Council of the European Union
General Secretariat

Interinstitutional files:
2018/0250(COD)

Brussels, 28 August 2020

WK 8662/2020 INIT

LIMITE

JAI
FRONT
ENFOPOL
CT
CODEC

WORKING PAPER

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

WORKING DOCUMENT

From: To:	General Secretariat of the Council JHA Counsellors on Financial Instruments
N° prev. doc.:	WK 7870/2020
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund (ISF) – Compromise proposals - Comments from the delegations

Delegations will find attached a compilation of replies received from Member States on the abovementioned subject.

ANNEX

WRITTEN COMMENTS SUBMITTED BY THE MEMBER STATES

Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund (ISF) – Compromise proposals

WK 7870/2020

Table of contents

AUSTRIA

Line 13 (recital 5):
EP-Proposal can be accepted

Line 364, 20+45 (Annex II, recitals 10a + 31):
in line 45 the added words by EP "such as antisemitism, antiziganism and other forms of racism" can be accepted provided that EP drops the AM in line 20 and accepts COM-compromise text in line 364.

Comment regarding EP AM 23 linked to intelligence services:
AT position did not change – AT will not agree to EP-AM 23.

Line 101 (Article 3.2 (a)):
AT can accept EP´s addition of the word "judicial" provided that EP will drop "in particular Europol and Eurojust".

Line 208:
AT can agree adding eu-LISA and EBCGA in line 208.

Line 233 (Art. 15.4):
AT can agree EP´s adding "as applicable".

Line 364 (Annex II):
latest COM-proposal is a good compromise and AT welcomes EP`s acceptance.

Line 376 (Annex III):
AT remains positive towards COM compromise text "malicious use of unmanned aerial systems".

Line 388 (Annex IV):
AT can agree with EP-AM 133 adding the words "insofar as provided for by Union or Member State law".
AT will not agree with COM amendment 03.06.20: "….. interoperability of EU information systems and communication networks".

CROATIA

Croatia can support/be flexible for all the lines (13, 364, 20+45, 101, 208, 233, 376 and 388) and it doesn't have any additional comments on this compromise drafting.

ESTONIA

Line13 (recital 5): - whether the Member States could accept the EP proposal?

As this is not an exhaustive but an indicative list, EE does not oppose to highlighting a few more subjects as long as these do not create any obligations or limitations to the MS-s.

Lines 364, 20+45 (Annex II, recitals 10a + 31)), whether the Member States could accept adding the words “such as antisemitism, antiziganism and other forms of racism” in line 45, in which case the EP would drop its amendment in line 20 and accept the Commission compromise text in line 364 (which the Member States have accepted in a previous consultation)?

EE can support the addition in the recitals as long as these do not create any obligations or limitations to the MS-s.

EE strongly opposes adding the specific objective concerning the cooperation between intelligence services. We have presented our argumentation on this subject earlier and will do this again when the articles and recitals concerning this amendment are being discussed with the EP.

Line 208 (Article 12.2): whether the Member States would consider adding some agencies to be consulted, it the EP would agree to drop a number of them?

EE can support the proposed drafting. However it must be ensured that this consultation procedure does not hinder the process of approving the programmes. Only actually relevant agencies should be included.

Line 388 (Annex IV): whether Member States could accept adding the words "insofar as provided for by Union or Member State law"?

EE can support this proposal as long as the MS national components are also covered.

FRANCE

Ligne 13 – considérant (5)
Les autorités françaises soutiennent l'amendement du PE

Ligne 20 – considérant (10a) et ligne 45 – considérant (31) et ligne 364 – annexe II
Les autorités françaises soutiennent les amendements du PE

Ligne 101 – art 3.2(a)
Les autorités françaises soutiennent l'amendement du PE

Ligne 208 – art 12.2
Le principe devrait être de limiter la consultation des agences en raison de l'impact en charge de travail et financière.

Ligne 209 à 210 – art 12.2a et 12.3
Les autorités françaises attendent la proposition de compromis de la Commission

Ligne 233 - art 15.4
Les autorités françaises soutiennent l'amendement du PE

Ligne 376 – Annexe III
Les autorités françaises soutiennent le compromis de la Commission (malicious use of unammed aerial systems)…)

Ligne 388 – Annexe III
Les autorités françaises soutiennent l'amendement du PE du 30/04/2020 ; la proposition de la Commission afin de prendre en compte la dimension nationale des SI : il ne faut pas restreindre l'interopérabilité aux seuls systèmes d'information UE, au risque de ne pas pouvoir financer avec le FSI l'évolution des SI français interconnectés aux systèmes d'information UE.

FINLAND

Line 13: FI can accept the compromise proposal.

Line 20: FI can accept the compromise proposal.

Line 45: FI can accept the compromise proposal. Antisemitism etc. are maybe not in the core business of the ISF but as long as this does not represent exclusive list but is rather examples, FI can accept this for the sake of compromise. This comment is does not apply to the bracketed sections of the recital.

Line 101: FI can accept the compromise proposal.

Line 208: FI is hesitative on this. We should know which ones are to be dropped and which would stay. In the name of compromise some of them can probably be maintained provided that they are relevant to the scope of the Fund and that this does not slow down the programming procedure.

Line 233: FI can accept the compromise proposal.

Line 376: FI can accept the compromise proposal.

Line 388: FI can accept the compromise proposal.

GREECE

- Line13 (recital 5): -- whether the Member States could accept the EP proposal?

  Greek Comments:

  We agree with the additional scope of the objectives covered by the ISF, by adding the terms/ words "arms trafficking, money laundering, sexual exploitation, including of children, hybrid threats, as well as chemical, biological, radiological and nuclear threats".

- Lines 364, 20+45 (Annex II, recitals 10a + 31)), whether the Member States could accept adding the words "such as antisemitism, antiziganism and other forms of racism" in line 45, in which case the EP would drop its amendment in line 20 and accept the Commission compromise text in line 364 (which the Member States have accepted in a previous consultation)?.

  Greek Comments:

  We agree with the new amended recital 31. Actually, we accept the EP proposal to integrate the wording "anti-Semitism, antiziganism and other forms of racism" into recital 31.

- Line 101 (Article 3.2 (a)): whether the Member States could accept the addition of the word "judicial" (as in "judicial and other competent authorities") after the EP has agreed to drop "in particular Europol and Eurojust"?

  Greek Comments:

  We agree with the addition of the word "judicial" as some actions funded by ISF will have as scope to improve the exchange of information between institutional actors in Greece (law enforcement, audit and control bodies, Financial Intelligence Unit - FIUs, tax authorities, competition authorities, prosecution bodies) in order to facilitate the detection and investigation of complex corruption and economic crime cases.

- Line 208 (Article 12.2): whether the Member States would consider adding some agencies to be consulted, it the EP would agree to drop a number of them?

  Greek Comments:

  As there is a risk of delay in approving the national programmes, we propose to stick to minimum agencies included in the last proposal, such as EUROPOL, CEPOL and EMCDDA based on Commission's initiative. The M-S shall only inform (and not consult) these agencies about their national programme after the end of early consultation.

  Although all other additional agencies are partly related in some policy objective areas, all the early programming consultation process will be delayed.

- Line 233 (Article 15.4): whether Member States could agree to the addition of the words "as applicable" in the end of the paragraph, which is the only AM asked by the EP after it dropped the vulnerability and risk assessment by EBCGA?

  Greek Comments:

  EBCGA assessments have only limited relevance for Security, in order to engage them in the assessment of the baseline situation of each national programme. On the other hand, we accept the remaining words “as applicable” in the text.

- Line 376 (Annex III): whether the Member States could accept changing the wording in the Commission compromise text (accepted by Member States in a previous consultation) from "…unmanned aerial system…" to " malicious use of unmanned aerial systems"?

  Greek Comments:

  We support COM suggestion (Line 364 and 376).

- Line 388 (Annex IV): whether Member States could accept adding the words "insofar as provided for by Union or Member State law"?

  Greek Comments:

  We would like to reassure that the addition ‘insofar as…’covers also MS national components. In order to be clear we propose the following amendment(Line 388) :

  “Projects which aim at improving the interoperability of IT systems and communication networks, insofar as provided for by Union or Member State law, including the MS national components.”

HUNGARY

Line 13
Hungary can be flexible and accept the amendment as the new wording still serves to protect both the people and the financial interest of the EU.

Line 20, 45, 364
Hungary can be flexible and accept the amendment, the addendum (forms of radicalisation) is exemplifying.

Line 101
Hungary can be flexible and accept the EP amendment as it is in line with the concept of cooperation between the judicial and law enforcement sectors.

Line 208
Hungary does not see any practical reasons or the necessity to have a list of agencies stipulated in the text. We are of the opinion that an exhausting list cannot be produced anyway, and it would limit flexibility of the planning and implementation. Consequently, we either prefer the latest COM compromised version or a wording with the least bounding force, e.g. "relevant agencies".
Nevertheless, Hungary wishes to reiterate that the lengthy consultations may delay the planning and implementation and increase the administrative burden, thus the volume of such actions shall be limited.

Line 233
Hungary can be flexible and accept the amendment suggested by the EP.

Line 376
Hungary can be flexible and accept the wording suggested by COM, the addendum (malicious use of unmanned aerial systems) is exemplifying.

Line 388
Hungary does not fully comprehend what the cause of the amendment is: all ICT systems are operated based on either EU or national law (with the remark that national law often also derives from the EU acquis), thus the addendum is considered tautological. We do not oppose the new wording, but further clarification is kindly requested why it is deemed necessary.

ITALY

First of all, we consider the compromise solutions proposed by the document as a good basis for the negotiation with EP. Our aim is to see finalized a text of the Regulation as much closer as possible to the partial general approach adopted by the Council.

Some concerns on line 13: the reference to the internal market of the Union seems to exceed the scope of application of the Regulation, and we would prefer not to see mentioned by the text.

On line 45, a specific reference to antisemitism and antizingarism is proposed by EP in order to highlight some forms of racism. We wonder if it is necessary to mention some specific expression of racism, without mentioning all the other relevant forms. Maybe a more general reference to all forms of racism, stemming from religious or ethnics reasons could be sufficient for the purpose. However we are not against the wording proposed by the document if it can help the negotiation with EP.

Finally line 388: the proposal of the Commission indicated reference to "Projects which aim at improving the interoperability on IT systems and communication networks, insofar as provided for by the Union or Member State law". It's clear that the projects from MS are duly covered by this rule. The amendment proposed by the EP could be subject to some misunderstanding. For this reason, we would prefer to maintain the solution proposed by the Commission.