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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 8291/19 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.

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 12.04.2019)

018/0248 (COD)

GENERAL COMMENTS

AT: (Comments):

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

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. Until it is not clearly defined where and under which circumstances the external dimension in the scope of migration will be funded, AT has the opinion that the AMF should be the only instrument that should fund the external migration in the framework of migration.

The current situation foresees that the AMF and the NDICI should complement each other when funding external migration measures. **During the last AHWP for NDICI AT together with other MS tried to push that the 10% earmarking in the NDICI proposal will be legally binding. The majority and also the Commission were against this proposal. If the NDICI will not be bound to fund external migration measures, the AMF seems to be the only instrument, which will be able to do so.**

Therefore, 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.

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.

CZ: (Comments):

CZ would also like to give at this stage more emphasizes on aspects of security in relation to migration and in case of legal migration refer to national competences (lately widely used and agreed language on other Council working parties).

Moreover, CZ is generally hesitant about using reference to legislative acts in this regulation, which have not been finally agreed yet, especially with regard to the respective proposals falling under the scope of the Common European Asylum System reform. This regulation shall be applied from 1 January 2021. Considering diverse positions of the MSs and the length of negotiations, it is extremely difficult to predict what progress will be made with the CEAS reform until then at this moment, i.e. there is a high possibility that new AMIF regulation will entry into force before legislative acts it is referring to. In order not to predict results of negotiations of the CEAS reform and not to put the successful application of the Fund at stake, CZ suggest redrafting indicated articles and recitals.

In general, CZ suggests:

- (1) replacing the bracketed provisions with an already accepted language where possible (e.g. humanitarian admission as proposed above),
- (2) drafting the provisions solely for the purpose of this proposal in line with commonly accepted provisions and existing legislation (e.g. definitions in Art. 2), and
- (3) deleting where it refers to respective legislative proposals which have not been approved and are not in the scope of the MFF negotiations.

PT: (Comments):

The Romanian Presidency has circulated a first compromise proposal on the Asylum and Migration Fund – document 930/2019. This compromise proposal provided for minor, but extremely relevant, adjustments to the initial proposal circulated by the European Commission – doc. 7287/19.

Since then, many efforts have been made by both the Presidency and the Member States to improve the first compromise proposal. 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 the last 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. Additionally, Portugal would like to underline the efforts made by the Presidency to reflect almost entirely, in this new compromise proposal, the Portuguese suggestions.

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 12nd of April, 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**.

SI: (Comments):

Slovenia has a general reservation on those articles that relate to another legal basis within CEAS, which has not yet been adopted - Article 17 of the Dublin Regulation.

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 modification of this provision.

EE: (Comments):

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

EL: (Comments):

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

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

Courtesy translation:

We welcome the new title.

PT: (Comments):

Portugal welcomes 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,

PUBLIC

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,

Whereas:

PT: (Comments):

Portugal supports the overall changes and adjustments proposed by the Presidency to the recitals.

Still, Portugal has some reservations about recitals (3), (35) and (37). Portugal underlines the need to adjust the wording of recital (42), considering a possible amendment to Article 26 (paragraph 1a).

(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,

¹ OJ C , , p. .

² OJ C , , p. .

security and justice pursuant to Article 67(2) of the Treaty on the Functioning of the European Union.

CZ: (Drafting):

(1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration, ***return and reintegration***, and migration systems of Member States, prevent and adequately handle situations of pressure and replace irregular and unsafe arrivals with legal and safe pathways ***in line with Member States priorities***, investing in efficient, ***secure*** 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.

CZ: (Comments):

An effective policy with regard to the return and reintegration is an essential part of a comprehensive EU migration policy. As further reaffirmed by the Council, more should be done to facilitate effective returns. Therefore, CZ suggests including the reference among elements that need support in the context the evolving migratory challenges.

Alternatively:

(...) investing in efficient, ***secure*** and coordinated migration management, ***including return and reintegration***, in the Union is key to realising the Union's objective of constituting an area of freedom (...)

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. ***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].***

AT: (Comments):

AT is in favour of the changes with reference to the general remark on external dimension.

EL: (Drafting):

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.***

EL: (Comments):

It should be clarified that only the amounts of thematic facility should be used for the external dimension of the Fund and not the amounts of shared management.

ES: (Comments):

Spain welcomes the new recital drafting proposed by the Presidency.

FR: (Comments):

Courtesy translation:

We support the objective set in the June 2018 EUCO Conclusions, aiming to address the external dimension of migration. We are of the opinion this objective is reachable as a primary issue in NDICI and it should be completed by the JHA funds. Nevertheless, we are not in favor of introducing, within AMIF or the other funds, a reference to a "significant" component for financing actions related to the external dimension of migration. Reflections are underway to provide a more precise framework for the role of JHA funds aiming at complementing the actions to be financed under the NDICI. Hence, a work on the annexes of the NDICI should start, in order to detail the type of actions to be financed under this fund. A similar work should take place for JHA funds. This would avoid the risk of unjustified overlap or duplicates between funds.

HR: (Comments):

HR does not support adding the 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 AMIF, 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 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):

NL has a scrutiny reservation on the last added sentence (between brackets). This is part of a 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 advocates the deletion of the last sentence in brackets. 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 the risk of remaining committed amounts, as has been the case with AMIF. Furthermore, it needs to be clarified what kind of actions the fund is expected to finance within the external migration management.

(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 modification of this provision.

ES: (Comments):

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

FR: (Comments):

Courtesy translation:

We support this modification.

PT: (Comments):

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

(5) The Fund should be implemented in full compliance with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and with the Union’s international obligations as regards fundamental rights.

(6) The Fund should build on the results and investments achieved with the support of its predecessors: the European Refugee Fund established by the Decision 573/2007/EC of the European Parliament and the Council, the European Fund for the Integration of third-country nationals established by the Council Decision 2007/435/EC, the European Return Fund established by the Decision 575/2007/EC of the European Parliament and the Council for the period 2007-2013 and the Asylum, Migration and Integration Fund for the period 2014-2020, as established by Regulation (EU) 516/2014 of the European Parliament and of the Council. It should at the same time take into account all relevant new developments.

(7) The Fund should support the efficient management of migration flows, *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.

CZ: (Drafting):

The Fund should support the efficient ***and secure*** 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 ***voluntary*** resettlement, ***other voluntary complementary pathways for admission of refugees*** and the transfer of applicants for or beneficiaries of international protection between Member States, supporting integration strategies and a more effective legal migration policy ***in line with Member States needs and priorities***, 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 ***counter irregular migration, ensure sustainability of return and effective readmission to third countries and*** ~~reinforce management of prevent~~-flows of persons applying for asylum or other forms of international protection ***and support*** avenues on legal migration ***in line with Member States priorities***. ~~and to counter irregular migration and ensure sustainability of return and effective readmission to third countries.~~

CZ: (Comments):

As stipulated in the general comment at the end of this table, CZ suggest redrafting the reference to legislative acts currently been negotiated and use reference to already existing texts.

The proposed language corresponds to the New York Declaration which has been adopted by all MS.

DE: (Comments):

We support that "humanitarian admission" has been added.

ES: (Comments):

Spain presents a scrutiny reservation pending negotiations on CEAS.

PT: (Comments):

Portugal supports the inclusion of “humanitarian admission”.

SE: (Comments):

SE can accept the reference made to humanitarian admission.

(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 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.

CZ: (Drafting):

The Fund should also complement and reinforce the activities undertaken by the **European Asylum Support Office (EASO) established by Regulation (EU) No 439/2010 of the European Parliament and of the Council** 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 **voluntary resettlement, and other voluntary complementary pathways for admission of refugees**, 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.

CZ: (Comments):

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

See above.

DE: (Comments):

We support that “humanitarian admission” has been added.

ES: (Comments):

Spain presents a scrutiny reservation pending negotiations on CEAS.

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 ***[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.

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.

PT: (Comments):

Portugal supports the inclusion of “humanitarian admission”.

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

(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.

CZ: (Drafting):

(11) Partnerships and cooperation with third countries are an essential component of Union asylum policy to ensure the adequate ***prevention and*** 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.~~

FR: (Drafting):

(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~~ **reducing** the unsafe and irregular arrivals **by offering 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.

FR: (Comments):

We need to stay consistent with the recital 10 of the resettlement regulation, on the strategic use of resettlement, which already has been agreed with the EP. The compromise doesn't mention the "replacement" of irregular arrivals with such legal ways of entry.

(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.

ES: (Comments):

Spain welcomes the deletion of early integration. Besides, Spain suggests

a) to delete "legally staying"

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.

(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.

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+.

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.

DE: (Comments):

We support that “Integration” has been added.

ES: (Comments):

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

PT: (Comments):

Portugal supports the inclusion of “Integration”.

SE: (Comments):

SE welcomes the clarification made in the recital.

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,...

(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):

The different funds should be clearly differentiated so that no double financing is possible- at least on the project level. We encourage that the differences between the funds are once more discussed.

We have understood so far that a "healthy overlapping" between the funds should be possible, but we still would like to receive an explanation how this "healthy overlapping" can be reached and how "unhealthy overlapping" can be avoided.

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.

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,...

(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 ~~on mechanisms~~ with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+, the EAFRD 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):

S. comment to recital 13

PT: (Comments):

EAFRD plays a crucial role in achieving a balanced territorial development of rural economies and communities, including the creation and maintenance of employment.

Bearing that in mind, and considering the Portuguese experience under the 2014-2020 rural development policy, PT welcomes the introduction of a reference to EAFRD in this recital, as it reinforces the socio-economic integration of third country nationals living in rural areas.

(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.

(17) Considering the crucial role played by Member States' 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):

We support that the broader term "Member States" has been added.

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: (Comments):

We support this modification

LU: (Drafting):

(17) Considering the crucial role played by Member States' 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.

LU: (Comments):

LU supports the reasoning made by the COM that the MS play a crucial role in the redistribution of the AMIF. Therefore, we would oppose the deletion of “local and regional” authorities in the second line.

PT: (Comments):

PT supports the new wording.

(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.

CZ: (Drafting):

(18) Considering the long-term economic and demographic challenges faced by the Union, it is crucial to establish well-functioning **and secure** 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.

PL: (Drafting):

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

PL: (Comments):

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

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

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”

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**

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).

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.

AT: (Comments):

AT has no problems with the changes.

CZ: (Drafting):

~~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.

CZ: (Comments):

CZ is of the opinion that the AMIF regulation should not be to establish obligation to give a preference to voluntary returns.

FR: (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 **enhanced** return assistance **and assistance for 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.

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 ?

We propose some modifications for including “reintegration” too.

(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.

CZ: (Drafting):

(22) Voluntary and ~~en~~forced 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.

CZ: (Comments):

“Forced return” is the term used in other European legislative acts, later in this proposal as well as it is the term included in the EMN Glossary. This proposal should not attempt to modify existing terminology.

(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.

AT: (Comments):

AT has no problem with this addition.

DE: (Comments):

We support that the term “sustainable” has been added.

FR: (Comments):

Courtesy translation

We support this modification.

PT: (Comments):

PT supports the new wording. In fact, contributing to sustainable reintegration is challenging, but it should remain as one of AMIF’s light motifs.

(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):

Courtesy translation

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

(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.

(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.

AT: (Comments):

AT has no problems with this change.

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).

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).

CZ: (Comments):

After final consent of the Council, reference to EBCG regulation should be updated.

FR: (Comments):

Courtesy translation

We support this modification.

PT: (Comments):

PT supports the new wording.

SE: (Comments):

The recital needs to be further clarified as regards the 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 **in general** be avoided.

AT: (Drafting):

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

AT: (Comments):

AT is still suggesting a better clarification on “overlaps” and double funding. Overlaps should be allowed if “healthy”, but no double funding.

BG: (Comments):

As already proposed by Bulgaria during the ADHWP meeting on 12 April 2019, we suggest deleting “in general”. This suggestion is in line with our position on the need for distinguishing the support under the various EU funds, which support integration measures.

DE: (Drafting):

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

DE: (Comments):

As mentioned in the comments to recitals 13 and 14, it must be clearly defined which funds can fund what measure, in order to avoid double financing. We furthermore would like to know how “healthy overlapping” between the different funds can be reached, while avoiding “unhealthy overlapping”. We suggest the deletion of the term “in general”, as this term aggravates this problem, instead of clarifying the issue.

ES: (Drafting):

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

ES: (Comments):

Spain upholds the deletion of “in general” since it complicates the interaction among different Funds. Hence, Spain proposes an alternative wording.

FR: (Comments):

Courtesy translation

We support this modification.

PT: (Comments):

PT supports the new wording.

SE: (Drafting):

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

SE: (Comments):

SE advocates the original wording and consequently the deletion of “in general” as the text otherwise could be interpreted as an acceptance towards more overlapping. Overlapping and double financing should be avoided. Healthy overlapping is still possible with the original wording.

(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.

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 proposes an alternative drafting of this recital in order to link it to the new recital (3) drafting.

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.

(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.

CZ: (Drafting):

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 Asylum Support Office** evaluation and monitoring mechanism has identified deficiencies in the relevant area.

ES: (Comments):

Spain presents a scrutiny reservation pending negotiations on CEAS.

FR: (Comments):

Courtesy translation

The practical and financial consequences for the Member States of the application of this recital are not clear. Could the Presidency / Commission explain the practical consequences for MS ?

PL: (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 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.

PL: (Comments):

Scrutiny reservation. How mentioned serious breach by the Member State of the Union's values when implementing the acquis on asylum and return should be established/ confirmed?

What is the purpose of this wording and its consequences in practice? What kind of situations are covered by proposed wording?

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 affected 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.

/(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):

Following the request by the Presidency for MS to express their position on the use of "objective criteria", we reiterate our support on the suggested modification of this provision in view of our support to deleting Art 14 (2).

DE: (Comments):

Scrutiny reservation; we would like to know how "objective criteria" is to be understood in contrast to "absorption rates". We think that the absorption rates should be used for the assessment of the mid term review, as they are an objective criterion.

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.

PT: (Comments):

Portugal does not agree with the terms of Article 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 recital (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.

(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 also serve to reinforce programmes.***

AT: (Comments):

AT is in favour of the changes made.

CZ: (Drafting):

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, **voluntary** resettlement **and other voluntary complementary pathways for admission of refugees** 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 also serve to reinforce programmes.***

DE: (Comments):

We support that the term “humanitarian admission” has been added.

Concerning the addition of the term “also”: we think that the financial envelope should not primarily be used for reinforcing the National Programmes; by adding “also”, this is clarified, what we can support.

We nevertheless would like to receive more information on the allocation mechanism of the thematic facility.

PT: (Comments):

Portugal supports the inclusion of “humanitarian admission”.

Regarding the changes made to the last sentence, where national programmes lose priority over financial allocation of the thematic facility, PT would prefer to maintain the previous wording: “primarily”.

SE: (Comments):

Sweden can accept the addition of “humanitarian admission” and welcomes the change from “primarily” to “also”.

(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.

(40) The Fund should contribute to supporting operating costs related to *the specific objectives of the Fund* ~~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 is in favour of the changes made.

DE: (Comments):

We support this clarification.

FR: (Comments):

We support this modification

PT: (Comments):

Portugal supports the new wording.

(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.

AT: (Comments):

AT is in favour of the initial wording. "Large" and "disproportionate" should stay. It can be interpreted differently in every MS, but it should be clear that emergency assistance can only be granted, if an emergency situation of large or disproportionate inflow of third country nationals is happening. This is linked to article 26 Para 1 (a).

DE: (Comments):

We prefer if the initial wording would be kept, thus the term "large or disproportionate" should be kept. This wording is already used in the current regulation of the AMIF, and we see now added value in deleting this term.

ES: (Comments):

Spain supports the deletion of large or disproportionate.

FI: (Comments):

we prefer to maintain the words “disproportionate” and “large or disproportionate” in the text

FR: (Drafting):

(42) In order to strengthen the Union’s capacity to immediately address unforeseen or ~~disproportionate~~ disproportionate heavy migratory pressure in one or more Member States characterised by ~~an large or disproportionate~~ 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.

FR: (Comments):

Courtesy translation

It would be more appropriate to conserve the initial wording.

HR: (Comments):

HR can agree with the deletion of the wording “large and disproportionate pressure”. However, we believe that it is necessary to **define** the intensity of the **pressure** in more detail because MS might have different interpretations. Considering the intensity of migration faced by HR as an MS with the longest external border of the EU and the only MS on the land migratory route, it is greatly important for us to accurately define the term “pressure” so that **funds** under emergency assistance could be **allocated proportionally**, to MS which really need it.

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 does not agree to the changes made in this recital. MS should be able to react on changes in the migratory flows. Only if these changes are disproportional the use of Emergency Assistance should be applicable.

PT: (Comments):

PT suggests aligning the text of this recital with the possible new wording of Article 26 (paragraph 1a).

(43) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC⁹ 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: (Drafting):

~~(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):

⁹ 2008/381/EC: Council Decision of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

We cannot detect a use-case in the AMIF, so we prefer to cancel the possibility.

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

AT: (Comments):

AT is in favour of the clarification made in this recital.

BG: (Comments):

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

DE: (Comments):

We cannot detect a use-case in the AMIF, so we prefer to cancel the possibility

FR: (Drafting):

~~*(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 institutions, as well as from commercial finance institutions and investors.*~~

FR: (Comments):

Courtesy translation

It would better if all elements of definition would be only in article 2.

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.

(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 management¹⁰], for the European Parliament and the Council during the annual budgetary procedure.

(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.

DE: (Comments):

We can not detect a use-case in the AMIF, so we prefer to cancel the possibility

(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

¹⁰ 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

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 made.

BG: (Comments):

We support the suggested modification.

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

Courtesy translation :

FR would like to express a general concern in regard to the rules foreseen for the Home Affairs funds under the Common Provision Regulation (CPR).

It is necessary that the provisions of the CPR and the rules they set are well adapted to the specificities of 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.

PT: (Comments):

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

(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**¹¹ (the Financial Regulation), Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹², Council Regulation (Euratom, EC) No 2988/95¹³, Council Regulation (Euratom, EC) No 2185/96¹⁴ and Council Regulation (EU) 2017/1939¹⁵, 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 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,

AT: (Comments):

AT is fine with the changes.

¹¹ **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.**

¹² **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.**

¹³ 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).

¹⁴ **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.**

¹⁵ Council Regulation (EU) 2017/1939¹³⁷⁴ 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).

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 Council¹⁶. 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.]/

[(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 is fine with the addition of this recital.

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 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.

¹⁶ 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).

(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/EU¹⁷, 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'¹⁸, endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund supports these Member States with adequate resources to help these regions manage migration sustainably and handle possible situations of pressure.

(54) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this Fund on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, common indicators and related targets should be established in relation to each specific objective of the Fund. Through these common indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund, in accordance with the relevant provisions of Regulation (EU) .../2021 of the European Parliament and of the Council

¹⁷ 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).

¹⁸ COM(2017)623 final.

[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):

CZ requires deleting this recital. 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):

We would like to know how the AMIF can contribute to the goal of climate protection; until we receive an explanation for this, scrutiny reservation.

(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 Council¹⁹. 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 is sceptical about the deletion in this recital and would like to express their scrutiny reservation. We would like to ask for the written explanation of the JRD concerning the advisory and examination procedure and also regarding the “no-opinion clause” (Art. 33) to gain a better understanding.

For art. 9 it makes sense to go with the examination procedure, as discussions with the MS are necessary in the field of the thematic facility. In art. 30, AT does not see the necessity for the examination procedure as too long discussions with the MS would lead to a delay in the implementation process of the fund.

FR: (Comments):

We support this modification

HR: (Comments):

HR supports **the introduction of the examination procedure** instead of the advisory one related to the procedure through which the Commission adopts implementing acts to adopt a decision on funding the thematic facility. Even though this procedure is used less according to comitology, in this case the vote of the competent committee would have to be taken into consideration for the adoption of implementing acts, which would **imply a greater influence of MS** in the very procedure.

¹⁹ 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).

(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.

CZ: (Drafting):

(58) Since the objective of this Regulation, namely to contribute to an effective *and secure* 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:

PT: (Comments):

Portugal supports the overall changes and adjustments proposed by the Presidency to the regulation.

Still, Portugal has some comments on articles 4, 8, 11, 13, 14, 16, 17, 18, 26 and 33. The comments on Articles 13 and 26 are the answer to two specific questions raised by the PRES during the last meeting (12nd of April).

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 this addition.

BG: (Comments):

We support the modification of this provision.

EL: (Comments):

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

ES: (Comments):

Spain welcomes this change in the fund nomination.

FR: (Comments):

Courtesy translation

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.

DE: (Drafting):

[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.]

DE: (Comments):

We prefer a date, when the fund begins and ends. It could also be given to the next level.

Article 2 Definitions

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]²⁰;

CZ: (Comments):

As explained in the general comment, CZ suggests drafting the provisions solely for the purpose of this proposal, in line with commonly accepted definitions, or referring to existing legislative acts.

(b) 'beneficiary of international protection' within the meaning of point (2) of Article [2] of Regulation (EU) ... [Qualification Regulation]²¹;

CZ: (Comments):

Ditto, see above.

(c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of ***pursuant to Article 2(6) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council***²² ~~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;

²⁰ OJ C , , p. .

²¹ OJ C , , p. .

²² ***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).***

DE: (Comments):

The Commission has still not provided examples how financial instruments can be utilized in this area. So we cannot detect a use-case in the AMIF, so we prefer to cancel the possibility.

FR: (Drafting):

(c) 'blending operation' ***has a voluntary nature and*** means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of ***pursuant to Article 2(6) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council²³*** 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;

FR: (Comments):

Courtesy translation

Alternative to the proposal made at recital 44a.

(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;

CZ: (Comments):

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. .

Ditto, see above.
(f) 'removal' means 'removal' as defined in point (5) of Article 3 of Directive 2008/115/EC;
(g) 'resettlement' means 'resettlement' as defined in Article [2] of Regulation (EU) ... [Union Resettlement [and Humanitarian Admission] Framework];
CZ: (Comments): Ditto, see above.
(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;
LU: (Comments): LU wonders if migrants without documents are included in this/ irregular situations. Can the decision to include irregular migrants be taken on national level or do any legal boundaries exist to limit the scope in this regard?
(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).

NL: (Comments):

NL would like to have a definition added on border procedures.

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 *acquis* and in compliance with the Union’s commitments on fundamental rights.

CZ: (Drafting):

The policy objective of the Fund shall be to contribute to an efficient **and secure** management of migration flows in line with the relevant Union *acquis* and in compliance with the Union’s commitments on fundamental rights.

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’s commitments on fundamental rights.*

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;

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.

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

CZ: (Drafting):

(b) to support legal migration to the Member States *in line with Member States priorities and needs 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 for the integration of beneficiaries of international protection** ;

FR: (Comments):

Nous rappelons cette demande de reformulation, pour préciser l'enjeu associé à l'intégration des réfugiés.

We deem necessary to stress the particularities of this objective

(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).

NL: (Comments):

NL suggest to adding an extra objective under this article.

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. The exclusion of the objective in the Fund sends a signal that is indeed worrying.

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.

FR: (Drafting):

4a. 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.

FR: (Comments):

Courtesy translation

In coherence with ISF, we think there is a need to foster an acceptable version of the provision that will be asked for by the EP.

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 such as those listed in Annex III.

BE: (Drafting):

1. Within the objectives referred to in Article 3 and in line with the implementation measures listed in Annex II, the instrument shall in particular support the actions such as those listed in Annex III.

BE: (Comments):

BE prefers the wording in the original COM proposal, we agree with COM that the current wording could lead to uncertainty with regard to Audits.

DE: (Comments):

Maybe we will support this modification, as it broadens the scope of the fundable support. But first we need more Information about this issue. until we receive an explanation for this, scrutiny reservation.

FR: (Comments):

Courtesy translation

We support this modification.

PT: (Comments):

PT 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.

[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 is fine with the addition of this article.
<i>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.]</i> ES: (Drafting): <i>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.</i> ES: (Comments):

Spain proposes an alternative drafting.

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.

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

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.

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):

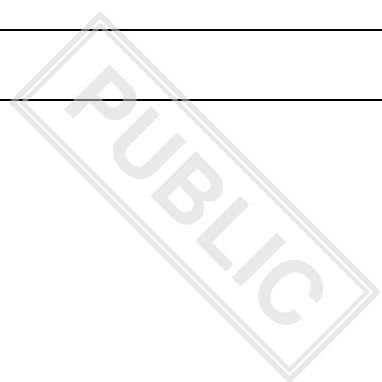
Spain proposes that 70% of the resources shall be allocated to national programmes and 30% to the thematic facility.

IT: (Drafting):

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

IT: (Comments):

Italy confirms its stance on a different ratio: 70% to shared programmes,



(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.

IT: (Drafting):

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

IT: (Comments):

30% to 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 funded under the thematic facility, but nevertheless should the MS be able to fund external dimension measures within their National Programmes. See also our general remarks at the beginning of this document.

BG: (Drafting):

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

²⁵ ***The external dimension of migration is a horizontal aspect of the negotiations on the MFF 2021-2027. The sentence between brackets reflects the current wording included in the Negotiating box and this without prejudice of the final outcome of the ongoing discussions.***

BG: (Comments):

We reiterate our position 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.

Following our position on this provision and in view of the fact that it is in brackets as a subject to a horizontal discussion, during the ADHWP meeting on 12 April 2019 Bulgaria suggested to add a sentence in footnote 23 stating that “Several/Most of the MS supported including a dedicated component for external migration management to be included only in the thematic facility”. Hereby we confirm our suggestion.

DE: (Comments):

We support the new wording of the footnote.

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.

EL: (Drafting):

The abovementioned amounts, in 2(b), include a dedicated component for external migration management.

EL: (Comments):

It should be clarified that only the amounts of thematic facility should be used for the external dimension of the Fund and not the amounts of shared management. Furthermore, this amount should be relevant/analogous to the needs of M-S through specific actions, emergency assistance and the amounts used by other financial instruments (Neighbourhood Fund etc).

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: (Drafting):

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

FR: (Comments):

Courtesy translation

We support the objective set in the June 2018 EUCO Conclusions, aiming to address the external dimension of migration. We are of the opinion this objective is reachable as a primary issue in NDICI and it should be completed by the JHA funds. Nevertheless, we are not in favor of introducing, within AMIF or the other funds, a reference to a "significant" component for financing actions related to the external dimension of migration. Reflections are underway to provide a more precise framework for the role of JHA funds aiming at complementing the actions to be financed under the NDICI. Hence, a work on the annexes of the NDICI should start, in order to detail the type of actions to be financed under this fund. A similar work should take place for JHA funds. This would avoid the risk of unjustified overlap or duplicates between funds.

In addition, given the duration of the next programs, it seems necessary to avoid setting specific target (capping) in order to retain the flexibility of the instrument on the choice of actions to be financed by Member States

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.

HU: (Comments):

We still support this provision.

IT: (Drafting):

[2a. The above amounts **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.**

IT: (Comments):

The proposed changes are intended to include the external component in the Thematic Facility while the inclusion in the national programmes is only an option according to the national priorities.

LU: (Comments):

LU strongly supports the idea that NDCI should be the main fund to finance the external dimensions. LU is of course aware of the council conclusions of June 2018 and therefore suggests that the financing of the external dimension in the AMIF should be limited to the thematic facility and, preferably, with a list with determined actions that can be financed.

NL: (Comments):

NL has a scrutiny reservation on this paragraph. This is part of 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 paragraph 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.

Portugal welcomes the introduction of footnote 23.

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 it needs to be clarified what actions the Fund is expected to finance in the external migration management.

Moreover, 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 dimension of 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].

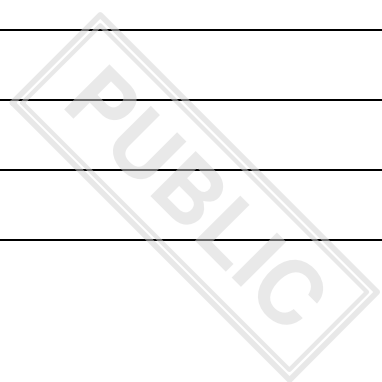
Article 9

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 *[and humanitarian admission]*;

AT: (Comments):

AT is fine with this addition.

CZ: (Drafting):

Voluntary resettlement and other voluntary complementary pathways for admission of refugees;

CZ: (Comments):

See above.

FR: (Comments):

We support this modification

SE: (Comments):

SE can accept the amendment.

(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: (Comments):

AT is fine with this addition.

BG: (Comments):

We support the suggested modification.

FR: (Comments):

Courtesy translation :

This paragraph seems to be quite general, especially regarding the term “high added value to the Union”. A definition of this would be welcomed.

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.

NL: (Comments):

NL is in favour of the original text of the paragraph. In our opinion the added text is not needed.

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 would like to ask for the written explanation of the JRD concerning the advisory and examination procedure and also regarding the “no-opinion clause” (Art. 33) to gain a better understanding.

For art. 9 it makes sense to go with the examination procedure, as discussions with the MS are necessary in the field of the thematic facility.

BG: (Comments):

We reiterate our support to the suggested modification and the use of the examination procedure for adoption of the financing decisions for the thematic

facility.

HR: (Comments):

As stated in Recital 57, HR supports **introducing the examination procedure** instead of the advisory one related to the procedure through which the Commission adopts implementing acts to adopt a decision on funding the thematic facility. Even though this procedure is used less according to comitology, in this case the vote of the competent committee would have to be taken into consideration for the adoption of implementing acts, which would **imply a greater influence of MS** in the very procedure.

SE: (Comments):

Sweden very much welcomes the amended text (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.

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:

(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 suggested deletion of this provision.

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.

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 ***type of action*** specific objective, the Commission decision ***approving a programme*** shall set out whether the co-financing rate for the ***type of action*** specific objective is to be applied to ***either of the following***:

AT: (Comments):

AT is fine with the changes.

FR: (Drafting):

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

FR: (Comments):

Courtesy translation :

Actions supported under national programs must be able to be co-financed by public or private contributions. The co-financing rate must be calculated from the total eligible costs of a project irrespective of the public or private nature of the co-financing. The co-financing rate is defined for each project by the managing authority in the grant agreement or a similar document. Point 7 must therefore simply provide for these elements. Cf. amendment 7a.

FR: (Drafting):

7a. The managing authority decision shall set out the co-financing rate for the action applicable to the total eligible expenditure.

(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.

FR: (Comments):

We support this modification

NL: (Comments):

NL is in favour of the original text of the paragraph. In our opinion the added text is not needed because this is the normal procedure within the EU.

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 is fine with the changes.

BG: (Comments):

We support the proposed modification of the provision.

CZ: (Drafting):

The Commission shall consult the European Border and Coast Guard Agency and the European ***Asylum Support Office*** 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.

CZ: (Comments):

See above.

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 consultation shall be conducted in a timely manner without delaying the approval and implementation of the programmes, and shall be notified to the concerned Member State, which may present its observations.***

FR: (Comments):

Courtesy translation

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

HR: (Comments):

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

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.

CZ: (Drafting):

The Commission may associate the European ***Asylum Support Office*** 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 is fine with the changes.

BG: (Comments):

We support the proposed modification of the provision.

CZ: (Comments):

In line with previous comments:

The current EASO regulation does not contain provisions on a monitoring exercise; therefore, this should to be fully redrafted.

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.

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 favour of “consult”.

BE: (Drafting):

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

BE: (Comments):

BE prefers the text in the COM proposal and the use of “consult” instead of “inform”.

BG: (Comments):

We prefer the use of the term “consult”.

DE: (Comments):

We prefer the term “inform”.

EE: (Drafting):

Whenever a Member State decides to implement ~~implement~~ **launch new** projects with or in a **specific** 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.“

EE: (Comments):

EE would prefer informing the Commission. The aim would be to inform the Commission only about the projects where the third country with whom the cooperation takes place is known. However, there are projects (e.g. the readmission cooperation with 3rd countries) where the MSs need more flexibility and in the process of beginning the multiannual project are not able to bring out the specific 3rd country with whom the cooperation is necessary.

EL: (Drafting):

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.~~

ES: (Comments):

Spain holds a flexible position whether Member States shall consult or inform the Commission before approving the project.

FI: (Comments):

We would see "to consult" as a more meaningful wording here as some kind of "cross-checking" seems to be needed to make sure that the implemented measures are coherent with the Fund objectives and the general policy aims and that there does not occur unnecessary overlapping with other similar actions. We don't see this compromising the autonomy and capacity of a MS for maneuvers in third countries but merely as a contributor to EU added value.

FR: (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 ***approve the project after informing consulting*** the Commission ~~prior to the approval start of the project.~~, ***which shall give its opinion in a timely manner.***

FR: (Comments):

In order to reinforce the governance of the EU action on the external dimension of migrations, we would prefer to maintain the word “consult”, while ensuring it won’t delay the process.

HR: (Comments):

HR can support the obligation of MS **to inform** the Commission on new projects they intend to implement with or in a third country because in relation to the initially proposed process of consultation, informing represents **a reduced administrative burden** and gives **MS a wide discretion to decide** on the cooperation at issue.

HU: (Comments):

Regarding informing and consult, we support to use the word **informing**, the consultation may cause time consuming.

IT: (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 ***approve the project after informing*** ~~consult~~ the Commission ~~prior to the approval~~ start of the project.

IT: (Comments):

“Informing” is an acceptable solution. A consultation procedure would be a burden compared with a simple information intended to make the Commission aware of the project/s and, just in case, able to flag a possible duplication.

LU: (Comments):

LU supports the fact that MS should **consult**, and not only inform, the COM in case the MS plans to start a new project with or in a third country.

MT: (Comments):

Malta welcomes the updated text and believes that it supports the prerogative of the Member State, whilst allowing for more flexibility to decide which actions to implement in third countries as a result of possible cooperation agreements. Malta believes that it is also beneficial to maintain the obligation to inform (but not consult) the Commission prior to its approval, to ensure harmonisation and synergies with other ongoing initiatives. Therefore, we support retaining ‘*informing*’ as opposed to ‘*consulting*’.

NL: (Comments):

NL has no opinion on the wording ‘inform’ vs ‘consult’. Nevertheless for NL it is important that there will be a good coordination mechanism for TC-actions so the efficiency, effectivity and EU added value of these actions is increased

PT: (Comments):

Portugal supports the wording “informing”.

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 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, double financing or the financing of measures that might fall outside of the scope of AMF.

SI: (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.

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 1 of Annex VI.

[Article 14
Mid-term review

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.

NL: (Drafting):

1. In 2024, the Commission may allocate to the programmes of the Member States concerned the additional amount referred to in Article 11(1)(b) after taking into account the actual needs of Member States based on the implementation measures in Annex II and the effectiveness of projects already in implementation phase in each Member State. Depending on the outcome of the midterm review funding may be allocated to the programmes of the Member States in accordance with the criteria referred to in paragraph 2 of Annex I or according to the identified needs of the Member State. Funding shall be effective for the period as of the calendar year 2025.

NL: (Comments):

NL favours 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.

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 deletion of this provision.

DE: (Comments):

Approval, negotiation tactics. But we expect that there will be minimum-absorption rate at the time of midterm reviews.

LU: (Comments):

LU supports NL who proposed that 10% of the fund would be allocated after a substantial analysis during the MTR, this would allow to react to the concrete needs of the MS.

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./

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):

Courtesy translation

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

Article 15
Specific actions

HU: (Comments):

Hungary has some question regarding the connecting, Fiche No. 6.

The procedure places additional significant administrative burdens on the Member State's managing authority. In practice, at all stages of preparation and

implementation, the managing authority of the lead Member State will have responsibilities.

According to the first paragraph of point (a) of the Agreements between the partners, the Lead Member State must conclude contracts with the partners. Does this mean that the managing authority has to conclude the contracts or the Beneficiary from the lead Member State?

According to point (c), first paragraph, the Lead Member State and managing authorities of the partners may decide that all participating Member States include specific action in their National Program. However, does this mean that if the partners do not insert the funding in the National Programs, they have to submit their payment requests in a different way, and they have to prepare their annual reports differently?

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

CZ: (Comments):

The whole article 16 has to be redrafted to reflect the fact that Union Resettlement Framework was not finally approved.

ES: (Comments):

Spain upholds a scrutiny reservation on this article.

HU: (Comments):

We maintain our reservation.

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: (Drafting):

1. Member States shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR ~~140 000~~ **12.000** 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.

IT: (Comments):

A higher lump sum would enable to more effectively put in place integration measures for resettled persons.

PT: (Drafting):

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 20 000 euros. 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]

CZ: (Drafting):

Delete from article

CZ: (Comments):

CZ suggest deleting the whole Article 17 as explained in the general comments.

ES: (Comments):

Spain upholds a scrutiny reservation on this article.

HU: (Comments):

We maintain our reservation.

PL: (Drafting):

[Article 17

Resources to support the implementation of Regulation ../.. [Dublin Regulation]

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

EL: (Drafting):

1. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [[25 000]] 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].

EL: (Comments):

Greece considers that the amount to be attributed to the Lump Sums must increase to 25.000 euros. The reasons are associated with the increased life costs and with the overall experience from the current programming period.

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):

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 20 000 euros. 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.

EL: (Drafting):

2. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [[25 000]] for each applicant for international protection allocated to that Member State who is above the benefitting Member State's fair share.

EL: (Comments):

Greece considers that the amount to be attributed to the Lump Sums must increase to 25.000 euros. The reasons are associated with the increased life costs and with the overall experience from the current programming period.

PT: (Drafting):

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 20 000 euros. 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.

EL: (Drafting):

3. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR [[25 000]] per applicant who has been granted

international protection for the implementation of integration measures.

EL: (Comments):

Greece considers that the amount to be attributed to the Lump Sums must increase to 25.000 euros. The reasons are associated with the increased life costs and with the overall experience from the current programming period.

PT: (Drafting):

A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR **[[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 20 000 euros. 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.

EL: (Drafting):

4. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR **[[25 000]]** 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.

EL: (Comments):

Greece considers that the amount to be attributed to the Lump Sums must increase to 25.000 euros. The reasons are associated with the increased life costs and with the overall experience from the current programming period.

PT: (Drafting):

A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR ~~[[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 20 000 euros. 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].

EL: (Drafting):

5. A Member State shall receive, in addition to its allocation calculated in accordance with Article 11(1)(a), a contribution of EUR ~~[[2.000]]~~ 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].

EL: (Comments):

Greece considers that the amount to be attributed for each applicant of international protection transferred from one Member State to another, must increase to 2.000 euros. This sum includes costs for air transport as well as the administrative costs of that procedure.

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 change.
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%.

EL: (Comments):

We welcome the rise of the percentage from 10% to 20%, as well as the rephrase of the paragraph and the inclusion in operating support of all the objectives in Article 3(2)

ES: (Comments):

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

FR: (Comments):

Courtesy translation

We support an increase in the operational support ceiling.

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):

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, nº 2, parag. (b) of the nº 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 fine with the changes.

BG: (Comments):

We support the modification of the provision.

CZ: (Comments):

The monitoring exercise is not included in the current EASO regulations. The provision should to be fully redrafted.

DE: (Comments):

We support this modification.

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 addition of this article.

1. <i>The following entities may be eligible:</i>
(a) <i>legal entities established in any of the following countries:</i>
(1) <i>a Member State or an overseas country or territory linked to it;</i>
(2) <i>a third country associated to the Fund;</i>
(3) <i>a third country listed in the work programme under the conditions specified therein;</i>
(b) <i>any legal entity created under Union law or any international organisation.</i>
2. <i>Natural persons are not eligible.</i>
3. <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: (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</i>

given action.

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 “*exceptionally*” 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.

DE: (Drafting):

3

DE: (Comments):

We cannot detect a use-case in the AMIF, so we prefer to cancel the possibility.

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 .
DE: (Comments):
We can not detect a use-case in the AMIF, so we prefer to cancel the possibility.

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):

Courtesy translation :

In addition to the strict classified and confidential nature covered by the law, precautions should also be taken with regard to the sensitivity of certain projects in terms of security or public order, not strictly covered by law. For example, actions related to border surveillance and control on defined

geographical areas enabling smugglers to know how to avoid certain areas or to prioritize others. The same goes for detection of document fraud, which would allow smugglers to adapt their methods. Those kind of actions are not covered by a confidentiality seal of legal origin, but should not be made public

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 in favour of the initial wording. “Large” and “disproportionate” should stay. It can be interpreted differently in every MS, but it should be clear that emergency assistance can only be granted, if an emergency situation of large or disproportionate inflow of third country nationals is happening.

BE: (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;

BE: (Comments):

BE could agree with the original COM proposal, as long as the reference to “large or disproportionate” is bracketed. This WP is not the right forum to further clarify this notion, it has to be dealt with in the context of the CEAS.

DE: (Comments):

We prefer if the initial wording would be kept, thus the term “large or disproportionate” should be kept. This wording is already used in the current regulation of the AMIF, and we see now added value in deleting this term.

ES: (Comments):

Spain welcomes the deletion of large or disproportionate.

FI: (Comments):

we prefer to maintain the wording ”large or disproportionate” in the text

FR: (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;

FR: (Comments):

Courtesy translation

It would be more appropriate to conserve the initial wording.

HR: (Comments):

As stated in Recital 42, HR can agree with the deletion of the wording “large and disproportionate pressure”. However, we believe that it is necessary to **define** the intensity of the **pressure** in more detail (also in the recital) because MS might have different interpretations. Considering the intensity of migration faced by HR as an MS with the longest external border of the EU and the only MS on the land migration route, it is greatly important for us to accurately define the term “pressure” so that the **funds** under emergency assistance could be **allocated proportionally**, to MS which really need it.

LU: (Drafting):

(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;

LU: (Comments):

LU supports the COM in its demand to keep a reference to “a large or disproportionate” inflow in the text but also pushed for more clarification concerning the actual meaning of these words.

MT: (Comments):

Malta welcomes the current text, however if this is to be reinserted, we would prefer '*and*' to be replaced by '*or*' in the following part of the text “*large and disproportionate*”.

NL: (Drafting):

(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;

NL: (Comments):

NL can not agree to the changes in this paragraph. For NL it is important that the emergency assistance is used for a large and disproportionate change in inflow. MS should be able to react on changes in the migratory flows. Only if these changes are disproportional the use of Emergency Assistance should be applicable.

PT: (Comments):

Portugal supports the wording “large or disproportionate inflow”.

SI: (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;

(b) ***an event of mass influx of displaced persons*** ~~the implementation of temporary protection mechanisms~~ within the meaning of Directive 2001/55/EC²⁶;

AT: (Comments):

AT is fine with the changes.

CZ: (Comments):

CZ would appreciate explanation of what are the differences between (a) and (b).

²⁶ 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).

FR: (Drafting):

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

FR: (Comments):

Courtesy translation

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

NL: (Drafting):

an event of mass influx of displaced persons the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC²⁸;

NL: (Comments):

NL prefers the original text of this paragraph.

(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: (Drafting):

2. 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):

Spain proposes to 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: (Drafting):

3. Emergency assistance may take the form of grants awarded directly to the decentralised agencies.

ES: (Comments):

Spain proposes to 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. The Commission shall regularly inform Member States about the available financial means for emergency assistance and the types of action which may be eligible.

AT: (Comments):

AT is fine with the changes.

BG: (Comments):

We support the modification of the provision.

EL: (Comments):

We would like to ask for further clarifications, specifically on how the Commission will inform the m-s about the available financial means and also about the eligible types of action.

ES: (Comments):

Spain supports the new drafting regarding the information on Emergency Assistance.

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 41(3)(h)(iii) [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 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.
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.
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.
BG: (Comments):
We support the modification of the provision.
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. <i>Any amendment to Annex VIII shall only start to apply in the first accounting year following the year of adoption of the delegated</i>

<i>act.</i> AT: (Comments): AT is fine with the addition. ES: (Comments): Spain welcomes the new drafting proposal of the current Presidency for article 28.5.
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 <i>in accordance with the timeline set out in Article 40 of Regulation (EU) No .../... [CPR]</i> .
sub section 2
rules for shared management
Article 30
Annual performance <u>review</u> <u>reports</u>

AT: (Comments):

AT is generally fine with the changes.

DE: (Comments):

We support all modifications in this article.

ES: (Comments):

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

HU: (Comments):

We maintain our reservation. Our opinion is that it is still not coherent with the relevant CPR provisions.

1. **For the purpose of the annual performance review as referred to in article 36 of Regulation (EU).../2021 [Common Provisions Regulation],**
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 a~~
~~annual performance~~ report ~~as referred to in Article 36(6) of Regulation (EU).../2021 [Common Provisions Regulation]~~. **The reporting period shall cover**
the last accounting year as defined in Article 2(28) of Regulation (EU).../2021 [Common Provisions Regulation], preceding the year of submission of
the report. The report submitted ~~in~~ **on 15 February** 2023 shall cover ~~the implementation of the programme in~~ the period **from 1 January 2021 to**
30 June 2022.

BG: (Comments):

We support the modification of the provision.

FI: (Comments):

The wording of this article seems somewhat contradictory with the corresponding Art 36 of CPR as it is not clearly stated that the MS and COM may

agree not to organise the review meeting. We would suggest a clarifying sentence in the beginning of the article, stating that the written report shall be submitted only in case there is no review meeting. The current wording implies that the MS will annually produce a report AND go through the performance review.

LU: (Comments):

LU supports the idea to replace the reporting-obligation with an evaluation meeting.

Furthermore, LU strongly suggests aligning the annual performance review in this article to the national budgetary cycle (31/03) in order to make this review more effective.

MT: (Comments):

Whilst Malta notes the comments provided by the Presidency and the Commission on Article 30 in the last working party meeting on the JHA Financial Instruments on the AMF proposal held on the 12th of April, Malta is not in favour of submitting the annual performance review report, especially when taking into consideration that this obligation has been removed for the ESF and ERDF in the Common Provisions Regulation (CPR), and considering the reporting obligations that shall be required under the CPR. Malta believes that removing reference to the CPR does not alleviate the situation, furthermore having the obligation to submit the financial reports together with the annual performance review by the 15 of February of each year after 2023 will be very taxing on Regulatory Authorities. Malta suggests taking a simplified approach on reporting, also considering that frequent reporting can jeopardise the accuracy of data reported to the Commission. Malta suggests that should the Commission wish to meet the Member State as part of its annual review, revising the most recent report submitted by the Member State will suffice rather than having the Member State prepare an additional report, avoiding duplication of efforts.

SE: (Comments):

Sweden can accept the amendments made by the Presidency.

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;
<u>(ef)</u> 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): (ef) the fulfilment of the applicable enabling conditions and their application throughout the programming period; FR: (Comments):

Courtesy translation

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.

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

(~~gh~~) 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.

PL: (Drafting):

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

PL: (Comments):

Scrutiny reservations due to the ongoing discussions on the Dublin Regulation. There is still no consensus on including beneficiaries of international protection into the scope of the Dublin IV Regulation.

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 does not see the need for an examination procedure here, as already explained in the remarks to recital 57.

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.

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.

AT: (Comments):

AT welcomes the addition of “integration”-

2. Where reference is made to this paragraph, Article 54 of Regulation (EU) No 182/2011 shall apply. **Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act.**

AT: (Comments):

As already mentioned before, AT would like to ask for the written explanation of the JRD regarding the comitology and the “no-opinion clause.” There AT has a scrutiny reservation for the time being.

DE: (Comments):

We support this modification.

FR: (Comments):

We support this modification

NL: (Drafting):

2. Where reference is made to this paragraph, Article 54 of Regulation (EU) No 182/2011 shall apply. ~~Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act.~~

PT: (Comments):

PT recalls the explanations given by the legal services of the Council at the last Ad hoc WP meeting (12nd March). The inclusion of a no opinion clause must respond to a specific need and must be justified in the recitals.

SE: (Comments):

Sweden can accept the amendment made by the Presidency.

~~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).~~

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]²⁹

[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. Of course, the discussions so far have been inconclusive, as the ANNEX is still bracketed.

AT is in favour of the footnote 25. An increased initial allocation would facilitate the implementation and would also compensate the low pre-financing.

BG: (Comments):

We support the inclusion of foot note 25.

CZ: (Comments):

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.

DE: (Comments):

We use the opportunity to clarify, that we want to know how the relevant years 2015-2017 are taken into account?

FR: (Comments):

Courtesy translation

²⁹ **The discussions on the criteria for the allocation of funding were inconclusive. Both the reference period and the distribution key to work out the allocations require further discussions. Several Member States indicated that the fixed amount allocated at the start of the programming could be increased up to a figure between EUR 10 million EUR 15 million, in line with the reinforced financial envelope of the Fund and with the aim of facilitating implementation.**

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.

More specifically :

- the resettlement criterion should be increased to better reflect the needs of Member States, while encouraging to develop this mean of protection.
- Equivalent percentage should be provided for the "legal migration and integration" criteria : 50% / 50%

HU: (Comments):

We welcome footnote 25.

PT: (Comments):

Portugal looks forward to further developments on Annex I in order to take a final position.

Portugal welcomes footnote 25.

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.

EL: (Drafting):

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

EL: (Comments):

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

ES: (Comments):

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

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

HR: (Comments):

HR supports the increase of the fixed amount allocated at the start of the programming period to 10 000 000 EUR in line with the Fund's strengthened financial framework and with a view to facilitating the implementation.

IT: (Drafting):

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

IT: (Comments):

The fixed amount could be doubled, in line with the reinforced financial envelope of the Fund and with the aim of facilitating implementation.

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.

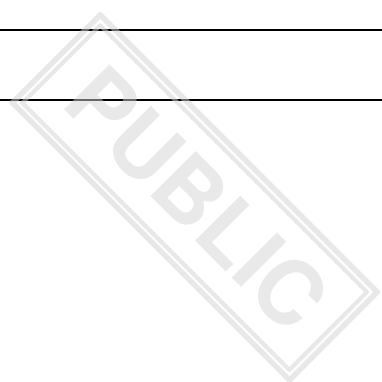
- 30 % for asylum;

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:

(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 ~~who fall into one of the following categories~~ **granted international protection or temporary protection according to the EU legislation.**

IT: (Comments):

Refugee status and subsidiary protection are unified under the concept of international protection. There is no reason to split this figure in three parts.

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

IT: (Drafting):

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

– Any third-country national or stateless person enjoying a form of subsidiary protection with the meaning of recast Directive 2011/95/EU³⁰;

IT: (Drafting):

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

– Any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC³¹

³⁰ 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).

³¹ 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

ES: (Drafting):

- *Any third-country national or stateless person enjoying temporary protection, **in particular** within the meaning of Directive 2001/55/EC*

ES: (Comments):

The Kingdom of Spain proposes an alternative drafting to increase the scope of the criteria.

IT: (Drafting):

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

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

HR: (Comments):

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 actually been granted.

IT: (Drafting):

(b) ~~60~~ 40 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection.

IT: (Comments):

A reduction is proposed in order to add a new criterion based on statistics regarding the implementation of Dublin Regulation.

PT: (Drafting):

(b) **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):

(c) **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.

IT: (Comments):

This criterion is consistent with European obligations which have an impact on asylum procedures and reception. Moreover, it corresponds to a burden which is faced by only some frontline MS and which is accordingly to be taken into consideration in order to support them.

Rif. Eurostat: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_dubti&lang=en

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

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

EL: (Drafting):

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

EL: (Comments):

Due to the fact that it is quite important (for both **substantive and symbolic reasons**) to give equal weight to the integration of both migrants with a long period of legal residence in each Member State and newcomers / applicants and beneficiaries of international protection, we propose that the distribution/allocation percentages should change, so as to provide "equal treatment" to both "categories" of migrants (50% to each "category").

PT: (Drafting):

(a) **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.

EL: (Drafting):

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

EL: (Comments):

Due to the fact that it is quite important (for both **substantive and symbolic reasons**) to give equal weight to the integration of both migrants with a long period of legal residence in each Member State and newcomers / applicants and beneficiaries of international protection, we propose that the distribution/allocation percentages should change, so as to provide "equal treatment" to both "categories" of migrants (50% to each "category").

PT: (Drafting):

(b) **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;

– Third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC³² or when applicable the Directive (EU) 2016/801³³;

³² 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).

³³ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21–57).

– Third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC³⁴ 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:

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;

IT: (Drafting):

(a) ~~50~~ 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;

IT: (Comments):

³⁴ Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15–22).

The percentages in (a) and (b) have been reshaped, in consideration of the impact of the activities (prevention activities, monitoring and control of the territory, apprehension, identification and detention of irregulars, law enforcement) concerning the whole number of irregular migrants which is larger than that of effectively returned migrants.

PT: (Drafting):

(a) **40%** 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;

(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) ~~50~~ **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.

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.¹

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 <i>acquis</i> 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;
(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):
<i>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.</i>
ES: (Comments):
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.

AT: (Comments):

AT welcomes the changes.

ES: (Comments):

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

HR: (Comments):

It was suggested, in principle, 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 the 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.

IT: (Comments):

The proposed addition is intended to make a connection with ESF +, the reference to which has been deleted.

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):

*strengthening **the external dimension** through cooperation with third countries and their capacities to implement readmission agreements and other arrangements, and enable sustainable return.*

ES: (Comments):

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:

(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 is fine with the changes.

BG: (Comments):

We support the modification of this provision.

EE: (Drafting):

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

EE: (Comments):

EE welcomes the addition of the reference to IT systems in Annex III and VII. However, as the term „ICT“ covers wider range of needs and has also 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~~:

(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 is fine with 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 *applicants for or* beneficiaries of international protection;

AT: (Comments):

AT is fine with the changes.

CZ: (Drafting):

delete

CZ: (Comments):

CZ suggest to delete or redraft the text as there is a direct reference to a new Dublin regulation (art. 17)

DE: (Comments):

We support this modification.

ES: (Comments):

Spain upholds a scrutiny reservation pending negotiations on CEAS.

FR: (Comments):

We support this modification

HU: (Comments):

We have a scrutiny reservation on the mentioning of the transfer of applicants. This might be related to the Dublin Regulation which is the part of the package approach.

PL: (Drafting):

transfers of **applicants for or** beneficiaries of international protection;

PL: (Comments):

Scrutiny reservations due to the ongoing discussions on the Dublin Regulation. There is still no consensus on including beneficiaries of international protection into the scope of the Dublin IV Regulation.

PT: (Comments):

Portugal supports the new wording.

(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**:

(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 ³⁵ ;
(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,</i>

³⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, (OJ L 251, 03/10/2003 p. 12 – 18.).

health care, etc;

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.

IT: (Drafting):

(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, ***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;*** including preparatory actions to facilitate access to the labour market;

IT: (Comments):

The proposed addition is necessary to underline synergies with ESF+.

(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 :
(a) infrastructure for reception or detention, including the possible joint use of such facilities by more than one Member State; EL: (Drafting): (a)infrastructure and renovation for reception or detention;improvement of services and conditions into reception or detention infrastructure , by providing, inter alia, medical care, legal aid, psychosocial support, food and cleaning services guardianship EL: (Comments): (a) In some M-S there are many pre-removal centres with big capacity which have the need of being renovated at least once per three years or even sooner, in order to sustain the living conditions for irregular returnees (detainees). In addition, there are many services which have to be provided to irregular migrants. <u>For this reason we propose to add the phrase “ and renovation” due to the fact that the renovation has also an added value to the return sub-program by keeping facilities sustainable, after heavy usage.</u> The joint use of such a type of facilities (pre-removal centres) is not appropriate due to safe reasons. The guardianship, functional issues of pre-removal

centres is in the jurisdiction of national authorities (In Greece Hellenic Police is in charge of them).

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;

IT: (Comments):

Renovation of existing facilities is an important item to be also considered when considering the reception capacity as a whole.

(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/EC³⁶;

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

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).

apart from the State Public Administration in charge of this task. Furthermore the Article 8(6) of Directive 2008/115/EC³⁷ states “ an effective systems for monitoring forced return” and does not introduce the word “independent” Furthermore the Article 8(6) of Directive 2008/115/EC³⁸ states “ an effective systems for monitoring forced retn” 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/EC³⁹;

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 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 employers 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

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 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).

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).

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/EC⁴⁰;

FR: (Comments):

Courtesy translation

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;

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

⁴⁰ 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).

and start-up support for economic activities;

AT: (Comments):

AT is fine with the changes.

(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)

ES: (Comments):

Spain supports the French proposal related to Annex IV to promote national actions. In addition, Spain also supports the Portuguese proposal to include projects that aim developing national asylum capacity.

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 group, in line with al. b), n. 2, of the Annex, with the following wording:

“Supporting the capacity of Member States’ asylum systems as regards to infrastructure and services where necessary”.

PT: (Drafting):

– Supporting the capacity of Member States’ asylum systems as regards to infrastructure and services where necessary;

– Integration measures implemented by local and regional authorities and 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** for 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**;

FR: (Comments):

Nous renouvelons notre demande visant à élargir les mesures d'accompagnement aux bénéficiaires d'une protection internationale et celles tendant à assurer une prise en charge psychologique ou physique.

We would like to widen the scope to measures aiming as well beneficiaries of the international protection and psychological or health support

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

AT: (Comments):

AT welcomes the addition.

ES: (Comments):

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

ANNEX V

Core performance indicators referred to in Article 28(1)

AT: (Comments):

AT is generally fine with the changes made, after the explanations during the WP. Nevertheless AT would propose to add the data sources again. It makes the content of this ANNEX more comprehensible although it does not directly apply to the MS.

DE: (Comments):

We support the modifications in this annex.

PT: (Comments):

According to the information provided during the last meeting (12nd of April), this Annex concerns exclusively reporting responsibilities of the Commission to the EP. Consequently, there will be no administrative burden to Member-States.

Nevertheless, it is important to make progress on the clarity of some indicators.

Portugal suggests the reintegration of “Data source” information.

Considering that many indicators in Annex VIII will have to be reported by gender, Portugal questions whether this criteria won’t apply to this annex.

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

ES: (Comments):

Spain presents a scrutiny reservation due to the fact that the Specific objective cannot only refer to resettlement, infrastructure capacity and convergence of protection recognition.

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

LU: (Drafting):

1. Number of persons resettled **and relocated** ~~with the support of the Fund.~~

LU: (Comments):

LU suggests to add “and relocated” because the relocation is an important task for Luxembourg in which we put many efforts. Therefore, we would appreciate this addition.

Data source: Member States

2. *Additional capacity of infrastructures supporting migrants and refugees* ~~Number of persons in the reception system as compared to the number of asylum applicants.~~

ES: (Comments):

Spain upholds a scrutiny reservation.

FR: (Comments):

Nous souhaitons obtenir des précisions sur cette proposition d’indicateur, et notamment sur la base à partir de laquelle ces capacités additionnelles seraient comptabilisées.

We would like to have more precisions on this indicator, notably the basis from which these additional capacities will be calculated.

PT: (Comments):

Portugal would like to see the meaning of “Additional capacity” clarified.

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.

CZ: (Drafting):

Convergence of protection recognition rates for asylum seekers from the same country *based on the comparison of the outcomes of the meritorious decisions only*.

CZ: (Comments):

CZ is of the opinion that the number has to be compared with other figures.

ES: (Drafting):

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

ES: (Comments):

Spain upholds a scrutiny reservation and asks the Presidency/Commission to propose an alternative drafting avoiding the inclusion of “recognition rates”.

FR: (Comments):

Nous souhaiterions avoir confirmation de la source d'information pour ce critère : s'agira-t-il des données Eurostat ou les EM seront-ils chargés de les fournir ? Par ailleurs, s'agissant de l'objectif de cette information, est-ce qu'un rapport sur un instrument financier est le medium adéquat ?

We would like to know if the data source of this criterion will remain the EUROSTAT data, or if MS' will be required to give the input information. Regarding the objective of this information, is a report on a financial instrument the adequate medium?

LU: (Comments):

LU maintains its objection

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 participants ~~persons~~ who reported, after the end of the support, that the activity was perceived helpful for their integration ~~participated in pre-departure measures supported by the Fund.~~

ES: (Comments):

Spain would prefer to substitute this indicator due to its subjectivity.

FR: (Drafting):

1. Number of participants who reported, after the end of the support, that the activity was perceived helpful for their integration ~~participated in pre-departure measures supported by the Fund.~~

FR: (Comments):

Nous proposons de limiter à un nombre de personne ayant bénéficié de la mesure, pour rendre cet indicateur plus objectif et alléger la charge administrative qui en découlerait.

We propose to only refer to the number of people having benefited of pre-departure measures, to alleviate the administrative burden and set a more objective indicator

HU: (Comments):

In our opinion, it still does not give an objective picture of the results and effectiveness of the projects implemented under the actions.

IT: (Drafting):

1. Number of participants persons who reported, after completion of each ~~the end of the support measure, that the activity was perceived helpful for their integration~~ participated in pre-departure measures supported by the Fund.

IT: (Comments):

The proposed amendment refers to final assessment made by participants in the context of a support measure (e.g.: language training). This wording enables to collect feedback at the end of every single intervention. Otherwise, as the “support” could comprise of a series of measures and last over a period of time, it may be difficult to find all participants and have a reaction.

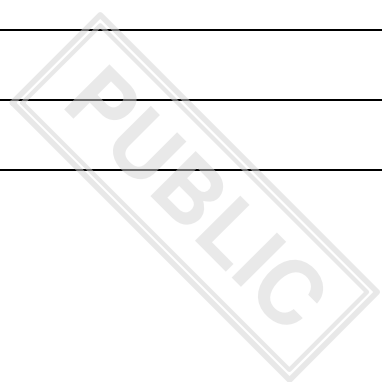
PT: (Comments):

Portugal has reservations about this indicator, given that it is based on perceptions. The method of collecting information.

SI: (Comments):

The proposed indicator will not show a clear picture, because not everyone will respond and the result will not reflect the actual situation. In addition, we do not agree with the deletion “suported by the Fund”.

<u>Data source: Member States</u>
2. Number of persons who participated in integration measures supported by the Fund reporting that the measures were beneficial for their early integration support 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:
1. Number of returns following an order to leave compared to the number of third-country nationals ordered to leave.
<u>Data source: Eurostat</u>
12. 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>Data source: Member States</u>



ANNEX VI

Types of intervention

AT: (Comments):

AT is fine with the changes.

ES: (Comments):

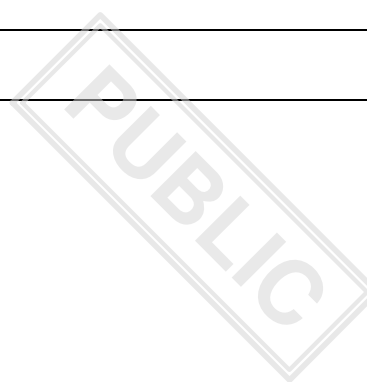
Spain upholds scrutiny reservation due to the complexiy of matching real intervention withs the proposed codes.

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 *[for humanitarian admissions]*

CZ: (Drafting):

Resettlement and other voluntary complementary pathways for admission of refugees

CZ: (Comments):

See above

007 Solidarity efforts between Member States

008	Operating support
009	<i>Vulnerable persons</i>
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
002	<i>Vulnerable persons/ UAMs especially</i> 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

IT: (Drafting):

005 Integration measures – civics and other training, **including preparatory actions to facilitate access to the labour market.**

IT: (Comments):

The proposed addition is necessary to underline the synergies with ESF+.

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

011 Operating support

FR: (Drafting):

012 Integration of beneficiaries of international protection

FR: (Comments):

Nous renouvelons cette demande pour préciser l'enjeu associé à l'intégration des réfugiés.

III. Return

001 Alternatives to detention

002 Reception/detention conditions

003 Return procedures

004 Assisted voluntary return

005 Reintegration assistance

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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	

001 <i>Actions as per Art. 12(1)</i>
002 <i>Specific actions</i>
003 <i>Actions listed in Annex IV</i>
004 <i>Operating support</i>
005 <i>Emergency assistance</i>
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.

ES: (Comments):

Spain supports the French proposal to include MS human costs and services.

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.

– staff costs;

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

EE: (Drafting):

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

EE: (Comments):

As the term „ICT“ covers wider range of needs and has also been used in ISF regulation, it should be synchronized between the funds.

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

PUBLIC

ANNEX VIII

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

AT: (Comments):

AT welcomes the changes.

ES: (Comments):

Spain upholds a scrutiny reservation

FR: (Comments):

*Courtesy translation**It does not seem relevant to subdivide the data provided by gender*

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):

Portugal supports the recommendation of the CZ in the last meeting (12nd of April) to include an explicit reference to the collection of personal data.

Portugal suggests that work on meta-information should start as soon as possible. This will be an important step forward in consolidating a common understanding on each indicator (concept and method of collection, analysis and reporting).

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

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;*

– 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”.

– of which number of vulnerable participants assisted;*

2. Number of participants in training activities;*

PT: (Comments):

Portugal requests clarification on the scope of “training activities”. Does it include only formal and certificated training? Or is it possible to include informal training, workshops, and other forms of information ...?

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.

4. Number of reception equipment purchased.

ES: (Comments):

Spain would like the Commission and/or the Presidency to explain what do we understand by “reception equipment”. Spain considers that the indicators should go beyond “reception equipment” due to the fact that CEAS covers others.

PT: (Comments):

Portugal requests clarification on the scope of “equipment”. Does it include only ICT? Or is it possible to include furniture, for instance?

Result indicators
1. Number of newly created places in reception infrastructure; PT: (Comments): Portugal requests clarification on the meaning of “places”.
– of which number of newly created places for unaccompanied minors;
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 2? Does it refer to the number of beds provided?
2. Number of renovated/ refurbished places in reception infrastructure; PT: (Comments): Portugal requests clarification on the meaning of “places”.
– of which number of renovated/ refurbished places for unaccompanied minors;

3. Number of applicants for and beneficiaries of international protection transferred from one Member State to another;*

ES: (Comments):

Spain presents a scrutiny reservation.

4. Number of persons resettled.*

~~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;~~

*

Broken down by gender.

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.
<i>Data source: Member States</i>
Specific objective 2: To support legal migration to the Member States <u>and including</u> to contribute to the integration of third-country nationals:
<i>Output indicators</i>

1. Number of participants in pre-departure measures;***2. Number of local and regional authorities supported to implement integration measures;**

ES: (Comments):

Spain upholds a scrutiny reservation

FR: (Drafting):

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

FR: (Comments):

Nous demandons à nouveau la suppression de cet indicateur, qui ne permet pas de prendre en compte les organisations administratives propres à chaque Etat Membre.

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

PT: (Comments):

Portugal suggests the inclusion of “national authorities”. In the Portuguese case, there are national authorities directly responsible for the implementation of public policies in this area.

Portugal also suggests the inclusion of “civil society organizations”.

* ***Broken down by gender.***

3. *Number of participants supported;*

FR: (Drafting):

3.2 *Number of participants supported by the Fund through integration measures;*

FR: (Comments):

Nous demandons à nouveau la modification de cet indicateur afin de prendre en compte toutes les mesures d'intégration.

We ask for the modification of this indicator in order to take into account all of the integration measures.

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

FR: (Drafting):

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

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

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.*

IT: (Comments):

Other kinds of measures should be also foreseen in order to reflect a possible wide range of implementable measures.

PT: (Comments):

Portugal requests clarification on the meaning of “orientation”. Does it mean “vocational guidance course”? Or does it included other type of orientation? If so, could you be more explicit?

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):

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

— number of persons assisted through measures focusing on education and training,

- number of persons in a language course

- number of persons who received preparatory actions to facilitate access to the labour market,

— number of persons supported through the provision of advice and assistance in the area of housing,

— number of persons assisted through the provision of health and psychological care

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

FR: (Drafting):

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

FR: (Comments):

Horizontal measures should also be assessed.***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 *.***

CZ: (Drafting):

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.

CZ: (Comments):

The indicator is not sufficiently defined and therefore it is not clear how the progress would be monitored. CZ can not support mandatory language tests corresponding to the Common European Framework in this indicator. The Framework comprises four elements and the tests thus require extensive preparation. Moreover, the progress is noticeably faster in the first phases of the language curricula which might pose a negative motivation for both the attendees and the providers to pursue advanced language courses.

LU: (Comments):

This approach would entail two exams, one in the beginning and one at the end of the language course, in order to determine the improvement made by the participants. An important amount of time and resources would need to be accessed in order to organise these exams properly and therefore not be available in order to organise the language classes.

LU suggests that this indicator is modified or deleted.

PL: (Comments):

It should be explained whether it is expected that beneficiaries who provide language courses in a MS ought to have standardized and comparable methods of assessing the proficiency level together with rights to issue a proficiency level acknowledgement. This would limit the number of beneficiaries providing language courses.

2. Number of participants who reported, after the end of the support, that the activity was perceived helpful for their integration*

BE: (Drafting):

During the last WP on 12th April, the Czech delegation suggested to introduce a reference to the GDPR regulation. We support this.

BE: (Comments):

The beneficiaries of the project and the management authority need a legal base to collect and process personal data.

CZ: (Comments):

CZ can accept this new wording of this indicator. However for correct implementation it must be clarified who is considered “a participant”.

DE: (Comments):

We think that the administrative burden for the collection of data for the use of this indicator is still relatively high, but in contrast to the previous

versions we can support this new version.

ES: (Comments):

Spain would prefer to substitute this indicator due to its subjectivity.

HU: (Comments):

We maintain our reservation on this indicator.

IT: (Drafting):

2. Number of participants who reported, after the end of the completion of each support measure, that the activity was perceived helpful for their integration*

IT: (Comments):

The proposed amendment refers to final assessment made by participants in the context of a support measure (e.g.: language training). This wording enables to collect feedback at the end of every single intervention. Otherwise, as the “support” could comprise of a series of measures and last over a period of time, it may be difficult to find all participants and have a reaction.

PT: (Comments):

Portugal suggests further reflection on this indicator, since it is based on perceptions.

The indicator refers to “the support”, but a participant may receive more than one support. Should we question the same person several times, for each type of support? If so, the focus is on the activity ... shouldn't it be on the person?

Integration is a complex and multidimensional process, that should be evaluated as so, not in small parcels.

Another issue concerns the timing of measurement. Let us think of an example: a vocational guidance course. Sometimes the impact of these activities doesn't occur immediately. Thus, they may be perceived as being of little use at the outset. But, after a few months, that course may have led to an entry in the labour market.

Integration measures take time, and the monitoring/evaluation of this kind of measures should consider this argument.

SE: (Comments):

Sweden very much welcomes the amendments made by the Presidency.

The indicator is still very subjective, but with the amended wording the surveys made in MS would at least 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.

FR: (Drafting):

~~**2. — Number of participants who reported, after the end of the support, that the activity was perceived helpful for their integration**~~

FR: (Comments):

Nous demandons la suppression de cet indicateur subjectif.

We ask for the suppression of this indicator which is a subjective indicator.

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, new version allows a questionnaire if

the activity was perceived helpful for their integration completed right after the end of an activity (e.g. language course), as participants disperse later on, but monitoring the indicators without concrete pre-determined methods to assess progress leaves room for subjective interpretation.

1. — Number of persons who participated in pre-departure measures supported by the Fund.
2. — Number of 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;
Data source: Member States

Specific objective 3: To contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries:
Output indicators
1. Number of participants in training activities;* PT: (Comments): Portugal requests clarification on the scope of “training activities”. Does it include only formal and certificated training? Or is it possible to include informal training, workshops, and other forms of information ...? 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; EE: (Drafting): 2. Number of equipment /<u>ICT</u> systems purchased; EE: (Comments): As the term „ICT“ covers wider range of needs and has also been used in ISF regulation, it should be synchronized between the funds.

* **Broken down by gender.**

PT: (Comments):

Portugal requests clarification on the scope of “equipment”. Portugal suggests harmonizing the wording of this indicator with the wording of indicator 4/specific objective 1.

3. Number of returnees who received reintegration assistance.*

IT: (Drafting):

3. Number of returnees who received ~~reintegration~~ return assistance.*

IT: (Comments):

Voluntary returns may be supported either by assistance measures only or by reintegration measures as well. Therefore the relevant indicators should take account of both possibilities, enabling to count both outputs.

IT: (Drafting):

4. Number of returnees who received reintegration measures.

Result indicators

FR: (Drafting):

4a. Number of returnees who received return assistance.

1. Number of places in detention centres created;

PT: (Comments): Portugal requests clarification on the meaning of “places”.
2. Number of places in detention centres refurbished/ renovated; PT: (Comments): Portugal requests clarification on the meaning of “places”.
SI: (Comments): The proposed indicators 1 and 2 will not clearly show Investment in infrastructure. Indicators refer only to "Beds ". For renovations and construction, however, we do not focus only on rooms where foreigners sleep, but also on the service and other facilities that are an integral part of our center (reception areas, offices, playgrounds, outpatient clinics, dining room ...)
3. Number of returnees voluntarily returned;*
4. Number of returnees who were removed;*
5. Number of returnees subject to alternatives to detention.* ES: (Comments): Spain upholds a scrutiny reservation. Spain would like the Commission and/or the Presidency to explain this indicator in detail.

* *Broken down by gender.*

<u>Data source for all indicators: Member States</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.
2. Number of persons trained on return-related topics with the assistance of the Fund.
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:
(a) persons who returned voluntarily;
(b) persons who were removed.
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>Data source: Member States</u>

CZ: (Comments):

CZ has further comment on indicators. 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 Commission should explain what analysis will she create based on these indicators and what for will they be collected. At the last meeting the COM claimed that the reason for having these indicators broken down by gender is the "gender sensitivity" of the activities. However there is no link between gender sensitivity of the activities and breaking down the indicators based on gender. The number of participants broken down by gender does not say anything about the fact if that activity provided was gender sensitive or not. More over to force people to clearly choose their gender into predefined categories can be for some extremely insensitive if they do not identify themselves with the proposed categories.

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.

ES: (Comments):

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

End