



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0248(COD)**

Brussels, 09 January 2020

WK 89/2020 INIT

LIMITE

**JAI
FRONT
ASIM
MIGR
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:	Presidency
To:	JHA Counsellors on Financial Instruments
N° Cion doc.:	10153/18 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund - four column table

With a view to the meeting of the JHA Counsellors of 13 January 2020, delegations will find enclosed an extract from the 4-column table of the abovementioned draft Regulation relevant to this meeting.

Please note that this updated version is only for discussion and has not yet been validated by the European Parliament.

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

Relevant provisions:

2018/0248 (COD)

	ST 10153/18 + ADD 1 (COM proposal – 471 final/ 471 FV 2)	A8-0106/2019 EP Position at the first reading adopted on 13/03/2019	ST 10148/19 Partial general approach (JHA Council on 7 June 2019)¹	
81.	(c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of 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;	(c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of 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;	(c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of <i>the Financial Regulation, pursuant to Article 2(6) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council²</i> , combining non-repayable forms of support or financial instruments from the Union budget with repayable forms of support from development or other public	Technical and horizontal EP: Since Regulation (EU, Euratom) 2018/1046 is already mentioned in the Recitals, here it should only be referred to as "Regulation (EU, Euratom) 2018/1046" without "of the European Parliament and of the Council" and the footnote. EP proposes: 'blending operation' means actions supported by the Union budget, including within blending facilities

¹ Text in square brackets [...] is not subject to the partial general approach

² ***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).***

			finance institutions, as well as from commercial finance institutions and investors;	pursuant to Article 2(6) of Regulation (EU, Euratom) 2018/1046
88a		<i>(ja) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult, including a minor who is left unaccompanied after he or she has entered the territory of the Member States. [Am. 67]</i>		Presidency comment: As a possible compromise, the Presidency proposes the inclusion of the definition of 'minor' and 'unaccompanied minors' from Directive 2013/32/EU: <i>"minor" means a third-country national or a stateless person below the age of 18 years;</i> and <i>‘unaccompanied minor’ means an unaccompanied minor as defined in Article 2(l) of Directive 2011/95/EU;</i> For information, below is the definition of 'unaccompanied minor' as defined in Article 2(l) of Directive 2011/95/EU: <i>‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care</i>

				of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States;
90.	<i>Article 3 Objectives of the Fund</i>	Article 3 Objectives of the Fund	<i>Article 3 Objectives of the Fund</i>	
91.	1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows in line with the relevant Union <i>acquis</i> and in compliance with the Union's commitments on fundamental rights.	1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows implementation, strengthening and development of all aspects of the common European asylum policy under Article 78 TFEU and of the common European immigration policy under Article 79 TFEU in line with the relevant Union acquis and in compliance with principle of solidarity and fair-sharing of responsibility, while fully respecting the Union's commitments on and the Member States' obligations under international law and the rights and principles enshrined in the Charter of Fundamental Rights of the European Union. [Am. 68]	1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows in line with the relevant Union <i>acquis</i> and in compliance with the Union's commitments on fundamental rights.	

96a		<i>Article 3a Partnership</i>		
96b		<i>For this Fund, partnerships shall include at least local and regional authorities or their representative associations, relevant international organisations, non-governmental organisations, in particular refugee and migrants organisations, national human rights institutions and equality bodies, and economic and social partners.</i>		Presidency comment: At the technical level, the EP suggested the following possible compromise proposal which delegations are invited to consider: <i>"For this Fund, partnerships shall, with application of Article 6(1)(c) of [the CPR], include at least local and regional authorities or their representative associations, relevant international and organisations, non-governmental organisations, in particular refugee and migrants organisations, national human rights institutions and equality bodies, and economic and social partners."</i>
96c		<i>These partners shall be involved in a meaningful way in the preparation, implementation, monitoring and evaluation of programmes. [Am. 73]</i>		Technical -> political See 96b

100a		<i>Article 4a Gender equality and non-discrimination</i>		
100b		<i>The Commission and the Member States shall ensure that gender equality and the integration of the gender perspective are an integral part of, and are promoted during, the various stages of the implementation of the Fund. The Commission and the Member States shall take all appropriate steps to prevent any discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age or sexual orientation in access to the Fund and during the various stages of the implementation of the Fund. [Am. 79]</i>		<i>Presidency comment: Refer to Line 91</i>
119.	<i>Article 7 General principles</i>	Article 7 General principles	<i>Article 7 General principles</i>	Horizontal

120.	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.	1. Support provided under this Regulation shall complement national, regional and local intervention, and shall focus on adding bringing Union added value to the objectives of this Regulation. [Am. 86]	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.	EP lawyer linguists observe that the correct terminology is 'Union added value', not 'EU added value'.
121.	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.	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 and coordinated with national instruments and measures funded under other Union funds, in particular the structural funds and external financing instruments of the Union. [Am. 87]	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.	Presidency comment: Since this is a horizontal issue, the Presidency proposes the harmonization of provisions. The Presidency therefore suggests reflecting the provisional agreement reached in principle in BMVI on line 145 which is identical to the proposal from the EC from this line. Likewise, this issue has been covered with the provisions of the CPR.
166.	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	2. The Commission shall ensure that the European Asylum Support Office, the European Fundamental Rights and the European Border and Coast Guard Agency are associated to	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	Presidency comment: The Presidency intends to propose the following text to the EP as a possible compromise: <i>"The Commission shall consult the European Border and Coast Guard</i>

	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 on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States.	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, <i>the European Union Agency for Fundamental Rights</i> and the European Asylum <i>Support Office</i> on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States. [Am. 105]	regards the areas of their competence. The Commission shall consult the European Border and Coast Guard Agency and the /European Union Agency for Asylum/ <i>as regards the areas of their competence</i> on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States. <i>The consultation shall be conducted in a timely manner without delaying the approval and implementation of the programmes.</i>	Agency and the [European Union Agency for Asylum] <i>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.</i> <i>The Commission shall in this framework, where relevant, also draw on the expertise of other Union agencies on specific issues falling within those agencies' competencies."</i>
167.	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	3. The Commission may associate the European <i>Asylum Support Office, the European Union Agency for Asylum and Fundamental Rights, the</i> European Border and Coast Guard Agency <i>and the UNHCR</i> 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	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 <i>acquis</i> and agreed Union priorities.	

	Union <i>acquis</i> and agreed Union priorities.	relevant Union <i>acquis</i> and agreed Union priorities. [Am. 106]		
168.	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, including any shortcomings or issues of capacity and preparedness, and shall implement the recommendations through its programme.	4. Further to a any 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 Asylum Support Office, the European Union Agency for Asylum Fundamental Rights 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. [Am. 107]	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.	Presidency comment: The Presidency intends to propose the following text to the EP as a possible compromise: <i>"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, how to address the findings and recommendations through its programme with the support of this Fund, where appropriate.</i> <i>The Commission may, where relevant, also draw on the expertise of other Union agencies on specific issues falling within those agencies' competencies."</i>

169.	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.	5. Where necessary, the programme in question shall be amended to take into account the recommendations referred to in paragraph 4 <i>and the progress in achieving the milestones and targets as assessed in the annual performance reports referred to in point (a) of Article 30(2).</i> Depending on the impact of the adjustment, the revised programme may be approved by the Commission. [Am. 108]	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.	
171a		<i>7a. National programmes may allow for the inclusion in the actions referred to in point 3a of Annex III of immediate relatives of persons covered by the target group referred to in that point, to the extent that it is necessary for the effective implementation of such actions.</i> [Am. 109]		