record (PNR) data have been collected and exchanged;

data source: Europol, EU-LISA, Council, Member States

- (2) Number of new connections between security-relevant databases made with support of the Fund:
- (a) with EU and where relevant international databases;
 - (b) within the Member State;
 - (c) with one or more other Member States;
 - (d) with one or more third countries.

data source: Member States

- ~~(3) Number of active users of EU and where relevant national security relevant information exchange tools, systems and databases added with support from the Fund, as compared to number of total users.~~

~~data source: Member States~~

Specific Objective 2: Increased operational cooperation

- (4) Number of joint operational actions supported by the Fund, including the participating Member States and authorities and broken down by area (counter-terrorism, organised crime ~~general, organised crime firearms~~, cybercrime, other):

- (a) number of joint investigation teams (JITs);
- (b) number of European Multidisciplinary Platform against Criminal Threats (EMPACT) operational projects;
- (c) other joint operational actions.

data source: Europol, Eurojust, Member States

- ~~(5) Participation in transnational networks operating with support of the Fund.~~

~~data source: Member States, Union action or EMAS grant beneficiaries~~

- ~~(6) The estimated value of assets frozen, estimated value of assets confiscated with the help of the Fund.~~

~~data source: Member States~~

- (7) ***The quantity*** Value of illicit drug seizures achieved with involvement of cross-border cooperation between law enforcement agencies.

data source: Member States, Union action grant beneficiaries

- ~~(8) Number of outputs of existing transnational networks generated with the help of the Fund, such as for example manuals on best practices, workshops, common exercises.~~

~~data source: Union action grant beneficiaries~~

- (9) Number of Schengen Evaluation Recommendations with a financial implication in the area of security addressed with the support of the Fund, as compared to the total number of recommendations with a financial implication in the area of security.

data source: Member States

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

- (10) Number of *participants who completed* ~~law enforcement officials that completed~~ trainings, exercises, mutual learning or specialised exchange programmes on cross-border related topics provided with the support of the Fund, broken down by the following areas:

- (a) counter terrorism;
- (b) organised crime;
- (c) cybercrime;
- (d) other areas of operational cooperation.

data source: Member States

- ~~(11) Number of manuals on best practices and investigation techniques, standard operating procedures and other tools developed with support of the Fund as a result of interaction between different organisations across the EU.~~

~~data source: Member States, Union action or EMAS grant beneficiaries~~

- (12) Number of victims of crime assisted with the support of the Fund ~~broken down by type of crime (trafficking in human beings, migrant smuggling, terrorism, serious and organised crime, cybercrime, child sexual exploitation).~~

data source: Member States

- (13) Number of critical infrastructures and public spaces of which the protection against security-related incidents has been improved with the help of the Fund.

data source: Member States

- (14) Number of initiatives to prevent radicalisation leading to violent extremism:

- (a) number of hits on the website of the Radicalisation Awareness Network (RAN);
- (b) number of participants in the RAN ~~broken down by type of expert;~~
- (c) number of study visits, trainings, workshops and counselling completed in Member States in close coordination with national Authorities broken down by beneficiaries (law enforcement authorities, other).

data source: RAN

- ~~(15) Number of partnerships established with the support of the Fund contributing to improving support of witnesses, whistle-blowers and victims of crime:~~

- ~~(a) with the private sector;~~
- ~~(b) with civil society.~~

~~*data source: Member States, Union action or EMAS grant beneficiaries*~~
