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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Ad Hoc Working Party on JHA Financial instruments
Subject:	Compilation of comments from Member States on the Internal Security Fund.

With reference to the Ad Hoc Working Party on JHA Financial instruments meeting on 23 July 2018, delegations will find a compilation of comments from Member States on the Internal Security Fund.

BULGARIA

Article. 2 - Definitions

We consider appropriate to include also definitions for „emergency situation“ and „standard equipment, standard means of transport or standard facilities of the law enforcement and other competent authorities referred to in Article 87 TFEU.

Article 3 – Objectives of the Fund, Annex II - Implementation measures

We accept the proposed text for the policy objective of the Fund which is more concrete than the text in Regulation 513/2014. Concerning the particular crime areas in particular as regards the support aimed at assisting and protecting victims of crime we consider that it is necessary to ensure coordination and complementarity (if necessary demarcation at the level of specific actions) with other financial instruments and programmes proposed for the next MFF, as for example the Rights and Values Programme.

In our opinion the scope of the included specific objectives is wide enough so as to ensure possibility for funding various types of measures depending on the priorities and challenges before the EU in the area of security and the needs at national level.

Article 4 - Scope of support, Annex III Actions to be supported by the Fund in-line with Article 4

We consider that the scope of support envisaged under Article 4 as well as in Annex II and Annex III provides for funding wide range of measures in compliance with the set objectives.

A definition is necessary for “standard equipment, standard means of transport or standard facilities of the law-enforcement” following the inclusion of such equipment in the list of non-eligible actions in Article 4 (Para 3, p. 6).

We agree in principle with the proposed actions in Annex III to be supported by the Fund in-line with Article 4, but we would suggest modifying the text of the action under bullet 8 as follows:

„improving the 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 including through cooperation with the private sector”

Art. 8 General provisions on the implementation of the thematic facility

The financial resource foreseen to be allocated through the thematic facility provides an opportunity for support of key priorities at EU level as well as for targeted support to Member States, taking into account their specific needs for effective response to emergencies and unforeseen security related challenges. At the same time a need for clarification of the way the thematic facility is managed, the criteria on which the allocation of the financial resources is based, and in particular the resources for the national programmes, as well as the role of the Member States in the decision-making process should be noted.

CROATIA

We would like to point out that an explanation of Article 4 (3)(b) is needed, related to ineligibility of actions covering the purchase or maintenance of standard equipment, standard means of transport or standard facilities of the law enforcement and other competent authorities.

In particular, it is not clear what the wording “standard equipment, standard means of transport or standard facilities of the law enforcement and other competent authorities” refers to.

We agree with the rest of the text.

CZECHIA

Art. 3

The CZ does not support the wording in paragraph 2 letter c) and would like to propose to delete the test “in particular through increased cooperation between public authorities, civil society and private partners across the Member States“. At the meeting of the group in July the EC explained that this wording is necessary as it is based on the Lisbon Treaty. After studying the respected paragraphs of the treaty we still have doubts for necessity of this wording. That is why we suggest deleting it as too limiting for the flexibility of national programmes, otherwise we request further clarifications by the Legal Services Council.

Art. 4

- The term “standard equipment” should be clearly defined in the definitions in order to prevent any eligibility questioning in the future by control authorities. The CZ in general support the idea of the EC to limit the Funding for specific equipment only.
- The term “emergency situation” should be explained. As well as the procedure who is the one who decide that the emergency situation is emergency and ineligible actions are eligible.

Art.10

The CZ does not support the wording in paragraph 2. There is no reason for giving the remaining amount to the EC. The whole amount should be distributed among member states, if some MS will not be eligible for additional top-up of allocation, the amount should be redistributed among the remaining MS.

Art.11

The CZ disagrees with paragraphs 6 and 7. The CZ strongly supports the current mechanisms for ISF 2014-2020. The new proposal would mean huge impact on flexibility of the national programme and increase of administrative burden (fixing the co-financing rate in the programme). It gives to the EC more power than it had in 2014-2020. The paragraph 7 is especially dangerous as it suggests that the co-financing rate could be calculated only from the public resources (letter b). This new set up would also mean increase of administration with reporting to the EC, currently for ISF 2014-2020 only EU contribution is reported, which makes the reporting easy and clear. The new regulation would require reporting all resources of the project in order to calculate the co-financing. The CZ suggests changing the wording of this article to be in line with article 16 of Horizontal regulation 514/2014. The CZ sees no reason for changing a good practice.

Art.13

- The CZ strongly disagrees with the wording of paragraph 4. The regulation prohibits the usage of Fund for standard equipment, which CZ supports. There is no reason for limiting the usage of Fund of all specific equipment which helps to reach to goals of the Fund. The CZ suggests to delete the paragraph 4.
- The CZ strongly disagrees with further limitation of the focus of national programmes. MS face different security threats and this limitation is not beneficial for the security level in the EU. The CZ suggests to delete paragraphs 5 and 7 as redundant. The CZ thinks that higher co-financing rate for actions in Annex IV are sufficient tool to motivate MS and beneficiaries to implement them. The wording of par. 7 saying “*The MS shall **in particular** pursue actions (...) listed in Annex IV*” extremely limits the national programmes and it goes against the previous articles which listed numerous actions in Annexes II and III.

Art.14

The CZ would welcome more specific rules for implementation of specific actions, for example in a form of EC’s implementing regulation. The specific actions are in general good concept. However based on current experiences from 2014-2020 period it lacks clear rules for implementation, especially as regards the jurisdiction of MS’ RAs, the responsibilities, the legal basis for controls and the usage of common rules.

Art. 22

Compared to AMF and BMVI this article does not clearly define which situation will be considered emergency. We would support better definition.

Art.26

The CZ suggest to align the duties for managing authorities of AMF and other Funds. The Commission introduced CPR in order to align rules. The proposed CPR means huge increase of administrative burden. More over compared to other funds article 30 gives to managing authorities other duties – in other Funds there are no annual performance reports, only final one. Combining CPR and article 30 means, that AMF managing authority will report to EC 6 times per year + annual performance report + 4 request for payment + Accounts. The CZ suggests to remove the duty to submit annual performance report.

Art. 28

We put for discussion if the EC should have power to change the monitoring indicators during the programming period. Change of indicators during the implementation might cause huge troubles of lacking data or data not be comparable.

Annex II

This annex speaks about support of SIS II. We are concerned that this might cause an unnecessary administrative burden in the future as this system is supportable also by BMVI. We are afraid that mixed used of funding will be required by the EC in the future. That is why we would like to clarify this issue and explicitly mention in the text, that this support does by no mean prevent a support from BMVI for the same type of actions.

ESTONIA

Article 2 (Definitions)

- *Art 2(d) - ‘cybercrime’ means cyber-dependent crimes, that is to say crimes that can be committed only through the use of information and communications technology (ICT) devices and systems, where the devices and systems are either tools for committing the crime or the primary targets of the crime; and cyber-enabled crimes, that is to say traditional crimes, such as child sexual exploitation, which can be increased in scale or reach by the use of computers, computer networks or other forms of ICT.*

We would like to specify if **the nature of cyber-dependent crimes** in the context of this proposal is the same as in other EU strategic documents and acts. The ISF regulation stipulates that in case of *cyber-dependent crimes*, the devices and systems are either tools for committing the crime or the primary targets of the crime. This definition is not clear as when the system or device is only a tool then this is more of a *cyber-enabled crime*. Another approach is that cyber-dependent crimes involve devices and systems, which are tools and targets at the same time. It would be useful if the COM clarifies this, as the definition should be same EU-wide.

On a more general note, we support that all the definitions proposed in ISF regulation take account the EU-wide definitions to guarantee consistency.

Article 3 (Objectives of the Fund)

- *Art 3(1) - The policy objective of the Fund shall be to contribute to ensuring a high level of security in the Union, in particular by tackling terrorism and radicalisation, serious and organised crime and cybercrime and by assisting and protecting victims of crime.*

Compared to the current period (ISF-Police) the policy objective has been specified by a list of examples. We don't really understand the need to bring out the concrete types of crimes in the policy objective, but if this is something that cannot be removed, we suggest that the word “tackle” should be more elaborated. It should be clear that this includes all different aspects of dealing with the crimes, including **prevention, preparedness, resilience and consequence management**. Current ISF proposal does not address crisis management to the same extent as it has been prioritized under the period 2014-2020. Especially in terms of continuity of vital services, resilience and prevention. We support larger scope of the regulation as these are essential components of ensuring internal security. The objective is also brought out in recital 12 (.../ The Fund should also support the protection of people, public spaces and critical infrastructure against security-related incidents and the effective management of security-related risks and crises /.../), but a clear reference lacks in the text of the regulation.

- *Art 3(2)b – Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives: to intensify cross-border joint operations among and within the Union law enforcement and other competent authorities in relation to serious and organised crime with a cross-border dimension.*

This specific objective should include reference to **fight against terrorism**. Currently this objective addresses cross border joint operations in relation to serious and organised crime with a cross-border dimension. We find that this definition is too restrictive as cooperation between Member States is also necessary in the area of fight against terrorism which is a high priority of the Union. It is important to facilitate and improve the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms (not only in the context of the EU Policy Cycle).

- *Art 3(2)c - Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives: to support effort at strengthening the capabilities in relation to combatting and preventing crime including terrorism in particular through increased cooperation between public authorities, civil society and private partners across the Member States.*

The wording of this paragraph should be revised. At the moment, the emphasis is on cooperation between different authorities (“in particular”), however, this horizontal objective should cover **all possible types of actions for strengthening the capabilities of MSs** (e.g also trainings and purchase of equipment). To our understanding the specific objectives laid down in article 3 should be considered as an “umbrella definition” under which the implementation measures and eligible actions should fit. Current wording is somewhat misleading as it puts the emphasis on increased cooperation. We understand that incorporating the cooperation between public authorities, civil society and private partners across the MSs into the regulation, is necessary to give the relevant mandate but this should be stipulated differently, i.e by using “including through increased...” or “among other relevant measures through increased....” not “in particular through increased....” which gives a different meaning to the addition.

- *Art 3(3) – Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.*

The wording of this paragraph leaves no room for interpretation: the list of implementation measures in Annex II is exhaustive. We suggest that **the list should serve more as a guidance or set of examples** which are considered most desirable by the COM, however, it should be possible for the MSs to choose other relevant measures, if deemed necessary, of course within the objectives of the ISF. Hence, we propose that this article should include the term “mainly” or “primarily” (“...implemented mainly/primarily through the implementation measures listed in Annex II).

Article 4 (Scope of support)

- *Art 4(1) – Within the objectives referred to in Article 3 and in-line with the implementation measures listed in Annex II, the Fund shall in particular support the actions listed in Annex III.*

As we have understood from the COM that the list of actions in **Annex III is not exhaustive**, we suggest that the wording should be more wide allowing to interpret it accordingly (this article together with Annex III raised questions by several MSs during the ad hoc working group on 23 July so the nature of this list (non-exhaustive, only examples) is not self explanatory and clear). Hence, the phrase “in particular” could be replaced by “mainly” or “primarily” to leave room for other actions considered relevant by the MSs.

- *Art 4(3)a – The following actions shall not be eligible: actions limited to the maintenance of public order at national level.*

“**Maintenance of public order at national level**” should be explained further. Member States may have different definitions on this.

- *Art 4(3)b – The following actions shall not be eligible: actions covering the purchase or maintenance of standard equipment, standard means of transport or standard facilities of the law-enforcement and other competent authorities referred to in Article 87 TFEU.*

“**Standard equipment**” should be more elaborated by the COM.

- *Where an emergency situation occurs, non-eligible actions referred to in this paragraph may be considered eligible.*

The “**emergency situation**” is not clear within the meaning of this article. Does this mean that these actions could only be considered eligible while receiving support through emergency actions (art 22)?

Article 8 (General provisions on the implementation of the thematic facility)

This article needs to be elaborated more. The principles of implementing the thematic facility and the part that the Member States play in the process remains unclear. It is said that the thematic facility increases flexibility and creates a possibility to react to emerging needs but the management of this process and the steps to be taken are not described.

- *Art 8(2) - Funding from the thematic facility shall address priorities with a high added value to the Union or to be used to respond to urgent needs, in line with agreed Union priorities as outlined in Annex II.*

It should be explained in more detail what is **the process** and who are the **different parties involved**.

- *Art 8(6) - Following the adopting of the financing decision as referred to in paragraph 3, the Commission may amend the programmes implemented under shared management accordingly.*

The COM should explain this paragraph in more detail. We understand that amending the programmes is not mandatory following the adopting of the financing decision from the thematic facility. However, it remains unclear **who decides the need of possible amendment**. It should be kept in mind that revising programmes may create considerable administrative burden.

Article 11 (Co-financing rates)

- *Art 11(7) - For each specific objective, the Commission decision shall set out whether the co-financing rate for the specific objective is to be applied to a) the total contribution, including the public and private contributions; or b) the public contribution only.*

This paragraph needs to be clarified. At the moment it is not clear what the intention behind this stipulation is and how does this influence the implementation of the programme in practice.

Annex II (Implementation measures)

General comment: **the list of implementation measures in Annex II should not be exhaustive.** We suggest that the list should serve more as a guidance or set of examples which are considered most desirable by the COM, however, it should be possible for the MSs to choose other relevant measures, if deemed necessary, within the objectives of the ISF.

- *The Fund shall contribute to the specific objective set out in Article 3(2)(a) by focusing on the following implementation measures: to set up, adapt and maintain security relevant Union IT systems and communication networks, including their interoperability, and to develop appropriate tools to address identified gaps.*

This paragraph needs to be explained further. What is meant by **Union IT systems and communication networks**? Does that include only the common IT systems established by the EU (this is in principle also the application of the Union *acquis*). Is it foreseen that the communication networks should also be Union communication networks? If yes, which communication systems is the regulation referring to?

- *The Fund shall contribute to the specific objective set out in Article 3(2)(b), by focusing on the following implementation measures: to increase law enforcement operations between Member States, including when appropriate with other relevant actors, in particular to facilitate and improve 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 (EMPACT), with special emphasis on cross-border operations.*

We find that this definition is too restrictive as cooperation between Member States is also necessary **in the area of fight against terrorism** which is a high priority of the Union. It is important to facilitate and improve the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms (not only in the context of the EU Policy Cycle (EMPACT)).

- *The Fund shall contribute to the specific objective set out in Article 3(2)(c), by focusing on the following implementation measures: to acquire relevant equipment and to set up or upgrade specialised training facilities and other essential security relevant infrastructure to increase preparedness, resilience, public awareness and adequate response to security threats.*

Reference to „**means of transport**“ is missing in this paragraph. In addition, the meaning of „**other essential security relevant infrastructure**“ should be explained further. How are these differentiated from standard infrastructure?

Annex III (Actions to be supported by the Fund in-line with Article 4)

General comment: **the list of actions in Annex III should not be exhaustive.** We suggest that the list should serve more as a guidance or set of examples which are considered most desirable by the COM, however, it should be possible for the MSs to choose other relevant actions, if deemed necessary, within the objectives of the ISF.

- *IT systems and networks contributing to the achievement of the objectives of this Regulation, training on the use of such systems, testing and improving interoperability and data quality of such systems.*

The reference should be made to “IT systems and communication networks and relevant equipment for their operation”. See the explanation below under the bullet point which refers to equipment and means of transport.

The proposal addresses information and communication technology issues disproportionately. The regulation should address **communication systems and networks** (e.g. the operative radio and data communication networks) to the same extent as IT-systems. Both are essential for contributing to the objectives of the fund. The (radio and data) communication networks are vital for rapid and timely operative communication between law enforcement agencies for preventing and combating crimes. Currently, the limited list of implementation measures and actions does not cover all the aspects of ICT development.

- *monitoring of the implementation of Union law and Union policy objectives in the Member States in the area of security information systems*

We would appreciate more comprehensive explanation on the content of this action.

- *education and training of staff and experts of relevant law-enforcement and judicial authorities and administrative agencies taking into account operational needs and risk analyses, based on the LETS and in cooperation with CEPOL and, when applicable, the European Judicial Training Network.*

In the current period **all types of trainings** are eligible provided that they contribute to achieving the objectives of the fund. Is our understanding correct that in 2021-2027 the ISF can only support trainings which are based on the LETS and which are implemented in cooperation with CEPOL or EJTN? This is a very restrictive measure.

- *cooperation with the private sector 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.*

We propose to revise the wording as follows: Building trust and improving 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 in particular via cooperation with the private sector and **local governments**, – this wording widens the action and creates more flexibility (cooperation should not be limited only to the private sector, moreover, this should include local governments as they have an important role in planning the protection of public spaces and critical infrastructure). This proposal is also supported by recital 14 (./.../ The Fund should promote and encourage the active and meaningful participation and involvement of civil society, including non-governmental organisations, as well as the industrial sector in the development and implementation of security policy /.../).

- *equipment, means of transport, communication systems and essential security-relevant facilities*

It should be clearly said in the regulation whether the IT equipment is considered under the umbrella term of “equipment” within the meaning of this regulation, in other words, **is IT-equipment included in the 15% limitation**. The same goes to **communication systems** – is the equipment necessary for communication networks included in the 15% calculation? For clarity this bullet point should include reference only to objects which are considered to be under the 15% limitation. IT-equipment and communication systems equipment should be mentioned under the first bullet point which addresses the IT systems and (communication) networks as these should not be included when calculating the 15%.

FINLAND

General

FI is of the opinion that the ISF should be located under the same budget heading as the AMF and BMVI funds in order for them to form a meaningful entity within the area of justice, freedom and security.

Finland has a scrutiny reservation to the articles in question.

Art. 3

The current ISF-P wording is shorter and therefore broader: " The general objective of the Instrument shall be to contribute to ensuring a high level of security in the Union" vs the current proposal " The policy objective of the Fund shall be to contribute to ensuring a high level of security in the Union, in particular by tackling terrorism and radicalisation, serious and organised crime and cybercrime and by assisting and protecting victims of crime."

If the more detailed wording is to be left here it should contain 'preparadness' in some form. Another issue to be mentioned here is 'hybrid threats'. Also, in addition to 'assisting' and 'protecting' the victims of crime we would like to see the 'prevention' mentioned here.

An easier option could be to keep the ISF-P wording, which is shorter and therefore broader.

Art. 3.2(a and b)

Much focus is given to information exchange and cross-border co-operations, which is all very well, but we would like the information exchange and co-operation between different national authorities to be explicitly mentioned, too. Again, we refer to the current ISF-P wording which is more developed in this sense.

In particular, we think that it would be important to mention the judicial and other administrative authorities (such as criminal sanctions authorities) here, too. This applies also to the Annex II and especially to point b under the section concerning art. 3.2(b)

Art. 3.2(c)

The victims of crime should be mentioned, too.

Annex II

(see above) In particular, we think that it would be important to mention the judicial and other administrative authorities (such as criminal sanctions authorities) here, too. This applies also to the Annex II and especially to point b under the section concerning art. 3.2(b)

The points b and c in the connection to the section concerning art. 3.2(b) in the Annex should be applied also to section that covers the art. 3.2(c).

The section covering art. 3.2(c) and in particular point c should include crime prevention and the crime victim's access to information.

Annex III

We propose the following to be added: monitoring and control of IT systems (1st bullet point), crime prevention (9th bullet point)

FRANCE

1. Recital 12 – environmental crime

The term 'environmental crime' is used without a definition.

Firstly, there is no internationally agreed definition of environmental crime. The EU indicators for the period 2014-2020 included 'crime against the environment'. Consequently, without an ad hoc definition, it is difficult to know what is regarded as a crime against the environment and what is not.

Is this a reference to Directive 2008/99 EC on the protection of the environment through criminal law and the list of offences set out in Article 3?

Does the concept of environmental crime in the draft ISF Regulation cover only offences under Article 3 of Directive 2008/99/EC or is it broader in scope? If so, to which texts is the Commission referring?

Is reference being made to the report of the European Parliament's Committee on Fisheries (A7-0362/2011), in particular recitals 20 and 58 et seq.?

Finally, reference is made to better coordination between the financial instruments.

What will the situation be with the EMFF in particular and other financial instruments in the field of conservation?

2. Articles 1 to 11 of the draft ISF Regulation

Article 2: Definitions

Point (b) on crime prevention and point (c) on critical infrastructure (p. 23): maritime aspects also play a major role in an increasingly uncertain context. Maritime Rescue Coordination Centres (MRCCs) monitor all the sea approaches to the EU in cooperation with different Member States depending on the maritime area.

Are MRCCs 'critical infrastructure' within the meaning of point (c) (p. 23)?

Furthermore, this signalling network is a means of combating all forms of crime at sea upstream, through preventive surveillance. Can these measures be considered 'crime prevention' within the meaning of point (b)?

Point (l) (p. 24): the security guarantee within the Schengen area should be developed and should mention the maritime dimension.

Article 3: Objectives of the Fund

The organisation of counterterrorism exercises at sea at regular intervals is essential for maintaining skills and know-how and for coordination among administrations and Member States. Do such training activities come under the objectives of the Fund?

Article 5: Eligible entities

Is the work programme mentioned in point (a)(ii) of paragraph 1 (p. 26) the one for implementing the thematic facility of Article 8? If so, under what conditions is this work programme adopted?

Point (a)(ii) of paragraph 1 provides that an entity established in a third country is eligible if that third country is listed in the work programme. Paragraph 3 provides that legal entities established in a third country are exceptionally eligible to participate where this is necessary for the implementation of the programme. Are these two alternative or cumulative conditions?

With regard to Brexit, France considers that the negotiation of sectoral regulations should not preempt the overall negotiation on the United Kingdom's withdrawal under Article 50 TFEU.

Article 11: Co-financing rates and Annex IV

According to paragraph 3 (p. 29), the EU may finance up to 90 % of the eligible expenditure for actions listed in Annex IV. France asks for the possibility to include PNR in the list in Annex IV.

3. Financing of EMPACT operations

One of the steps in the EU's policy cycle comprises the implementation of operational action plans (OAPs) drawn up jointly by the Member States and the agencies. These joint actions are carried out as EMPACT (European Multidisciplinary Platform Against Criminal Threats) projects.

Since 2015 these actions have been financed by ISF Police (part under direct management), the management of which has been delegated to Europol by the Commission.

This mechanism was not provided for by the ISF Police Regulation 2014-2020 but devised after its adoption.

Operational personnel are entirely satisfied with its flexibility, national envelopes (the part of ISF Police under shared management) not always being easy to mobilise (low amount for actions, large number of participants, etc.).

The draft ISF Regulation 2021-2027 does not mention this mechanism, and France wonders whether it is to be maintained. Is it possible to continue with such a mechanism?

GERMANY

Article 2

- In order to clarify what is meant by 'emergency situation', a legal definition of this term should be added to Article 2.

Point (e) of Article 4(3)

- We suggest that the following be added at the end of point (e) of Article 4(3): '[...] and if the coercive equipment to be purchased represents an innovation and signifies less intensive intervention in comparison with existing coercive equipment.'
- This suggestion is based on the premise that supporting the purchase of innovative, more humane coercive equipment would be in the spirit of the EU Charter of Fundamental Rights. The Commission's reference to the possibility of Horizon 2020 funding at the latest meeting on 23 July 2018 of the Ad hoc Working Party on JHA Financial Instruments (MFF JHA Working Party) for 2021-2027 relates only to research, not to the purchase of such coercive equipment. The possibility of support for the purchase of such coercive equipment within the framework of the ISF would also achieve the required complementarity between the ISF and Horizon 2020.

Article 8

- In the context of the 'thematic facility', it is important that the Member States are made aware of the available budget at an early stage, since early planning is essential for effective implementation of such projects. This is particularly relevant for major projects, for example for drawing up tender specifications, conducting procurement procedures, etc. By contrast, if large sums from the thematic facility are still to be spent at the end of the funding period, experience shows that it will be difficult to find suitable project partners. It would therefore be desirable for thematic targets for the specific actions under the thematic facility to be set at the beginning of the funding period, with the involvement of the Member States.
- This could be achieved by adding the following sentence to Article 8(5), for example: 'The Member States shall participate in the financing decisions.'

Article 11(3)

- Article 11(3) refers to Annex IV with regard to actions for which the contribution from the Union budget may be increased to 90 % of the total eligible expenditure. Annex IV currently mentions 'projects which aim to prevent and counter radicalisation' and 'projects which aim at improving the interoperability of IT systems and communication networks'.
- At the latest MFF JHA Working Party meeting on 23 July 2018, the Commission mentioned in relation to Article 11(3) that, in principle, the list could be extended.
- We suggest adding 'projects which aim to counter cybercrime' and 'projects which aim to counter particularly harmful organised crime structures in accordance with EMPACT' to Annex IV, since both areas cause considerable harm to society.

Germany enters a scrutiny reservation on the reduction of the national co-financing rate from 25 % to just 10 % in Article 11(3).

GREECE

Article 3: Objectives of the Fund

It is stated that “*The policy objective of the Fund shall be to contribute to ensuring a high level of security in the Union, in particular by tackling terrorism and radicalization, serious and organized crime and cybercrime and by assisting and protecting victims of crime*”. It is highly recommended that “*the prevention of terrorism and radicalization*” should also be added.

Article 4: Scope of support

It is stated that “*actions covering the purchase or maintenance of standard equipment, standard means of transport or standard facilities of the law-enforcement and other competent authorities referred to in Article 87 TFEU*” shall not be eligible, whereas in Article 12 it is stated that “*A maximum of 15 % of the allocation of a Member State programme may be used for the purchase of equipment, means of transport or the construction of security relevant facilities*”.

In Annex III it is mentioned that “*Actions to be supported by the Fund in-line with Article 4 are equipment, means of transport, communication systems and essential security relevant facilities*”.

From the aforementioned, it is noted that there is a clear differentiation among those described in Annex III and those referred in Article 4 for non-eligible actions.

Therefore, it should be clarified in which case the purchase or maintenance of standard equipment, standard means of transport or standard facilities is not eligible.

In any case, we recommend that the procurement of vehicles and equipment should be eligible.

Article 4: Scope of support

The "emergency" framework, whereby non-eligible actions can be considered eligible, should be clarified, in order to define which cases may fall under this article.

HUNGARY

Article 2 - Definitions

a) Please clarify at which action can „blending operations” be applied, what the conception behind the introduction of this tool was (e.g. some MS’s practice, high demand on having such option in place based on definite recommendations etc.); is it mandatory to use such operations?

b) Please confirm that „crime prevention” in general can be supported by the fund – as indicated in Annex III.

f) As for „EU policy cycle” please clarify whether „serious and organised” criminality in the context of the Fund means serious and conjunctively organised delicts (both adjectives, collectively) or either serious or organised crimes (alternatives).

Furthermore the expression „cross-border” is not displayed, please confirm that this indicated such element is not a mandatory for funding development (e.g. in cases that bear with serious and/or organised nature but lack cross-border parameter).

h) Please clarify whether „judicial cooperation” can also include cooperation in not officially/formally launched criminal cases (e.g. intelligence gathering is sometimes parallel to criminal investigations or takes place before the investigation procedures commence in a formal manner).

j) Please define „serious” crime.

m) Please clarify „tackling corruption” means fight against corruption in general or law enforcement corruption or only such corruptional activities those are characterized with e.g. serious, organised, and/or that of cross-border nature etc.

Please inform, what measures are planned to be deployed to divide such actions from overlapping areas of other operation programmes (e.g. presently other funds, such as Public Administration and Civil Service Development OP, are also deeply dedicated to fight against corruption)

Article 3 - Objectives

1) Please clarify why „serious and organised” crime is displayed in the paragraph related to cybercrime.

Please also clarify why crime „prevention” is not paraphrased whereas it is a set priority of the Fund.

3) Annex II 1 b

Please clarify whether the adjective „union” shall also belong to „communication networks”. If not only the union communication networks are eligible of funding, the development can be entirely or just partially financed by the Fund?

Annex II 2 a

Patrol activity is typically a law enforcement service performed by uniformed officers (not investigators, criminal branch); please clarify „joint patrol” includes such actions as eligible activities of the Fund.

Please clarify why the listed actions (e.g. investigation teams) are entailed exclusively to EMPACTs whereas other areas, e.g. an anti-terror field operation, can also be immensely important.

Annex II 2 b

As for the expression „within Member States”, please confirm the phrase shall imply that cooperation between e.g. two county police units on, for instance, an anti-drug investigation can also be covered by the Fund.

Annex II 3

c) Please consider insert „potential” before the word „victims” and display „prevention” in the paragraph.

Article 4 - Scope of support

Annex III

Please clarify why there are such specific (not general) examples listed in the annex. Does it bound the Responsible Authorities to apply them in time of devising their National Programmes?

Annex III 3

Please clarify whether in this context „EMPACT action” means field operation only or any action listed in EMPACT Operation Action Plans (e.g. one action can be that law enforcement agencies of each member state should assess what kind of good practice is in place within the private sector on the field of anti-card fraud; based on this a project can be launched to compose a comprehensive study financed by the Fund. This is an EMPACT action but not an EMPACT field operation).

Annex III 4

Please provide examples.

Annex III 7

Please define what kind of responsibilities and tasks do CEPOL and EJTN take with regards to needs and risks analysis and how this will be enforced please extend the list of potential actors of cooperation with NGOs, international organisations and private sector.

Annex III 8

Please insert the area of „cybercrime” among the list of fields of potential cooperation.

Annex III 10

It is advised to delete „essential” from the expression „security-relevant facilities”.

Annex III 11

Please clarify the paragraph refers to personal cost only or the scope also cover additional expenditures (e.g. travel cost), too.

3 b) Please define what „standard equipment, standard means for transport, standard facilities” are and illustrate them with definite examples.

3 a-b) Please clarify if in the Member State there is a unit that deals with crimes fully in line with the scope of the Fund (e.g. unit of international criminal cooperation, unit of international investigations etc.), as such it does not fulfil duties as per point a) (general public order), and it does not have equipment as per point b) (e.g. instead of regular - „standard” – PCs, the officers possess advanced IT equipment) the development of this unit can be entirely financed by the Fund (e.g. purchase of similar IT tools, procuring vehicles, furniture etc.).

3 c) Please define „*defence purpose*” and illustrate them with definite examples.

Article 10 - Budgetary resources

3) Please define when is it planned to review the re-allocation of the remaining (previously not spent) resources, what is the planned methodology to conduct such action, and whether there is any plan at the COM’s end to issue further regulation on this complex subject.

Article 11 - Co-financing rates

2) Please confirm that it is possible to have 90% union contribution within the National Programmes related to the priorities listed in Annex IV.

7) Please provide further information about the decision making aspects of the COM.

IRELAND

Article 3

Ireland considers that it is important that adequate regard for co-operation with third countries is provided for in this proposal. Article 4 sets out that to achieve the objectives of the regulation, funds may support, in line with the priorities set out in Annex III, actions in relation to and in third countries. Spain has requested that the objectives in 3(b) [joint operations] and 3(c) [preventing crime and terrorism] be amended to include co-operation with third countries. The COM has pointed out that it wishes to keep the objectives lean; however, this is inconsistent with the inclusion of a reference to third countries in objective 3(a) [Sharing of information]. Ireland wishes to support the point made by Spanish colleagues to include cooperation with third countries in the other objectives. Alternatively, we would seek to have the COM's reassurance regarding cooperation with third countries reinforced in the Annexes or with a specific recital.

Article 4

Article 4 provides, in paragraph 3, for matters which cannot be funded under this instrument. Of particular concern are subparagraphs (b) and (d). The former prevents standard equipment etc., from being purchased under the fund. It should be ensured that this does not extend to standard equipment necessary for Interoperability, etc. Subparagraph (d) sets out that any equipment with a customs function cannot be financed under ISF but must come from the Customs Instrument – this may add additional complexity for Responsible Authorities, particularly given that many items of law enforcement equipment for checking materials (e.g. sniffer dogs) can also have a customs function. The following wording would be more flexible:

(d) equipment of which the major purpose is customs control

LATVIA

Article 1	Subject matter No comment at this stage of discussions
Article 2	Definitions Please include definitions of: - EU added value (with reference to Preamble (6), (22), (27), (34); Article 6 (1) and Article 8 (2)); - standard equipment (with reference to Article 4 (b)); - standard means of transport (with reference to Article 4 (b)); - standard facilities (with reference to Article 4 (b)).
Article 3	Objectives of the Fund Taking into account that natural and human origin disasters are a huge security aspect within every European country, we suggest to amend the specific objectives of the Internal security fund with a following one: (d) to improve capabilities of involved public authorities, civil society and private partners across the Member States in disaster management, early warning systems and improvement of rescue response at national and trans-national level taking into account best practices in rescuing and disaster management operations.
Annex II	Implementation measures The Fund shall contribute to the specific objective set out in Article 3 (2)(d), by focusing on the following implementation measures: (a) to improve rescue service training, exercises, mutual learning, specialised exchange programmes and sharing of best practice between the Member States, but also including third neighbouring countries and other relevant actors; (b) to develop simulation mechanisms, procedures on nature and human origin disaster management aspects and elaborate early warning systems involving all relevant public authorities, civil society and/or private partners as on national as well on trans-national level.
Article 4	Scope of support With reference to Article 12(4) would like to request an elaborate explanation on the 15% calculation principle for the purchase of equipment, means of transport or construction of security related facilities. Is the 15% ceiling calculated from the total programme allocation or from the specific Action only.
Annex III	Actions to be supported by the Fund in-line with Article 4 - Are the Actions listed under Annex III considered as guideline or road-map actions, or is there a possibility to amend those in the course of political dialogue? - Taking into account our suggestions for an amendment in the objectives of the Fund, we would propose detailed discussions on the possible Actions to be included under Annex III
Article 6	Financial and implementation framework - General principles No comment at this stage of discussions

Article 7 (3)	0,84% for technical assistance Taking into account the new proposal for the Regulation laying down Common provisions for seven EU Funds (including the Asylum and Migration Fund, the Internal Security Fund and the Border Management Fund – further the Interior Funds) and the Title IV of the regulation proposal setting the monitoring, evaluation and reporting requirements, the administrative burden for the Interior Funds will be significantly increased. The responsible authorities will have to deal not only with application of completely new rules in every aspect of programme implementation, but will also have to restructure several aspects of programme management. The proposals for each specific Interior Fund currently envisage decreased percentage of financial resources that shall be allocated for technical assistance. With regard to the above mentioned, we would like to request the Commission to reconsider percentage of the financial envelope allocated for technical assistance for each Interior Fund.
Article 8	General provisions on the implementation of the thematic facility No comment at this stage of discussions
Article 9	Support and implementation under shared management - Scope No comment at this stage of discussions
Article 10 (4)	Budgetary resources - nesaprotama atsauce 4.punktā uz 1(b) paragrāfu (kura panta?) No comment at this stage of discussions
Article 11 (6)	Co-financing - Commission decision shall set out whether the co-financing rate No comment at this stage of discussions
Article 11 (7)	Co-financing - for each specific objective will be set out a Commission decision on what kind of financing rate shall be applied. No comment at this stage of discussions

LITHUANIA

- We propose in the Preamble of the Regulation article (11) to use statement “Strengthening cross-border cooperation” instead of statement “increase operational cooperation”;
- We propose to add definition “police cooperation – means the specific measures and types of cooperation involving all the Member States’ competent authorities as referred to in Article 87 TFEU” (the same as it is in Regulation No 513/2014);
- Article 3 point 2 paragraph (a) should be formulated as follows: “(a) to improve the exchange of information and to enhance the capacities of Member States among and within Union law enforcement and other competent authorities and other relevant Union bodies as well as with third countries and international organisations”;

Suggestions regarding Annex II

- Regarding implementation measures of specific objectives set out in Article 3(2) (a)
 - ✓ According to the formulated proposal of Article 3 point 2 paragraph (a) we would like to add our suggestion regarding implementation measures of specific objectives set out in Article 3(2) (a) paragraph (b) and (c):
 - (b) To set up, adapt and maintain security relevant Union and **national** IT systems and communication networks, including their interoperability, and to develop appropriate tools to address identified gaps”
 - (c) To increase the active use of Union and **national** security relevant information exchange tools, systems and databases ensuring that these are fed with high quality data”
 - ✓ To add implementation measures according to the list of eligible actions in the ISF Regulation for 2014-2020 period (Regulation No 513/2014):
 - To improve police cooperation and coordination between law enforcement authorities, including with and between relevant Union bodies, in particular Europol and Eurojust, and their cooperation and coordination;
 - To improve the availability of information necessary for cross-border cooperation and the process of exchanging it
 - To promote the introduction, transmission, testing and validation of new methods or technologies
 - to promote networking, mutual understanding between law enforcement authorities, learning, the exchange of practical and other, as well as best practices, sharing and dissemination, information sharing, analytical, monitoring and evaluation activities, awareness-raising, dissemination and communication activities.
- Regarding measures for specific objectives set out in Article 3(2) (b):
 - ✓ To add measure "to support relevant national measures if relevant to implement the specific objectives set out in Article 3(2)(b)”
- Regarding measures for specific objectives set out in Article 3(2) (c):
 - ✓ To add measure "to support relevant national measures if relevant to implement the specific objectives set out in Article 3(2)(c)”
 - ✓ To add easure “To strengthen information processing and analytical capabilities”
 - ✓ To clarify point (d) separating the purchase of equipment for specialized training and special technical equipment for detecting and investigating offenses.

Suggestions regarding Annex III

- In the action (1) we propose to add registries and database (“IT systems, networks and **registries/ databases...**”);
- In the Annex III it is not foreseen actions to be supported by the fund that implements measures of specific objectives set out in Article 3 (2) (b) and defines the intensification of cross-border joint operations between the Union's law enforcement authorities.

MALTA

1. General

Malta would like to put forward the following comments on Article 2, Article 3 and Annex II, Article 4 and Annex III, Article 7, Article 10, Article 11 (7), Article 12, Article 13, and Articles 23, 25 and 26. These are Malta's preliminary comments and reserves the right to go back to the text during the article by article discussions.

2. Specific Comments

Article 2

While the thematic focus of the ISF proposal on police cooperation is acknowledged, Malta notes that certain general definitions such as that of 'external borders' are missing. We consider that in view of the scope of police cooperation particularly when it comes to cross border crimes, it is useful to determine the parameters within which Member States are operating.

Article 3 and Annex II

While acknowledging the added value of supporting increased exchange of information, enhanced cross border capabilities, and strengthening cooperation across Member States, we note that support targeted towards enhancing national capabilities and resilience may be somewhat limited. In this regard, further clarification is needed to understand what type of support can be funded through the programmes to enhance and strengthen national capabilities.

Article 4 and Annex III

Concerning Article 4 (3), we would like to seek clarification to understand the rationale behind including 'actions limited to the maintenance of public order at national level' as non-eligible actions. In addition, in absence of a definition of what "standard" means, further clarity is required to understand the implications of the non-eligible actions listed under point (b) of sub paragraph 3 especially when taking into account that under the tenth bullet of Annex III, 'equipment, means of transport, communication systems and essential security-relevant facilities' can be supported by the programmes. If the difference between the two is only the use of the word 'standard' in Article 4(3)(b), then it is important to reiterate that the word 'standard' should be well defined. Clarification should also be sought to whether high-end computer workstations used for internet investigations or computer forensics by cybercrime units could be considered as "standard" equipment.

Article 7

The share of the budget allocated towards national programmes is considered low in comparison to the total increase in the budget allocation to security for the future programming period as well as when compared to the share of the budgets allocated for national programmes in the current programming period. In this regard, we believe that the share allocated to the national programmes should factor in recent developments and at least retain the same share as for the current programmes. Moreover, more attention should be given to insular societies that face disproportionate migration pressures and that the fixed amount of funds per Member States should be increased proportionately to the increase in the overall EU funding for security.

Article 8

Further information is required to understand how the thematic facility will be implemented in practice.

Article 10

With regard to Article 10 (4)*, this para should be deleted as the scope of the Mid-term review should not be to add undue burdens on national authorities but to apportion part of the programme funds based on updated data to address any possible shift in needs.

** It is being understood that there is incorrect numbering and that Article 10 (4) should read Article 10 (2)*

Article 11 (7)

We would like to seek further clarification on the application of Article 11 (7).

Article 12

Further information is required to understand the Commission's expectations in view of the role of the agencies at the programming stage and in the monitoring and evaluation phases of the programmes.

Article 13

The conditionality proposed under sub paragraph 2 of this article is considered as too restrictive and would constitute excessive burden on Member States which may result in the unnecessary loss of funds. In this context, para 13(2) on the percentage which needs to be reached to be eligible for top-ups (10%) should be deleted, as the scope of the mid-term review should not be to add undue burdens on national authorities but to apportion part of the programme funds based on updated data so as to address any possible shift in needs between Member States.

With regard to Article 13(3), given that nature of the sector which is very dynamic and that the needs and responses can change very quickly, we believe that this fund should not be programmed on the basis of a performance framework.

Article 23

Further information on the application of this article is required. In addition, a clarification is needed to understand the link between actions supported under the ISF and the award of a seal of excellence certification.

Article 25

A clarification is required to understand the scope of this article in the fund specific regulation taking into account the applicability of Article 40 of the new CPR to the new ISF.

Article 26

A clarification is needed to understand the rationale behind the requirement to prepare an annual performance report for the ISF [and other Home affairs funds] when this requirement was removed for the Cohesion funds. In the spirit of simplification, in order to minimize administrative burden, we consider that a streamlined approach should be applied across all funds falling under the new CPR.

POLAND

Expressing general acceptance of the direction proposed by the EC in the legislative proposal under consideration, Poland recognizes the need for further discussion, in particular on:

Chapter I – General Provisions

Art. 2 or 6

We suggest to add the information on the forms of calls for proposals that are acceptable under the Fund (e.g. open call, restricted call, direct award) in order to avoid questions in the future.

Art. 3 + Annex II

Under which specific objective will it be possible to implement the so-called hard projects (e.g. construction of buildings, renovation or modernization, purchase of fixed assets, development of a database system)? Will it be possible to carry out such actions in the same way as in BMVI?

Art. 4, point 3b

We suggest to consider deleting or refining this provision.

Due to the imprecise provision referring to the inability to purchase "standard" devices, means of transport or equipment, there is a risk of recognizing, by EC, as ineligible projects or part of projects that will receive co-financing. Issues related to the security are often very specialized, and therefore the determination of whether the equipment used in them is "standard" or "innovative" is controversial. The main criterion for the purchase of equipment / means of transport / instruments should be their effectiveness in solving problems related to ensuring security, and not assessment whether they are above-standard.

In addition, this provision does not specify the terms "standard devices" or "standard instruments". The meaning of these concepts should be clarified so that in the future there is no doubt as to the legitimacy of purchasing the devices, equipment and facilities under this program. The above provision may significantly limit the possibilities of using the abovementioned fund for the possible purchase of equipment and facilities.

Art. 4, point 3c

We suggest to consider the modification of this provision.

This provisions on ineligible activities may limit the possibility (apart from training purposes) of using the Fund for the possible purchase of equipment and facilities in the field of armaments and special techniques as well as optoelectronics.

Chapter II – Financial and implementation framework

Art. 7

We recommend a discussion on the allocation to the programmes implemented under shared management and to the thematic facility. The Member States should have more autonomy as they effectively identify their own needs. We recognize the need of reducing the financial resources that are to be allocated to the thematic facility (e.g. to 30%).

The part of the financial envelope which can be allocated for technical assistance at the initiative of the Member States should be indicated in the regulation.

Art. 8, point 6

Does the meaning is that the Commission may unilaterally amend MS's programmes? Should point 6 refer to the provisions on point 3 or 5 (as in AMF)?

Art.11, point 7

In our view, there is no need to differentiate the co-financing level depending on the status of the institution (private or public contributions). This provision establishes the conditions for limiting the co-financing rate for each specific objective.

PORTUGAL

Art. 3 – objectives of the Fund

- n. 1 – should clearly state “...***the prevention of crime***”. Although the European Commission has verbally stated that this dimension lies behind the general objective of the fight against crime, Portugal considers, nonetheless, as of particular relevance the inclusion of this reference in art. 3, n. 1;
- n. 2, al. b), the reference “...in relation to serious and organised crime...” should, indeed, state, “***in relation to all forms of crime, with a special focus on serious and organised crime***”. As previously mentioned by Portugal, the inclusion of all sorts of crime foresees an overall view of criminal matters, considering that small crimes, as burglary or identity theft, may well be in the origin of latter criminal activities;
- In general terms, Portugal agrees with a simpler structure of the Specific and National Objectives, agreeing with the European Commission’s view on the non-inclusion of the dimensions of preparedness or crisis management, which are part of the current proposal’s articles.

Annex II – implementation measures

- With respect to Art. 3, n. 2, al. a):
 - Al. a) – general support to the formulation proposed and to the alignment with the implementation of Schengen Recommendations;
 - Al. d) – support to the formulation presented, as it is considered to be broad enough in order to include a vast number of actions deemed relevant by the Member States;
- With respect to Art. 3, n. 2, al. b):
 - Als. a), b) e c) – general support;
- With respect to Art. 3, n. 2, al. c):
 - Al. a) – general support;
 - Al. b) – Portugal considers of particular relevance and importance the inclusion, as part of the “...*common operational centres for jointly conducted operations*”, already mentioned in the text, “***...the Police and Customs Cooperation Centres, established, in line with Schengen Acquis, between more than one Member State of the Union.***”;
 - Al. d) – Portugal considers relevant that the Commission may circulate, amongst the Member States, clear, and written, definitions on standard equipment, means of transport, facilities, etc. Portugal reserves any further comments or final position on this matter to a later stage, after careful analysis of the written clarifications to be provided by the Commission.

Art. 4 – scope of support

- n. 2 – support to the inclusion of actions in and with third countries;
- n. 3, al. b) – Portugal considers relevant that the Commission may circulate, amongst the Member States, clear, and written, definitions on standard equipment, means of transport, facilities, etc. Portugal reserves any further comments or final position on this matter to a later stage, after careful analysis of the written clarifications to be provided by the Commission.

- n. 3, al. d) – Portugal considers relevant that the Commission may demonstrate the reasons for not accepting the inclusion of dual use equipment, as for instance is the case of the equipment for customs control, which may result of clear advantage for the prevention and fight against illegal migration and human trafficking in cargo ships. Portugal reserves any further comments or final position on this matter to a later stage, after careful analysis of the written clarifications to be provided by the Commission.
- The current drafting “Where an emergency situation occurs, non-eligible actions referred to in this paragraph may be considered eligible”, needs further written clarification from the European Commission. Criteria should be defined on how to classify a situation as resulting from or in an emergency occurrence. This clarification, of the criteria and of the procedures to be used in such a circumstance, is considered of utmost importance for the action to be carried out, accordingly, by the Auditing Authorities.

Annex III – actions to be supported by the Fund in-line with Art.º 4

- Firm support to the last penultimate bullet of the current drafting, which Portugal considers important to be maintained.;
- Portugal considers of particular importance that the Commission may clarify, in a written form, its position according to which the actions part of this annex do not intend to be exhaustive, or limitative, but rather focusing on the Commission’s priorities in these areas, not jeopardizing other actions considered priorities by the Member States.

Art. 7 – budget

- n. 1 – Although Portugal generally welcomes the increase of the overall budget proposed to the area of security and migration, Portugal maintains an analysis reservation on this matter – subject to further political consideration.
- n. 2 – Portugal also maintains its analysis reservation on the percentages to be attributed to the National Programs, especially when compared to the 40% allocated to the Thematic Facility. Portugal stresses, once more, the need for there to be transparency and predictability on the amounts to be allocated and managed by the Member States, being, in this point, of particular importance to underline that Portugal supports the continued efforts towards the increase of shared management. The burden, imposed on the Member States by each revision of the National Programs, should be considered and, wherever possible, clearly avoided. Furthermore, Portugal considers important that the European Commission may inform the Member States on the criteria and timings to be used for the top ups / additional financings to be allocated from the thematic facilities to the National Programs.

Art. 8 – general provisions on the implementation of the thematic facility

- n. 5, 6 and 7 – once more, reservations on the predictability and transparency of the mechanism proposed, in addition to the doubts on the percentage to be attributed to the Thematic Facility.

Art. 9 - Scope

- n.s 1 e 2 – no particular comments at this stage;

Art. 10 - Budgetary resources

- n. 1 (stated as n. 3) – Portugal recalls its overall reservation on this article. Considering the recent experiences with the current MFF – where more than 2 years of delay in the implementation – due to the late approval of the Regulations, had a clear and inevitable impact on the consumption rate of the Member States – Portugal does not agree with the minimum threshold imposed of 10% on payment requests until 2024;
- n. 2 (stated n. 4): Portugal still considers the need to further discuss this article;

Art. 11 - Co-financing rates

- n.s 1-5: In general terms, Portugal can support the Commission’s proposal on an overall minimum cofinancing rate of 75%;
- n. 6: reservations already expressed, in general terms, as regards to the thematic facility;
- n. 7: the decision must be taken in conjunction between the Commission and the Member State in subject matter, as it is the one better placed to evaluate the needs at stake;

Annex IV – Actions eligible for higher co-financing in-line with Arts. 11(2) and 12(6)

- Considering its importance, Portugal maintains its proposal, for the inclusion of a **third category of projects**, which may be subject to a higher cofinancing of 90%, aiming at:
 - **“...equipment, means of transport, communication systems and essential security-relevant facilities”** (in line with the penultimate bullet of Annex III);

ROMANIA

Art. 2

In order to ensure a better understanding of the eligible actions, we consider including definitions of *relevant activities* (as it is mentioned under *art. 6.2*).

Art. 3

Considering the fact that crime prevention is an important component of serious and organised crime, we suggest including it under *art. 3.1*.

Annex II

Regarding *point 1.a.*, as SIS II is both eligible under ISF and IBMF, in order to avoid overlapping of funds, more clearly way of financing the components, of SIS II is needed.

Regarding *art. 3.d.*, taking into account the subjectivity of the term *relevant*, we suggest the removal from the text, maintaining solely *acquisition of equipment* and *security infrastructure* as eligible implementing measures. Even though the infrastructure may be eligible under other programmes, the security related actions (including infrastructure) follows under ISF objectives.

Art. 4

In order to avoid a negative impact of the national programme flexibility, we support the elimination of the term *standard* as it is mentioned under *art. 4.3.b*. For example, in order to ensure discreet surveillance, the vehicles used for undercover surveillance must be standard means of transport. Furthermore, we require clarification if innovating actions follow under *art. 4.3. b*.

Annex III

Regarding *point 10*, a clearer approach of *essential security relevant facilities* is needed in order to ensure a more flexible approach of the NP taking into account the specific nature of the Fund.

Art. 7

We introduce scrutiny reserve for *point 7.2*. We consider the 40% amount for TF is excessive taking into account that the MS are the main responsible for achieving the programme objectives set out in *art. 3.2*.

Art. 8

We introduce scrutiny reserve for the entire text. Taking into account that the COM will grant the supplementary amount under TF, there is a risk of differential approach for MS.

Also, the predictability of the NP cannot be ensured, considering that MS cannot estimate the financial amount to be granted under TF, the COM priorities neither the calendar of the granted financial top-ups. Therefore, special provisions are required in this field.

In respect with the financial decision, as it is mentioned under *point 5*, we consider that their adoption should be made by default by implementing acts and only in urgent situations by delegated acts. This aspect should be reflected in the text.

Regarding the provisions set out in *point 6* and the amending of the NP by the COM following the adopting of the financing decision, we consider this as an increased administrative burden for the MS.

Under *point 7*, we propose a bi-annual approach of the financing decisions, for a better adjustment to the EU policy changing priorities. Furthermore, a clear approach will help MS in implementing their actions in the eligible period.

Art. 11

We consider the elimination of the provisions set out in *point 6* as the National Programme co-financing rates and the maximum amount of support under ISF falls under the RA's responsibilities. Furthermore, the approval of the NP by the COM should be laid out under article 12.

Regarding point 7 MS should decide, taking into account their national priorities, the co-financing rates set out for the specific objectives. This provisions represent an excessive measure of the COM.

SLOVAKIA

Article 1

Slovakia (SK) proposes to develop the Article within the scope of the Art. 1, par. 2 of the current regulation No. 513/2014 on ISF Police,

Article 2

SK proposes to add definitions on the following areas, with particular attention on the word “**standard**”:

- “purchase or maintenance of standard equipment”
- “standard means of transport”
- “standard facilities for the purpose of LEA and other respective institutions”

Taking into account that in the entire proposal of the Regulation some new areas have been introduced, in comparison with the current Regulation on ISF Police, SK also proposes to add the definition on the following:

- “emergency situation”
- “thematic facility”
- “ Specific Action”

Article 4

in paragraph 3, letter b) Slovakia proposes to add the following sentence: “This does not apply to standard equipment, means of transport and facilities, which were acquired within the Internal Security Fund”.

Article 7, par. 3

allocation for the technical assistance shall be clearly defined. Expression of the TA’s allocation is very general. The MS should be addressed a more precise information on this matter.

Moreover, SK proposes to add an extra paragraph on TA for the member states. Provisions in this matter are outlined only in the Art. 31 of the CPR proposal. SK proposes to define the amount for the MS as the combination of the % and the fixed amount.

Justification:

The proposed flat rate of 6% for technical assistance is only linked to the submitted requests of payment and does not include a fixed amount. Comparing it to the current period, the relevant percentage is linked to the allocated resources and is increased by a fixed amount (for the ISF Police 5% of the total amount allocated to the MS plus EUR 200 000).

Article 8

information on the purpose and use of the thematic facility is vague. SK would welcome at least some explanation on how the COM will assess the possible risks, criterion on using finances under thematic facility.

Article 10, par. 4

SK does not agree with the proposal. The unused finances shall be distributed to the MS.

Article 11, par. 6 and 7

SK does not agree with proposal. In general, proposed rules on applying different co-financing rates for different types of actions is confusing. SK would welcome a more simplified approach in the field; e.g. co-financing rates used under current programme period. The MS shall have the flexibility to justify/decide on the co-financing rate and provide adequate justification as it's the case in current programme period.

In case the proposed co-financing rates will be maintained SK requires an explanation on how such financing will affect the TA of the MS, especially on case of 100% co-financing.

Annex II

The proposed measures under specific objectives are too broad and from our point of view in some cases duplicate. We would welcome, if the measures are more specific, but still flexible enough so that they can reflect any national emergencies.

Moreover, the area of "*risk and crisis*" is not included neither in the implementation measures nor in the list of action to be supported by the Fund. SK would welcome some information/ clarification why this topic has been taken out and it will be supported.

In our view, measures on information exchange support, set-up and maintenance of IT systems, interoperability, etc. are in contradiction to the stipulations of the Art. 12 par. 14, which proposes the 15% limit for investments into HW oriented projects.

In our opinion the Fund is more focused on the Union priorities, rather than the national priorities.

Annex III

The number of "soft actions" shall be re-considered. SK proposes to focus more on development of tools, technologies and interoperability, rather than soft policies.