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## Legislation

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Contents

I *Legislative acts*

REGULATIONS

- ★ **Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund** ..... 1
- ★ **Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy** ..... 48
- ★ **Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund** ..... 94

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.



## I

(Legislative acts)

## REGULATIONS

**REGULATION (EU) 2021/1147 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 7 July 2021  
establishing the Asylum, Migration and Integration Fund**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2) and Article 79(2) and (4) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration and migration systems in the Member States, to prevent and adequately handle situations of pressure in solidarity, and to replace irregular and unsafe arrivals with legal and safe pathways, investing in efficient and coordinated migration management in the Union is key to realising the Union's objective of constituting an area of freedom, security and justice in accordance with Article 67(2) of the Treaty on the Functioning of the European Union (TFEU).
- (2) The importance of a coordinated approach by the Union and the Member States is reflected in the European Agenda on Migration of 13 May 2015, which stressed the need for a consistent and clear common policy in order to restore confidence in the Union's ability to bring together European and national efforts to address migration and to work together in an effective way, in accordance with the principle of solidarity and fair sharing of responsibility between the Member States as set out in Article 80 TFEU; this was confirmed in the mid-term review of 27 September 2017 and the progress reports of 14 March 2018 and 16 May 2018.
- (3) In its conclusions of 19 October 2017, the European Council reaffirmed the need to pursue a comprehensive, pragmatic and resolute approach to migration management that aims to ensure control of external borders and reduce irregular arrivals and the number of deaths at sea; that approach should be based on the flexible and coordinated use of all available Union and Member State instruments. The European Council further called for the ensuring of significantly enhanced returns through actions at both Union and Member State level, such as effective readmission agreements and arrangements.

<sup>(1)</sup> OJ C 62, 15.2.2019, p. 184.

<sup>(2)</sup> OJ C 461, 21.12.2018, p. 147.

<sup>(3)</sup> Position of the European Parliament of 13 March 2019 (OJ C 23, 21.1.2021, p. 356) and position of the Council at first reading of 14 June 2021 (OJ C 259, 2.7.2021, p. 1). Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal).

- (4) In order to support efforts to ensure a comprehensive approach to the management of migration that is grounded on mutual trust, solidarity and fair sharing of responsibility among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of an Asylum, Migration and Integration Fund (the 'Fund').
- (5) All actions funded under the Fund, including those carried out in third countries, should be implemented in full compliance with the rights and principles enshrined in the Union *acquis* and the Charter of Fundamental Rights of the European Union (the 'Charter'), and should be in line with the international obligations of the Union and the Member States arising from the international instruments to which they are party, in particular by ensuring compliance with the principles of gender equality, non-discrimination and the best interests of the child.
- (6) The best interests of the child should be a primary consideration in all actions or decisions concerning children in migration, including returns, taking full account of the right of the child to express his or her views.
- (7) The Fund should build on the results achieved and investments made with the support of its predecessors: the European Refugee Fund established by Decision No 573/2007/EC of the European Parliament and of the Council <sup>(4)</sup> for the period 2008-2013, the European Fund for the Integration of third-country nationals established by Council Decision 2007/435/EC <sup>(5)</sup> for the period 2007-2013, the European Return Fund established by Decision No 575/2007/EC of the European Parliament and of the Council <sup>(6)</sup> for the period 2008-2013 and the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014 of the European Parliament and of the Council <sup>(7)</sup> for the period 2014-2020. It should at the same time take into account all relevant new developments.
- (8) The Fund should support solidarity and fair sharing of responsibility between Member States and the efficient management of migration flows, inter alia, by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and humanitarian admission and the transfer between Member States of applicants for international protection or beneficiaries of international protection, by enhancing the protection of vulnerable asylum seekers such as children, by supporting integration strategies and by developing and strengthening legal migration policy, for example, through the provision of safe and legal avenues of entry to the Union, which should also help to ensure the Union's long-term competitiveness and the future of its social model and reduce incentives for irregular migration through a sustainable return and readmission policy.
- (9) Given the internal nature of the Fund and that the Fund is the main funding instrument for asylum and migration at Union level, the Fund should primarily support actions serving internal Union policy on asylum and migration in line with the Fund's objectives. However, given that certain actions taken outside the Union contribute to the achievement of the Fund's objectives and, under certain circumstances, may bring Union added value, the Fund should support the strengthening of cooperation and partnership with third countries for the purpose of managing migration in order to reinforce avenues of legal migration and enhance effective, safe and dignified return and readmission, as well as to promote initial reintegration in third countries. Support provided under the Fund would be without prejudice to the current voluntary nature of resettlement and relocation of applicants for international protection and beneficiaries of international protection under the legal framework of the Common European Asylum System that applies at the time of adoption of this Regulation.

<sup>(4)</sup> Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC (OJ L 144, 6.6.2007, p. 1).

<sup>(5)</sup> Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 168, 28.6.2007, p. 18).

<sup>(6)</sup> Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 45).

<sup>(7)</sup> Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

- (10) In order to benefit from the expertise of relevant decentralised agencies, the Commission should ensure that their knowledge and experience is taken into account as regards the areas of their competence in the development of Member States' programmes. Furthermore, it should be possible for the Fund to complement the following activities supported by the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010 of the European Parliament and of the Council <sup>(8)</sup>, with a view to facilitating and improving the functioning of the Common European Asylum System: strengthening practical cooperation, in particular information exchanges regarding asylum and good practices; promoting Union and international law and contributing to the uniform implementation of Union law on asylum on the basis of high standards for international protection procedures, for reception conditions and for the assessment of protection needs across the Union; enabling the sustainable and fair distribution of applications for international protection; facilitating convergence in the assessment of applications for international protection across the Union; supporting the resettlement efforts of the Member States; and providing operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.
- (11) The Fund should support the efforts of the Union and the Member States to enhance the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under Union law.
- (12) The Fund should support the Member States' and the Union's efforts to fully implement and further develop the Common European Asylum System, including its external dimension.
- (13) Partnerships and cooperation with third countries are an essential component of Union policy for managing migration. The Fund should contribute to replacing unsafe and irregular arrival with legal and safe arrival in the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, and should effectively contribute to global resettlement initiatives with the Union and Member States speaking with one voice in international fora and with third countries. The Fund should provide support, in the form of financial incentives, to efforts made by Member States to provide international protection and a durable solution for refugees and displaced persons who have been admitted under resettlement or humanitarian admission programmes.
- (14) Considering the migration flows to the Union and the importance of ensuring integration and inclusion for persons coming to Europe for local communities and for the long-term well-being of our societies and the stability of our economies, it is crucial to support Member States' policies for the integration of legally-staying third-country nationals, including in the priority areas identified in the Action Plan on Integration and Inclusion 2021-2027. The Fund should support integration measures that are tailored to the needs of third-country nationals, as well as horizontal measures aimed at building Member States' capacity to develop integration strategies, to strengthen exchange and cooperation, and to promote contact, constructive dialogue and acceptance between third-country nationals and the receiving society.
- (15) In order to increase efficiency, to achieve the greatest Union added value and to ensure the consistency of the Union's response in terms of fostering the integration of third-country nationals, actions financed under the Fund should be consistent with and complementary to actions financed under other Union instruments, in particular external instruments, the European Social Fund Plus (ESF+), established by Regulation (EU) 2021/1057 of the European Parliament and of the Council <sup>(9)</sup>, and the European Regional Development Fund (ERDF), established by Regulation (EU) 2021/1058 of the European Parliament and of the Council <sup>(10)</sup>. The Fund should support measures tailored to the needs of third-country nationals that are generally implemented in the early stages of integration, as well as horizontal measures supporting Member States' capacities in the field of integration, whereas interventions for third-country nationals with a longer-term impact should be financed under the ESF+ and ERDF. In this context, the

<sup>(8)</sup> Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

<sup>(9)</sup> Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

<sup>(10)</sup> Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60).

authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and coordinate with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and the ERDF and, wherever necessary, to cooperate and coordinate with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals.

- (16) The scope of the integration measures should also cover beneficiaries of international protection in order to ensure a comprehensive approach to integration, taking into account the specificities of that target group. Where integration measures are combined with reception, actions should, where appropriate, also allow asylum seekers to be included.
- (17) The implementation of the Fund in the area of integration should be consistent with the Union's common basic principles on integration, as specified in the Action Plan on Integration and Inclusion 2021-2027.
- (18) It should be possible for those Member States that so wish to provide in their programmes for integration measures to include immediate relatives of third-country nationals, thus supporting family unity, to the extent that doing so is necessary for the effective implementation of such measures. The term 'immediate relative' should be understood as meaning spouses, partners and any person having direct family links in the descending or ascending line with the third-country national targeted by the integration measure and who would not otherwise be covered by the scope of the Fund.
- (19) Considering the crucial role played by Member States' authorities and civil society organisations in the field of integration, and in order to facilitate the access of those entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by national, regional and local authorities and civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for those actions. In that regard, a minimum of 5 % of the initial allocation to the thematic facility should target the implementation of integration measures by local and regional authorities.
- (20) In addition to the co-financing rate provided by the Fund for projects, Member States are encouraged to provide funding from the budgets of their public authorities where such funding is essential for a project to be carried out, particularly when the project is implemented by a civil society organisation.
- (21) Considering the long-term economic and demographic challenges faced by the Union and the increasingly globalised nature of migration, it is crucial to establish well-functioning channels for legal migration to the Union in order to maintain the Union as an attractive destination for regular migration, in accordance with Member States' economic and social needs, and to ensure the sustainability of welfare systems and growth of the Union economy, while protecting migrant workers from labour exploitation.
- (22) The Fund should support Member States in setting up strategies and strengthening and developing policies for legal migration, and in enhancing their capacity to develop, implement, monitor and evaluate immigration and integration strategies, policies and measures for legally staying third-country nationals, in particular Union legal instruments for legal migration. The Fund should also support the exchange of information, best practices and cooperation between different administrative departments and levels of government, and between Member States.
- (23) An efficient and dignified return policy is an integral part of the comprehensive migration approach pursued by the Union and its Member States. The Fund should support and encourage efforts by Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council <sup>(1)</sup>, with an emphasis on voluntary returns, and of an integrated and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as measures to facilitate and guarantee safe and dignified return and readmission and sustainable reintegration of returnees, including through the provision of cash or in-kind support.

<sup>(1)</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

- (24) Member States should give preference to voluntary return and should ensure effective, safe and dignified return. In order to promote voluntary return, Member States should envisage incentives such as preferential treatment in the form of enhanced return assistance and initial reintegration support. That kind of voluntary return is in the interest of both returnees and authorities in terms of its cost-effectiveness.
- (25) While voluntary return should take priority over forced return, they are nevertheless interlinked, with a mutually reinforcing effect, and Member States should therefore be encouraged to reinforce the complementarities between those two forms of return. The possibility of removals is an important element that contributes to the integrity of the asylum and legal migration systems. The Fund should therefore support actions by Member States to facilitate and carry out removals in accordance with standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.
- (26) Specific support measures for returnees, with particular attention to their humanitarian and protection needs in the Member States and in the countries of return, can improve conditions of return and enhance the reintegration of returnees. Particular attention should be paid to vulnerable persons.
- (27) Effective readmission of illegally staying third-country nationals by third countries is an integral component of the Union return policy and a central tool for the efficient management of migration flows, as it facilitates the swift return of irregular migrants. Readmission cooperation is an important element in the framework of dialogue and cooperation with third countries of origin and the transit of irregular migrants, and its implementation in third countries should be supported in the interests of effective return policies at national and Union level.
- (28) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to counter irregular migration and the trafficking of migrants and to encourage compliance with legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.
- (29) The employment of irregular migrants undermines the development of a labour mobility policy built on legal migration schemes and endangers the rights of migrant workers, making them vulnerable to rights violations and abuse. The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council<sup>(12)</sup>, which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.
- (30) The Fund should support Member States, either directly or indirectly, in their implementation of Directive 2011/36/EU of the European Parliament and of the Council<sup>(13)</sup>, which sets out provisions on assistance, support and protection for victims of trafficking in human beings. Those measures, including measures for the early identification of victims of trafficking in human beings and their referral to specialised services, should take into account the gender-specific nature of trafficking in human beings and child victims.
- (31) The Fund should complement the activities undertaken in the field of return by the European Border and Coast Guard Agency, governed by Regulation (EU) 2019/1896 of the European Parliament and of the Council<sup>(14)</sup>, without providing an additional funding stream to that Agency.
- (32) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.

<sup>(12)</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

<sup>(13)</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

<sup>(14)</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

- (33) In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis.
- (34) Actions in and in relation to third countries supported under the Fund should be carried out in synergy and coherence with other activities outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of external Union policy, with the principle of policy coherence for development and consistency with the strategic programming documents for the country or region in question, and with the Union's international commitments. In relation to the external dimension, the Fund should focus on supporting actions that are not development-oriented and that serve the interest of internal Union policies and should be consistent with activities undertaken within the Union. The Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.
- (35) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value compared to actions by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the areas of asylum and migration in accordance with Article 80 TFEU.
- (36) When promoting actions supported by the Fund, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.
- (37) It should be possible for the Commission to use financial resources under the Fund to promote best practices and the exchange of information as regards the implementation of the Fund.
- (38) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.
- (39) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under the Fund, if it has failed to fulfil its obligations under the Treaties in the area of asylum and return, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on asylum and return, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Council Regulation (EU) No 1053/2013 <sup>(15)</sup> has identified deficiencies in the relevant area.

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<sup>(15)</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).



- (40) The Fund should ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. In order to meet transparency requirements, the Commission should publish information on the annual and multiannual work programmes of the thematic facility. In line with Regulation (EU) 2021/1060 of the European Parliament and of the Council<sup>(16)</sup>, each Member State should ensure that within six months of the approval of its programme, there is a website in place on which information on its programme is available, covering the programme's objectives, activities, available funding opportunities and achievements.
- (41) This Regulation should establish the initial amounts for Member States' programmes which consist of a fixed amount as set out in Annex I and an amount calculated on the basis of the criteria laid down in that Annex and which reflect the needs and pressure experienced by different Member States in the areas of asylum, migration, integration and return. In view of the special needs of those Member States which have experienced the highest number of asylum applications per capita in 2018 and 2019, it is appropriate to increase the fixed amounts for Cyprus, Malta and Greece.
- (42) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments. To take account of changes in migration flows, to address needs in respect of the management of asylum and reception systems and in respect of the integration of legally staying third-country nationals, and to develop legal migration and counter irregular migration through effective, safe and dignified return, an additional amount should be allocated to the Member States at the mid-term of the programming period taking into account objective criteria. That amount should be based on statistical data, in accordance with Annex I, to reflect the changes in the baseline situation of Member States.
- (43) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that their programmes include actions addressing the specific objectives of the Fund, that the priorities chosen are in accordance with the implementation measures set out in Annex II, and that the allocation of resources between the objectives ensures that the overall policy objective can be met. To that end, Member States should, in principle, ensure a minimum allocation for strengthening and developing the Common European Asylum System, for strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and for promoting and contributing to the effective integration and social inclusion of third-country nationals.
- (44) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, to Union actions, to actions of local and regional authorities, to emergency assistance, to resettlement and humanitarian admission, and to additional support for Member States contributing to solidarity and responsibility efforts. The thematic facility offers flexibility in the management of the Fund and could also be implemented through Member States' programmes.
- (45) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution.
- (46) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions, in addition to the initial allocation. Those specific actions should be identified at Union level and should concern actions which require cooperation or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States.

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<sup>(16)</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

- (47) The Fund should contribute to supporting operating costs that relate to the specific objectives of the Fund in order to enable Member States to maintain capabilities which are crucial for tasks and services which constitute a public service for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Fund and should form an integral part of the Member States' programmes.
- (48) To complement the implementation of the policy objective of the Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund in relation to policy analysis and innovation, transnational mutual learning and partnerships, and the testing of new initiatives and actions across the Union.
- (49) In order to strengthen the Union's capacity to immediately address exceptional migratory situations in one or more Member States characterised by a large or disproportionate influx of third-country nationals, which place significant and urgent demands on Member States' reception and detention facilities and on their systems and procedures for asylum and migration management, or to immediately address exceptional migratory situations in third countries due to political developments or conflicts, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.
- (50) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC <sup>(17)</sup> and should provide financial assistance in accordance with its objectives and tasks.
- (51) The policy objective of the Fund will also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council <sup>(18)</sup>. Financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have clear Union added value.
- (52) Blending operations have a voluntary nature and are operations supported by the Union budget that combine non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from promotional, development or other public finance institutions, as well as support from commercial finance institutions and investors.
- (53) This Regulation lays down a financial envelope for the entire duration of the Fund which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources <sup>(19)</sup> for the European Parliament and the Council during the annual budgetary procedure.
- (54) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(20)</sup> (the 'Financial Regulation') applies to the Fund. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

<sup>(17)</sup> Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

<sup>(18)</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

<sup>(19)</sup> OJ L 433 I, 22.12.2020, p. 28.

<sup>(20)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (55) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.
- (56) Regulation (EU) 2021/1060 establishes the framework for action by ERDF, ESF+, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Fund in this Regulation, and to lay down specific provisions concerning the actions that may be financed under the Fund.
- (57) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/1060, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.
- (58) The types of financing and methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, administrative burdens and the risk of non-compliance. When making that choice, use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation, should be considered.
- (59) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.
- (60) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(21)</sup> and Council Regulations (EC, Euratom) No 2988/95 <sup>(22)</sup>, (Euratom, EC) No 2185/96 <sup>(23)</sup> and (EU) 2017/1939 <sup>(24)</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

<sup>(21)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(22)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(23)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(24)</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council <sup>(25)</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

- (61) A third country which has concluded an agreement with the Union on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country should be allowed to participate in the Fund provided certain conditions are fulfilled.
- (62) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (63) Pursuant to Council Decision 2013/755/EU <sup>(26)</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (64) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund should support those Member States with adequate resources to help those regions manage migration sustainably and handle possible situations of pressure.
- (65) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(27)</sup>, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, indicators and related targets should be established in relation to each specific objective of the Fund. Those indicators should include qualitative and quantitative indicators.
- (66) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with the links to the Member States' websites referred to in Regulation (EU) 2021/1060.

<sup>(25)</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

<sup>(26)</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

<sup>(27)</sup> OJ L 123, 12.5.2016, p. 1.

- (67) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change <sup>(28)</sup>, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of a 30 % target of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget reflecting biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while considering the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to the environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council <sup>(29)</sup>.
- (68) Regulation (EU) No 514/2014 of the European Parliament and of the Council <sup>(30)</sup> and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the Fund during the 2014–2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.
- (69) In order to supplement and amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions eligible for support under Annex III; the list of actions eligible for higher co-financing rates under Annex IV; operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (70) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(31)</sup>. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.
- (71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

<sup>(28)</sup> OJ L 282, 19.10.2016, p. 4.

<sup>(29)</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

<sup>(30)</sup> Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

<sup>(31)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (72) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (73) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (74) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multiannual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun, be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.
- (75) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093 <sup>(32)</sup>.
- (76) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

This Regulation establishes the Asylum, Migration and Integration Fund (the 'Fund') for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the objectives of the Fund, the budget for the period from 1 January 2021 to 31 December 2027, the forms of Union funding and the rules for providing such funding.

#### *Article 2*

##### **Definitions**

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

- (1) 'applicant for international protection' means an applicant as defined in point (c) of Article 2 of Directive 2013/32/EU of the European Parliament and of the Council <sup>(33)</sup>;

<sup>(32)</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

<sup>(33)</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

- (2) 'beneficiary of international protection' means a beneficiary of international protection as defined in point (b) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council <sup>(34)</sup>;
- (3) 'blending operation' means actions supported by the Union budget, including within blending facilities within the meaning of point (6) of Article 2 of the Financial Regulation;
- (4) 'family member' means any third-country national defined as a family member under the Union law relevant to the policy area of action supported under the Fund;
- (5) 'humanitarian admission' means the admission following, where requested by a Member State, a referral from the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees ('UNHCR'), or another relevant international body, of third-country nationals or stateless persons from a third country to which they have been forcibly displaced to the territory of the Member States, and who are granted international protection or a humanitarian status under national law that provides for rights and obligations equivalent to those of Articles 20 to 34 of Directive 2011/95/EU for beneficiaries of subsidiary protection;
- (6) 'operating support' means a part of a Member State's allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union;
- (7) 'removal' means removal as defined in point (5) of Article 3 of Directive 2008/115/EC;
- (8) 'resettlement' means the admission following a referral from the UNHCR of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;
- (9) 'return' means return as defined in point (3) of Article 3 of Directive 2008/115/EC;
- (10) 'specific actions' means transnational or national projects that bring Union added value in line with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;
- (11) 'third-country national' means any person, including a stateless person or a person with undetermined nationality, who is not a citizen of the Union as defined in Article 20(1) TFEU;
- (12) 'unaccompanied minor' means an unaccompanied minor as defined in point (l) of Article 2 of Directive 2011/95/EU;
- (13) 'Union actions' means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund;
- (14) 'vulnerable person' means any person defined as a vulnerable person under the Union law relevant to the policy area of action supported under the Fund.

### Article 3

#### Objectives of the Fund

1. The policy objective of the Fund is to contribute to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum and the common immigration policy, in accordance with the relevant Union *acquis* and fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
  - (a) strengthening and developing all aspects of the Common European Asylum System, including its external dimension;

<sup>(34)</sup> 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).

- (b) strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and promoting and contributing to the effective integration and social inclusion of third-country nationals;
  - (c) contributing to countering irregular migration, enhancing effective, safe and dignified return and readmission, and promoting and contributing to effective initial reintegration in third countries;
  - (d) enhancing solidarity and fair sharing of responsibility between the Member States, in particular as regards those most affected by migration and asylum challenges, including through practical cooperation.
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

#### *Article 4*

### **Partnership**

For the purposes of the Fund, partnerships shall, pursuant to Article 8(1) of Regulation (EU) 2021/1060, include regional, local, urban and other public authorities or associations representing such authorities, relevant international organisations, non-governmental organisations, such as refugee organisations and migrant-led organisations, as well as national human rights institutions and equality bodies, and economic and social partners.

#### *Article 5*

### **Scope of support**

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Fund shall, in particular, support the actions listed in Annex III.

To address unforeseen or new circumstances, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions in Annex III in order to add new actions.

2. To achieve its objectives, the Fund may support, in line with the Union priorities, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 7 or 24, as applicable.

3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:

- (a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;
- (b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;
- (c) focus on measures that are not development-oriented; and
- (d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.

4. The objectives of the Fund shall support actions focusing on one or more target groups within the scope of Articles 78 and 79 TFEU.

#### *Article 6*

### **Gender equality and non-discrimination**

1. The Member States and the Commission shall ensure the integration of the gender perspective and that gender equality and gender mainstreaming are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.



2. The Member States and the Commission shall take appropriate steps to exclude any form of discrimination prohibited by Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter') during the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.

#### Article 7

##### **Third countries associated to the Fund**

1. The Fund shall be open to third countries that fulfil the criteria listed in paragraph 2, in accordance with the conditions laid down in a specific agreement covering the participation of the third country in the Fund.

2. In order for a third country to be eligible to be associated to the Fund as referred to in paragraph 1, it shall have concluded with the Union an agreement on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country.

3. The specific agreement covering the participation of the third country in the Fund, shall at a minimum:

- (a) enable cooperation with the Member States and the Union institutions, bodies, offices and agencies in the area of asylum, migration and return in the spirit of the principle of solidarity and fair sharing of responsibility;
- (b) be underpinned, throughout the duration of the Fund, by the principles of *non-refoulement*, democracy, the rule of law and respect for human rights;
- (c) ensure a fair balance as regards the contributions made by, and the benefits received by, the third country participating in the Fund;
- (d) lay down the conditions of participation in the Fund, including the calculation of financial contributions to the Fund, and its administrative costs;
- (e) not confer on the third country any decision-making power in respect of the Fund;
- (f) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests;
- (g) provide that the third country grants the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors in accordance with Article 8.

The contributions referred to in point (d) of the first subparagraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

#### Article 8

##### **Protection of the financial interests of the Union**

Where a third country participates in the Fund by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

## CHAPTER II

## FINANCIAL AND IMPLEMENTATION FRAMEWORK

## SECTION 1

**Common provisions***Article 9***General principles**

1. Support provided under the Fund shall complement national, regional and local intervention, and shall focus on bringing Union added value to the achievement of the objectives of the Fund.
2. The Commission and the Member States shall ensure that the support provided under the Fund and by the Member States is consistent with the relevant actions, policies and priorities of the Union, and is complementary to support provided under other Union instruments, in particular the external instruments, the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF).
3. The Fund shall be implemented under direct, shared or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

*Article 10***Budget**

1. The financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 9 882 000 000 in current prices.
2. The financial envelope shall be used as follows:
  - (a) EUR 6 270 000 000 shall be allocated to the Member States' programmes;
  - (b) EUR 3 612 000 000 shall be allocated to the thematic facility referred to in Article 11.
3. Up to 0,42 % of the financial envelope shall be allocated to technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060.
4. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Fund under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

*Article 11***General provisions on the implementation of the thematic facility**

1. The amount referred to in point (b) of Article 10(2) shall be allocated flexibly through a thematic facility using shared, direct or indirect management as set out in work programmes. Given the internal nature of the Fund, the thematic facility shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2).

Funding from the thematic facility shall be used for its components, which are as follows:

- (a) specific actions;
- (b) Union actions;

- (c) emergency assistance as referred to in Article 31;
- (d) resettlement and humanitarian admission;
- (e) support to Member States for the transfer of applicants for international protection or of beneficiaries of international protection as a part of solidarity efforts as referred to in Article 20; and
- (f) the European Migration Network as referred to in Article 26.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 10(2) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs in line with agreed Union priorities as reflected in Annex II.

The funding referred to in the first subparagraph of this paragraph, with the exception of funding used for emergency assistance in accordance with points (a) and (b) of the first subparagraph of Article 31(1), shall only support the actions listed in Annex III, including resettlement and humanitarian admission in accordance with Article 19 as part of the external dimension of the Union's migration policy.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Fund.

4. A minimum of 20 % of the resources from the initial allocation to the thematic facility shall be allocated to the specific objective set out in point (d) of Article 3(2).

5. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of those projects are not selected.

6. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.

7. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.

8. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(3) of this Regulation.

9. The thematic facility shall, in particular, support actions falling under implementation measure 2(d) of Annex II that are implemented by national, regional and local authorities or civil society organisations. In that regard, a minimum of 5 % of the initial allocation to the thematic facility shall target the implementation of integration measures by local and regional authorities.

10. The Commission shall ensure that the distribution of resources among the specific objectives set out in Article 3(2) is fair and transparent. The Commission shall report on the use and the distribution of the thematic facility between the components referred to in the second subparagraph of paragraph 1 of this Article, including on the support provided to actions in or in relation to third countries under the Union actions.

11. Following the adoption of a financing decision as referred to in paragraph 8, the Commission may amend the Member States' programmes accordingly.

## SECTION 2

### ***Support and implementation under shared management***

#### *Article 12*

##### **Scope**

1. This section applies to the amount referred to in point (a) of Article 10(2) and additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 11.
2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and Regulation (EU) 2021/1060.

#### *Article 13*

##### **Budgetary resources**

1. The amount referred to in point (a) of Article 10(2) shall be allocated to Member States' programmes indicatively as follows:
  - (a) EUR 5 225 000 000 in accordance with Annex I;
  - (b) EUR 1 045 000 000 for the adjustment of the allocations to the Member States' programmes referred to in Article 17(1).
2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 10(2).

#### *Article 14*

##### **Pre-financing**

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Fund shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:
  - (a) 2021: 4 %;
  - (b) 2022: 3 %;
  - (c) 2023: 5 %;
  - (d) 2024: 5 %;
  - (e) 2025: 5 %;
  - (f) 2026: 5 %.
2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

#### *Article 15*

##### **Co-financing rates**

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.

2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.
3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.
4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.
5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 31.
6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States within the limits set out in point (b)(vi) of Article 36(5) of the Regulation (EU) 2021/1060.
7. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Fund for the types of action covered by the contribution referred to in paragraphs 1 to 6.
8. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:
  - (a) the total contribution, including the public and private contributions; or
  - (b) the public contribution only.

#### Article 16

#### Member States' programmes

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with and respond to Union priorities and challenges in the area of asylum and migration management and are fully in accordance with the relevant Union *acquis* and agreed Union priorities, while fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party. In defining the priorities of their programmes Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

Given the internal nature of the Fund, Member States' programmes shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2) of this Regulation.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. Within the resources allocated in Article 13(1), and without prejudice to paragraph 3 of this Article, each Member State shall allocate within its programme:
  - (a) a minimum of 15 % of its allocated resources to the specific objective set out in point (a) of Article 3(2); and
  - (b) a minimum of 15 % of its allocated resources to the specific objective set out in point (b) of Article 3(2).
3. A Member State may allocate less than the minimum percentages referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.
4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies, in particular EASO, the European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007<sup>(35)</sup>, are taken into account as regards the areas of their competence, at an early stage and in a timely manner, in the development of the Member States' programmes.

<sup>(35)</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

5. The Commission may involve, where appropriate, relevant decentralised agencies, including those referred to in paragraph 4, in the monitoring and evaluation tasks as specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

6. Following 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 the Fund, where appropriate.

The Commission may, where relevant, also draw on the expertise of decentralised agencies on specific issues falling within those agencies' competencies.

7. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in paragraph 6 of this Article.

8. In cooperation and consultation with the Commission and the relevant decentralised agencies as regards the areas of their competence, as applicable, the Member State concerned may reallocate resources under its programme with the aim of addressing the recommendations referred to in paragraph 6 where those recommendations have financial implications.

9. Member States shall in particular pursue the actions eligible for higher co-financing rates that are listed in Annex IV in their programmes. In the event of unforeseen or new circumstances or in order to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions eligible for higher co-financing rates in Annex IV.

10. Member States' programmes may allow for the inclusion of immediate relatives of persons covered by the integration measures referred to in Annex III to the extent necessary for the effective implementation of those measures.

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

12. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 1 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

#### Article 17

#### **Mid-term review**

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 13(1) in accordance with the criteria referred to in point (b) of paragraph 1 and paragraphs 2 to 5 of Annex I. Funding shall be effective as of 1 January 2025.

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 13(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 13(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 11 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

*Article 18***Specific actions**

1. A Member State may receive funding for specific actions in addition to its allocation under Article 13(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Fund.
2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

*Article 19***Resources for resettlement and humanitarian admission**

1. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 10 000 for each person admitted through resettlement.
2. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 6 000 for each person admitted through humanitarian admission.
3. The amount referred to in paragraph 2 shall be increased to EUR 8 000 for each person admitted through humanitarian admission who belongs to one or more of the following vulnerable groups:
  - (a) women and children at risk;
  - (b) unaccompanied minors;
  - (c) persons having medical needs that can be addressed only through humanitarian admission;
  - (d) persons in need of humanitarian admission for legal or physical protection needs, including victims of violence or torture.
4. Where a Member State admits a person belonging to more than one of the categories referred to in paragraphs 2 and 3, it shall receive the amount only once in respect of that person.
5. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraphs 1, 2 and 3 if those family members are admitted to ensure family unity.
6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.
7. The amounts referred to in paragraphs 1, 2, 3 and 5 shall be allocated to the Member State's programme for the first time in the financing decision approving that programme. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme. Those amounts may be included in the payment applications to the Commission, provided that the person in respect of whom the amount is allocated was effectively resettled or admitted.
8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission.
9. To take account of current inflation rates, relevant developments in the field of resettlement, and other factors which might optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1, 2 and 3 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

*Article 20***Resources for the transfer of applicants for international protection or of beneficiaries of international protection**

1. A Member State shall receive, in addition to its allocation under Article 13(1) of this Regulation, an additional amount of EUR 10 000 for each applicant for international protection transferred from another Member State in accordance with Article 17 of Regulation (EU) No 604/2013 of the European Parliament and of the Council <sup>(36)</sup> or as a result of similar forms of relocation.
2. Where appropriate, Member States may also be eligible to receive the amount referred to in paragraph 1 of this Article for each family member of persons referred to in that paragraph, provided that those family members have been transferred to ensure family unity in accordance with Article 17 of Regulation (EU) No 604/2013 or have been transferred as a result of similar forms of relocation.
3. Member States shall receive, in addition to their allocation under Article 13(1), an additional amount of EUR 10 000 for each beneficiary of international protection transferred from another Member State.
4. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraph 3 if those family members have been transferred to ensure family unity.
5. The Member State covering the cost of transfers referred to in paragraphs 1 to 4 shall receive a contribution of EUR 500 for each applicant for international protection or beneficiary of international protection transferred to another Member State.
6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.
7. The amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member State's programme, provided that the person in respect of whom the amount is allocated was effectively transferred to a Member State or was registered as an applicant in the Member State responsible in accordance with Regulation (EU) No 604/2013, as applicable. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme.
8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons transferred and of the date of their transfer.
9. To take account of current inflation rates, relevant developments in the field of relocation and other factors which might optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1, 3 and 5 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

*Article 21***Operating support**

1. A Member State may use up to 15 % of the amount allocated to its programme under the Fund to finance operating support under the specific objectives of the Fund.
2. When using operating support, a Member State shall comply with the relevant Union *acquis* and the Charter.

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<sup>(36)</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).



3. A Member State shall explain, in its programme and in the annual performance report referred to in Article 35 of this Regulation, how the use of operating support contributes to the achievement of the objectives of the Fund. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available as a result of the monitoring exercises which are carried out in accordance with Regulation (EU) No 1053/2013 and which are within the scope of this Regulation.
4. Operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.
5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the eligible actions listed in Annex VII.

#### Article 22

#### **Management verifications and audits of projects carried out by international organisations**

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').
2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.
3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.
4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:
  - (a) invoices and proof of their payment by the beneficiary have been verified;
  - (b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.
5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.
6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.
7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work

puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that the expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.

8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article, instead of by relying on the management verifications referred to in Article 74(1) of Regulation (EU) 2021/1060.

9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060 shall include the requirements set out in this Article.

10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:

- (a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;
- (b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7;
- (c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project, in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a sub-sample of transactions that relate to that project. Where errors are found in the sub-sample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

### SECTION 3

#### ***Support and implementation under direct or indirect management***

##### *Article 23*

#### **Scope**

The Commission shall implement support under this Section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

##### *Article 24*

#### **Eligible entities**

1. The following entities are eligible for Union financing:

(a) legal entities established in:

- (i) a Member State or an overseas country or territory linked to it;
- (ii) a third country associated to the Fund pursuant to a specific agreement under Article 7, subject to it being covered by the work programme and conditions therein;
- (iii) a third country listed in the work programme, under the conditions specified in paragraph 3;

(b) legal entities created under Union law or any international organisation relevant for the purposes of the Fund.

2. Natural persons are not eligible for Union financing.
3. Entities as referred to in point (a)(iii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Fund.

#### Article 25

##### Union actions

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund, in accordance with Annex III.
2. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. They may also provide funding in the form of financial instruments within blending operations.
3. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
4. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.
5. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. Article 37(7) of Regulation (EU) 2021/695 of the European Parliament and of the Council <sup>(37)</sup> shall apply.

#### Article 26

##### European Migration Network

1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.
2. The amount to be made available for the European Migration Network under the annual appropriations of the Fund and the work programme laying down the priorities for its activities shall be adopted by the Commission after approval by the Steering Board in accordance with point (a) of Article 4(5) of Decision 2008/381/EC. The decision of the Commission shall constitute a financing decision in accordance with Article 110 of the Financial Regulation. To ensure the timely availability of resources, the Commission may adopt the work programme for the European Migration Network in a separate financing decision.
3. Financial assistance provided for the activities of the European Migration Network shall take the form of grants to the National Contact Points referred to in Article 3 of Decision 2008/381/EC or procurements, as appropriate, in accordance with the Financial Regulation.

#### Article 27

##### Blending operations

Blending operations decided under the Fund shall be carried out in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

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<sup>(37)</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

*Article 28***Technical assistance at the initiative of the Commission**

In accordance with Article 35 of Regulation (EU) 2021/1060, the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

*Article 29***Audits**

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by the Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

*Article 30***Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Fund.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 11. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

*SECTION 4****Support and implementation under shared, direct or indirect management****Article 31***Emergency assistance**

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations resulting from one or more of the following cases:

- (a) an exceptional migratory situation characterised by a large or disproportionate influx of third-country nationals into one or more Member States which places significant and urgent demands on those Member States' reception and detention facilities, and on their asylum and migration management systems and procedures;

- (b) an event of a mass influx of displaced persons within the meaning of Council Directive 2001/55/EC <sup>(38)</sup>;
- (c) an exceptional migratory situation in a third country, including where persons in need of protection could be stranded due to political developments or conflicts, notably where it might have an impact on migration flows towards the Union.

In response to such duly justified emergency situations, the Commission may decide to provide emergency assistance, including for voluntary relocation, within the limits of available resources. In such cases, the Commission shall inform the European Parliament and the Council in a timely manner.

2. Measures in third countries shall be implemented in accordance with Article 5(2) and (3).
3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 13(1) and Annex I, provided that it is subsequently earmarked as such in the Member State's programme. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.
6. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 38(4). Such an act shall remain in force for a period not exceeding 18 months.

#### Article 32

#### **Cumulative and alternative financing**

1. An action that has received a contribution under the Fund may also receive a contribution from any other Union programme, including funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the ERDF or the ESF+ may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:
  - (a) they have been assessed in a call for proposals under the Fund;
  - (b) they comply with the minimum quality requirements of that call for proposals;
  - (c) they cannot be financed under that call for proposals due to budgetary constraints.

<sup>(38)</sup> 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).

## SECTION 5

**Monitoring, reporting and evaluation**

## Subsection 1

**Common provisions***Article 33***Monitoring and reporting**

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.
2. The Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex V in order to make the necessary adjustments to core performance indicators listed in that Annex.
3. Indicators to report on the progress of the Fund towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.
4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.
5. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

*Article 34***Evaluation**

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of the Regulation (EU) 2021/1060, the mid-term evaluation shall assess the following:
  - (a) the effectiveness of the Fund, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 35 and the output and result indicators set out in Annex VIII;
  - (b) the efficiency of the use of resources allocated to the Fund and the efficiency of the management and control measures put in place to implement it;
  - (c) the continued relevance and appropriateness of the implementation measures listed in Annex II;
  - (d) the coordination, coherence and complementarity between the actions supported under the Fund and support provided by other Union funds;
  - (e) the Union added value of actions implemented under the Fund.

That mid-term evaluation shall take into account the results of the retrospective evaluation of the effects of the Asylum, Migration and Integration Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/1060, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall also be evaluated.

3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.

4. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 7, Article 16(11) and Article 24.

## Subsection 2

### Rules for shared management

#### Article 35

#### Annual performance reports

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/1060.

The reporting period shall cover the last accounting year as defined in point (29) of Article 2 of Regulation (EU) 2021/1060 preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:

- (a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;
- (b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions delivered by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Fund;
- (c) the complementarity between the actions supported under the Fund and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;
- (d) contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans and to cooperation and solidarity between Member States;
- (e) the implementation of communication and visibility actions;
- (f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;
- (g) the number of persons admitted through resettlement and humanitarian admission, by reference to the amounts set out in Article 19;
- (h) the number of applicants for international protection and of beneficiaries of international protection transferred from one Member State to another as referred to in Article 20;
- (i) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.
4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.
5. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt an implementing act establishing the template for the annual performance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 38(2).

#### Article 36

### Monitoring and reporting under shared management

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. To address unforeseen or new circumstances and to ensure the effective implementation of the funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 of this Regulation to amend Annex VI.
2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

#### CHAPTER III

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 37

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and (5) and Article 36(1) shall be conferred on the Commission until 31 December 2027.
3. The delegation of power referred to in the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and (5) and Article 36(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) or (5) or Article 36(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.



*Article 38***Committee procedure**

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/1148 of the European Parliament and of the Council <sup>(39)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

*Article 39***Transitional provisions**

1. This Regulation shall not affect the continuation of or modification of the actions initiated pursuant to Regulation (EU) No 516/2014, which shall continue to apply to those actions until their closure.
2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to Regulation (EU) No 516/2014.
3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.
4. Member States may continue after 1 January 2021 to support a project selected and started under Regulation (EU) No 516/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:
  - (a) the project has two phases identifiable from a financial point of view with separate audit trails;
  - (b) the total cost of the project exceeds EUR 500 000;
  - (c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;
  - (d) the second phase of the project complies with the applicable law and is eligible for support from the Fund under this Regulation and Regulation (EU) 2021/1060;
  - (e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

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<sup>(39)</sup> Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (see page 48 of this Official Journal).

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

*Article 40*

**Entry into force and application**

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 7 July 2021.

*For the European Parliament*  
*The President*  
D. M. SASSOLI

*For the Council*  
*The President*  
A. LOGAR

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## ANNEX I

## CRITERIA FOR THE ALLOCATION OF FUNDING TO THE MEMBER STATES' PROGRAMMES

1. The budgetary resources available under Article 13 shall be broken down between the Member States as follows:
  - (a) at the start of the programming period, each Member State shall receive a fixed amount of EUR 8 000 000 from the Fund, with the exception of Cyprus, Malta and Greece, which shall each receive a fixed amount of EUR 28 000 000;
  - (b) the remaining budgetary resources referred to in Article 13 shall be distributed based on the following criteria:
    - 35 % for asylum;
    - 30 % for legal migration and integration;
    - 35 % for countering irregular migration including returns.
2. The following criteria in the area of asylum shall be taken into account and shall be weighted as follows:
  - (a) 30 % in proportion to the number of persons who fall into one of the following categories:
    - any third-country national or stateless person having been granted the status defined by the Geneva Convention relating to the Status of Refugees of 28 July 1951 as amended by the New York Protocol of 31 January 1967;
    - any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Directive 2011/95/EU;
    - any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC <sup>(1)</sup>;
  - (b) 60 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection;
  - (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.
3. The following criteria in the area of legal migration and integration shall be taken into account and shall be weighted as follows:
  - (a) 50 % in proportion to the total number of legally residing third-country nationals in a Member State;
  - (b) 50 % in proportion to the number of third-country nationals who have obtained a first residence permit; however, the following categories of persons shall not be included:
    - third-country nationals issued with a work-related first residence permit valid for less than 12 months;
    - third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC <sup>(2)</sup> or, where applicable, Directive (EU) 2016/801 of the European Parliament and of the Council <sup>(3)</sup>;
    - third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC <sup>(4)</sup> or, where applicable, Directive (EU) 2016/801.

<sup>(1)</sup> Data to be taken into account only in case of the activation of Directive 2001/55/EC.

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

<sup>(4)</sup> 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).

4. The following criteria in the area of countering irregular migration including returns shall be taken into account and shall be weighted as follows:
    - (a) 70 % 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 law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;
    - (b) 30 % 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 based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2017, 2018 and 2019 on the basis of data provided by Member States prior to the date of application of this Regulation in accordance with Union law. For the mid-term review, the reference figures shall be based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2021, 2022 and 2023 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 statistical data concerned, they shall provide provisional data as soon as possible.
  6. Before accepting the data referred to in paragraph 5 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.
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## ANNEX II

## IMPLEMENTATION MEASURES

1. The Fund shall contribute to the specific objective set out in point (a) of Article 3(2) by focusing on the following implementation measures:
    - (a) ensuring the uniform application of the Union *acquis* and of the priorities related to the Common European Asylum System;
    - (b) supporting the capacity of Member States' asylum systems as regards infrastructures and services where necessary, including at local and regional level;
    - (c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including by enhancing their capacities to improve the protection of persons in need of international protection in the context of global cooperation efforts;
    - (d) providing technical and operational assistance to one or several Member States, including in cooperation with EASO.
  2. The Fund shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:
    - (a) supporting the development and implementation of policies promoting legal migration and the implementation of the Union legal migration *acquis*, including family reunification and the enforcement of labour standards;
    - (b) supporting measures to facilitate regular entry into and residence in the Union;
    - (c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including through legal avenues of entry to the Union, in the context of global cooperation efforts in the area of migration;
    - (d) promoting integration measures for the social and economic inclusion of third-country nationals and protection measures for vulnerable persons in the context of integration measures, facilitating family reunification and preparing for the active participation of third-country nationals in, and their acceptance by, the receiving society, with the involvement of national and, in particular, regional or local authorities and civil society organisations, including refugee organisations and migrant-led organisations, and social partners.
  3. The Fund shall contribute to the specific objective set out in point (c) of Article 3(2) by focusing on the following implementation measures:
    - (a) ensuring the uniform application of the Union *acquis* and policy priorities regarding infrastructure, procedures and services;
    - (b) supporting an integrated and coordinated approach to return management at the Union and Member State level, to the development of capacities for effective, dignified and sustainable return, and to reducing incentives for irregular migration;
    - (c) supporting assisted voluntary return, family tracing and reintegration, while respecting the best interests of the child;
    - (d) strengthening cooperation with third countries and their capacity, with respect to readmission and sustainable return.
  4. The Fund shall contribute to the specific objective set out in point (d) of Article 3(2) by focusing on the following implementation measures:
    - (a) enhancing solidarity and cooperation with third countries affected by migratory flows, including through resettlement in the Union and through other legal avenues to protection in the Union;
    - (b) supporting transfers from one Member State to another of applicants for international protection or beneficiaries of international protection.
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## ANNEX III

## SCOPE OF SUPPORT

1. Within the policy objective set out in Article 3(1), the Fund shall in particular support:
  - (a) the establishment and development of national, regional and local strategies in relation to asylum, legal migration, integration, return and irregular migration in accordance with the relevant Union *acquis*;
  - (b) the setting up of administrative structures, tools and systems, including ICT systems, and the training of staff, including the staff of local authorities and of other relevant stakeholders, in cooperation with relevant decentralised agencies, where appropriate;
  - (c) the establishment of contact points at the national, regional and local levels to provide impartial guidance, practical information and assistance regarding all aspects of the Fund to potential beneficiaries and eligible entities;
  - (d) the development, monitoring and evaluation of policies and procedures, including the collection, exchange and analysis of information and data; the dissemination of qualitative and quantitative data and statistics on migration and international protection; and the development and application of common statistical tools, methods and indicators for measuring progress and assessing policy developments;
  - (e) the exchange of information, best practices and strategies; mutual learning, studies and research; the development and implementation of joint actions and operations; and the setting-up of transnational cooperation networks;
  - (f) assistance and support services provided in a gender-sensitive manner that are consistent with the status and the needs of the person concerned, in particular vulnerable persons;
  - (g) actions aimed at the effective protection of children in migration, including the implementation of assessments of the best interests of the child, the strengthening of guardianship systems, as well as the development, monitoring and evaluation of child safeguarding policies and procedures;
  - (h) actions aimed at enhancing awareness among stakeholders and the general public of policies relating to asylum, integration, legal migration and return, with specific attention to vulnerable persons, including minors.
  
2. Within the specific objective set out in point (a) of Article 3(2), the Fund shall in particular support:
  - (a) the provision of material aid, including assistance at the border;
  - (b) the conducting of asylum procedures in accordance with the asylum *acquis*, including the provision of support services such as translation and interpretation, legal assistance, family tracing and other services which are consistent with the status of the person concerned;
  - (c) the identification of applicants with special procedural or reception needs, including the early identification of victims of trafficking, with a view to their referral to specialised services such as psycho-social and rehabilitation services;
  - (d) the provision of specialised services such as qualified psycho-social and rehabilitation services to applicants with special procedural or reception needs;
  - (e) the establishment or improvement of reception accommodation infrastructure, such as small scale infrastructure addressing the needs of families with minors, including those provided by local and regional authorities and including the possible joint use of such facilities by more than one Member State;
  - (f) the enhancement of the capacity of Member States to collect, analyse and share among their competent authorities country of origin information;
  - (g) actions related to Union resettlement programmes or national resettlement and humanitarian admission schemes, including the conducting of procedures for their implementation;

- (h) the enhancement of the capacities of third countries to improve the protection of persons in need of protection, including through supporting the development of protection systems for children in migration;
  - (i) the establishment, development and improvement of effective alternatives to detention, in particular in relation to unaccompanied minors and families, and including, where appropriate, non-institutionalised care integrated into national child protection systems.
3. Within the specific objective set out in point (b) of Article 3(2), the Fund shall in particular support:
- (a) information packages and campaigns to raise awareness of legal migration channels to the Union, including on the Union legal migration *acquis*;
  - (b) the development of mobility schemes to the Union, such as circular or temporary migration schemes, including training to enhance employability;
  - (c) cooperation between third countries and the recruitment agencies, the employment services and the immigration services of Member States;
  - (d) the assessment and recognition of skills and qualifications, including professional experience, acquired in a third country, as well as their transparency, and their equivalence with those of a Member State;
  - (e) assistance in the context of applications for family reunification to ensure a harmonised implementation of Council Directive 2003/86/EC <sup>(1)</sup>;
  - (f) assistance, including legal assistance and representation, in relation to a change of status for third-country nationals already legally residing in a Member State, in particular in relation to the acquisition of a legal residence status as defined at Union level;
  - (g) assistance to third-country nationals seeking to exercise their rights, in particular related to mobility, under Union legal migration instruments;
  - (h) integration measures, such as tailored support in accordance with the needs of third-country nationals, and integration programmes focusing on counselling, education, language and other training, such as civic orientation courses and professional guidance;
  - (i) actions promoting equality in access to public and private services by third-country nationals and the provision of such services to third-country nationals, including access to education, healthcare and psycho-social support and adapting such services to the needs of the target group;
  - (j) cooperation between governmental and non-governmental bodies in an integrated manner, including through coordinated integration-support centres, such as one-stop shops;
  - (k) actions enabling and supporting the introduction of third-country nationals to, and their active participation in, the receiving society and actions promoting acceptance by the receiving society;
  - (l) promoting exchanges and dialogue between third-country nationals, the receiving society and public authorities, including through consultation with third-country nationals, and intercultural and inter-religious dialogue;
  - (m) building the capacity of integration services provided by local authorities and other relevant stakeholders.
4. Within the specific objective set out in point (c) of Article 3(2), the Fund shall in particular support:
- (a) the establishment or improvement of open reception or detention infrastructure, including the possible joint use of such facilities by more than one Member State;
  - (b) the introduction, development, implementation and improvement of effective alternative measures to detention, including community-based case management, in particular in relation to unaccompanied minors and families;

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<sup>(1)</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

- (c) the introduction and reinforcement of independent and effective forced-return monitoring systems, as laid down in Article 8(6) of Directive 2008/115/EC;
  - (d) the countering of incentives for irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, and information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC;
  - (e) the preparation of returns, including measures leading to the issuing of return decisions, the identification of third-country nationals, the issuing of travel documents and family tracing;
  - (f) cooperation with the consular authorities and immigration services or other relevant authorities and services of third countries with a view to obtaining travel documents, facilitating returns and ensuring readmission, including through the deployment of third-country liaison officers;
  - (g) return assistance, in particular assisted voluntary return and information about assisted voluntary return programmes, including by providing specific guidance for children in return procedures;
  - (h) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of support for coercive equipment;
  - (i) measures to support the returnee's sustainable return and reintegration, including cash-incentives, training, placement and employment assistance and start-up support for economic activities;
  - (j) facilities and support services in third countries to ensure appropriate temporary accommodation and reception upon arrival and, where appropriate, a fast transition to community-based accommodation;
  - (k) cooperation with third countries regarding countering irregular migration and regarding effective return and readmission;
  - (l) measures aimed at raising awareness of the appropriate legal channels for migration and the risks of irregular immigration;
  - (m) assistance and actions in third countries which help to improve effective cooperation between third countries and the Union and its Member States regarding return and readmission and to support reintegration into the society of origin.
5. Within the specific objective set out in point (d) of Article 3(2), the Fund shall in particular support:
- (a) the implementation of voluntary transfers from one Member State to another of either applicants for international protection or beneficiaries of international protection;
  - (b) operational support in terms of seconded staff or financial assistance provided by a Member State to another Member State affected by migration challenges, including support provided to EASO;
  - (c) the voluntary implementation of national resettlement or humanitarian admission schemes;
  - (d) support by a Member State to another Member State affected by migration challenges in terms of establishment or improvement of reception infrastructure.
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## ANNEX IV

**ACTIONS ELIGIBLE FOR HIGHER CO-FINANCING RATES IN ACCORDANCE WITH ARTICLES 15(3) AND 16(9)**

- Integration measures implemented by local and regional authorities and civil society organisations, including refugee organisations and migrant-led organisations;
  - Actions to develop and implement effective alternatives to detention;
  - Assisted voluntary return and reintegration programmes and related activities;
  - Measures targeting vulnerable persons and applicants for international protection with special reception or procedural needs, including measures to ensure effective protection of minors, in particular unaccompanied minors, including through alternative, non-institutionalised care systems.
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## ANNEX V

**CORE PERFORMANCE INDICATORS AS REFERRED TO IN ARTICLE 33(1)**

All indicators related to persons shall be reported by age brackets (< 18, 18-60, > 60) and by gender.

**Specific objective set out in point (a) of Article 3(2)**

1. Number of participants who consider the training useful for their work.
2. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.
3. Number of persons placed in alternatives to detention, separately specifying:
  - 3.1. the number of unaccompanied minors placed in alternatives to detention;
  - 3.2. the number of families placed in alternatives to detention.

**Specific objective set out in point (b) of article 3(2)**

1. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.
2. Number of participants who report that the activity was helpful for their integration.
3. Number of participants who applied for the recognition or assessment of qualifications or skills acquired in a third country.
4. Number of participants who applied for a long-term residence status.

**Specific objective set out in point (c) of Article 3(2)**

1. Number of returnees voluntarily returned.
2. Number of returnees who were removed.
3. Number of returnees subject to alternatives to detention.

**Specific objective set out in point (d) of Article 3(2)**

1. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.
  2. Number of persons resettled.
  3. Number of persons admitted through humanitarian admission.
-

## ANNEX VI

## TYPES OF INTERVENTION

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. Common European Asylum System	
001	Reception conditions
002	Asylum procedures
003	Implementation of the Union <i>acquis</i>
004	Children in migration
005	Persons with special reception and procedural needs
006	Union resettlement programmes or national resettlement and humanitarian admission schemes (Annex III, point 2(g))
007	Operating support
II. Legal migration and integration	
001	Development of integration strategies
002	Victims of trafficking in human beings
003	Integration measures – information and orientation, one-stop shops
004	Integration measures – language training
005	Integration measures – civics and other training
006	Integration measures – introduction, participation, exchanges host society
007	Integration measures – basic needs
008	Pre-departure measures
009	Mobility schemes
010	Acquisition of legal residence
011	Vulnerable persons, including unaccompanied minors
012	Operating support
III. Return	
001	Alternatives to detention
002	Reception/detention conditions
003	Return procedures
004	Assisted voluntary return
005	Reintegration assistance
006	Removal/Return operations
007	Forced-return monitoring system
008	Vulnerable persons, including unaccompanied minors
009	Measures addressing incentives for irregular migration
010	Operating support

IV. Solidarity and fair sharing of responsibility	
001	Transfers to another Member State ('relocation')
002	Support by a Member State to another Member State, including support provided to EASO
003	Resettlement (Article 19)
004	Humanitarian admission (Article 19)
005	Support, in terms of reception infrastructure, to another Member State
006	Operating support
V. Technical assistance	
001	Information and communication
002	Preparation, implementation, monitoring and control
003	Evaluation and studies, data collection
004	Capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	Development of national strategies
002	Capacity building
003	Education and training for third-country nationals
004	Development of statistical tools, methods and indicators
005	Exchange of information and best practices
006	Joint actions/operations between Member States
007	Campaigns and information
008	Exchange and secondment of experts
009	Studies, pilot projects, risk assessments
010	Preparatory, monitoring, administrative and technical activities
011	Provision of assistance and support services to third-country nationals
012	Infrastructure
013	Equipment

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 15(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Emergency assistance

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
002	Actions in or in relation to third countries
003	None of the above

*ANNEX VII***EXPENDITURE ELIGIBLE FOR OPERATING SUPPORT**

Within all specific objectives set out in Article 3(2), operating support shall cover:

- staff costs;
  - service costs, such as maintenance or replacement of equipment, including ICT systems;
  - service costs, such as maintenance and repair of infrastructure.
-

## ANNEX VIII

**OUTPUT AND RESULT INDICATORS AS REFERRED TO IN ARTICLE 33(3)**

All indicators relating to persons shall be reported by age brackets (< 18, 18-60, > 60) and by gender.

**Specific objective set out in point (a) of Article 3(2)**

## Output indicators

1. Number of participants supported, separately specifying:
  - 1.1. the number of participants who received legal assistance;
  - 1.2. the number of participants benefiting from types of support other than legal assistance, including information and assistance throughout the asylum procedure <sup>(1)</sup>;
  - 1.3. the number of vulnerable participants assisted.
2. Number of participants in training activities.
3. Number of newly created places in reception infrastructure in accordance with Union *acquis*, separately specifying:
  - 3.1. the number of newly created places for unaccompanied minors.
4. Number of renovated or refurbished places in reception infrastructure in accordance with Union *acquis*, separately specifying:
  - 4.1. the number of renovated or refurbished places for unaccompanied minors.

## Result indicators

5. Number of participants who consider the training useful for their work.
6. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.
7. Number of persons placed in alternatives to detention, separately specifying:
  - 7.1. the number of unaccompanied minors placed in alternatives to detention;
  - 7.2. the number of families placed in alternatives to detention.

**Specific objective set out in point (b) of Article 3(2)**

## Output indicators

1. Number of participants in pre-departure measures.
2. Number of local and regional authorities supported to implement integration measures.
3. Number of participants supported, separately specifying:
  - 3.1. the number of participants in a language course;
  - 3.2. the number of participants in a civic orientation course;
  - 3.3. the number of participants who received personalised professional guidance.

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<sup>(1)</sup> This indicator is generated automatically for reporting purposes by the system by subtracting the number of participants who received legal assistance from the number of participants supported. The data for this indicator is generated by SFC2021 for reporting purposes. Member States do not need to report data for this indicator, nor do they need to set milestones or targets.

4. Number of information packages and campaigns to raise awareness of legal migration channels to the Union.
5. Number of participants receiving information or assistance in applying for family reunification.
6. Number of participants benefitting from mobility schemes.
7. Number of integration projects where local and regional authorities are the beneficiary.

#### Result indicators

8. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.
9. Number of participants who report that the activity was helpful for their integration.
10. Number of participants who applied for their qualification or skills acquired in a third country to be recognised or assessed.
11. Number of participants who applied for a long-term residence status.

#### **Specific objective set out in point (c) of Article 3(2)**

##### Output indicators

1. Number of participants in training activities.
2. Number of items of equipment purchased, including number of ICT systems purchased or updated.
3. Number of returnees who received reintegration assistance.
4. Number of places in detention centres created.
5. Number of places in detention centres refurbished or renovated.

##### Result indicators

6. Number of returnees voluntarily returned.
7. Number of returnees who were removed.
8. Number of returnees subject to alternatives to detention.

#### **Specific objective set out in point (d) of Article 3(2)**

##### Output indicators

1. Number of staff trained.
2. Number of participants who received pre-departure support.



## Result indicators

3. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.
  4. Number of persons resettled.
  5. Number of persons admitted through humanitarian admission.
-

**REGULATION (EU) 2021/1148 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 7 July 2021**  
**establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 77(2) and 79(2), point (d) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) The Union's objective of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the European Union (TFEU) should be achieved, inter alia, through common measures on the crossing of internal borders by persons and on border control at external borders and the common visa policy, while preserving the careful balance between free movement of persons on the one hand and security on the other.
- (2) Pursuant to Article 80 TFEU, the Union policies on border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States.
- (3) In the Rome Declaration signed on 25 March 2017, the leaders of 27 Member States affirmed their commitment to working towards a safe and secure Europe and to building a Union where all citizens feel safe and can move freely, where the external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms, as well as a Europe determined to fight terrorism and organised crime.
- (4) All actions funded under the Instrument for Financial Support for Border Management and Visa Policy (the 'Instrument'), established by this Regulation, including those carried out in third countries, should be implemented in full compliance with the rights and principles enshrined in the Union *acquis*, and the Charter of Fundamental Rights of the European Union (the 'Charter'), and should be in line with the international obligations of the Union and the Member States arising from the international instruments to which they are party, in particular by ensuring compliance with the principles of non-discrimination and *non-refoulement*.
- (5) The policy objective of the Instrument is to develop and implement strong and effective European integrated border management at the external borders, thereby contributing to ensuring a high level of internal security within the Union, while safeguarding the free movement of persons within it and fully respecting the relevant Union *acquis* and the international obligations of the Union and the Member States arising from the international instruments to which they are party.

<sup>(1)</sup> OJ C 62, 15.2.2019, p. 184.

<sup>(2)</sup> Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 June 2021 (OJ C 265, 5.7.2021, p. 1). Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal).

- (6) European integrated border management, as implemented by the European Border and Coast Guard, established by Regulation (EU) 2019/1896 of the European Parliament and of the Council <sup>(3)</sup>, is a shared responsibility of the European Border and Coast Guard Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks. It should contribute to facilitating legitimate border crossings, to preventing and detecting illegal immigration and cross-border crime and to effectively manage migratory flows.
- (7) Facilitating legitimate travel, while preventing irregular migration and security risks, was identified as one of the main objectives of the Union's approach presented in the communication of the Commission of 23 September 2020 on a New Pact on Migration and Asylum.
- (8) Financial support from the Union budget is indispensable for the implementation of European integrated border management to support Member States, acting in full respect of fundamental rights, in managing the crossing of the external borders efficiently and in addressing future challenges at those borders, which would contribute to addressing serious crime with a cross-border dimension.
- (9) Member States should be provided with adequate Union financial support to promote the implementation of European integrated border management and to ensure that European integrated border management becomes an operational reality. European integrated border management consists of, inter alia, the following components laid down in Regulation (EU) 2019/1896: border control; search and rescue operations during border surveillance; risk analysis; cooperation between Member States, including support coordinated by the European Border and Coast Guard Agency; inter-agency cooperation, including the regular exchange of information; cooperation with third countries; technical and operational measures within the Schengen area which are related to border control and designed to address illegal immigration and to counter cross-border crime better; use of state-of-the-art technology; a quality control mechanism and solidarity mechanisms.
- (10) The Instrument should be able to provide the necessary support to Member States for the implementation of common minimum standards for external border surveillance, in line with the respective competences of the Member States, the European Border and Coast Guard Agency and the Commission.
- (11) As the customs authorities of the Member States have been taking up an increasing number of responsibilities which often extend to the field of security and which take place at the external borders, it is important to foster inter-agency cooperation as a component of European integrated border management in line with Regulation (EU) 2019/1896. Complementarity in carrying out border control and customs control at the external borders needs to be ensured by providing adequate Union financial support to the Member States. Inter-agency cooperation will not only strengthen customs controls in order to combat all forms of trafficking but will also facilitate legitimate trade and travel and contribute to a secure and efficient customs union.
- (12) It is therefore necessary to establish the successor fund to the 2014-2020 Internal Security Fund, established by Regulations (EU) No 513/2014 <sup>(4)</sup> and (EU) No 515/2014 <sup>(5)</sup> of the European Parliament and of the Council, by setting up, inter alia, an Integrated Border Management Fund (the 'Fund').
- (13) Due to the legal particularities of Title V TFEU and the different applicable legal bases regarding the policies on external borders and on customs control, it is not legally possible to establish the Fund as a single instrument.

<sup>(3)</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

<sup>(4)</sup> Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

<sup>(5)</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

- (14) The Fund should therefore be established as a comprehensive framework for Union financial support in the field of border management and visa policy comprising the Instrument as well as the Instrument for Financial Support for Customs Control Equipment, established by Regulation (EU) 2021/1077 of the European Parliament and of the Council <sup>(6)</sup>. That framework should be complemented by Regulation (EU) 2021/1060 of the European Parliament and of the Council <sup>(7)</sup>, to which this Regulation should refer as regards rules on shared management.
- (15) The Instrument should build on the results and investments of its predecessors, the External Borders Fund for the 2007-2013 period, established by Decision No 574/2007/EC of the European Parliament and of the Council <sup>(8)</sup> and the instrument for financial support for external borders and visa as part of the Internal Security Fund for the 2014-2020 period, established by Regulation (EU) No 515/2014, and should be extended to take into account new developments.
- (16) To ensure uniform and high-quality external border control and to facilitate legitimate travel across the external borders, the Instrument should contribute to the development of European integrated border management that includes measures involving policy, law, systematic cooperation, burden sharing, the assessment of the situation and changing circumstances regarding crossing points for irregular migrants, personnel, equipment and technology, which may be taken at different levels by the competent authorities of the Member States and by the European Border and Coast Guard Agency, acting in cooperation with other actors such as other Union bodies, offices and agencies, in particular the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), established by Regulation (EU) 2018/1726 of the European Parliament and of the Council <sup>(9)</sup>, the European Union Agency for Law Enforcement Cooperation (Europol), established by Regulation (EU) 2016/794 of the European Parliament and of the Council <sup>(10)</sup>, and, where appropriate, third countries and international organisations.
- (17) The Instrument should contribute to improving the efficiency of visa processing in terms of facilitating visa procedures for *bona fide* travellers and in terms of detecting and assessing security risks and irregular migration risks. In particular, the Instrument should deliver financial assistance to support the digitalisation of visa processing with the objective of providing fast, secure and client-friendly visa procedures for the benefit of both visa applicants and consulates. The Instrument should also serve to ensure wide coverage of consular services across the world. The uniform implementation and the modernisation of the common visa policy, as well as the measures stemming from Regulation (EC) No 767/2008 of the European Parliament and of the Council <sup>(11)</sup>, should also be covered by the Instrument, as should assistance to Member States for the issuance of visas, including visas with limited territorial validity issued on humanitarian grounds, for reasons of national interest or because of international obligations in line with the Union *acquis* in relation to visas.

<sup>(6)</sup> Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment (OJ L 234, 2.7.2021, p. 1).

<sup>(7)</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

<sup>(8)</sup> Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows (OJ L 144, 6.6.2007, p. 22).

<sup>(9)</sup> Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

<sup>(10)</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

<sup>(11)</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

- (18) The Instrument should support measures linked to external border control in the territory of the countries applying the Schengen *acquis* as part of the implementation of the European integrated border management, which strengthens the overall functioning of the Schengen area.
- (19) With a view to improving the management of the external borders, to facilitating legitimate travel, to contributing to preventing and combating irregular border crossings, to implementing the common visa policy and to contributing to a high level of security within the area of freedom, security and justice of the Union, the Instrument should support the development of large-scale IT systems in accordance with Union law in the area of border management. It should also support the setting-up of interoperability, as established in Regulations (EU) 2019/817 <sup>(12)</sup> and (EU) 2019/818 <sup>(13)</sup> of the European Parliament and of the Council, in the Member States between Union information systems, namely the Entry/Exit System (EES), established by Regulation (EU) 2017/2226 of the European Parliament and of the Council <sup>(14)</sup>, the Visa Information System (VIS), established by Regulation (EC) No 767/2008, the European Travel Information and Authorisation System (ETIAS), established by Regulation (EU) 2018/1240 of the European Parliament and of the Council <sup>(15)</sup>, Eurodac, established by Regulation (EU) No 603/2013 of the European Parliament and of the Council <sup>(16)</sup>, the Schengen Information System (SIS), established by Regulations (EU) 2018/1860 <sup>(17)</sup>, (EU) 2018/1861 <sup>(18)</sup> and (EU) 2018/1862 <sup>(19)</sup> of the European Parliament and of the Council and the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN), established by Regulation (EU) 2019/816 of the European Parliament and of the Council <sup>(20)</sup>, in order for those Union information systems and their data to supplement each other. The Instrument should also contribute to the necessary developments at national level following the implementation of the interoperability components at central level, namely the European search portal (ESP), a shared biometric matching service (shared BMS), a common identity repository (CIR) and a multiple-identity detector (MID).

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<sup>(12)</sup> Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

<sup>(13)</sup> Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).

<sup>(14)</sup> Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

<sup>(15)</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

<sup>(16)</sup> Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

<sup>(17)</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

<sup>(18)</sup> Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

<sup>(19)</sup> Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

<sup>(20)</sup> Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

- (20) In order to benefit from the knowledge and expertise of the decentralised agencies with competence in the areas of border management, visa policy and large-scale IT systems, the Commission should, in a timely manner, involve the relevant agencies in the work of the Committee for the Home Affairs Funds set up by this Regulation, especially at the beginning and mid-term of the programming period. Where appropriate, the Commission should also be able to involve the relevant Union bodies, offices and agencies in monitoring and evaluation, in particular with a view to ensuring that the actions supported by the Instrument comply with the relevant Union *acquis* and agreed Union priorities. The Instrument should complement and reinforce the activities implementing European integrated border management in line with the principle of shared responsibility and solidarity between the Member States and the European Border and Coast Guard Agency, which represent the two pillars of the European Border and Coast Guard. This means, in particular, that, when drawing up their programmes implemented under shared management, Member States should take into account the analytical tools and operational and technical guidelines developed by the European Border and Coast Guard Agency, as well as the training curricula developed by it, such as the common core curricula for the training of border guards, including the components of those curricula that relate to fundamental rights and access to international protection. In order to develop complementarity between its tasks and the responsibilities of the Member States for the control of the external borders and to ensure consistency and avoid cost inefficiency, the Commission should, in a timely manner, consult the European Border and Coast Guard Agency on the draft programmes submitted by the Member States in as far as they fall within the competencies of that agency, in particular with regard to the activities financed under operating support.
- (21) In so far as the affected Member States so request, the Instrument should support the implementation of the hotspot approach as outlined in the communication of the Commission of 13 May 2015 entitled 'A European Agenda on Migration' and endorsed by the European Council of 25 and 26 June 2015 and further detailed in Regulation (EU) 2019/1896. The hotspot approach provides operational support to Member States facing disproportionate migratory challenges at the external borders. It offers integrated, comprehensive and targeted assistance in a spirit of solidarity and shared responsibility.
- (22) In the spirit of solidarity and shared responsibility for the protection of the external borders, where vulnerabilities or risks are identified, in particular following a Schengen evaluation in accordance with Council Regulation (EU) No 1053/2013 <sup>(21)</sup>, the Member State concerned should adequately address the matter by using the resources under its programme to implement recommendations adopted pursuant to that Regulation and in line with vulnerability assessments carried out by the European Border and Coast Guard Agency in accordance with Regulation (EU) 2019/1896.
- (23) The Instrument should provide financial assistance to those Member States that fully apply the provisions of the Schengen *acquis* on external borders and visas and to those Member States which are preparing for full participation in Schengen, and should be used by the Member States in the interests of the common policy of the Union for the management of the external borders.
- (24) While providing support to Member States' investments in border management, the Instrument should not provide funding for new, permanent infrastructure and buildings at the internal borders at which controls have not yet been lifted. However, at those borders, the Instrument should support investments in movable infrastructure for border control and the maintenance, limited upgrading or replacement of existing infrastructure, which are required to continue to comply with Regulation (EU) 2016/399 of the European Parliament and of the Council <sup>(22)</sup>.

<sup>(21)</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

<sup>(22)</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

- (25) In accordance with Protocol No 5 to the 2003 Act of Accession on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, the Instrument should bear any additional cost incurred in implementing the specific provisions of the Union *acquis* covering such transit, namely Council Regulations (EC) No 693/2003 <sup>(23)</sup> and (EC) No 694/2003 <sup>(24)</sup>. The need for continued financial support for foregone fees, however, should be dependent upon the visa regime of the Union in force with the Russian Federation.
- (26) To contribute to the achievement of the policy objective of the Instrument, Member States should ensure that their programmes include actions addressing all the specific objectives of the Instrument and that the allocation of resources among the specific objectives ensures that those objectives can be met.
- (27) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union Funds, and overlap between actions should be avoided.
- (28) The return of third-country nationals who are the subject of return decisions issued by a Member State is one of the components of European integrated border management provided for in Regulation (EU) 2019/1896. However, due to its nature and objective, measures in the field of return fall outside the scope of support of the Instrument and are covered by Regulation (EU) 2021/1147 of the European Parliament and of the Council <sup>(25)</sup>.
- (29) To acknowledge the important role of the Member States' customs authorities at the external borders and to ensure that they have sufficient means at their disposal to implement the broad scope of their tasks at those borders, the Instrument for Financial Support for Customs Control Equipment should provide those national authorities with the necessary funding to invest in equipment to carry out customs control, as well as with equipment that can serve other purposes in addition to customs control such as border control.
- (30) Most customs control equipment and information and communication technology (ICT) systems might be equally or incidentally fit for controls of compliance with other legal acts of the Union, such as provisions on border management, visas or police cooperation. The Fund has therefore been conceived as two complementary instruments with distinct but complementary scopes for the purchase of equipment. On the one hand, the Instrument will financially support equipment and ICT systems of which the primary purpose is integrated border management and will also allow their use in the complementary area of customs control. On the other hand, the Instrument for Financial Support for Customs Control Equipment will financially support equipment with customs controls as the main purpose and will also allow its use for additional purposes such as border control and security. Such a distribution of roles will foster inter-agency cooperation as a component of European integrated border management, as provided for in Regulation (EU) 2019/1896, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and interoperability of control equipment.
- (31) Border surveillance at sea is one of the functions performed by coast guards in the Union maritime domain. National authorities carrying out coast guard functions are also responsible for a wide range of tasks, which could include, but are not limited to, maritime safety, security, search and rescue operations, border control, fisheries control, customs control, general law enforcement and environmental protection. The broad scope of coast guard functions brings them under the remit of different Union policies, which should seek synergies to achieve more effective and efficient results.

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<sup>(23)</sup> Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual (OJ L 99, 17.4.2003, p. 8).

<sup>(24)</sup> Council Regulation (EC) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003 (OJ L 99, 17.4.2003, p. 15).

<sup>(25)</sup> Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (see page 1 of this Official Journal).

- (32) When implementing actions funded under the Instrument which are related to maritime border surveillance, Member States should pay special attention to their international obligations regarding search and rescue operations at sea. In that regard, it should be possible to use equipment and systems supported under the Instrument in search and rescue operations in situations which might arise during a border surveillance operation at sea.
- (33) In addition to Union cooperation on coast guard functions among the European Border and Coast Guard Agency, the European Maritime Safety Agency, established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council <sup>(26)</sup>, and the European Fisheries Control Agency, established by Regulation (EU) 2019/473 of the European Parliament and of the Council <sup>(27)</sup>, improved coherence of the activities in the maritime domain should also be achieved at national level. Synergies between the various actors in the maritime environment should be in line with European integrated border management and maritime security strategies.
- (34) In order to strengthen the complementarity and to reinforce the consistency of maritime activities, to avoid duplication of efforts and to alleviate budgetary constraints in an area of costly activities such as the maritime domain, it should also be possible to use, additionally, the Instrument to support maritime operations of a multipurpose character.
- (35) Equipment and ICT systems financed under the Instrument should also be able to be used for achieving the objectives of the Internal Security Fund, established by Regulation (EU) 2021/1149 of the European Parliament and of the Council <sup>(28)</sup> and of the Asylum, Migration and Integration Fund, established by Regulation (EU) 2021/1147. Such equipment and ICT systems should remain available and deployable for effective and secure border control activities and the use of such equipment and ICT systems for the objectives of the Internal Security Fund and the Asylum, Migration and Integration Fund should be limited in time.
- (36) The Instrument should, in line with its specific objectives, primarily serve internal Union policy. At the same time, the Instrument should be able to, where appropriate, support actions in line with Union priorities in and in relation to third countries. Those actions should be implemented in full synergy and coherence with, and should complement, other actions outside the Union supported through the Union's external financing instruments. In particular, such actions should be implemented in a way that ensures full coherence with external Union policy, respects the principle of policy coherence for development and is consistent with the strategic programming documents for the country or region in question. Such actions should also focus on measures that are not development-oriented, serve the interests of internal Union policy and be consistent with the activities undertaken inside the Union. In its mid-term and retrospective evaluations, the Commission should pay particular attention to the implementation of actions in or in relation to third countries.
- (37) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value as compared to actions by Member States alone. As the Union is in a better position than Member States to provide a framework for expressing Union solidarity in border management and common visa policy and to provide a platform for the development of the common large-scale IT systems underpinning those policies, financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in those areas.
- (38) When promoting actions supported by the Instrument, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.

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<sup>(26)</sup> Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

<sup>(27)</sup> Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

<sup>(28)</sup> Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund (see page 94 of this Official Journal).



- (39) It should be possible for the Commission to use financial resources under the Instrument to promote best practices and the exchange of information as regards the implementation of the Instrument.
- (40) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.
- (41) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under the Instrument, if it has failed to fulfil its obligations under the Treaties in the areas of border management and visa policy, including as regards fundamental rights obligations, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on border management and visa policy or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013 has identified deficiencies in the relevant area.
- (42) The Instrument should ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. In order to meet transparency requirements, the Commission should publish information on the annual and multiannual work programmes of the thematic facility. In line with Regulation (EU) 2021/1060, each Member State should ensure that within six months of the approval of its programme, there is a website in place on which information on its programme is available, covering the programme's objectives, activities, available funding opportunities and achievements.
- (43) This Regulation should establish the initial amounts for Member States' programmes which consist of fixed amounts as set out in Annex I and an amount calculated on the basis of the criteria laid down in that Annex and which reflect the length of, and the impact levels at, land and sea border sections, the workload at airports and consulates and the number of consulates. In view of the special needs of those Member States which have experienced the highest number of asylum applications per capita in 2018 and 2019, it is appropriate to increase the fixed amounts for Cyprus, Malta and Greece.
- (44) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments. To take account of changes in the baseline situation, such as the pressure on the external borders and the workload at the external borders and at consulates, an additional amount should be allocated to the Member States at the mid-term of the programming period and should be based on the statistical data, in accordance with Annex I, taking into account the state of their programme implementation.
- (45) The Commission should carry out a mid-term evaluation of this Regulation. That mid-term evaluation should be used to assess the effectiveness and Union added value of the Instrument and provide a transparent overview of how the Instrument has been implemented.
- (46) As challenges in the area of border management and visa policy are constantly evolving, there is a need to adapt the allocation of funding to changes in priorities for visa policy and border management, including changes that result from increased pressure at the border, and a need to steer funding towards the priorities with the highest Union added value. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, Union actions and emergency assistance. The thematic facility offers flexibility in the management of the Instrument and could also be implemented through Member States' programmes.

- (47) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution.
- (48) The Instrument should contribute to supporting operating costs that relate to border management, common visa policy and large-scale IT systems in order to enable Member States to maintain capabilities which are crucial for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Instrument and should form an integral part of the Member States' programmes.
- (49) Part of the available resources under the Instrument could be allocated to Member States' programmes for the implementation of specific actions, in addition to the initial allocation. Those specific actions should be identified at Union level and should concern actions with Union added value which require cooperation among Member States or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States, such as the purchase through the Member States' programmes of technical equipment needed by the European Border and Coast Guard Agency to perform its operational activities, the modernisation of the processing of visa applications, the development of large-scale IT systems and the establishment of interoperability between those systems. The Commission should set out those specific actions in its work programmes.
- (50) To complement the implementation of the policy objective of the Instrument at national level through Member States' programmes, the Instrument should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Instrument in relation to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.
- (51) In order to strengthen the Union's capacity to immediately address urgent and specific needs in the event of an emergency situation, such as a large or disproportionate influx of third-country nationals, in particular at those border sections to which a high or critical impact level has been attributed under Regulation (EU) 2019/1896, or other situations in respect of which it has been duly substantiated that immediate action at the external borders is required, it should be possible to provide emergency assistance, in accordance with the framework set out in this Regulation.
- (52) This Regulation lays down a financial envelope for the entire duration of the Instrument which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources <sup>(29)</sup>, for the European Parliament and the Council during the annual budgetary procedure. The prime reference amount allocated to the Instrument is increased by an additional amount of EUR 1 billion in 2018 prices as specified in Annex II to Council Regulation (EU, Euratom) 2020/2093 <sup>(30)</sup>.
- (53) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(31)</sup> (the 'Financial Regulation') applies to the Instrument. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (54) For the purpose of implementation of actions under shared management, the Instrument should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.

<sup>(29)</sup> OJ L 433 I, 22.12.2020, p. 28.

<sup>(30)</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I, 22.12.2020, p. 11).

<sup>(31)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (55) Regulation (EU) 2021/1060 establishes the framework for action by the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Instrument with respect to border management and visa policy in this Regulation, and to lay down specific provisions concerning actions that may be financed under the Instrument.
- (56) A pre-financing scheme for the Instrument is set out in Regulation (EU) 2021/1060, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.
- (57) The types of financing and methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, administrative burdens and the risk of non-compliance. When making that choice, the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation, should be considered.
- (58) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multiannual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.
- (59) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.
- (60) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(32)</sup> and Council Regulations (EC, Euratom) No 2988/95 <sup>(33)</sup>, (Euratom, EC) No 2185/96 <sup>(34)</sup> and (EU) 2017/1939 <sup>(35)</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, to the imposition of

<sup>(32)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(33)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(34)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(35)</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939 to investigate and prosecute criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council <sup>(36)</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

- (61) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (62) Pursuant to Council Decision 2013/755/EU <sup>(37)</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (63) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their programmes address the emerging threats with which the outermost regions are confronted. The Instrument should support those Member States with adequate resources to help the outermost regions as appropriate.
- (64) Pursuant to paragraph 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(38)</sup>, the Instrument should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground. In order to measure the achievements of the Instrument, indicators and related targets should be established in relation to each specific objective of the Instrument. Those indicators should include qualitative and quantitative indicators.
- (65) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change <sup>(39)</sup>, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of an overall target of 30 % of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget being spent on biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while taking into account the existing overlaps between climate and biodiversity goals. The Instrument should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council <sup>(40)</sup>.

<sup>(36)</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

<sup>(37)</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).

<sup>(38)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(39)</sup> OJ L 282, 19.10.2016, p. 4.

<sup>(40)</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

- (66) Regulation (EU) No 514/2014 of the European Parliament and of the Council <sup>(41)</sup> and any act applicable to the 2014-2020 programming period should continue to apply to programmes and projects supported under the Instrument during the 2014-2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.
- (67) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Instrument in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with links to the Member States' websites referred to in Regulation (EU) 2021/1060.
- (68) In order to supplement and amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions in Annex III, the list of actions eligible for higher co-financing rates in Annex IV, operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(42)</sup>. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.
- (70) The participation by a Member State in the Instrument should not coincide with its participation in a temporary financial instrument of the Union which supports the beneficiary Member States to finance, inter alia, actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visas and external border control.
- (71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

<sup>(41)</sup> Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

<sup>(42)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (72) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* <sup>(43)</sup> which fall within the area referred to in Article 1, Points A and B of Council Decision 1999/437/EC <sup>(44)</sup>.
- (73) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(45)</sup> which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(46)</sup>.
- (74) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* <sup>(47)</sup> which fall within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(48)</sup>.
- (75) In order to specify the nature and modes of participation in the Instrument of countries associated with the implementation, application and development of the Schengen *acquis*, further arrangements should be concluded between the Union and those countries under the relevant provisions of their respective association agreements. Such arrangements should constitute international agreements within the meaning of Article 218 TFEU. With a view to minimising any possible gap between the moment when the Instrument becomes binding on the country concerned and the entry into force of the arrangements, it is appropriate to start the negotiations on such arrangements as soon as possible after the respective country has notified to the Council and the Commission its decision to accept the contents of the Instrument and to implement it in its internal legal order. The conclusion of such arrangements should take place after the country concerned has informed in writing of the fulfilment of all its internal requirements.
- (76) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark should, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement this Regulation in its national law.

<sup>(43)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(44)</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>(45)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(46)</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>(47)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(48)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

- (77) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(49)</sup>. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (78) It is appropriate to align the period of application of this Regulation with that of Regulation (EU, Euratom) 2020/2093.
- (79) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Subject matter

This Regulation establishes the Instrument for Financial Support for Border Management and Visa Policy (the 'Instrument'), as part of the Integrated Border Management Fund (the 'Fund'), for the period from 1 January 2021 to 31 December 2027.

This Regulation establishes the Fund jointly with Regulation (EU) 2021/1077 for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the policy objective of the Instrument, the specific objectives of the Instrument and measures to implement those specific objectives, the budget for the period from 1 January 2021 to 31 December 2027, the forms of Union funding and the rules for providing such funding.

#### Article 2

##### Definitions

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

- (1) 'border crossing point' means border crossing point as defined in point 8 of Article 2 of Regulation (EU) 2016/399;
- (2) 'European integrated border management' means European integrated border management as referred to in Article 3 of Regulation (EU) 2019/1896;
- (3) 'external borders' means external borders as defined in point 2 of Article 2 of Regulation (EU) 2016/399 and internal borders at which controls have not yet been lifted;
- (4) 'external border section' means external border section as defined in point (11) of Article 2 of Regulation (EU) 2019/1896;
- (5) 'hotspot area' means hotspot area as defined in point (23) of Article 2 of Regulation (EU) 2019/1896;
- (6) 'internal borders at which controls have not yet been lifted' means:
  - (a) the common border between a Member State fully implementing the Schengen *acquis* and a Member State bound to apply the Schengen *acquis* in full, in conformity with its Act of Accession, but for which the relevant Council Decision authorising it to fully apply that *acquis* has not yet entered into force;

<sup>(49)</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

- (b) the common border between two Member States bound to apply the Schengen *acquis* in full, in conformity with their respective Acts of Accession, but for which the relevant Council Decision authorising them to fully apply that *acquis* has not yet entered into force;
- (7) 'emergency situation' means a situation resulting from urgent and exceptional pressure, in which a large or disproportionate number of third-country nationals have crossed, are crossing or are expected to cross the external borders of one or more Member States or in which incidents related to illegal immigration or cross-border crime occur at the external borders of one or more Member States, and those incidents have a decisive impact on border security to such an extent that they risk jeopardising the functioning of the Schengen area, or any other situation in respect of which it has been duly substantiated that immediate action at the external borders within the objectives of the Instrument is required;
- (8) 'specific actions' means transnational or national projects that bring Union added value in accordance with the objectives of the Instrument for which one, several or all Member States may receive an additional allocation to their programmes;
- (9) 'operating support' means a part of a Member State's allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union;
- (10) 'Union actions' means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Instrument.

#### Article 3

### Objectives of the Instrument

1. As part of the Fund, the policy objective of the Instrument is to ensure strong and effective European integrated border management at the external borders, thereby contributing to ensuring a high level of internal security within the Union, while safeguarding the free movement of persons within it and fully respecting the relevant Union *acquis* and the international obligations of the Union and the Member States arising from the international instruments to which they are party.
2. Within the policy objective set out in paragraph 1, the Instrument shall contribute to the following specific objectives:
  - (a) supporting effective European integrated border management at the external borders, implemented by the European Border and Coast Guard as a shared responsibility of the European Border and Coast Guard Agency and the national authorities responsible for border management, to facilitate legitimate border crossings, to prevent and detect illegal immigration and cross-border crime and to effectively manage migratory flows;
  - (b) supporting the common visa policy to ensure a harmonised approach with regard to the issuance of visas and to facilitate legitimate travel, while helping to prevent migratory and security risks.
3. Within the specific objectives set out in paragraph 2, the Instrument shall be implemented through the implementation measures listed in Annex II.

#### Article 4

### Non-discrimination and respect for fundamental rights

Actions funded under the Instrument shall be implemented in full compliance with the rights and principles enshrined in the Union *acquis* and the Charter and with the Union's international obligations as regards fundamental rights, in particular by ensuring compliance with the principles of non-discrimination and *non-refoulement*.



*Article 5***Scope of support**

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Instrument shall, in particular, support the actions listed in Annex III.

To address unforeseen or new circumstances, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend the list of actions in Annex III in order to add new actions.

2. To achieve its objectives, the Instrument may support, in line with Union priorities, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 20.

3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:

- (a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;
- (b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;
- (c) focus on measures that are not development-oriented; and
- (d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.

4. The following actions shall not be eligible:

- (a) actions as referred to in point (a) of paragraph 1 of Annex III at those internal borders at which controls have not yet been lifted;
- (b) actions related to the temporary reintroduction of border control at internal borders within the meaning of point 1 of Article 2 of Regulation (EU) 2016/399;
- (c) actions of which the primary purpose is customs control.

By way of derogation from the first subparagraph, where an emergency situation occurs, actions as referred to in the first subparagraph may be considered eligible.

## CHAPTER II

**FINANCIAL AND IMPLEMENTATION FRAMEWORK**

## SECTION 1

**Common provisions***Article 6***General principles**

1. Support provided under the Instrument shall complement national, regional and local interventions, and shall focus on bringing Union added value to the achievement of the objectives of the Instrument.

2. The Commission and the Member States shall ensure that the support provided under the Instrument and by the Member States is consistent with the relevant actions, policies and priorities of the Union, and is complementary to support provided under other Union instruments.

3. The Instrument shall be implemented under direct, shared or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

*Article 7***Budget**

1. The financial envelope for the implementation of the Instrument for the period from 1 January 2021 to 31 December 2027 shall be EUR 5 241 000 000 in current prices.
2. As a result of the programme-specific adjustment provided for in Article 5 of Regulation (EU, Euratom) 2020/2093, the amount referred to in paragraph 1 of this Article shall be increased by an additional allocation of EUR 1 000 000 000 in constant 2018 prices as specified in Annex II to that Regulation.
3. The financial envelope shall be used as follows:
  - (a) EUR 3 668 000 000 shall be allocated to the Member States' programmes, of which EUR 200 568 000 shall be allocated to the Special Transit Scheme referred to in Article 17;
  - (b) EUR 1 573 000 000 shall be allocated to the thematic facility referred to in Article 8.
4. The additional allocation referred to in paragraph 2 shall be allocated to the thematic facility referred to in Article 8.
5. At the initiative of the Commission, up to 0,52 % of the financial envelope shall be allocated to technical assistance, as referred to in Article 35 of Regulation (EU) 2021/1060, for the implementation of the Instrument.
6. In accordance with the relevant provisions of their respective association agreements, arrangements shall be made in order to specify the nature and modes of the participation in the Instrument of countries associated with the implementation, application and development of the Schengen *acquis*. As soon as possible after the country concerned has notified its decision to accept the content of the Instrument and to implement it in its internal legal order, in accordance with the relevant association agreement, the Commission shall submit a recommendation to the Council for the opening of negotiations on those arrangements under Article 218(3) TFEU. On receipt of the recommendation, the Council shall act without delay in deciding to authorise the opening of those negotiations. The financial contributions from those countries shall be added to the overall resources available from the financial envelope referred to in paragraph 1.
7. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Instrument under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

*Article 8***General provisions on the implementation of the thematic facility**

1. The amount referred to in point (b) of Article 7(3) shall be allocated flexibly through a thematic facility using shared, direct or indirect management as set out in work programmes. Given the internal nature of the Instrument, the thematic facility shall primarily serve internal Union policy in accordance with the specific objectives set out in Article 3(2).

Funding from the thematic facility shall be used for its components, which are as follows:

- (a) specific actions;
- (b) Union actions; and
- (c) emergency assistance as referred to in Article 25.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 7(3) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs, in line with agreed Union priorities as reflected in Annex II, including the need to protect the external borders and to prevent and detect cross-border crime at the external borders, in particular migrant smuggling and trafficking in human beings, and irregular immigration, as well as to effectively manage migratory flows and support the common visa policy.

The funding referred to in the first subparagraph of this paragraph, with the exception of funding used for emergency assistance in accordance with Article 25, shall only support the actions listed in Annex III.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Instrument.

4. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of projects are not selected.

5. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.

6. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.

7. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 32(3) of this Regulation.

8. The Commission shall ensure that the distribution of resources among the specific objectives set out in Article 3(2) is fair and transparent. The Commission shall report on the use and the distribution of the thematic facility between the components referred to in the second subparagraph of paragraph 1 of this Article, including on the support provided to actions in or in relation to third countries under the Union actions.

9. Following the adoption of a financing decision as referred to in paragraph 7, the Commission may amend the Member States' programmes accordingly.

## SECTION 2

### ***Support and implementation under shared management***

#### *Article 9*

#### **Scope**

1. This section applies to the amount referred to in point (a) of Article 7(3) and the additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 8.

2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and Regulation (EU) 2021/1060.

*Article 10***Budgetary resources**

1. The amount referred to in point (a) of Article 7(3) shall be allocated to Member States' programmes indicatively as follows:
  - (a) EUR 3 057 000 000 in accordance with Annex I;
  - (b) EUR 611 000 000 for the adjustment of the allocations to the Member States' programmes referred to in Article 14(1).
2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 7(3).

*Article 11***Pre-financing**

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Instrument shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:
  - (a) 2021: 4 %;
  - (b) 2022: 3 %;
  - (c) 2023: 5 %;
  - (d) 2024: 5 %;
  - (e) 2025: 5 %;
  - (f) 2026: 5 %.
2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

*Article 12***Co-financing rates**

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.
2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.
3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for the actions listed in Annex IV.
4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support, including the Special Transit Scheme referred to in Article 17.
5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure in accordance with Article 85(2) or (3) of Regulation (EU) 2018/1240.
6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 25.
7. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States, within the limits set out in point (b)(vi) of Article 36(5) of Regulation (EU) 2021/1060.
8. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Instrument for the types of action covered by the contribution referred to in paragraphs 1 to 7.

9. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:

- (a) the total contribution, including the public and private contribution; or
- (b) the public contribution only.

### Article 13

#### Member States' programmes

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with and respond to Union priorities and challenges in the area of border management and visa policy and are fully in accordance with the relevant Union *acquis* and the international obligations of the Union and Member States arising from the international instruments to which they are party. In defining the priorities of their programmes, Member States shall ensure that the implementation measures listed in in Annex II are adequately addressed in their programmes.

Given the internal nature of the Instrument, Member States' programmes shall primarily serve internal Union policy in accordance with the specific objectives set out in Article 3(2) of this Regulation.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. Within the resources allocated in Article 10(1), and without prejudice to paragraph 3 of this Article, each Member State shall allocate, within its programme, a minimum of 10 % to the specific objective set out in point (b) of Article 3(2).

3. A Member State may allocate less than the minimum percentage referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.

4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies, in particular the European Border and Coast Guard Agency, eu-LISA and the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007<sup>(50)</sup>, are taken into account as regards the areas of their competence, at an early stage and in a timely manner, in the development of the Member States' programmes.

5. The Commission shall consult the European Border and Coast Guard Agency on the actions included under operating support to ensure the consistency and complementarity of the actions of the European Border and Coast Guard Agency and those of the Member States regarding border management, to avoid double financing and to achieve cost efficiency. The Commission shall, where necessary, consult eu-LISA on the actions included under operating support for which eu-LISA has particular expertise in accordance with its mandate.

6. The Commission may involve, where appropriate, relevant decentralised agencies, including those referred to in paragraph 4, in the monitoring and evaluation tasks specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Instrument are compliant with the relevant Union *acquis* and agreed Union priorities.

7. Following the adoption of recommendations within the scope of this Regulation in accordance with Regulation (EU) No 1053/2013 and the issuing of recommendations in the framework of carrying out vulnerability assessments in accordance with Regulation (EU) 2019/1896, the Member State concerned shall examine, together with the Commission, the most appropriate approach to addressing those recommendations with the support of the Instrument.

8. The Commission shall, where relevant, involve the European Border and Coast Guard Agency in the process of examining the most appropriate approach to addressing the recommendations referred to in paragraph 7 with the support of the Instrument. In that context, the Commission may, where relevant, draw on the expertise of other Union bodies, offices and agencies with respect to specific issues falling within their areas of competence.

<sup>(50)</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

9. When implementing paragraph 7, the Member State concerned shall make the implementation of measures to address any identified deficiencies, especially measures to address serious deficiencies and assessments of non-compliance, a priority for its programme.

10. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in paragraph 7 of this Article.

11. In cooperation and consultation with the Commission and the European Border and Coast Guard Agency in accordance with the that Agency's areas of competence, the Member State concerned may reallocate resources under its programme, including those programmed for operating support, with the aim of addressing the recommendations referred to in paragraph 7 where those recommendations have financial implications.

12. Whenever a Member State decides to implement a project with or in a third country with the support of the Instrument, the Member State concerned shall consult the Commission prior to the approval of the project.

13. Whenever a Member State decides to implement an action with, in or in relation to a third country with the support of the Instrument in relation to the monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating irregular immigration and cross-border crime or for the purpose of contributing to the protection of migrants and contributing to saving the lives of migrants, that Member State shall ensure that it has notified the Commission of any bilateral or multilateral cooperation agreement with that third country in accordance with Article 76(3) of Regulation (EU) 2019/1896.

14. As regards equipment, including means of transport, and ICT systems required for effective and secure border control, including for search and rescue operations, and purchased with the support of the Instrument:

- (a) the Member States shall ensure that the standards established in accordance with Articles 16 and 64 of Regulation (EU) 2019/1896 are met when launching the purchase procedures for the equipment and ICT systems to be developed with the support of the Instrument;
- (b) all large-scale operating equipment for border management, such as aerial and maritime means of transport and surveillance, purchased by the Member States shall be registered in the technical equipment pool of the European Border and Coast Guard Agency for the purpose of making that equipment available in accordance with Article 64(9) of Regulation (EU) 2019/1896;
- (c) they may be additionally used in the following complementary areas: customs control, maritime operations of a multipurpose character and for achieving the objectives of the Internal Security Fund and of the Asylum, Migration and Integration Fund;
- (d) Member States shall, in order to support coherent planning for capability development for the European Border and Coast Guard and the possible use of joint procurement, communicate to the Commission, as part of the reporting requirement under Article 29, the available multiannual planning for the equipment expected to be purchased under the Instrument, and the Commission shall transmit that information to the European Border and Coast Guard Agency.

Equipment and ICT systems as referred to in the first subparagraph shall only be eligible for financial support from the Instrument where the requirement set out in point (a) of the first subparagraph is met.

For the purposes of point (c) of the first subparagraph, equipment and ICT systems shall remain available and deployable for effective and secure border control activities. The use of equipment in the complementary areas referred to in point (c) of the first subparagraph shall not exceed 30 % of the total period of use of that equipment. ICT systems developed for the purposes of point (c) of the first subparagraph shall provide data and services to the border management systems at national or Union level. Member States shall inform the Commission in the annual performance report of multiple use as referred to in point (c) of the first subparagraph and the place of deployment for multi-purpose equipment and ICT systems.

15. Where Member States are implementing actions under the Instrument, they shall pay particular attention to their international obligations regarding search and rescue operations at sea. Equipment and ICT systems as referred to in points (a) to (d) of the first subparagraph of paragraph 14 may be used for search and rescue operations in situations which might arise during border surveillance operations at sea.

16. Training in the field of border management carried out with the support of the Instrument shall be based on the relevant harmonised and quality-assured European educational and common training standards for border and coast guards, in particular the common core curricula referred to in Article 62(6) of Regulation (EU) 2019/1896.

17. Member States shall in particular pursue the actions listed in Annex IV in their programmes. To address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend the list of actions eligible for higher co-financing rates in Annex IV.

18. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 1 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

#### *Article 14*

##### **Mid-term review**

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 10(1) in accordance with the criteria referred to in point (c) of paragraph 1 and paragraphs 2 to 10 of Annex I. The allocation shall be based on the most recent available statistical data for the criteria referred to in point (c) of paragraph 1 and paragraphs 2 to 10 of Annex I. Funding shall be effective as of 1 January 2025.

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 10(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 10(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 8 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

#### *Article 15*

##### **Specific actions**

1. A Member State may receive funding for specific actions in addition to its allocation under Article 10(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Instrument.

2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

#### *Article 16*

##### **Operating support**

1. A Member State may use up to 33 % of the amount allocated to its programme under the Instrument to finance operating support for the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union.

2. When using operating support, a Member State shall comply with the relevant Union *acquis*.
3. A Member State shall explain, in its programme and in the annual performance reports referred to in Article 29, how the use of operating support will contribute to the achievement of the objectives of the Instrument. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to use operating support, following a consultation of the European Border and Coast Guard Agency and, where appropriate, eu-LISA within the scope of those agencies' areas of competence in accordance with Article 13(4), and taking into account the information provided by those Member States and, where relevant, the information available as a result of Schengen evaluations and vulnerability assessments, including recommendations following Schengen evaluations and vulnerability assessments.
4. Without prejudice to point (c) of Article 5(4), operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.
5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VII in respect of expenditure that is eligible for operating support.

#### Article 17

### Operating support for the Special Transit Scheme

1. The Instrument shall provide support to cover foregone fees from visas issued for the purpose of transit and additional costs incurred in implementing the facilitated transit scheme in accordance with Regulations (EC) No 693/2003 and (EC) No 694/2003.
2. The resources allocated to Lithuania for the Special Transit Scheme in accordance with point (a) of Article 7(3) shall be made available as additional operating support for Lithuania, including for investment in infrastructures, in accordance with the expenditure that is eligible for operating support within its programme referred to in Annex VII.
3. By way of derogation from Article 16(1), Lithuania may use the amount allocated to it in accordance with point (a) of Article 7(3) to finance operating support in addition to the amount referred to in Article 16(1).
4. The Commission and Lithuania shall review the application of this Article in the event of changes which have an impact on the existence or functioning of the Special Transit Scheme.
5. Following a reasoned request by Lithuania, the resources allocated for the Special Transit Scheme in accordance with point (a) of Article 7(3) shall be reviewed and, where necessary, adjusted before the adoption of the last work programme for the thematic facility referred to in Article 8, within the limits of the budgetary resources referred to in point (b) of Article 7(3), through the thematic facility referred to in Article 8.

#### Article 18

### Management verifications and audits of projects carried out by international organisations

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').
2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.



3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.
4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:
  - (a) invoices and proof of their payment by the beneficiary have been verified;
  - (b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.
5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.
6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.
7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.
8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article instead of by relying on the management verifications referred to in Article 74(1) of that Regulation.
9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060, shall include the requirements set out in this Article.
10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:
  - (a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;
  - (b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7; or
  - (c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.
11. Where a project in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a subsample of transactions that relate to that project. Where errors are found in the subsample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

## SECTION 3

**Support and implementation under direct or indirect management**

## Article 19

**Scope**

The Commission shall implement support under this Section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

## Article 20

**Eligible entities**

1. The following entities are eligible for Union financing:
  - (a) legal entities established in:
    - (i) a Member State or an overseas country or territory linked to it;
    - (ii) a third country listed in the work programme, under the conditions specified in paragraph 3;
  - (b) legal entities created under Union law or any international organisation relevant for the purposes of the Instrument.
2. Natural persons are not eligible for Union financing.
3. Entities as referred to in point (a)(ii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Instrument.

## Article 21

**Union actions**

1. At the Commission's initiative, the Instrument may be used to finance Union actions related to the objectives of the Instrument, in accordance with Annex III.
2. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement.
3. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
4. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.
5. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. Article 37(7) of Regulation (EU) 2021/695 of the European Parliament and of the Council <sup>(51)</sup> shall apply.

<sup>(51)</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

*Article 22***Technical assistance at the initiative of the Commission**

In accordance with Article 35 of Regulation (EU) 2021/1060, the Instrument may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

*Article 23***Audits**

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

*Article 24***Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Instrument, to actions taken pursuant to the Instrument and to the results obtained.

Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Instrument.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 8. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

*SECTION 4****Support and implementation under shared, direct or indirect management****Article 25***Emergency assistance**

1. The Instrument shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations.

In response to such duly justified emergency situations, the Commission may provide emergency assistance within the limits of available resources.

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

3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 10(1), provided that it is subsequently earmarked as such in the Member States' programmes. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.
6. Emergency assistance shall be provided in a manner that is entirely consistent with both the relevant Union *acquis* and international obligations of the Union and Member States arising from the international instruments to which they are party.
7. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 32(4). Such an act shall remain in force for a period not exceeding 18 months.

#### Article 26

### **Cumulative and alternative financing**

1. An action that has received a contribution under the Instrument may also receive a contribution from any other Union programme, including funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the European Regional Development Fund or the European Social Fund Plus may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:
  - (a) they have been assessed in a call for proposals under the Instrument;
  - (b) they comply with the minimum quality requirements of that call for proposals; and
  - (c) they cannot be financed under that call for proposals due to budgetary constraints.

#### SECTION 5

### **Monitoring, reporting and evaluation**

#### Subsection 1

### **Common provisions**

#### Article 27

### **Monitoring and reporting**

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex V in order to make the necessary adjustments to the core performance indicators listed in that Annex.
3. Indicators to report on the progress of the Instrument towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.
4. The Commission shall also report on the use of the thematic facility referred to in Article 8 for supporting actions in or in relation to third countries and the share of the thematic facility used for supporting such actions.
5. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.
6. To ensure the effective assessment of the Instrument's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

#### Article 28

#### Evaluation

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of Regulation (EU) 2021/1060, the mid-term evaluation shall assess the following:
  - (a) the effectiveness of the Instrument, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 29 and the output and result indicators set out in Annex VIII;
  - (b) the efficiency of the use of resources allocated to the Instrument and the efficiency of the management and control measures put in place to implement it;
  - (c) the continued relevance and appropriateness of the implementation measures listed in Annex II;
  - (d) the coordination, coherence and complementarity between the actions supported under the Instrument and support provided by other Union funds;
  - (e) the Union added value of actions implemented under the Instrument.

That mid-term evaluation shall take into account the results of the retrospective evaluation of the effects of the instrument for financial support for external borders and visa, as part of the Internal Security Fund, for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of the Regulation (EU) 2021/1060, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Instrument shall be evaluated.
3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.
4. The Commission shall ensure that information in the mid-term and retrospective evaluations is made publicly available, except in duly justified cases where the release of that information is restricted by law, in particular for reasons of the functioning or security of the external borders as part of European integrated border management, security, public order, criminal investigations or the protection of personal data.

5. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 5 and Article 13(12) and (13).

## Subsection 2

### Rules for shared management

#### Article 29

#### Annual performance reports

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/1060.

The reporting period shall cover the last accounting year, as defined in point (29) of Article 2 of Regulation (EU) 2021/1060, preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:

- (a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;
- (b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions issued by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Instrument;
- (c) the complementarity between the actions supported under the Instrument and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;
- (d) the contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans;
- (e) the implementation of communication and visibility actions;
- (f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;
- (g) the level of expenditure in accordance with Article 85(2) and (3) of Regulation (EU) 2018/1240 included in the accounts pursuant to the Article 98 of Regulation (EU) 2021/1060;
- (h) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.

5. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt an implementing act establishing the template for the annual performance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 32(2).

*Article 30***Monitoring and reporting under shared management**

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. To address unforeseen or new circumstances and to ensure the effective implementation of the funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VI.
2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

## CHAPTER III

## TRANSITIONAL AND FINAL PROVISIONS

*Article 31***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) and Article 30(1) shall be conferred on the Commission until 31 December 2027.
3. The delegation of powers referred to in the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) and Article 30(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.
6. A delegated act adopted pursuant to the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) or Article 30(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 32***Committee procedure**

1. The Commission shall be assisted by a committee (the 'Committee for the Home Affairs Funds'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

### Article 33

#### Transitional provisions

1. This Regulation shall not affect the continuation of or modification of the actions initiated pursuant to Regulation (EU) No 515/2014 which shall continue to apply to those actions until their closure.

2. The financial envelope for the Instrument may also cover technical and administrative assistance expenses necessary to ensure the transition between the Instrument and the measures adopted pursuant to Regulation (EU) No 515/2014.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

4. Member States may continue after 1 January 2021 to support a project selected and started under Regulation (EU) No 515/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:

- (a) the project has two phases identifiable from a financial point of view with separate audit trails;
- (b) the total cost of the project exceeds EUR 2 500 000;
- (c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;
- (d) the second phase of the project complies with the applicable law and is eligible for support from the Instrument under this Regulation and Regulation (EU) 2021/1060;
- (e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

### Article 34

#### Entry into force and application

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.



This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 7 July 2021.

*For the European Parliament*  
*The President*  
D. M. SASSOLI

*For the Council*  
*The President*  
A. LOGAR

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## ANNEX I

**Criteria for the allocation of funding to the Member States' programmes**

1. The budgetary resources available under Article 10 shall be broken down between the Member States as follows:
  - (a) each Member State shall receive a fixed amount of EUR 8 000 000 in current prices from the Instrument at the start of the programming period only, with the exception of Cyprus, Malta and Greece, which shall each receive a fixed amount of EUR 28 000 000 in current prices;
  - (b) an amount of EUR 200 568 000 for the Special Transit Scheme referred to in Article 17 shall be allocated to Lithuania at the start of the programming period only; and
  - (c) the remaining budgetary resources referred to in Article 10 shall be distributed based on the following criteria:
    - (i) 30 % for external land borders;
    - (ii) 35 % for external sea borders;
    - (iii) 20 % for airports;
    - (iv) 15 % for consular offices.
2. The budgetary resources available under point (c)(i) and (ii) of paragraph 1 for external land borders and external sea borders shall be broken down between Member States as follows:
  - (a) 70 % for the weighted length of their external land borders and external sea borders; and
  - (b) 30 % for the workload at their external land and external sea borders, as determined in accordance with point (a) of paragraph 6.

The weighted length referred to in point (a) of the first subparagraph of this paragraph shall be established by applying the weighting factors referred to in paragraph 10 for each specific external border section.
3. The budgetary resources available under point (c)(iii) of paragraph 1 for airports shall be broken down between Member States in accordance with the workload at their airports, as determined in accordance with point (b) of paragraph 6.
4. The budgetary resources available under point (c)(iv) of paragraph 1 for consular offices shall be broken down between Member States as follows:
  - (a) 50 % for the number of consular offices, excluding honorary consulates, of the Member States in the countries listed in Annex I to Regulation (EU) 2018/1806 of the European Parliament and of the Council <sup>(1)</sup>, and
  - (b) 50 % for the workload relating to the management of visa policy at consular offices of Member States in the countries listed in Annex I to Regulation (EU) 2018/1806, as determined in accordance with point (c) of paragraph 6 of this Annex.
5. For the purpose of the distribution of resources under point (c)(ii) of paragraph 1 of this Annex, 'external sea borders' shall mean the outer limit of the territorial sea of the Member States as defined in accordance with Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, the definition of 'external sea borders' shall take into account cases where long range operations outside the outer limit of the territorial sea of the Member States have been carried out in high threat areas on a regular basis in order to prevent irregular immigration or illegal entry. The definition of 'external sea borders' in that regard shall be determined by taking into account operational data over the past two years as provided by the Member States concerned and as assessed by the European Border and Coast Guard Agency for the purposes of the report referred to in paragraph 9 of this Annex. That definition shall be used exclusively for the purposes of this Regulation.

<sup>(1)</sup> Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39).

6. For the purposes of the initial allocation of funding, the assessment of the workload shall be based on the most recent average figures covering the years 2017, 2018 and 2019. For the purposes of the mid-term review, the assessment of the workload shall be based on the most recent average figures covering the years 2021, 2022 and 2023. The assessment of the workload shall be based on the following factors:
- (a) at external land borders and external sea borders:
    - (i) 70 % for the number of crossings of the external borders at border crossing points;
    - (ii) 30 % for the number of third-country nationals refused entry at the external borders;
  - (b) at airports:
    - (i) 70 % for the number of crossings of the external borders at border crossing points;
    - (ii) 30 % for the number of third-country nationals refused entry at the external borders;
  - (c) at consular offices:
    - (i) the number of visa applications for short stays or airport transits.
7. The reference figures for the number of consular offices as referred to in point (a) of paragraph 4 shall be calculated on the basis of the information notified to the Commission in accordance with Article 40(4) of Regulation (EC) No 810/2009 of the European Parliament and of the Council <sup>(2)</sup>.
- Where Member States have not provided the statistics concerned, the most recent available data for those Member States shall be used. Where there is no data available for a Member State, the reference figure shall be zero.
8. The reference figures for the workload referred to:
- (a) in points (a)(i) and (b)(i) of paragraph 6 shall be the most recent statistics provided by Member States in accordance with Union law;
  - (b) in points (a)(ii) and (b)(ii) of paragraph 6 shall be the most recent statistics produced by the Commission (Eurostat) on the basis of data provided by Member States in accordance with Union law;
  - (c) in point (c) of paragraph 6 shall be the most recent visa statistics as referred to in Article 46 of Regulation (EC) No 810/2009.
- Where Member States have not provided the statistics concerned, the most recent available data for those Member States shall be used. Where there is no data available for a Member State, the reference figure shall be zero.
9. The European Border and Coast Guard Agency shall provide the Commission with a report on resources, broken down by external land borders, external sea borders and airports, as referred to in point (c) of paragraph 1. Parts of that report may be classified, where appropriate, in accordance with Article 92 of Regulation (EU) 2019/1896. After consultation of the Commission, the European Border and Coast Guard Agency shall make a non-classified version of the report publicly available.
10. For the purposes of the initial allocation, the report referred to in paragraph 9 of this Annex shall identify the average impact level for each border section based on the most recent average figures covering the years 2017, 2018 and 2019. For the purposes of the mid-term review, the report referred to in paragraph 9 of this Annex shall identify the average impact level for each border section based on the most recent average figures covering the years 2021, 2022 and 2023. It shall determine the following specific weighting factors per section applying the impact levels determined in accordance with Article 34(1) and (2) of Regulation (EU) 2019/1896:
- (a) factor 1 for low impact level;
  - (b) factor 3 for medium impact level;
  - (c) factor 5 for high and critical impact level.

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<sup>(2)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

## ANNEX II

**Implementation measures**

1. The Instrument shall contribute to the specific objective set out in point (a) of Article 3(2) by focusing on the following implementation measures:
  - (a) the improvement of border control in accordance with point (a) of Article 3(1) of Regulation (EU) 2019/1896 by:
    - (i) reinforcing capacities for carrying out checks and surveillance at the external borders, including measures to facilitate legitimate border crossings and, where appropriate, measures related to:
      - the prevention and detection of cross-border crime at the external borders, in particular migrant smuggling, trafficking in human beings, and terrorism,
      - the management of continuously high levels of migration at the external borders, including through technical and operational reinforcement and through mechanisms and procedures for the identification of vulnerable persons and unaccompanied minors and for the identification of persons who are in need of, or who wish to apply for, international protection, the provision of information to such persons, and the referral of such persons;
    - (ii) implementing technical and operational measures within the Schengen area which are related to border control, while safeguarding the free movement of persons within it;
    - (iii) carrying out analyses of the risks for internal security and analyses of the threats that may affect the functioning or security of the external borders;
  - (b) the development of the European Border and Coast Guard by providing support to national authorities responsible for border management to pursue measures related to capability development and common capacity building, joint procurement, the establishment of common standards and any other measures streamlining the cooperation and coordination between the Member States and the European Border and Coast Guard Agency;
  - (c) the enhancement of inter-agency cooperation at national level among the national authorities responsible for border control or for tasks carried out at the border, and enhancing cooperation at Union level between the Member States, or between the Member States, on the one hand, and the relevant Union bodies, offices and agencies or third countries, on the other;
  - (d) ensuring the uniform application of the Union *acquis* in relation to external borders, including through the implementation of recommendations from quality control mechanisms such as the Schengen evaluation mechanism in accordance with Regulation (EU) No 1053/2013, vulnerability assessments in accordance with Regulation (EU) 2019/1896 and national quality control mechanisms;
  - (e) the setting up, operation and maintenance of large-scale IT systems pursuant to Union law in the area of border management, in particular SIS, ETIAS, the EES and Eurodac for border management purposes, including the interoperability of those large-scale IT systems and their communication infrastructure, and actions to enhance data quality and the provision of information;
  - (f) increasing capacity to render assistance to persons in distress at sea and supporting search and rescue operations in situations which might arise during a border surveillance operation at sea;
  - (g) support to search and rescue operations in the context of carrying out border surveillance at sea.
2. The Instrument shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:
  - (a) the provision of efficient and client-friendly services to visa applicants while maintaining the security and integrity of visa procedures, and fully respecting the human dignity and the integrity of applicants and visa holders in accordance with Article 7(2) of Regulation (EC) No 767/2008;
  - (b) support to Member States in issuing visas, including visas with limited territorial validity, as referred to in Article 25 of Regulation (EC) No 810/2009, issued on humanitarian grounds, for reasons of national interest or because of international obligations;

- (c) ensuring the uniform application of the Union *acquis* in relation to visas, including the further development and modernisation of the common policy on visas;
  - (d) the development of different forms of cooperation between Member States in visa processing;
  - (e) the setting up, operation and maintenance of large-scale IT systems pursuant to Union law in the area of the common policy on visas, in particular the VIS, including the interoperability of those large-scale IT systems and their communication infrastructure, and actions to enhance data quality and the provision of information.
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## ANNEX III

**Scope of support**

1. Within the specific objective set out in point (a) of Article 3(2), the Instrument shall in particular support the following:
  - (a) infrastructure, buildings, systems and services required at border crossing points and for border surveillance between border crossing points;
  - (b) operating equipment, including means of transport and ICT systems, required for effective and secure border control at border crossing points and for border surveillance, in accordance with standards developed by the European Border and Coast Guard Agency, where such standards exist;
  - (c) training in the field of, or contributing to the development of, European integrated border management, taking into account operational needs and risk analyses, including challenges identified in the recommendations referred to in Article 13(7), and full compliance with fundamental rights;
  - (d) the joint deployment of immigration liaison officers to third countries in accordance with Regulation (EU) 2019/1240 of the European Parliament and of the Council<sup>(1)</sup> and secondments of border guards and other relevant experts to Member States or from a Member State to a third country, reinforcement of cooperation and operational capacity of networks of experts or liaison officers, and the exchange of best practices and boosting the capacity of European networks to assess, promote, support and develop Union policies;
  - (e) the exchange of best practices and expertise, studies, pilot projects, and other relevant actions aiming to implement or develop European integrated border management, including measures aiming to develop the European Border and Coast Guard, such as common capacity building, joint procurement, establishment of common standards and other measures streamlining the cooperation and coordination between the European Border and Coast Guard Agency and Member States, and measures related to the referral of vulnerable persons in need of assistance and persons who are in need of, or who wish to apply for, international protection;
  - (f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, in particular deploying the results of security research projects where such deployment has been identified by the European Border and Coast Guard Agency, acting under Article 66 of Regulation (EU) 2019/1896, as contributing to the development of operational capabilities of the European Border and Coast Guard;
  - (g) preparatory, monitoring, administrative and technical activities required to implement external border policies, including to strengthen the governance of the Schengen area by developing and implementing the evaluation mechanism, established by Regulation (EU) No 1053/2013 to verify the application of the Schengen *acquis* and Regulation (EU) 2016/399, including mission expenditure for experts of the Commission and the Member States participating in on-site visits and measures to implement recommendations issued following vulnerability assessments carried out by the European Border and Coast Guard Agency in accordance with Regulation (EU) 2019/1896;
  - (h) actions to enhance the quality of data stored in ICT systems and to improve the exercise of a data subject's rights to information, access to, and rectification and erasure of, his or her personal data, and to the restriction of the processing thereof;
  - (i) identification, fingerprinting, registration, security checks, debriefing, provision of information, medical and vulnerability screening and, where necessary, medical care and referral of third country nationals to the appropriate procedure at the external borders;
  - (j) actions that aim to enhance awareness of external border policies among stakeholders and the general public, including corporate communication of the political priorities of the Union;
  - (k) the development of statistical tools, methods and indicators that respect the principle of non-discrimination;
  - (l) operating support for the implementation of European integrated border management.

<sup>(1)</sup> Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers (OJ L 198, 25.7.2019, p. 88).

2. Within the specific objective set out in point (b) of Article 3(2), the Instrument shall in particular support the following:
    - (a) infrastructure and buildings required for the processing of visa applications and consular cooperation, including security measures, and other actions that aim to improve the quality of service for visa applicants;
    - (b) operating equipment and ICT systems required for the processing of visa applications and consular cooperation;
    - (c) training of consular and other staff contributing to the common visa policy and consular cooperation;
    - (d) the exchange of best practices and the exchange of experts, including the secondment of experts, as well as boosting the capacity of European networks to assess, promote, support and further develop Union policies and objectives;
    - (e) studies, pilot projects and other relevant actions, such as actions that aim to improve knowledge through analyses, monitoring and evaluation;
    - (f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects that aim to test and validate the outcome of Union-funded research projects;
    - (g) preparatory, monitoring, administrative and technical activities, including to strengthen the governance of the Schengen area by developing and implementing the evaluation mechanism as established by Regulation (EU) No 1053/2013 to verify the application of the Schengen *acquis*, including mission expenditure for experts of the Commission and the Member States participating in on-site visits;
    - (h) activities to raise awareness among stakeholders and the general public regarding visa policies, including corporate communication of the political priorities of the Union;
    - (i) the development of statistical tools, methods and indicators that respect the principle of non-discrimination;
    - (j) operating support for the implementation of the common visa policy;
    - (k) support to Member States in issuing visas, including visas with limited territorial validity, as referred to in Article 25 of Regulation (EC) No 810/2009, issued on humanitarian grounds, for reasons of national interest or because of international obligations.
  
  3. Within the policy objective set out in Article 3(1), the Instrument shall in particular support the following:
    - (a) infrastructure and buildings required for the hosting of large-scale IT systems and associated communication infrastructure components;
    - (b) equipment and communication systems necessary to ensure the proper functioning of large-scale IT systems;
    - (c) training and communication activities in relation to large-scale IT systems;
    - (d) the development and upgrading of large-scale IT systems;
    - (e) studies, proof of concepts, pilot projects and other relevant actions related to the implementation of large-scale IT systems, including their interoperability;
    - (f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects that aim to test and validate the outcome of Union-funded research projects;
    - (g) the development of statistical tools, methods and indicators for large-scale IT systems in the field of visa policy and borders that respect the principle of non-discrimination;
    - (h) actions to enhance the quality of data stored in ICT systems and improve the exercise of a data subject's rights to information, access to, rectification and erasure of, his or her personal data, and to the restriction of the processing thereof;
    - (i) operating support for the implementation of large-scale IT systems.
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## ANNEX IV

**Actions eligible for higher co-financing rates in accordance with article 12(3) and article 13(17)**

- (1) The purchase of operating equipment, through joint procurement schemes with the European Border and Coast Guard Agency, to be put at the disposal of the European Border and Coast Guard Agency for its operational activities in accordance with Article 64(14) of Regulation (EU) 2019/1896;
  - (2) Measures supporting inter-agency cooperation between a Member State and a neighbouring third country with which the Union shares a common land or maritime border;
  - (3) The development of the European Border and Coast Guard Agency by providing support to national authorities responsible for border management to pursue measures related to common capacity building, joint procurement, the establishment of common standards and any other measures streamlining the cooperation and coordination between the Member States and the European Border and Coast Guard Agency, as outlined in point (b) of paragraph 1 of Annex II;
  - (4) The joint deployment of immigration liaison officers as referred to in Annex III;
  - (5) Measures within the framework of border control enhancing the identification of, and the immediate support to, victims of trafficking in human beings, as well as developing and supporting adequate referral mechanisms for those target groups and measures in the framework of border control enhancing cross-border cooperation for detecting traffickers;
  - (6) The development of integrated child protection systems at the external borders, including through the sufficient training of staff and the exchange of good practice among Member States and with the European Border and Coast Guard Agency;
  - (7) Measures deploying, transferring, testing and validating new methodology or technology, including pilot projects and follow-up measures to Union-funded research projects, as referred to in Annex III, and measures to enhance the quality of data stored in ICT systems in the field of visa policy and borders and to improve the exercise of a data subject's rights to information, access to, rectification and erasure of, his or her personal data, and to the restriction of the processing thereof, in the context of actions falling within the scope of the Instrument;
  - (8) Measures targeting the identification and referral to protection services of vulnerable persons and immediate assistance to such persons;
  - (9) Measures for setting up and running hotspot areas in Member States facing existing or potential exceptional and disproportionate migratory pressure;
  - (10) The further development of different forms of cooperation among Member States in visa processing, as outlined in point (d) of paragraph 2 of Annex II;
  - (11) Increasing the consular presence or representation of Member States in third countries whose nationals must be in possession of visas when crossing the external borders within the meaning of Regulation (EU) 2018/1806, in particular in third countries in which no Member State is currently present;
  - (12) Measures which aim to improve the interoperability of ICT systems.
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## ANNEX V

**Core performance indicators as referred to in article 27(1)****Specific objective set out in point (a) of Article 3(2)**

1. The number of items of equipment registered in the technical equipment pool of the European Border Coast Guard Agency.
2. The number of items of equipment put at the disposal of the European Border Coast Guard Agency.
3. The number of initiated/improved forms of cooperation of national authorities with the EUROSUR national coordination centres.
4. The number of border crossings through automated border control systems and e-gates.
5. The number of addressed recommendations from Schengen evaluations and from vulnerability assessments in the area of border management.
6. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.
7. The number of persons who have applied for international protection at border crossing points.
8. The number of persons refused entry by border authorities.

**Specific objective set out in point (b) of Article 3(2)**

1. The number of new/upgraded consulates outside the Schengen area:
    - 1.1. of which the number of consulates upgraded to enhance client-friendliness for visa applicants.
  2. The number of addressed recommendations from Schengen evaluations in the area of the common visa policy.
  3. The number of visa applications using digital means.
  4. The number of initiated/improved forms of cooperation set up among Member States in visa processing.
  5. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.
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## ANNEX VI

## TYPES OF INTERVENTION

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. European integrated border management	
001	Border checks
002	Border surveillance – air equipment
003	Border surveillance – land equipment
004	Border surveillance – maritime equipment
005	Border surveillance – automated border surveillance systems
006	Border surveillance – other measures
007	Technical and operational measures within the Schengen area which are related to border control
008	Situational awareness and exchange of information
009	Risk analysis
010	Processing of data and information
011	Hotspot areas
012	Measures related to the identification and referral of vulnerable persons
013	Measures related to the identification and referral of persons who are in need of, or who wish to apply for, international protection
014	European Border and Coast Guard development
015	Inter-agency cooperation – national level
016	Inter-agency cooperation – Union level
017	Inter-agency cooperation – with third countries
018	Joint deployment of immigration liaison officers
019	Large-scale IT systems – Eurodac for border management purposes
020	Large-scale IT systems – Entry/Exit System (EES)
021	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – others
022	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – Article 85(2) of Regulation (EU) 2018/1240
023	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – Article 85(3) of Regulation (EU) 2018/1240
024	Large-scale IT systems – Schengen Information System (SIS)
025	Large-scale IT systems – Interoperability
026	Operating support – Integrated border management

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027 Operating support – Large-scale IT systems for border management purposes

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028 Operating support – Special Transit Scheme

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029 Data quality and data subjects' rights to information, access to, rectification and erasure of, their personal data, and to the restriction of the processing thereof

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II. Common visa policy

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001 Improving visa application processing

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002 Enhancing the efficiency, client-friendly environment and security at consulates

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003 Document security/document advisers

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004 Consular cooperation

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005 Consular coverage

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006 Large-scale IT systems – Visa Information System (VIS)

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007 Other ICT systems for visa application processing purposes

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008 Operating support – Common visa policy

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009 Operating support – Large-scale IT systems for visa application processing purposes

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010 Operating support – Special Transit Scheme

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011 Issuance of visas with limited territorial validity

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012 Data quality and data subjects' rights to information, access to, rectification and erasure of, their personal data, and to the restriction of the processing thereof

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III. Technical assistance

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001 Information and communication

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002 Preparation, implementation, monitoring and control

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003 Evaluation and studies, data collection

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004 Capacity building

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TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

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001 Infrastructure and buildings

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002 Means of transport

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003 Other operating equipment

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004 Communication systems

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005 IT systems

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006 Training

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007 Exchange of best practices – between Member States

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008 Exchange of best practices – with third countries

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009	Deployment of experts
010	Studies, proofs of concept, pilot projects and similar actions
011	Communication activities
012	Development of statistical tools, methods and indicators
013	Deployment or other follow-up of research projects

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TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

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001	Actions covered by Article 12(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Actions covered by Article 12(5)
006	Emergency assistance

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TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

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001	Cooperation with third countries
002	Actions in or in relation to third countries
003	Implementation of Schengen evaluation recommendations
004	Implementation of vulnerability assessment recommendations
005	Actions supporting the development and operation of EUROSUR
006	None of the above

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## ANNEX VII

**Expenditure eligible for operating support**

- (a) Within the specific objective set out in point (a) of Article 3(2), operating support shall cover the following costs to the extent that they are not covered by the European Border and Coast Guard Agency in the context of its operational activities:
- (1) staff costs, including for training;
  - (2) maintenance or repair of equipment and infrastructure;
  - (3) service costs within the scope of this Regulation;
  - (4) running costs for operations;
  - (5) costs related to real estate, including rental and depreciation.
- A host Member State within the meaning of point (20) of Article 2 of Regulation (EU) 2019/1896 may use operating support for the purposes of covering its own running costs for its participation in the operational activities referred to in that point that fall within the scope of this Regulation or for the purposes of its national border control activities.
- (b) Within the specific objective set out in point (b) of Article 3(2), operating support shall cover:
- (1) staff costs, including for training;
  - (2) service costs;
  - (3) maintenance or repair of equipment and infrastructure;
  - (4) costs related to real estate, including rental and depreciation.
- (c) Within the policy objective set out in Article 3(1), operating support for large-scale IT systems shall cover:
- (1) staff costs, including for training;
  - (2) operational management and maintenance of large-scale IT systems and their communication infrastructures, including the interoperability of those systems and rental of secure premises.
- (d) In addition to covering the costs listed in points (a), (b) and (c) of this Annex, operating support within Lithuania's programme shall provide support in accordance with Article 17(1).
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## ANNEX VIII

**Output and result indicators as referred to in article 27(3)****Specific objective set out in point (a) of Article 3(2)**

## Output indicators

1. The number of items of equipment purchased for border crossing points:
  - 1.1. of which the number of automated border control systems/self-service systems/e-gates purchased.
2. The number of items of infrastructure maintained/repaired.
3. The number of hotspot areas supported.
4. The number of facilities for border crossing points constructed/upgraded.
5. The number of aerial vehicles purchased:
  - 5.1. of which the number of unmanned aerial vehicles purchased.
6. The number of maritime transport means purchased.
7. The number of land transport means purchased.
8. The number of participants supported:
  - 8.1. of which the number of participants in training activities.
9. The number of immigration liaison officers deployed to third countries.
10. The number of IT functionalities developed/maintained/upgraded.
11. The number of large-scale IT systems developed/maintained/upgraded:
  - 11.1. of which the number of large-scale IT systems developed.
12. The number of cooperation projects with third countries.
13. The number of persons who have applied for international protection at border crossing points.

## Result indicators

14. The number of items of equipment registered in the technical equipment pool of the European Border and Coast Guard Agency.
15. The number of items of equipment put at the disposal of the European Border and Coast Guard Agency.
16. The number of initiated/improved forms of cooperation of national authorities with the EUROSUR national coordination centres.
17. The number of border crossings through automated border control systems and e-gates.
18. The number of addressed recommendations from Schengen evaluations and from vulnerability assessments in the area of border management.
19. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.
20. The number of persons refused entry by border authorities.

**Specific objective set out in point (b) of Article 3(2)**

## Output indicators

1. The number of projects supporting the digitalisation of visa processing.

2. The number of participants supported:
  - 2.1. of which the number of participants in training activities.
3. The number of staff deployed to consulates in third countries:
  - 3.1. of which the number of staff deployed for visa processing.
4. The number of IT functionalities developed/maintained/upgraded.
5. The number of large-scale IT systems developed/maintained/upgraded:
  - 5.1. of which the number of large-scale IT systems developed.
6. The number of items of infrastructure maintained/repaired.
7. The number of real estates rented/depreciated.

Result indicators

8. The number of new/upgraded consulates outside the Schengen area:
    - 8.1. of which the number of consulates upgraded to enhance client-friendliness for visa applicants.
  9. The number of addressed recommendations from Schengen evaluations in the area of the common visa policy.
  10. The number of visa applications using digital means.
  11. The number of initiated/improved forms of cooperation set up among Member States in visa processing.
  12. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.
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**REGULATION (EU) 2021/1149 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 7 July 2021**  
**establishing the Internal Security Fund**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1), 84 and 87(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) While national security remains solely a competence of the Member States, protecting it requires cooperation and coordination at Union level. The Union's objective of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the European Union (TFEU) should be achieved, inter alia, through measures to prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities and other national authorities of the Member States, including coordination and cooperation with relevant Union agencies and other relevant Union bodies, and with relevant third countries and international organisations as well as with the help of the private sector and civil society.
- (2) For the period from 2015 to 2020, the Commission, the Council of the European Union and the European Parliament defined common priorities as set out in the European Agenda on Security of April 2015, which were reaffirmed by the Council in the renewed Internal Security Strategy of June 2015 and by the European Parliament in its Resolution of July 2015, namely preventing and combating terrorism and radicalisation, serious and organised crime and cybercrime. Those common priorities have been reaffirmed for the period from 2020 to 2025 in the Communication of 24 July 2020 from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'the EU Security Union Strategy'.
- (3) In the Rome Declaration signed on 25 March 2017, the leaders of 27 Member States, the European Council, the European Parliament and the European Commission affirmed their commitment to working towards a safe and secure Europe and to building a Union where all citizens feel safe and can move freely, where the external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms, as well as a Europe determined to fight terrorism and organised crime.
- (4) The European Council of 15 December 2016 called for continued delivery on the interoperability of information systems and databases. The European Council of 23 June 2017 underlined the need to improve the interoperability between databases, and, on 12 December 2017, the Commission put forward a proposal for a Regulation on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration).

<sup>(1)</sup> OJ C 62, 15.2.2019, p. 189.

<sup>(2)</sup> Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 June 2021 (OJ C 268, 6.7.2021, p. 1). Position of the European Parliament of 5 July 2021 (not yet published in the Official Journal).



- (5) To preserve the Schengen *acquis* and to contribute to ensuring a high level of security in the Union, Member States have, since 6 April 2017, been obliged to carry out systematic checks against relevant databases on Union citizens who cross the Union's external borders. Furthermore, the Commission issued a recommendation to Member States on making better use of police checks and cross-border cooperation. Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and freedoms and for the rule of law, close attention to the global perspective and the necessary consistency with the external dimension of security should be key principles guiding Union and Member State action towards the development of an effective and genuine security union.
- (6) To achieve this objective, action should be taken at Union level to protect people, public spaces and critical infrastructure from increasingly transnational threats and to support the work carried out by Member States' competent authorities. Terrorism, serious and organised crime, itinerant crime, drug and arms trafficking, corruption, money laundering, cybercrime, sexual exploitation, including the sexual exploitation of children, hybrid threats, as well as chemical, biological, radiological and nuclear threats, and trafficking in human beings, inter alia, continue to challenge the internal security of the Union. Internal security is a shared endeavour to which the Union institutions, relevant Union agencies and Member States should jointly contribute.
- (7) To contribute to the development and implementation of an effective and genuine security union aimed at ensuring a high level of internal security throughout the Union, an Internal Security Fund ('the Fund') should be set up and managed in order to provide Member States with adequate Union financial support.
- (8) Funding from the Union budget should concentrate on actions for which Union intervention can bring greater added value compared with action by Member States alone. In line with Article 84 and Article 87(2) TFEU, the Fund should support measures to promote and support the action of Member States in the field of crime prevention, the joint training of staff and police cooperation, as well as judicial cooperation in criminal matters involving Member States' competent authorities and Union agencies, especially as regards the exchange of information, increased operational cooperation and support for necessary efforts to strengthen capabilities to prevent and combat terrorism and serious and organised crime. The Fund should also support training of relevant staff and experts, in line with the general principles of the European Law Enforcement Training Scheme (LETS). The Fund should not support operating costs and activities related to the essential functions of the Member States concerning the maintenance of law and order and the safeguarding of internal and national security as referred to in Article 72 TFEU.
- (9) The Fund should be implemented in full compliance with the values enshrined in Article 2 of the Treaty on European Union (TEU), the rights and principles enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter') and the Union's international obligations as regards human rights. In particular, the Fund should be implemented in full respect of fundamental rights such as the right to human dignity, the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, the right to protection of personal data, the rights of the child and the right to an effective remedy, as well as in full respect of the principle of non-discrimination.
- (10) In line with Article 3 TEU, the Fund should support activities which ensure that children are protected against violence, abuse, exploitation and neglect. The Fund should also support safeguards and assistance for child witnesses and victims, in particular those who are unaccompanied or otherwise in need of guardianship.
- (11) In line with the shared priorities identified at Union level to ensure a high level of security in the Union, the Fund should support actions aimed at addressing the main security threats and, in particular, at preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, as well as assisting and protecting victims of crime. The Fund should ensure that the Union and the Member States are also well equipped to address evolving and emerging threats, such as trafficking, including via online channels, hybrid threats and chemical, biological, radiological and nuclear threats, in order to establish a genuine security union. This should be pursued through financial assistance to support better information exchange, increase operational cooperation and improve national and collective capabilities.
- (12) The financial assistance provided through the Fund should in particular support exchanges of information, police cooperation, judicial cooperation in criminal matters, and prevention in the fields of serious and organised crime, illicit arms trafficking, corruption, money laundering, drug trafficking, environmental crime, terrorism, trafficking in human beings, the exploitation of refugees and irregular migrants, severe labour exploitation, sexual exploitation and

abuse, including the sexual exploitation and abuse of children and women, the distribution of child abuse images and child pornography, and cybercrime. The Fund should also support the protection of people, public spaces and critical infrastructure against security-related incidents and should support the preparedness for and effective management of security-related risks and crises, including through joint training, the development of common policies, such as strategies, policy cycles, programmes and action plans, as well as legislation and practical cooperation.

- (13) The Fund should provide financial support to address the emerging challenges posed by the significant increase in recent years in the scale of certain types of crime being committed via the internet, such as payment fraud, child sexual exploitation and trafficking in weapons.
- (14) The Fund should build on the results and investments of its predecessors: the Prevention of and Fight Against Crime (ISEC) programme, the Prevention, Preparedness and Consequence Management of Terrorism and other Security-related risks (CIPS) programme for the period 2007-2013, and the instrument for police cooperation, preventing and combating crime, and crisis management as part of the Internal Security Fund for the period 2014-2020, established by Regulation (EU) No 513/2014 of the European Parliament and of the Council <sup>(3)</sup>. The scope of the Fund should also allow for new developments to be taken into account.
- (15) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources. The Fund should promote and encourage the active and meaningful involvement of civil society, including non-governmental organisations, as well as the European industrial sector, in the development and implementation of security policy, where relevant with the involvement of other relevant actors, Union bodies, Union agencies and international organisations in relation to the objective of the Fund. However, it should be ensured that support from the Fund is not used to delegate statutory or public tasks to private actors.
- (16) The cross-border nature of terrorism and serious and organised crime requires a coordinated response and cooperation within and between Member States and with competent Union bodies, offices and agencies. All competent authorities of Member States, including specialised law-enforcement services, may hold information that is valuable for effectively fighting terrorism and serious and organised crime. To accelerate exchanges of information, and to improve the quality of the information that is shared, it is crucial to build mutual trust. New approaches to cooperation and exchanging information, including in relation to threat analysis, should be explored and examined, taking into account existing frameworks within and outside the Union framework, such as the EU Intelligence and Situation Centre (INTCEN), Europol's European Counter Terrorism Centre (ECTC), the European Counter Terrorism Coordinator and the Counter Terrorism Group. The Fund should support Member States' competent authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87 TFEU, insofar as their activities are covered by the scope of the Fund. All funded activities should fully respect the legal status of the different competent authorities and European structures and the required principles of information ownership.
- (17) In order to benefit from the knowledge and expertise of decentralised agencies with competences in the areas of law enforcement cooperation and training, drugs and drug addiction monitoring, fundamental rights, justice matters and large-scale IT systems, the Commission should involve the relevant decentralised agencies in the work of the Committee for the Home Affairs Funds set up by Regulation (EU) 2021/1148 of the European Parliament and of the Council <sup>(4)</sup>, especially at the beginning and mid-term of the programming period. Where appropriate, the Commission should also be able to involve the relevant decentralised agencies in monitoring and evaluation, in particular with a view to ensuring that the actions supported by the Fund comply with the relevant Union *acquis* and agreed Union priorities.

<sup>(3)</sup> Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

<sup>(4)</sup> Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (see page 48 of this Official Journal).

- (18) Within the comprehensive framework of the Union's drugs strategy, which advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under the Fund should support actions aimed at preventing and combating trafficking in drugs through supply and demand reduction, in particular measures targeting the production, manufacture, extraction, sale, transport, importation or exportation of illegal drugs, as well as possession and purchase for the purpose of engaging in drug trafficking activities. The Fund should also cover the prevention aspects of drugs policy. To achieve further synergies and coherence in the area of drugs, those elements of the objectives that relate to drugs, which for the period 2014-2020 were covered by the Justice programme, should be incorporated into the Fund.
- (19) In order to ensure that the Fund makes an effective contribution to a higher level of internal security throughout the Union, and thereby contributes to the development of a genuine security union, the Fund should be used in a way that provides the most Union added value to the actions of the Member States.
- (20) The Fund should support investments in equipment, means of transport and facilities only where such investments have clear Union added value, and only to the extent that those investments are necessary to achieve the objectives of the Fund. For example, such investments could include investments in equipment needed for forensics, covert surveillance, explosives and drug detection and any other specialised purpose within the objectives of the Fund. The Fund should not finance investments of purely national relevance or investments that would be necessary for the everyday work of the competent authorities, such as uniforms, cars, buses, scooters, police stations, non-specialised training centres and office equipment.
- (21) In the interests of solidarity within the Union, and in the spirit of shared responsibility for security in the Union, where weaknesses or risks are identified, in particular following a Schengen evaluation, the Member State concerned should adequately address those weaknesses by using resources under its programme to implement recommendations adopted pursuant to Council Regulation (EU) No 1053/2013 <sup>(5)</sup>.
- (22) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that the priorities of their programmes address all the specific objectives of the Fund, that the priorities chosen are in accordance with the implementation measures set out in Annex II, and that the allocation of resources between objectives is proportionate to challenges and needs and ensures that the policy objective can be met.
- (23) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.
- (24) In order to maximise the effective achievement of policy objectives, to exploit economies of scale and to avoid overlaps between actions, the Fund should be consistent with and complementary to other Union financial programmes in the field of security. In particular, synergies should be ensured with the Asylum, Migration and Integration Fund and the Integrated Border Management Fund, which consists of the Instrument for Financial Support for Border Management and Visa Policy established by Regulation (EU) 2021/1148, and the instrument for financial support for customs control equipment established by Regulation (EU) 2021/1077 of the European Parliament and of the Council <sup>(6)</sup>, as well as with the other Cohesion Policy Funds covered by Regulation (EU) 2021/1060 of the European Parliament and of the Council <sup>(7)</sup>,

<sup>(5)</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

<sup>(6)</sup> Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment (OJ L 234, 2.7.2021, p. 1).

<sup>(7)</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

with the security research part of the Horizon Europe Programme established by Regulation (EU) 2021/695 of the European Parliament and of the Council <sup>(8)</sup>, with the Citizens, Equality, Rights and Values Programme established by Regulation (EU) 2021/692 of the European Parliament and of the Council <sup>(9)</sup>, with the Justice Programme established by Regulation (EU) 2021/693 of the European Parliament and of the Council <sup>(10)</sup>, with the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council <sup>(11)</sup> and with the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council <sup>(12)</sup>. Synergies should be sought in particular in relation to security of infrastructure and public spaces, cybersecurity, the protection of victims and the prevention of radicalisation.

- (25) In an effort to strengthen complementarities between the Fund and the Instrument for Financial Support for Border Management and Visa Policy, multipurpose equipment and ICT systems of which the primary use is in accordance with this Regulation should also be able to be used for achieving the objectives of the Instrument for Financial support for Border Management and Visa Policy.
- (26) Measures supported through the Fund in and in relation to third countries should be implemented in synergy and coherence with and should complement other actions outside the Union that are supported through the Union instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action, its foreign policy and its development aid policy in relation to the country or region in question. As regards the external dimension of the Fund, the Fund should enhance cooperation with third countries in areas of relevance to the Union's internal security. In that context, funding from a thematic facility should be used to support actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking and trafficking in human beings, and to contribute to combating cross-border criminal smuggling networks.
- (27) When implementing the thematic facility, the Commission should ensure that the funding addresses the challenges and needs involved in meeting the objectives of the Fund.
- (28) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value as compared to actions by Member States alone. Security has an inherently cross-border dimension and therefore a strong, coordinated Union response is required. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the security area.
- (29) A Member State may be deemed not to be compliant with the relevant Union *acquis* as regards the use of operating support under the Fund if it has failed to fulfil its obligations under the Treaties in the area of security, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on security, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013 has identified deficiencies in the relevant area.
- (30) The Fund should address the need for increased flexibility and simplification, while respecting requirements in relation to predictability, and ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. The implementation of the Fund should be guided by the principles of efficiency, effectiveness, relevance, coherence, Union added value and quality of spending. Furthermore, the Fund should be implemented in the most user-friendly manner possible.

<sup>(8)</sup> Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

<sup>(9)</sup> Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014 (OJ L 156, 5.5.2021, p. 1).

<sup>(10)</sup> Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice Programme and repealing Regulation (EU) No 1382/2013 (OJ L 156, 5.5.2021, p. 21).

<sup>(11)</sup> Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

<sup>(12)</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

- (31) In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis.
- (32) When promoting actions supported by the Fund, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.
- (33) It should be possible for the Commission to use financial resources under the Fund to promote best practices and the exchange of information as regards the implementation of the Fund.
- (34) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.
- (35) This Regulation should establish the initial amounts for Member States' programmes, calculated on the basis of the criteria laid down in Annex I.
- (36) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments in security. To take account of changes in internal and external security threats or in the baseline situation, an additional amount should be allocated to the Member States at the mid-term of the programming period and should be based on the statistical data, in accordance with Annex I, taking into account the state of their programme implementation.
- (37) As challenges in the area of security are constantly evolving, there is a need to adapt the allocation of funding to changes in internal and external security threats and a need to steer funding towards the priorities with the highest Union added value. To respond to pressing needs and to changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, Union actions and emergency assistance.
- (38) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution, primarily because of their significant Union added value or their high importance for the Union.
- (39) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions which require cooperation among Member States, or to the implementation of specific actions in situations where new developments in the Union require additional funding to be made available to one or more Member States. The Commission should set out those specific actions in its work programmes.
- (40) The Fund should contribute to supporting operating costs that relate to internal security in order to enable Member States to maintain capabilities which are crucial for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Fund and should form an integral part of the Member States' programmes.

- (41) To complement the implementation of the policy objective of the Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund in relation to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union or among certain Member States. The Fund should support Member States' efforts, including at local level, to exchange best practices and to promote joint training, including awareness-raising among law enforcement staff regarding radicalisation, and all forms of discrimination, that could lead to violence, such as antisemitism, anti-gypsyism and other forms of racism. For that purpose, specialised exchange programmes for junior law enforcement staff could be funded.
- (42) In order to strengthen the Union's capacity to react immediately to security-related incidents or to newly emerging threats to the Union, it should be possible to provide emergency assistance, in accordance with the framework set out in this Regulation. Such assistance should not be provided to support mere contingency or long-term measures or to address situations where the urgency to act results from the failure of competent authorities to plan and react properly.
- (43) In order to ensure the necessary flexibility of action and to respond to emerging needs, it should be possible for decentralised agencies to be provided with appropriate additional financial means to carry out certain emergency tasks. In cases where the task to be undertaken is of such an urgent nature that an adjustment of their budgets could not be finalised in time, decentralised agencies should be eligible to be beneficiaries of emergency assistance, including in the form of grants, consistent with priorities and initiatives identified at Union level by Union institutions.
- (44) In light of the transnational nature of Union actions, and in order to promote coordinated action to fulfil the objective of ensuring the highest level of security in the Union, decentralised agencies should exceptionally be eligible to be beneficiaries of Union actions, including in the form of grants, where they assist in the implementation of Union actions falling within the competences of the decentralised agencies concerned and those actions are not covered by the Union contribution to the budget of those decentralised agencies made through the annual budget. To ensure Union added value, such support should be consistent with the priorities and initiatives identified at Union level by Union institutions.
- (45) The policy objective of the Fund should also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523. Such financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have clear Union added value.
- (46) Blending operations have a voluntary nature and are operations supported by the Union budget that combine non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from promotional, development or other public finance institutions, as well as support from commercial finance institutions and investors.
- (47) This Regulation lays down a financial envelope for the Fund, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources <sup>(13)</sup>, for the European Parliament and the Council during the annual budgetary procedure.

<sup>(13)</sup> OJ L 433 I, 22.12.2020, p. 28.

- (48) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(14)</sup> ('the Financial Regulation') applies to the Fund. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.
- (49) For the purposes of implementation of actions under shared management, the Fund should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.
- (50) Regulation (EU) 2021/1060 establishes the framework for action by the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as a part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Fund in this Regulation, and to lay down specific provisions concerning the actions that may be financed under the Fund.
- (51) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/1060, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.
- (52) The types of financing and methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, administrative burdens and the risk of non-compliance. When making that choice, the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation, should be considered.
- (53) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.
- (54) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multi-annual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun, be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

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<sup>(14)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (55) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(15)</sup> and Council Regulations (EC, Euratom) No 2988/95 <sup>(16)</sup>, (Euratom, EC) No 2185/96 <sup>(17)</sup> and (EU) 2017/1939 <sup>(18)</sup>, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council <sup>(19)</sup>.

In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors, and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

- (56) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (57) Pursuant to Council Decision 2013/755/EU <sup>(20)</sup>, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (58) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their programmes address the specific challenges which the outermost regions face. The Fund should support those Member States with adequate resources to help the outermost regions as appropriate.
- (59) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(21)</sup>, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, indicators and related targets should be established in relation to each specific objective of the Fund. Those indicators should include qualitative and quantitative indicators.

<sup>(15)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(16)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(17)</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>(18)</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO) (OJ L 283, 31.10.2017, p. 1).

<sup>(19)</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

<sup>(20)</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

<sup>(21)</sup> OJ L 123, 12.5.2016, p. 1.



- (60) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with links to the Member States' websites referred to in Regulation (EU) 2021/1060.
- (61) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement, adopted under the United Nations Framework Convention on Climate Change <sup>(22)</sup>, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of an overall target of 30 % of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget being spent on biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while taking into account the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council <sup>(23)</sup>.
- (62) Regulation (EU) No 514/2014 of the European Parliament and of the Council <sup>(24)</sup> and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the instrument for financial support for police cooperation, preventing and combating crime and crisis management, as part of the Internal Security Fund during the 2014–2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.
- (63) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (64) In order to supplement and amend non-essential elements in this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions eligible for higher co-financing rates set out in Annex IV, operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

<sup>(22)</sup> OJ L 282, 19.10.2016, p. 4.

<sup>(23)</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

<sup>(24)</sup> Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

- (65) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(25)</sup>. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.
- (66) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (67) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified its wish to take part in the adoption and application of this Regulation.
- (68) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093 <sup>(26)</sup>.
- (69) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### **Subject matter**

1. This Regulation establishes the Internal Security Fund ('the Fund') for the duration of the multiannual financial framework 2021-2027.
2. This Regulation lays down:
  - (a) the policy objective of the Fund;
  - (b) the specific objectives of the Fund and measures to implement those specific objectives;
  - (c) the budget for the period from 1 January 2021 to 31 December 2027;
  - (d) the forms of Union funding and the rules for providing such funding.

<sup>(25)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(26)</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

*Article 2***Definitions**

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

- (1) 'blending operation' means an action supported by the Union budget, including within a blending facility within the meaning of point (6) of Article 2 of the Financial Regulation, that combines non-repayable forms of support and/or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (2) 'competent authorities' means Member State authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87(1) of the TFEU, including police, customs and other specialised law enforcement services;
- (3) 'prevention', in relation to crime, means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, as referred to in Article 2(2) of Council Decision 2009/902/JHA <sup>(27)</sup>;
- (4) 'critical infrastructure' means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, the health, safety, security, economic or social well-being of people, and the disruption, breach or destruction of which would have a significant impact in a Member State or in the Union as a result of the failure to maintain those functions;
- (5) 'cybercrime' means either crimes whose commission necessarily involves information and communications technology systems (ICT systems), either as tools for committing the crime or as the primary targets of the crime (cyber-dependent crimes), or traditional crimes which can be increased in scale or reach by the use of computers, computer networks or other ICT systems (cyber-enabled crimes);
- (6) 'EU policy cycle/EMPACT operational action' means an action undertaken in the framework of the EU policy cycle for organised and serious international crime through the European Multidisciplinary Platform against Criminal Threats (EMPACT), the aim of which is to fight the most important serious and organised crime threats to the Union by encouraging cooperation between Member States, Union institutions, bodies, offices and agencies and, where relevant, third countries and international organisations;
- (7) 'exchange of information' means the secure collection, storage, processing, analysis and transfer of, and access to, information relevant to the authorities referred to in Article 87 of the TFEU as well as to Europol and other relevant Union agencies in relation to the prevention, detection, investigation and prosecution of criminal offences, in particular cross-border, serious and organised crime and terrorism;
- (8) 'organised crime' means punishable conduct relating to participation in a criminal organisation, as defined in point (1) of Article 1 of Council Framework Decision 2008/841/JHA <sup>(28)</sup>;
- (9) 'preparedness' means any action specifically aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents within the scope of this Regulation;
- (10) 'Schengen evaluation and monitoring mechanism' means the evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013;
- (11) 'terrorism' means any of the intentional acts and offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council <sup>(29)</sup>;
- (12) 'emergency situation' means any security-related incident, newly emerging threat or newly detected vulnerability within the scope of this Regulation, which has or may have a significant adverse impact on the security of people, public spaces or critical infrastructure in one or more Member States;

<sup>(27)</sup> Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

<sup>(28)</sup> Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

<sup>(29)</sup> Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

- (13) 'flash money' means genuine cash which is shown during a criminal investigation as proof of liquidity and solvency to suspects or to any other persons who have information about availability or delivery, or who act as intermediaries, in order to carry out a fictitious purchase for the purpose of arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group;
- (14) 'radicalisation' means a phased and complex process leading to violent extremism and terrorism and in which an individual or a group of individuals embraces a radical ideology or belief that accepts, uses or condones violence, including acts of terrorism, to reach a specific political, religious or ideological goal;
- (15) 'specific actions' means transnational or national projects that bring Union added value in accordance with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;
- (16) 'operating support' means a part of a Member State's allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union, insofar as they contribute to ensuring a high level of security in the Union;
- (17) 'Union actions' means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund.

### Article 3

#### Objectives of the Fund

1. The policy objective of the Fund is to contribute to ensuring a high level of security in the Union, in particular by preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, by assisting and protecting victims of crime, as well as by preparing for, protecting against and effectively managing security-related incidents, risks and crises within the scope of this Regulation.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
  - (a) improving and facilitating the exchange of information between and within competent authorities and relevant Union bodies, offices and agencies and, where relevant, with third countries and international organisations;
  - (b) improving and intensifying cross-border cooperation, including joint operations, between competent authorities in relation to terrorism and serious and organised crime with a cross-border dimension; and
  - (c) supporting the strengthening of Member States' capabilities in relation to preventing and combating crime, terrorism and radicalisation, as well as managing security-related incidents, risks and crises, including through increased cooperation between public authorities, relevant Union bodies, offices or agencies, civil society and private partners in different Member States.
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

### Article 4

#### Respect for fundamental rights

Actions funded under the Fund shall be implemented with full respect for fundamental rights and human dignity. In particular, such actions shall comply with the Charter, with Union data protection law and with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). When implementing actions under the Fund, wherever possible, Member States shall pay special attention to assisting and protecting vulnerable persons, in particular children and unaccompanied minors.

*Article 5***Scope of support**

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Fund shall, in particular, support actions such as those listed in Annex III.
2. To achieve its objectives, the Fund may support, in line with Union priorities and subject to appropriate safeguards, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 19.
3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:
  - (a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;
  - (b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;
  - (c) focus on measures that are not development-oriented; and
  - (d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.
4. Equipment and ICT systems financed under the Fund may be used in the complementary area covered by Regulation (EU) 2021/1148. Such equipment and ICT systems shall remain available and deployable for the objectives of the Fund.

The use of equipment in the complementary area referred to in the first subparagraph shall not exceed 30 % of the total period of use of that equipment.

ICT systems used in the complementary area referred to in the first subparagraph shall provide data and services for the prevention, detection and investigation of criminal offences.

Member States shall inform the Commission in their annual performance reports of any such additional use and the place of deployment of equipment and ICT systems.

5. The following shall not be eligible:
  - (a) actions limited to the maintenance of public order at national level;
  - (b) actions with a military or defence purpose;
  - (c) equipment of which the primary purpose is customs control;
  - (d) coercive equipment, including weapons, ammunition, explosives and riot batons, except for training purposes;
  - (e) informant rewards and flash money outside the framework of an EU policy cycle/EMPACT operational action.

By way of derogation from the first subparagraph, where an emergency situation occurs, actions as referred to in point (a) of the first subparagraph may be considered eligible.

## CHAPTER II

## FINANCIAL AND IMPLEMENTATION FRAMEWORK

## SECTION 1

**Common provisions***Article 6***General principles**

1. Support provided under the Fund shall complement national, regional and local intervention, and shall focus on bringing Union added value to the achievement of the objectives of the Fund.
2. The Commission and the Member States shall ensure that the support provided under the Fund and by the Member States is consistent with the relevant actions, policies and priorities of the Union and is complementary to support provided under other Union instruments.
3. The Fund shall be implemented under shared, direct or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

*Article 7***Budget**

1. The financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 1 931 000 000 in current prices.
2. The financial envelope shall be used as follows:
  - (a) EUR 1 352 000 000 shall be allocated to the Member States' programmes;
  - (b) EUR 579 000 000 shall be allocated to the thematic facility referred to in Article 8.
3. At the initiative of the Commission, up to 0,84 % of the financial envelope shall be allocated to technical assistance, as referred to in Article 35 of Regulation (EU) 2021/1060, for the implementation of the Fund.
4. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Fund under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

*Article 8***General provisions on the implementation of the thematic facility**

1. The amount referred to in point (b) of Article 7(2) shall be allocated flexibly through a thematic facility, using shared, direct or indirect management as set out in work programmes.

Funding from the thematic facility shall be used for its components, which are as follows:

- (a) specific actions;
- (b) Union actions; and
- (c) emergency assistance as referred to in Article 25.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 7(2) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs, in line with agreed Union priorities as reflected in Annex II. Funding from the thematic facility shall be used for supporting actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking, trafficking in human beings and combating cross-border criminal smuggling networks.

The allocation of the resources of the thematic facility among the different priorities shall, as far as possible, be proportionate to the challenges and needs, so as to ensure that the objectives of the Fund can be met.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Fund.

4. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of those projects are not selected.

5. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.

6. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.

7. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility, identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Such financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(3) of this Regulation.

8. Following the adoption of a financing decision as referred to in paragraph 7, the Commission may amend the Member States' programmes accordingly.

## SECTION 2

### ***Support and implementation under shared management***

#### *Article 9*

#### **Scope**

1. This section applies to the amount referred to in point (a) of Article 7(2) and the additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 8.

2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and with Regulation (EU) 2021/1060.

*Article 10***Budgetary resources**

1. The amount referred to in point (a) of Article 7(2) shall be allocated to Member States' programmes indicatively as follows:
  - (a) EUR 1 127 000 000 in accordance with Annex I;
  - (b) EUR 225 000 000 for the adjustment of the allocations to the Member States' programmes referred to in Article 14(1).
2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 7(2).

*Article 11***Pre-financing**

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Fund shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:
  - (a) 2021: 4 %;
  - (b) 2022: 3 %;
  - (c) 2023: 5 %;
  - (d) 2024: 5 %;
  - (e) 2025: 5 %;
  - (f) 2026: 5 %.
2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

*Article 12***Co-financing rates**

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.
2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.
3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.
4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.
5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 25.
6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States, within the limits set out in point (b)(vi) of Article 36(5) of Regulation (EU) 2021/1060.
7. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Fund for the types of action covered by the contribution referred to in paragraphs 1 to 6.



8. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:

- (a) the total contribution, including the public and private contributions; or
- (b) the public contribution only.

### Article 13

#### Member States' programmes

1. Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in accordance with the relevant Union *acquis* and agreed Union priorities. In defining the priorities of their programmes, Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. For the purposes of paragraph 1, and without prejudice to paragraph 3 of this Article, each Member State shall allocate:

- (a) a minimum of 10 % of the resources allocated under Article 10(1) to the specific objective set out in point (a) of Article 3(2); and
- (b) a minimum of 10 % of the resources allocated under Article 10(1) to the specific objective set out in point (b) of Article 3(2).

3. A Member State may allocate less than the minimum percentages referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.

4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies are taken into account, at an early stage and in a timely manner, in the development of the Member States' programmes.

5. In order to avoid overlaps, Member States shall consult the relevant Union bodies, offices and agencies on the design of their actions, in particular when implementing EU policy cycle/EMPACT operational actions or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT), and on the design of training activities.

6. The Commission may involve, where appropriate, relevant decentralised agencies in the monitoring and evaluation tasks specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

7. A maximum of 35 % of the allocation of a Member State's programme may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities. This ceiling may be exceeded only in duly justified cases.

8. In their programmes, Member States shall give priority to addressing:

- (a) agreed Union priorities and the *acquis* in the area of security, in particular the efficient exchange of relevant and accurate information and the implementation of the components of the framework for interoperability of EU information systems;
- (b) recommendations with financial implications made within the framework of Regulation (EU) No 1053/2013 and falling within the scope of this Regulation;
- (c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption.

9. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in point (b) of paragraph 8 of this Article.

10. Member States shall in particular pursue the actions listed in Annex IV in their programmes. To address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex IV.

11. Whenever a Member State decides to implement a project supported by the Fund with, in or in relation to a third country, the Member State concerned shall consult the Commission prior to the approval of the project.

12. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 2 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

#### Article 14

##### Mid-term review

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

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 10(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 10(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 8 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

#### Article 15

##### Specific actions

1. A Member State may receive funding for specific actions in addition to its allocation under Article 10(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Fund, including covering newly emerging threats.

2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

#### Article 16

##### Operating support

1. A Member State may use up to 20 % of the amount allocated to its programme under the Fund to finance operating support for the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union.

2. When using operating support, a Member State shall comply with the Union *acquis* on security.

3. A Member State shall explain, in its programme and in the annual performance reports referred to in Article 30, how the use of operating support will contribute to the achievement of the objectives of the Fund. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated

their intention to use operating support, taking into account the information provided by those Member States, as well as any recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms, as applicable.

4. Operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.
5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VII in respect of expenditure that is eligible for operating support.

#### Article 17

#### **Management verifications and audits of projects carried out by international organisations**

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').
2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.
3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.
4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:
  - (a) invoices and proof of their payment by the beneficiary have been verified;
  - (b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.
5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.
6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.
7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective, and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that the expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.

8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article, instead of by relying on the management verifications referred to in Article 74(1) of that Regulation.

9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060 shall include the requirements set out in this Article.

10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:

- (a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;
- (b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7; or
- (c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060 is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a sub-sample of transactions that relate to that project. Where errors are found in the sub-sample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

### SECTION 3

#### ***Support and implementation under direct or indirect management***

##### *Article 18*

##### **Scope**

The Commission shall implement support under this section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

##### *Article 19*

##### **Eligible entities**

1. The following entities are eligible for Union financing:

- (a) legal entities established in:
  - (i) a Member State or an overseas country or territory linked to it;
  - (ii) a third country listed in the work programme, under the conditions specified in paragraph 3;
- (b) legal entities created under Union law or any international organisation relevant for the purposes of the Fund.

2. Natural persons are not eligible for Union financing.

3. Entities as referred to in point (a)(ii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Fund.

#### *Article 20*

##### **Union actions**

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund.
2. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. They may also provide funding in the form of financial instruments within blending operations.
3. Exceptionally, decentralised agencies may also be eligible for funding within the framework of Union actions when they assist in the implementation of Union actions falling within the competence of those decentralised agencies, and those actions are not covered by the Union contribution to the budget of those decentralised agencies through the annual budget.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
5. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.
6. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. Article 37(7) of Regulation (EU) 2021/695 shall apply.

#### *Article 21*

##### **Blending operations**

Blending operations under the Fund shall be carried out in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

#### *Article 22*

##### **Technical assistance at the initiative of the Commission**

In accordance with Article 35 of Regulation (EU) 2021/1060, the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

#### *Article 23*

##### **Audits**

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

#### *Article 24*

##### **Information, communication and publicity**

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or

appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Fund.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 8. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

#### SECTION 4

### ***Support and implementation under shared, direct or indirect management***

#### Article 25

### **Emergency assistance**

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations.

In response to such duly justified emergency situations, the Commission may provide emergency assistance within the limits of available resources.

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

3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 10(1), provided that it is subsequently earmarked as such in the Member State's programme. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.

6. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 33(4). Such an act shall remain in force for a period not exceeding 18 months.

*Article 26***Cumulative and alternative financing**

1. An action that has received a contribution under the Fund may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. The support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the European Regional Development Fund or the European Social Fund Plus may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:
  - (a) they have been assessed in a call for proposals under the Fund;
  - (b) they comply with the minimum quality requirements of that call for proposals; and
  - (c) they cannot be financed under that call for proposals due to budgetary constraints.

*SECTION 5***Monitoring, reporting and evaluation**

## Subsection 1

**Common provisions***Article 27***Monitoring and reporting**

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.
2. The Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex V in order to make the necessary adjustments to the core performance indicators listed in that Annex.
3. Indicators to report on the progress of the Fund towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.
4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where appropriate, on Member States.
5. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

*Article 28***Reporting on the thematic facility**

The Commission shall report on the use and distribution of the thematic facility, referred to in Article 8, between its components, including on the support provided to actions in or in relation to third countries under Union actions. When, on the basis of the information presented to it, the European Parliament makes recommendations for actions to be supported under the thematic facility, the Commission shall endeavour to take such recommendations into account.

*Article 29***Evaluation**

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of Regulation (EU) 2021/1060, the mid-term evaluation shall assess the following:
  - (a) the effectiveness of the Fund, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 30 and the output and result indicators set out in Annex VIII;
  - (b) the efficiency of the use of resources allocated to the Fund and the efficiency of the management and control measures put in place to implement it;
  - (c) the continued relevance and appropriateness of the implementation measures listed in Annex II;
  - (d) the coordination, coherence and complementarity between the actions supported under the Fund and support provided by other Union funds;
  - (e) the Union added value of actions implemented under the Fund.

That midterm evaluation shall take into account the results of the retrospective evaluation of the effects of the Internal Security Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/1060, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall be evaluated.
3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.
4. The Commission shall ensure that the evaluations do not include information the dissemination of which may jeopardise security operations.
5. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 13(11) and Article 19.

## Subsection 2

**Rules for shared management***Article 30***Annual performance reports**

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/1060.



The reporting period shall cover the last accounting year, as defined in point 29 of Article 2 of Regulation (EU) 2021/1060, preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:
  - (a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;
  - (b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions issued by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Fund;
  - (c) the complementarity between the actions supported under the Fund and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;
  - (d) the contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans;
  - (e) the implementation of communication and visibility actions;
  - (f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;
  - (g) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.

5. In order to ensure uniform conditions for the implementation of this Article, the Commission shall adopt an implementing act establishing the template for the annual performance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 33(2).

#### Article 31

### **Monitoring and reporting under shared management**

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. In order to address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VI.

2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

## CHAPTER III

## TRANSITIONAL AND FINAL PROVISIONS

## Article 32

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 13(10), Article 16(5), Article 27(2) and (5) and Article 31(1) shall be conferred on the Commission until 31 December 2027.
3. The delegation of power referred to in Article 13(10), Article 16(5), Article 27(2) and (5) and Article 31(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 13(10), Article 16(5), Article 27(2) and (5) or Article 31(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

## Article 33

**Committee procedure**

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/1148. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

## Article 34

**Transitional provisions**

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to the Police Instrument of the Internal Security Fund for the period 2014-2020 ('ISF Police'), established by Regulation (EU) No 513/2014. Regulation (EU) No 513/2014 shall continue to apply to those actions until their closure.

2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to ISF Police.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

4. Member States may continue after 1 January 2021 to support a project selected and started pursuant to Regulation (EU) No 513/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:

- (a) the project has two phases identifiable from a financial point of view, with separate audit trails;
- (b) the total cost of the project exceeds EUR 500 000;
- (c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;
- (d) the second phase of the project complies with the applicable law and is eligible for support from the Fund under this Regulation and Regulation (EU) 2021/1060;
- (e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

#### Article 35

#### **Entry into force and application**

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 7 July 2021.

*For the European Parliament*  
*The President*  
D. M. SASSOLI

*For the Council*  
*The President*  
A. LOGAR

## ANNEX I

**CRITERIA FOR THE ALLOCATION OF FUNDING TO THE MEMBER STATES' PROGRAMMES**

The budgetary resources referred to in Article 10 shall be allocated to the Member States' programmes as follows:

- (1) a one-time fixed amount of EUR 8 000 000 shall be allocated to each Member State at the start of the programming period;
- (2) the remaining budgetary resources referred to in Article 10 shall be distributed according to the following criteria:
  - (a) 45 % of those remaining budgetary resources shall be allocated in inverse proportion to the gross domestic product of each Member State (purchasing power standard per inhabitant);
  - (b) 40 % of those remaining budgetary resources shall be allocated in proportion to the size of the population of each Member State;
  - (c) 15 % of those remaining budgetary resources shall be allocated in proportion to the size of the territory of each Member State.

The initial allocation of the remaining budgetary resources referred to in point (2) of the first paragraph shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2019. For the purposes of the mid-term review, the reference figures shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2023. Where a Member State has not provided the Commission (Eurostat) with the data for a given year, the Commission may instead use the most recent available statistical data preceding the year concerned for that Member State.

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## ANNEX II

## IMPLEMENTATION MEASURES

1. The Fund shall contribute to achieving the specific objective set out in point (a) of Article 3(2) of this Regulation by focusing on the following implementation measures:
    - (a) ensuring the uniform application of the Union *acquis* on security by supporting the exchange of relevant information, for example via Prüm, EU PNR and SIS II, including through the implementation of recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms;
    - (b) setting up, adapting and maintaining security-relevant EU and decentralised information systems, including ensuring their interoperability, and developing appropriate tools to address identified gaps;
    - (c) increasing the active use of security-relevant EU and decentralised information systems, ensuring that those systems are provided with high quality data; and
    - (d) supporting relevant national measures, including the interconnection of security-relevant national databases and the connection of those databases to Union databases, when provided for in relevant legal bases, if relevant to implementing the specific objectives set out in point (a) of Article 3(2).
  2. The Fund shall contribute to achieving the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:
    - (a) increasing the number of law enforcement operations involving two or more Member States, including, where appropriate, operations involving other relevant actors, in particular through facilitating and improving the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms in the context of the EU policy cycle, with special emphasis on cross-border operations;
    - (b) improving the coordination and increasing the cooperation of competent authorities within and between Member States and with other relevant actors, for example through networks of specialised national units, Union networks and cooperation structures, and Union centres; and
    - (c) improving inter-agency cooperation at Union level between the Member States, and between Member States and relevant Union bodies, offices and agencies, as well as cooperation at national level among the competent authorities within each Member State.
  3. The Fund shall contribute to achieving the specific objective set out in point (c) of Article 3(2) by focusing on the following implementation measures:
    - (a) increasing training, exercises and mutual learning, specialised exchange programmes and sharing of best practices in and between Member States' competent authorities, including at local level, and with third countries and other relevant actors;
    - (b) exploiting synergies by pooling resources and knowledge and sharing best practices between Member States and other relevant actors, including civil society, through, for example, the creation of joint centres of excellence, development of joint risk assessments, or common operational support centres for jointly conducted operations;
    - (c) promoting and developing measures, safeguards, mechanisms and best practices for the early identification, protection and support of witnesses, whistleblowers and victims of crime and developing partnerships between public authorities and other relevant actors to this effect;
    - (d) acquiring relevant equipment and setting up or upgrading specialised training facilities and other essential security-relevant infrastructure to increase preparedness, resilience, public awareness and adequate response as regards security threats; and
    - (e) protecting critical infrastructure against security-related incidents by detecting, assessing and closing vulnerabilities.
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## ANNEX III

**SCOPE OF SUPPORT**

Within its objectives, the Fund may support, inter alia, the following types of actions:

- (a) setting up, adapting and maintaining ICT systems that contribute to the achievement of the objectives of this Regulation, training on the use of such systems, and testing and improving the interoperability components and data quality of such systems;
  - (b) monitoring of the implementation of Union law and Union policy objectives in the Member States in the area of security-relevant information systems, including data protection, privacy and data security;
  - (c) EU policy cycle/EMPACT operational actions;
  - (d) actions supporting an effective and coordinated response to crises and linking up existing sector-specific capabilities, expertise centres and situational awareness centres, including those for health, civil protection, terrorism and cybercrime;
  - (e) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, in particular projects aimed at testing and validating the outcome of Union-funded security research projects;
  - (f) actions that improve resilience as regards emerging threats, including trafficking via online channels, hybrid threats, the malicious use of unmanned aerial systems and chemical, biological, radiological and nuclear threats;
  - (g) providing support to thematic or cross-theme networks of specialised national units and national contact points to improve mutual confidence, the exchange and dissemination of know-how, information, experience and best practices, the pooling of resources and expertise in joint centres of excellence;
  - (h) education and training for staff and experts in relevant law enforcement and judicial authorities and administrative agencies, taking into account operational needs and risk analyses, in cooperation with CEPOL and, when applicable, the European Judicial Training Network, including education and training on prevention policies, with special emphasis on fundamental rights and non-discrimination;
  - (i) cooperation with the private sector, for example in the fight against cybercrime, in order to build trust and improve coordination, contingency planning and the exchange and dissemination of information and best practices among public and private actors, including in the protection of public spaces and critical infrastructure;
  - (j) actions empowering communities to develop local approaches and prevention policies, and awareness-raising and communication activities among stakeholders and the general public on Union security policies;
  - (k) financing of equipment, means of transport, communication systems and security-relevant facilities;
  - (l) financing the cost of staff involved in the actions that are supported by the Fund or actions requiring involvement of staff for technical or security-related reasons.
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## ANNEX IV

**ACTIONS REFERRED TO IN ARTICLE 12(3) AND ARTICLE 13(10)**

- (1) Projects which aim to prevent and counter radicalisation
  - (2) Projects which aim to improve the interoperability of EU information systems and national ICT systems, insofar as provided for by Union or Member State law
  - (3) Projects which aim to fight the most important threats posed by serious and organised crime, in the framework of EU policy cycle/EMPACT operational actions
  - (4) Projects which aim to prevent and fight cybercrime, in particular child sexual exploitation online, and crimes where the internet is the primary platform for evidence collection
  - (5) Projects which aim to improve the security and resilience of critical infrastructure
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## ANNEX V

## CORE PERFORMANCE INDICATORS AS REFERRED TO IN ARTICLE 27(1)

**Specific objective set out in point (a) of Article 3(2)**

1. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
2. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations
3. Number of participants who consider the training activity useful for their work
4. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

**Specific objective set out in point (b) of Article 3(2)**

5. The estimated value of assets frozen in the context of cross-border operations
6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product <sup>(1)</sup>
7. Quantity of weapons seized in the context of cross-border operations, by type of weapon <sup>(2)</sup>
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations
9. Number of staff involved in cross-border operations
10. Number of Schengen evaluation recommendations addressed

**Specific objective set out in point (c) of Article 3(2)**

11. Number of initiatives developed/expanded to prevent radicalisation
12. Number of initiatives developed/expanded to protect/support witnesses and whistleblowers
13. Number of critical infrastructure/public spaces with new/adapted facilities protecting against security-related risks
14. Number of participants who consider the training activity useful for their work
15. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

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<sup>(1)</sup> Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

<sup>(2)</sup> Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
- other short firearms: revolvers and pistols (including salute and acoustic weapons);
- other long firearms: rifles and shotguns (including salute and acoustic weapons).



## ANNEX VI

## TYPES OF INTERVENTION

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

001	TER-Countering terrorist financing
002	TER-Prevention and countering of radicalisation
003	TER-Protection and resilience of public spaces and other soft targets
004	TER-Protection and resilience of critical infrastructure
005	TER-Chemical Biological Radioactive Nuclear
006	TER-Explosives
007	TER-Crisis management
008	TER-Other
009	OC-Corruption
010	OC-Economic and financial crime
011	OC-Laundering of the proceeds of crime
012	OC-Drugs
013	OC-Firearms trafficking
014	Trafficking in cultural objects
015	OC-Trafficking in human beings
016	OC-Migrant smuggling
017	OC-Environmental crime
018	OC-Organised property crime
019	OC-Other
020	CC-Cybercrime – Other
021	CC-Cybercrime – Prevention
022	CC-Cybercrime – Facilitating investigations
023	CC-Cybercrime – Victims assistance
024	CC-Child Sexual Exploitation – Prevention
025	CC-Child Sexual Exploitation – Facilitating investigations
026	CC-Child Sexual Exploitation – Victims assistance
027	CC-Child Sexual Exploitation, including distribution of child abuse images and child pornography
028	CC-Other
029	GEN-Information exchange
030	GEN-Police or interagency cooperation (customs, border guards, intelligence services)
031	GEN-Forensics
032	GEN-Victim support

033	GEN-Operating support
034	TA-Technical assistance – information and communication
035	TA-Technical assistance – preparation, implementation, monitoring and control
036	TA-Technical assistance – evaluation and studies, data collection
037	TA-Technical assistance – capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	ICT systems, interoperability, data quality (excluding equipment)
002	Networks, centres of excellence, cooperation structures, joint actions and operations
003	Joint Investigation Teams (JITs) or other joint operations
004	Secondment or deployment of experts
005	Training
006	Exchange of best practices, workshops, conferences, events, awareness-raising campaigns, communication activities
007	Studies, pilot projects, risk assessments
008	Equipment
009	Means of transport
010	Buildings, facilities
011	Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 12(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Emergency assistance as referred to in Article 25

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
002	Actions in or in relation to third countries
003	Implementation of Schengen evaluation recommendations in the area of police cooperation
004	None of the above

## ANNEX VII

**EXPENDITURE ELIGIBLE FOR OPERATING SUPPORT**

1. Within the specific objective set out in point (a) of Article 3(2), operating support within the Member States' programmes shall cover:
    - (a) maintenance of and helpdesk for security-relevant EU and, where relevant, national ICT systems that contribute to the achievement of the objectives of this Regulation;
    - (b) staff costs that contribute to the achievement of the objectives of this Regulation.
  2. Within the specific objective set out in point (b) of Article 3(2), operating support within the Member States' programmes shall cover:
    - (a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension;
    - (b) staff costs that contribute to the achievement of the objectives of this Regulation.
  3. Within the specific objective set out in point (c) of Article 3(2), operating support within the Member States' programmes shall cover:
    - (a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension;
    - (b) staff costs that contribute to the achievement of the objectives of this Regulation.
  4. Expenditure concerning actions which are not eligible under Article 5(5) shall not be covered.
-

## ANNEX VIII

## OUTPUT AND RESULT INDICATORS AS REFERRED TO IN ARTICLE 27(3)

**Specific objective set out in point (a) of Article 3(2)**

## Output indicators

1. Number of participants in training activities
2. Number of expert meetings/workshops/study visits
3. Number of ICT systems set up/adapted/maintained
4. Number of equipment items purchased

## Result indicators

5. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
6. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations
7. Number of participants who consider the training useful for their work
8. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

**Specific objective set out in point (b) of Article 3(2)**

## Output indicators

1. Number of cross-border operations, separately specifying:
  - 1.1. the number of joint investigation teams
  - 1.2. the number of EU policy cycle/EMPACT operational actions
2. Number of expert meetings/workshops/study visits/common exercises
3. Number of equipment items purchased
4. Number of transport means purchased for cross-border operations

## Result indicators

5. The estimated value of assets frozen in the context of cross-border operations
6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product <sup>(1)</sup>

<sup>(1)</sup> Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

7. Quantity of weapons seized in the context of cross-border operations, by type of weapon <sup>(?)</sup>
8. Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations
9. Number of staff involved in cross-border operations
10. Number of Schengen evaluation recommendations addressed

**Specific objective set out in point (c) of Article 3(2)**

Output indicators

1. Number of participants in training activities
2. Number of exchange programmes/workshops/study visits
3. Number of equipment items purchased
4. Number of transport means purchased
5. Number of items of infrastructure/security-relevant facilities/tools/mechanisms constructed/purchased/upgraded
6. Number of projects to prevent crime
7. Number of projects to assist victims of crime
8. Number of victims of crimes assisted

Result indicators

9. Number of initiatives developed/expanded to prevent radicalisation
10. Number of initiatives developed/expanded to protect/support witnesses and whistleblowers
11. Number of critical infrastructure/public spaces with new/adapted facilities protecting against security-related risks
12. Number of participants who consider the training activity useful for their work
13. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

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<sup>(?)</sup> Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
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- other long firearms: rifles and shotguns (including salute and acoustic weapons).



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