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LIMITE

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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund - ANNEX I - Updated delegations' comments on ANNEX I

Delegations will find attached a compilation of updated comments by delegations on Annex I to the proposal for a Regulation establishing the Asylum and Migration Fund (AMF).

New comments compared to those contained in the WK 2700/2019 INIT are highlighted in green.

**Updated delegations' comments on ANNEX I
to the Proposal for a Regulation of the European Parliament and of the Council establishing the AMF**

[ANNEX I]

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

MS replays to AT Presidency Questionnaire (WK 9427/18):

2. Do you think the crisis years of 2015-2016 should be considered as criteria for the distribution key? Are you in favor that 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? [ANNEX I]
3. Do you think the stated allocation process and the pre-financing at the beginning of the financial period and the years after that (**Art. 11 (a), [ANNEX I]**) will be adequate for a successful implementation of the fund?
4. Are you in favor that the global budget should be distributed among MS based on the following criteria: 30% for asylum, 30% for legal migration and integration and 40% for countering irregular migration including returns? ([ANNEX I], 1. (b))

BG:

In case as reference figures are used the 2017,2018 and 2019 what will be the timing for announcing the MS allocations so as to provide enough time for programming? It should be noted that Eurostat data for 2019 will be available not before early 2020.

We consider that in Annex I appropriate provisions have to be included for fair distribution of the financial resources and reflecting the situation in the

Member States. With reference to the proposed initial distribution of funds whereas reference figures shall be used 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 applicability of the AMF regulation we suggest the reference figures to cover the whole period 2014-2020 thus including the years with enhanced migration pressure to the EU external borders. In view of the dynamic situation in the EU with regard to the migration and asylum, in this way better reflection of the real situation in the EU MS will be achieved. The EU MS in particular those situated at the external EU borders have to maintain their capacity for reception and accommodation of persons seeking international protection as well as for timely return of the TCNs who do not qualify for international protection. It is important to ensure adequate support to those EU MS that could be exposed at new mass influx of migrant flows in view of the future prospects for possible enhancement of migration pressure. Thus efficient management of migration flows to the EU will be achieved.

The proposal for decreasing the pre-financing could have a negative effect on the national budget and cause a situation in which the beneficiaries would have to implement their projects and achieve results with decreased financial resource and/or under more restrictive rules.

We would ask whether the distribution of funds for national programmes at EU level 30 % for asylum/30 % for integration/40% for return will apply also for the distribution at the level of each national programme. If this distribution applies also to each national programme, we suggest the allocation for return to be increased.

Para 1 – We would ask whether the distribution of funds for national programmes at EU level 30 % for asylum/30 % for integration/40% for return will apply also for the distribution at the level of each national programme. If this distribution applies also to each national programme, we suggest the allocation for return to be increased.

Para 5 – We consider that the reference figures have to cover the whole period 2014-2020 thus including the years with enhanced migration pressure to the EU external borders. In this way the migration and asylum situation in the EU MS will be better reflected. It is important to ensure adequate support to those EU MS that could be exposed at new mass influx of migrant flows in view of the future prospects for possible enhancement of migration pressure.

CY:

Scrutiny reservation on the entire Annex.

CZ:

Neutral position, without the statistical data it is not possible to assess the position. The CZ supports the EC proposal. The statistical data should be the newest available. To consider for funding in years 2021-2027 data from 2015 seems unfortunate.

The CZ considers the prefinancing rate to low. This position will be expressed within the negotiations on CPR.

DE:

The distribution of funds between the Member States has to reflect the actual migration situation in the Member States, which is - of course - a result of the influx of previous years. Therefore, the allocation of funds to Member States should take account of the actual needs such as expressed by the number of asylum seekers that were received by a given Member State from 2015, the peak year of the migration crisis, onwards.

In terms of para 5 it needs to be clarified, which Eurostat-data exactly are to be used to calculate the distribution key. A sample calculation would be helpful.

Due to the unforeseen high number of migrants in the years 2015-2016, and due to the fact that many of them are still in the receiving Member States, the years 2015-2016 should be taken into account.

When calculating the distribution key, the years from 2015, the peak year of the migration crisis, onwards should be taken into account in order to accurately reflect the actual migration situation in the Member States.

The allocation process and the distribution key remains unclear; it needs to be clarified which Eurostat-data is going to be used. A sample calculation would be helpful.

The pre-financing must, however, be higher, at least 7% per year. Generally, in order to correctly reflect the migration related expenses in each Member State, the criteria for calculating the distribution key need to take into account how many migrants are actually living in the respective Member States.

Accordingly, with regard to the criteria in the area of asylum, especially ANNEX I, No. 2 letter b needs to be revised (60% in proportion to the number of third-country nationals or stateless persons who have applied for international protection). The application for international protection can only be a relevant criterion in case the applicant is still living in the respective Member State. The relevant criterion needs to be the place of actual residence.

Concerning criteria in the area of legal migration and integration, the actual expenses in the Member States need to be reflected. For this purpose, e.g.

the number of language courses should be taken into account.

With regard to the criteria in the area of countering irregular migration including returns, it is of high importance that persons, whose deportation has been suspended (“Geduldete”), are to be included in the calculation of the distribution key as these persons also receive assistance in the Member States.

DE revised:

Many of the actions supported by AMIF are long-term in nature. For example, the need for integration services for people who have come to DEU does not depend on annual figures, statistics or project durations. For this reason, DEU considers it necessary that the high inflow figures for third-country nationals in the years 2015ff. should also be taken into account appropriately in the distribution of funds - in addition to the current inflow figures.

The allocation process and the distribution key remains unclear; it needs to be clarified which Eurostat-data is going to be used. A sample calculation would be helpful.

Generally, in order to correctly reflect the migration related expenses in each Member State, the criteria for calculating the distribution key need to take into account how many migrants are actually living in the respective Member States.

Accordingly, with regard to the criteria in the area of asylum, especially ANNEX I, No. 2 letter b needs to be revised (60% in proportion to the number of third-country nationals or stateless persons who have applied for international protection). The application for international protection can only be a relevant criterion in case the applicant is still living in the respective Member State. The relevant criterion needs to be the **place of actual residence**.

Concerning criteria in the area of legal migration and integration, the actual expenses in the Member States need to be reflected. For this purpose, e.g. the number of people profiting from integration measures should be taken into account.

With regard to the criteria in the area of countering irregular migration including returns, it is of high importance that persons, whose deportation has been suspended, are to be included in the calculation of the distribution key as these persons also receive assistance in the Member States.

EE:

In general, we are not against that for initial allocation the reference figures shall be the latest annual statistical data produced by the Commission.

In general, we welcome the new regulation, also the proposed structure and distribution key of using the funding. However, we still need to make sure that the percentages and the statistics for allocations would not put Estonia in an unequal position compared to other MSs.

Annex I p(2) refers to the criteria in the area of asylum that will be taken into account and shall be weighted accordingly.

In point 2(c) the term „resettled“ should be replaced with the term „admitted“. It could be difficult to differentiate the percentages as in Estonia all resettled persons will be granted the status defined by the Geneva Convention or subsidiary protection. Could you please explain why the persons being resettled are considered separately from the total number of persons granted international protection.

Annex I p(3)(b) - The criteria for the allocation concerning the 60% in proportion to the number of third-country national who have obtained a first residence permit is problematic. Estonia is among the MSs who is issuing the smallest number of first residence permits while the number of third-country nationals staying legally in the country is quite remarkable.

For the majority of third-country nationals, who have stayed and worked in a country less than a year, has been issued a visa and not a residence permit (which is a base for allocation criteria). Therefore, we are in favor of the exclusion which does not count among the first residence permits those permits that have been issued for the aim of working and are valid less than a year. In this way, the statistical figures of other MSs would be more equal with the numbers of Estonia, especially of those countries where the number of residence permits with the validity less than a year is remarkable.

Annex I p(3)(c) – We would like to clarify why the calculations exclude the persons arrived under the Mobility and Researchers Directive.

EL:

We agree with the view that the crisis years of 2015-2016 should be considered as criteria for the distribution key. (according to Greek Asylum Service)
We maintain scrutiny reservation on the proposed allocation process and the pre-financing at the beginning of the financial period and the years after that. (according to Greek Asylum Service)

Firstly, the percentages have to be different per MS and they have to be flexible meeting the specific needs of each MS. Secondly, we agree with the percentages in case of not having the above mentioned alternative. (according to European and Development Programs Division - Ministry of Interior)

Considering the high pressure the EU Member States are facing, though stabilized, persists, in our view funding for asylum should reach at least 40% of the overall funding. 35% of the funding could be used for legal migration and integration and another 35% could be used for countering irregular migration including returns. (according to Greek Asylum Service)

ES

Spain considers that migration is a dynamic phenomenon which experiences great changes throughout the years. Therefore, we do not uphold that the crisis years of 2015-2016 shall be considered as criteria for the distribution key since they do not reflect an updated picture of the migration flows. As a consequence, Spain is in favour that 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.

Spain considers that the proposed budget allocation envisaged in article 8 hampers the ability of Member States to tackle migration challenges. The 60%-40% distribution among Member States and the Commission could deprive Member States of vital resources to develop far-reaching National Programmes that address troubling issues within migration. Thus, an increase in 70% of budget allocations to National Programmes may allow Member States to plan long-term and holistic strategies.

Bearing in mind that there are not available data yet for the preceding three calendar years of the new AMF, Spain nonetheless considers that these criteria would be biased and proposes instead to establish the following criteria: 30% for asylum, 40% for legal migration and integration and 30% for countering irregular migration including returns.

FI:

The inclusion of resettled persons as an allocation criterion is welcomed as the resettlement efforts directly reflect the solidarity towards the most vulnerable persons and even other MS by reducing incentives for irregular migration. The weight of this criterion could be even higher than the proposed 10% of the asylum criteria (thus 3% of the total).

The criterion for resettlement includes i.a. a note "-- are being resettled". How this is to be verified on the basis of the statistical data produced by Eurostat if the actual resettlement has not taken place yet?

We feel that the figures of the 2015-2016 crisis should be taken into account *in some way*. For a small country like Finland, the proportionate changes were enormous and posed a severe challenge for our reception capacity. In terms of preparedness and capacity building, we inevitably need to acknowledge also the major trends of the past influx of migrants.

We would support a higher pre-financing rate.

It is welcomed that resettlement is taken into account as separate criterion under the asylum criteria. This is also in line with the common solidarity efforts and benefits especially those Member States who have participated in the resettlement programme.

HR:

The proposed criteria are not adequate; for ex. initiating the procedure for granting international protection represents equal costs and administrative burden for MS regardless of whether the procedure resulted in granting of international protection or not. Therefore, we believe that the number applications made should be given more importance than the number of those granted.

As already stated in the above comment to Annex I, we believe that the proposed criteria are not adequate: for ex. initiating the procedure for granting international protection represents equal costs and administrative burden for MS regardless of whether the procedure resulted in granting of international protection or not. Therefore, we believe that the number applications made should be given more importance than the number of those granted.

Croatia advocates a fair distribution of the financial resources reflecting the real needs and the specific situation in each Member State. Concerning the proposed initial distribution of funds, we believe that the reference figures should cover the entire period of the current MFF (2014-2020) in order to take into account the years with enhanced migratory pressure at the EU external border.

The allocation of funds to Member States should also take into account the number of received applications for asylum and not only the number of persons who have been granted international protection because the initiating of the procedure for granting international protection represents a financial and administrative burden for MS regardless of whether the procedure resulted in granting international protection or not. Therefore, we believe that more importance should be given to the number of submitted applications than to the number of those which resulted in granting international protection.

Regarding the pre-financing, Croatia shares the view of those MS asking for a higher amount and proposes to increase the fixed amount in point 1(a) from €5 million to €15 million EUR for each MS to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%).

Participation in resettlement efforts should be taken as an allocation criterion since it represents a clear act of European solidarity and a legal way to provide protection to the most vulnerable persons.

For a more detailed position, Croatia would highly appreciate preliminary calculations of national envelopes, as they will most certainly also influence

the national programming

HU:

We consider that the period of 3 years is rather narrow, and statistical data can be distorted in several cases due to a dynamic change in the field of migration. The data of the last five-year or of the full period 2014-2020 should be taken into account (Art.11.)

We consider that process of the distribution of the allocation among Member States is extremely complicated; furthermore the pre-financing is not appropriate, and unduly obstructs the implementation of the complex projects.

We consider that the planned distribution is extremely divergent. We agree with the 40% for countering irregular migration including return.

LV: (Comments):

Latvia does not support the distribution key specified in Annex I of the proposal for regulation establishing Border management and visa instrument. We believe that the distribution key is unfair to countries with large external land and sea borders and a low threat factor. Namely, a coefficient of 0.5, which is 10 and 16 times smaller than the coefficient for a border with a high and critical risk, is applied for the borders with a low threat. Even for a medium-threat border, the coefficient is 6 times smaller. At the same time, the needs and requirements for the protection of the external borders in places with low risks are not 10 or 16 times smaller. In order to ensure the fairness and proportionality of the distribution key, Latvia considers it necessary to set the coefficient for low threat borders at a limit of not less than 1.

MT:

Malta welcomes the provision to have a fixed allocation for each Member State. However, in spite of the fact that the budget for this fund increased significantly, the proposed fixed amount remained the same. 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 in line with the increase in the total initial allocation i.e. to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%). Increasing the fixed amount ensures an adequate critical mass, also in view of the uncertainty involved till 2020/2021 regarding the initial national allocation.

With reference to sub paragraph 5, Malta supports the Commission proposal to use the preceding three calendar years for the purpose of the calculation as they would provide a more updated picture of the actual needs for each Member State. Consequently, Malta does not agree to include the years 2015-2016 as criteria for the distribution key.

Furthermore, we are not convinced about the Commission's proposal for lower pre-financing rates as these will put further unnecessary pressures on the implementation of the programmes.

Whilst the distribution key will require further assessment, we believe that the reference period of the distribution key is also an important component to be considered. As stated above, Malta would prefer to retain the Commission proposal of using the preceding three calendar years as they would provide a more updated picture of the actual needs for each member state. In addition, particular attention should be given to Member States facing high disproportionate migration challenges and to Member States which have a very high population density.

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With reference to sub paragraph 5, Malta supports the Commission proposal to use the preceding three calendar years for the purpose of the calculation as they would provide a more updated picture of the actual needs for each Member State. Consequently, Malta does not agree to include the years 2015-2016 as criteria for the distribution key.

Furthermore, we are not convinced about the Commission's proposal for lower pre-financing rates as these will put further unnecessary pressures on the implementation of the programmes.

NL:

Additionally, as the EC proposes that initial allocation shall be based on the latest statistical data covering the preceding three calendar years, the Netherlands is concerned about being informed only relatively late about the allocations to be received. The Netherlands requests earlier, preliminary calculations as these may influence both positioning as well as planning for national programming.

The Netherlands believes that in terms of preparedness and capacity building, we need to acknowledge also the major trends of the past influx of migrants.

As the EC proposes that initial allocation shall be based on the latest statistical data covering the preceding three calendar years, the Netherlands is concerned about being informed only last-minute about the allocations to be received. The Netherlands requests earlier, preliminary calculations as these may influence both positioning as well as planning for national programming.

The Netherlands welcomes such as distribution as it may stimulate the efforts of MS. However, the Netherlands asks if the EC could elaborate on these criteria. What is the exact division of percentages based on? In the aftermath of the high inflow from recent years, current challenges for Member States may lie mostly in the area of integration. As the overall migration flows are shrinking, could the EC consider to put additional emphasis on integration, if data would show that member states (are required to) spend most in this field?

PL:

Do the fixed percentages regarding the allocation also need to be applied by the Member States in the distribution of money to the specific objectives? If yes, Poland suggest some flexibility within the 30/30/40 rates depending on each Member State's needs.

Do we understand correctly, that par 3 (c) first dash excludes third country national entering the MS territory with a country visa (reason for travel – work)? But if the person receives a second visa of this kind they are included in the calculation. In PL migration flows are often circular. These migrants should be subject to integration measures as well, therefore be included in the calculation of the allocation.

No, the crisis years of 2015-2016 should not be considered as criteria for the distribution key because those years do not reflect the current migratory situation in the Member States.

PT:

The criteria that has been found assumes a rather complex nature, which may be clearly disadvantageous for Member States such as Portugal. A Member State that has correctly managed its migratory fluxes, and at the same time contributed to the Common European Asylum Policy, be receiving a high number of resettled and relocated persons, is certainly not favored by the criteria included in the proposal set out in Annex I of this Regulation.

In line with the same view, the proposed criteria, by focusing on absolute numbers of Third Country Nationals to be integrated in the Member States of the EU, does not allow for a clear priority to be attributed to the quality and positive results deriving from these integration efforts.

Furthermore, and without prejudice to the need for further discussion and analysis of the criteria proposed, Portugal has substantial reservations on the partition that has been proposed, according to which the financial allocation should be distributed accounting for an overall of 40% based on the efforts of countering irregular migration, including returns. The effort put, on the Common European Asylum System, by the significant amount of asylum requests and refugees, should determine a partition, one that would probably favor asylum and integration, in a farer manner once compared to return.

Simultaneously, Portugal considers important that the data to be taken into account for the application of the proposed distribution key should bear account also of the most critical years, in terms of asylum requests and mixed migratory flows, aiming at the European territory, notably the years of 2016 and 2017.

Portugal stresses, once again, the importance of the European Commission to share with the Member States the preliminary, and provisional, provisions of the financial allocations resulting from the application of the current formula.

A last remark to underline that all statistical data, irregardless of its origin, should be subject to prior consultation and confirmation with the concerned Member State.

As Portugal has stated in various occasions, although we can welcome the new possibility for the submission of up to 4 intermediate payment requests per year, if the levels of prefinancing, currently stated in the proposals, are to be maintain, they will constitute a clear impediment to the proper financial consumption of the Fund. One has to bear in mind that, in the context of the current programing period, the annual prefinancing level is up to 5% of the overall budget. The proposal for the new programing period foresees a decrease from 5% to 0.5%, which will have an enormous impact in the selection of proposals by the management authorities, notwithstanding the impact in the real implementation capacity of the beneficiaries. If the current proposal is to move forward, it seems rather clear that most of the Member State will start the implementation period with a very low / limited of calls to be opened, as they will not be able to pay for the prefinancing of the projects, and will inevitably concentrate the concretion of the projects to a timing when they will start benefiting from the payment requests of the projects, something that will clearly lower the level and speed of the implementation of the Fund.

Without prejudice to the need for further discussion and analysis of the criteria proposed, Portugal has substantial reservations on the partition that has been proposed, according to which the financial allocation should be distributed accounting for an overall of 40% based on the efforts of countering irregular migration, including returns. The effort put, on the Common European Asylum System, by the significant amount of asylum requests and refugees, should determine another partition, one that would probably favor asylum and integration, in a farer manner once compared to return. As a last resource, Portugal could possibly support a balance approach, according to which the partition would be of 33% per each of the three major

objectives / policy areas.

PT: (Comments):

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

RO:

We consider that point 5 from this Annex can be restricted for some Member States and we believe that can be useful to assure a flexibility degree for the reference periods, according with the operative situation from every Member State.

We consider that the crisis period 2015-2016 should not be taken into consideration for the distribution of the budget for many reasons: the asylum seekers has been registered in more than one Member States until their final destination, the assistance given by some Member States to that moment was reduced to only one day, the Member States confronted back then with a crisis situation are confronting now with a low number of asylum requests (for some Member States is a reduced percentage with 60-70%) and other Member States, such as Romania, has been confronting with difficult situation right after the crisis period, respectively in the period 2017-2018. We support the initial proposal of the COM regarding the reference period, according with point 5 from Annex I.

We consider that the low pre-financing can cause problems during the implementation process and be a budgetary burden for the state budget.

We support the distribution in these percentages only for legal migration/integration (30%) considering that some activities/actions can be financed from ESF – with the condition of a clear definition of the tasks/actions. We consider that the percentage for asylum should be increased to 40% taking into consideration the operative situation registered to EU and national level and the new assistance requirements from CEAS which is in negotiation process, and also the importance of the resettlement and voluntary admission process in the future.

SK:

point 2,3 and 4 of Annex I: we suggest to take into account the number of inhabitants of member states in the distribution key.

We prefer to use the data from 2017 - 2019 as criteria for the distribution key. We do not agree with the cancellation of the initial pre-financing payment since leaving only an annual advance payment from the EC at a reduced rate of 0.5% of the total amount of aid combined with reimbursement of interim payments only up to 90% increases the risk of illiquidity of the MS and at the same time does not help to meet commitment of the year 2021.

SI:

Reservation: YES

We believe that it would be necessary to increase the funds intended for national envelopes. We also believe that the criteria should take into account the period of migrant crisis 2015-2016. 1 (b) we would like to point out that transfer of funds is possible without significant administrative barriers between these three measures - if necessary, of course.

SE:

Scrutiny reservation.

SE comment: The total expenditure level of the AMF and other financial aspects shall be discussed in the Council's MFF Working Group and not in the Ad hoc WG. The central MFF negotiations must not be preempted.

The annex would benefit from an indicative table showing how the allocation of funding would be broken down between the Member States using the period 2014-2017 as an example.

Sweden has a scrutiny reservation on article 11 and annex I given that the total expenditure level of the AMF and other financial aspects shall be discussed in the Council's MFF Working Group and not in the Ad hoc WG. The central MFF negotiations must not be preempted.

GENERAL COMMENTS on ANNEX I

[ANNEX I]¹

[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 25². An increased initial allocation would facilitate the implementation and would also compensate the low pre-financing.

BG:

We confirm our position and comments concerning the Criteria for allocation set in Annex I to the AMF and BMVI proposals. We maintain our position that in view of the initial allocation of funds as reference figures have to be taken the years 2014-2020.

BG: (Comments):

We support the inclusion of footnote 25².

¹ *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.*

² *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.*
Footnote 25 - See doc. 8291/19

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.

CY:

Cyprus agrees with the suggestion that flexibility between the percentages of asylum and returns should be available depending on the situation of migratory pressures, the progress of returns and the need for asylum.

DE: (Comments):

In brackets. Negotiations will take place in the horizontal working group.

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):

Scrutiny reservation.

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 call for deleting the brackets concerning the amounts. Since the negotiations regarding the sectorial funds are more advanced, than the negotiations regarding the Negotiation boxes, we propose to start the negotiations on the specific amounts.

We welcome footnote 25.²

LV: (Comments):

Latvia does not support the distribution key specified in Annex I of the proposal for regulation establishing Border management and visa instrument. We believe that the distribution key is unfair to countries with large external land and sea borders and a low threat factor. Namely, a coefficient of 0.5, which is 10 and 16 times smaller than the coefficient for a border with a high and critical risk, is applied for the borders with a low threat. Even for a medium-threat border, the coefficient is 6 times smaller. At the same time, the needs and requirements for the protection of the external borders in places with low risks are not 10 or 16 times smaller. In order to ensure the fairness and proportionality of the distribution key, Latvia considers it necessary to set the coefficient for low threat borders at a limit of not less than 1.

PT: (Comments):

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

PT: (Comments):

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

Portugal welcomes footnote 25.²

RO:

For AMF, RO can in general support the Allocation criteria (Annex I) as proposed by the Commission, RO does not have any additional comments.

SI:

Republic of Slovenia would like to inform you that we insist on our already expressed positions regarding AMF and BMVI, which are already included in the text of the compilations.

SE:

Sweden supports the proposal by the EC as regards the allocation to the national programmes and the thematic facility respectively (60% – 40%).

General comment:

Sweden has a scrutiny reservation on Annex I.

The total expenditure level of the AMF and other financial aspects shall be discussed in the Council's MFF Working Group and not in the Ad hoc WG. The central MFF negotiations must not be preempted.

Given the need to conclude the negotiations as soon as possible, Sweden is hesitant to open for negotiation of the proposed distribution keys.

Please find below Sweden's initial comments on Annex I.

DRAFTING SUGGESTIONS and COMMENTS

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.**

AT: (Comments)

AT thinks that the years of the crisis – 2015 and 2016 – should be considered in the statistics to determining the allocation key for the MS. If this is not the case, then the Member States that were affected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015 and 2016, should a bonus for their efforts in addition to the initial amounts.

CZ: (Drafting):

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

CZ: (Comments):

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

CZ: (Comments):

The EC's proposal uses the same amount of 5 million euros as was used for AMIF 2014-2020. It is suggested that the amount for AMF 2021+ should be almost triple of that in 2014-2020 (from 2,4 billion euros for shared management in 2014-2020 to 6,3 billion euros in 2021-2027), in

order to keep the ratio between fixed amount and the rest at least similar to the current one the CZ suggest to increase the fixed amount to 10 million euros.

CY

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

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, and the migratory flows, 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.

ES: (Comments):

Spain considers that the pre-funding is very low and may endanger the Fund implementation. Hence, it proposes an increase to 15.000.000 EUR per MS.

ES (Comments):

The Kingdom of Spain is willing to maintain the original drafting for the sake of consensus among MS. However, this position is linked to the approval of a higher annual pre-funding, which is fairer than a fixed amount as it takes into account the size of each National Programme.

ES (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;

HR: (Comments):

Croatia welcomes the provision to have a fixed allocation for each Member State. In this regard, Croatia proposes to increase the fixed amount in point 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.

HR: (Comments):

As stated above, the fixed allocation should be increased to EUR 15 million, such that the fixed allocation continues to amount to around 7% of the total initial allocation for Member States' programmes.

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.

HR

Croatia welcomes the provision to have a fixed allocation for each Member State. In this regard, Croatia proposes to increase the fixed amount in point 1(a) from €5 million to €15 million for each MS 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 until 2021 regarding the initial national allocation.

Several Member States like ES, MT, SK, CZ, IT, PT 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.

HU: (Drafting):

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

HU: (Comments):

It is a horizontal request of Hungary regarding all the three JHA Funds.

FR: (Comments)

We want to maintain the initial amount at 5M€, as it is not related to migratory pressure and the burden it creates in matter on asylum or migration systems.

IT: (Comments):

Italy advocates a higher fixed amount.

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):

a) Malta welcomes the provision to have a fixed allocation for each Member State. However, in spite of the fact that the budget for this fund increased significantly, the proposed fixed amount remained the same. 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 in line with the increase in the total initial allocation i.e. to ensure the same fixed allocation expressed as a % of the total initial allocation of 2014-2020 (i.e. around 7%). Increasing the fixed amount ensures an adequate critical mass, also in view of the uncertainty involved till 2020/2021 regarding the initial national allocation.

- b) Furthermore, Malta believes that special attention should be given to insular societies that face disproportionate migration pressures, as per 2014-2020 programme.
- c) With reference to sub paragraph 5, Malta supports the Commission proposal to use the preceding three calendar years for the purpose of the calculation as they would provide a more updated picture of the actual needs for each Member State. Consequently, Malta does not agree to include the years 2015-2016 as criteria for the distribution key.
- d) Furthermore, we are not convinced about the Commission's proposal for lower pre-financing rates as these will put further unnecessary pressures on the implementation of the programmes.

MT: (Drafting):

- a) Each Member State shall receive a fixed amount of EUR 15 000 000 from the Fund at the start of the programming period only;
- b) **Particular emphasis will be given to insular societies who face disproportional migration challenges.**

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.

SK: (Drafting):

(a) Each Member State shall receive a fixed amount of EUR 15 000 000 from the Fund at the start of the programming period only;

SK: (Comments):

Slovakia 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.

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

- 30 % for asylum;
- 30 % for legal migration and integration;
- 40 % for countering irregular migration including returns.

CY:

35% for asylum

30% for legal migration and integration

35% for countering irregular migration including returns.

Cyprus agrees with the suggestion that flexibility between the percentages of asylum and returns should be available depending on the situation of migratory pressures, the progress of returns and the need for asylum.

Furthermore, as interconnected procedures, an equal percentage between asylum and returns is proposed.

EL: (Drafting):

The proposed percentages must be indicative and not obligatory, as the relevant populations and their needs cannot be stratified in such detail at this stage.

Flexibility should be available to be exercised at every stage, planning and implementation.

EL: (Comments):

The M-S currently assesses that the CEAS procedures is the area of the highest funding needs.

EL: (Drafting):

- 40 % for asylum;

EL: (Comments):

The funding needs are much higher in the common European asylum system procedures, according to the current period. Also, it has to be taken into account that the procedures have to be followed for everyone that applies for asylum or international protection, regardless of the outcome

EL: (Drafting)

- 35 % for legal migration and integration

EL: (Comments)

Integration measures are much higher, according to the needs documented in the current period. Also, it has to be taken into account that the population in need for such measures is larger than initially planned and very young in age, making the integration effort challenging.

EL: (Drafting)

- 25 % for countering irregular migration including returns

ES: (Comments):

Regarding allocation, we propose the following criteria weight:
40% for asylum

30% for legal migration
30% for countering irregular migration including returns.

ES: (Comments):

Spain suggest to increase the asylum criterium to 40%

ES: (Comments):

Spain suggests to lower the return criterium to 30%

ES:

Regarding allocation, we propose the following criteria weight:

30% for asylum

40% for legal migration

30% for countering irregular migration including returns.

FR:

We agree the criteria selected by the Commission. Nevertheless, we would like to emphasize the importance of the effort and the burden relying on asylum systems of the MS. We propose the modification as following:

- ~~30~~ 40% pour l'asile,

o ~~30~~ 20% pour le nombre de personnes ayant pu bénéficier de la protection internationale,

o ~~60~~ 50% pour le nombre de RPT ou apatrides ayant introduit une demande de protection internationale,

o ~~10~~ 30% pour le nombre de réinstallés.

We think necessary to highlight the effort towards the legal way of admission represented by resettlement, and to increase this sub-criteria.

- 30% pour la migration légale et l'intégration.

o ~~40~~ 60%, nombre de RPT en séjour régulier dans un État membre

o ~~60~~ 40% nombre de RPT ayant obtenu un premier permis de séjour

The needs related to the specific objective of legal migration and integration - especially in the medium term - are more directly correlated to all persons enjoying a residence permit, including also newcomers. Therefore, we would like to favour this first criterion.

- ~~40~~ 30% pour la lutte contre l'immigration irrégulière.

o ~~50~~ 75% nombre de RPT faisant l'objet d'une obligation de quitter le territoire

o ~~50~~ 25% nombre de RPT ayant effectivement quitté le territoire de l'État membre.

The needs of each Member States on return depends more on the number of illegally TCN to return than on people that has been returned.

LU:(Comments):

Support non-binding objectives, but could **also** accept 40% asylum

30 % for legal migration and integration;

LU: (Comments):

30% for countering irregular migration including returns.

LU:

LU wants to keep the current form of the proposal:

- 30 % for asylum;

- 30 % for legal migration and integration;

– 40 % for countering 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 countering irregular migration including returns.

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

SE:

SE initially supports the distribution proposed by the EC (30-30-40)

2. The following criteria in the area of asylum will be taken into account and shall be weighted as follows:

DE: (Comments):

Generally, in order to correctly reflect the migration related expenses in each Member State, the criteria for calculating the distribution key need to take into account how many migrants are actually living in the respective Member States.

EL: (Drafting)

The proposed percentages must be indicative.

EL: (Comments):

The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage

SE:

SE initially supports the weighting proposed by the EC in the asylum area (30-60-10).

(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):

The refugee status and subsidiary protection status are unified under the concept of international protection. No reason to differentiate here between the two categories. 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/EU³;
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/EC⁴
ES: (Drafting): - Any third-country national or stateless person enjoying temporary protection, <i>in particular</i> 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 IT:(Comments):

³ 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).

⁴ Data to be taken into account only in case of the activation of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12–23).

This Directive has never been applied in practice. If ever, persons granted protection should be counted in the 30% above.

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

CY: (Drafting):

b) 55 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection

CY: (Comments):

The amount allocated for the application procedure for international protection should not be greatly reduced.

Please see below.

(Addition as point 2d, in supporting Italy's proposal.)

However, the percentage of this criterion, should be at 5%, so that the amount to be allocated for the application procedure for international protection is not reduced. Moreover, the rate may result in a double funding, since a MS will receive a percentage over funding for the same person, both when entering and submitting an application and when returning under the Dublin Regulation from one Member State to the first host country.

DE: (Comments):

Accordingly, with regard to the criteria in the area of asylum, especially ANNEX I, No. 2 letter b needs to be revised (60% in proportion to the number of third-country nationals or stateless persons who have applied for international protection). The application for international protection can only be a relevant criterion in case the applicant is still living in the respective Member State. The relevant criterion needs to be the place of actual residence.

HR: (Comments)

Criteria (percentages) for the allocation of funds must reflect the actual burden taken on by Member States. We believe that a greater percentage of funds should be allocated according to the number of persons who have applied for international protection and a lower percentage based on

the number of persons to whom that status has already been granted.

20% - in proportion to the number of persons granted international protection or temporary protection according to the EU legislation,

70 % - in proportion to the number of third-country nationals or stateless persons who have applied for international protection

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

HU: (Drafting):

(b) 70 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection.

HU: (Comments):

As those resettled receive international protection status, they are already covered by point (a) and so there is no need to provide additional weighing based on resettlement.

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.

CY: (Drafting):

(d) 5% in proportion to the number of incoming Dublin transfers to the submitting MS.

CY:

(Addition as point 2d)

Cyprus agrees with the suggestion of adding a criterion referring to incoming Dublin transfers.

CY: (Comments):

(Addition as point 2d, in supporting Italy's proposal.)

However, the percentage of this criterion, should be at 5%, so that the amount to be allocated for the application procedure for international protection is not reduced. Moreover, the rate may result in a double funding, since a MS will receive a percentage over funding for the same person, both when entering and submitting an application and when returning under the Dublin Regulation from one Member State to the first host country.

EE:

In point 2(c) the term „resettled“ should be replaced with the term „admitted“.

It could be difficult to differentiate the percentages as in EE all resettled persons will be granted the status defined by the Geneva Convention or

subsidiary protection. Could you please explain why the persons being resettled are considered separately from the total number of persons granted international protection.

FI: (Drafting):

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

FI: (Comments):

We strongly support the inclusion of resettlement in the allocation criteria as it takes into account the solidarity efforts taken by the Member States in the policy area. However, we would suggest that the wording would be amended in a way that the persons who are being resettled are excluded and only those who have effectively been resettled are included. This wording would be more clear and be based on actual figures as is the case with other criteria too.

Alternatively, the definition "who are being" should at least be clarified and possibly defined in the recitals to those who "have been accepted" to a Member State through resettlement.

IT: (Drafting):

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

or

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

IT:(Comments):

This additional criterion is to be consistently with European obligations which have an impact on asylum procedures and reception.

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

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.

PT: (Drafting):

30 % in proportion to the number of third-country nationals or stateless persons who are being or have been resettled in a Member State.

PT: (Comments):

Portugal advocates a fairer approach towards the different criteria at stake.

SE:

SE initially supports the 10% proposed by the EC and could also accept an increase of the weighting for resettled persons. However, Sweden would not accept a percentage below 10%.

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

DE: (Comments):

Concerning criteria in the area of legal migration and integration, the actual expenses in the Member States need to be reflected. For this purpose, e.g. the number of people profiting from integration measures or the costs of language courses and other integration measures should be taken into account.

DE: (revised):

Concerning criteria in the area of legal migration and integration, the actual expenses in the Member States need to be reflected. For this purpose, e.g. the number of people profiting from integration measures should be taken into account.

EL: (Drafting):

The proposed percentages must be indicative.

EL: (Comments):

The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage

SE:

SE initially supports the weighting proposed by the EC in the area of legal migration and integration (40-60).

(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)

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

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: **(a) - 60% for valid residence permits**

(b) 60 % in proportion to the number of third-country nationals who have obtained a first residence permit.

EE: (Comments):

We would like to point to the following argument. The criteria for the allocation concerning the 60% in proportion to the number of third-country national who have obtained a first residence permit is problematic. Estonia is among the MSs who is issuing the smallest number of first residence permits while the number of third-country nationals staying legally in the country is quite remarkable.

For the majority of third-country nationals, who have stayed and worked in a country less than a year, has been issued a visa and not a residence permit (which is a base for allocation criteria). Therefore, we are in favor of the exclusion which does not count among the first residence permits those permits that have been issued for the aim of working and are valid less than a year. In this way, the statistical figures of other MSs would be more equal with the numbers of Estonia, especially of those countries where the number of residence permits with the validity less than a year is remarkable.

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):

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

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: (b) 40% for first residence permits.
(c) However, for the purpose of the calculation referred to in paragraph 3(b), the following categories of persons shall not be included:
EE: The calculations should not exclude the persons arrived under the Mobility and Researchers Directive. HU: (Comments): Although integration is not a priority for Hungary, we do not understand why the third-country nationals holding a work permit for less than 12 months and the holders of residence permit for study or research purposes have been excluded from weighting? These groups may stay for years in the Member States. Please review this criterion.
– Third country nationals being issued a work-related first residence permits valid for less than 12 months;
EE: (Drafting): – Third-country nationals being issued a work-related first residence permits valid for less than 12 months; PL: (Drafting): This paragraph shall be removed from the regulation PL: (Comments): Third country nationals being issued a work-related first residence permits valid for less than 12 months need to be supported with integration

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

PL: (Comments):

PL takes the position that all persons who have received a residence permit should be included in the calculation. According to the record of the persons to whom the first visa was issued in order to work for less than 12 months, they are excluded from the calculations, whereas if a person receives a second document of this type, it is included in the calculation.

Integration activities financed from the Fund should be addressed to all persons receiving a residence permit. Migration is cyclical in PL. The exclusion of this group of people is not consistent with the scope of FAM support including early integration. This provision excludes one of the target groups of early integration. In addition, the scope of support [Annex III point 3 b)] includes the development of mobility programs - circular or temporary migration, including training to improve employability.

- **Third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC⁵ or when applicable the Directive (EU) 2016/801⁶;**

HU: (Drafting):

- Third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC⁷ or when applicable the Directive (EU) 2016/801⁸ **being issued a first residence permit valid for less than 12 months;**

⁵ 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).

⁶ 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).

⁷ 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).

⁸ 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/EC⁹ or when applicable the Directive (EU) 2016/801.**

HU: (Drafting):

Third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC¹⁰ or when applicable the Directive (EU) 2016/801 **being issued a first residence permit valid for less than 12 months.**

HU: (Comments):

We would like to restrict the excluded categories of students and researchers to those arriving for less than 12 months similarly to the work-related resident permits. EU acquis in this area, namely Directive (EU) 2016/801 allows a longer period of stay and encourages the extension of stay even after the studies or reasearch is finished; and therefore not all students and researchers should be regarded as arriving for a short-term period.

4. The following criteria in the area of countering irregular migration including returns will be taken into account and shall be weighted as follows:

DE: (Comments):

With regard to the criteria in the area of countering irregular migration including returns, it is of high importance that persons, whose deportation has been suspended (“Geduldete”), are to be included in the calculation of the distribution key as these persons also receive assistance in the Member States.

DE: (Comments revised):

With regard to the criteria in the area of countering irregular migration including returns, it is of high importance that persons, whose deportation has been suspended, are to be included in the calculation of the distribution key as these persons also receive assistance in the Member States

⁹ 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).

¹⁰ 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).

EL: (Drafting):

The proposed percentages must be indicative.

EL: (Comments):

The proposed percentages must be indicative and not obligatory, as the relevant population cannot be stratified in such detail at this stage

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

SE:

SE initially supports the weighting proposed by the EC in the area of irregular (50-50).

(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):

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.

EL: (Drafting):

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;

HU: (Drafting)

- (a) **60% in proportion to** the number of third-country nationals who do not or no longer fulfil the conditions for entry and stay in the territory of the Member State and who are subject to a return decision under national and / or Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;

PT: (Drafting):

- (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.**

EL: (Drafting):

40% in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.

FI: (Drafting):

50% in proportion to the number of third-country nationals who have actually left the territory of the Member State to a third country following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.

FI: (Comments):

Focus should be paid on the removals from the union area to a third country, not to the area of other Member States

HU: (Drafting)

(b) **40%** in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.

HU: (Comments)

As the actual implementation of a return decision is dependent upon various factors and many times such factors cannot be influenced by the Member State, it would be disadvantageous to set out a 50% weighing based on this category, it is therefore suggested to be lowered to 40%.

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.

PT: (Drafting):

~~40 % in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.~~

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.

AT: (Comments)

AT thinks that the years of the crisis – 2015 and 2016 – should be considered in the statistics to determining the allocation key for the MS. If this is not the case, then the Member States that were affected the most by the migration crisis (Asylum Seekers per 1.000 inhabitants) in 2015 and 2016, should a bonus for their efforts in addition to the initial amounts.

BG: (Comments):

The provision of a fair distribution of funds with due regard of the situation in the Member States is particularly important to us. We consider that in the initial allocation reference figures should cover the entire financial period of 2014-2020. Given the dynamics of the situation in the EU in the asylum and migration, this approach will better reflect the actual situation in the Member States.

DE: (Comments):

The distribution of funds between the Member States has to reflect the actual migration situation in the Member States, which is - of course - a result of the influx of previous years. Therefore, the allocation of funds to Member States should take account of the actual needs such as expressed by the number of asylum seekers that were received by a given Member State from 2015, the peak year of the migration crisis, onwards.

The allocation process and the distribution key remains unclear; it needs to be clarified which Eurostat-data is going to be used. A sample

calculation would be helpful.

DE: (Comments revised):

The distribution of funds between the Member States has to reflect the actual migration situation in the Member States, which is - of course - a result of the influx of previous years. **Many of the actions supported by AMIF are long-term in nature. For example, the need for integration services for people who have come to DEU does not depend on annual figures, statistics or project durations. For this reason, DEU considers it necessary that the high inflow figures for third-country nationals in the years 2015ff. should also be taken into account appropriately in the distribution of funds - in addition to the current inflow figures.**

The allocation process and the distribution key remains unclear; it needs to be clarified which Eurostat-data is going to be used. A sample calculation would be helpful.

FR:

*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. **The last 36 months would be a suitable period.***

PL: (Comments):

PL recommends thoroughly discussing the criteria for allocation of funds under shared management and working on preliminary estimates regarding the future allocation for MS before the start of the perspective.

National programming requires prior knowledge of the available resources.

PL also asks for the criteria set out in Annex I to oblige the MS to divide funds into national programs in the same proportion. If such an obligation is imposed, PL is of the opinion that MS should, in accordance with the flexibility assumptions, retain the possibility of deciding on the distribution of funds under the division into objectives.

Imposing the obligation to spend in accordance with the criteria provided for in Annex I will hinder national programming. National programming requires prior knowledge of the available resources.

- 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.]**