



Brussels, 13.6.2018  
COM(2018) 472 final

2018/0250 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the Internal Security Fund**

{SWD(2018) 347 final} - {SWD(2018) 348 final} - {SEC(2018) 315 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Over recent years, security threats have intensified and diversified in Europe. They have come in the form of terrorist attacks, new types of organised crime, as well as cybercrime. Security has an inherently cross-border dimension and therefore a strong, coordinated EU response is required. Beyond internal security challenges, Europe faces complex external threats that no Member State can meet on its own. EU action has provided a comprehensive and swift reaction which was formulated in the 2015 Agenda on Security. Security will remain a defining issue for the EU for years to come and Europe's citizens expect their Union and national governments to deliver security in a fast-changing and uncertain world.

The challenges the Union is facing, notably from international terrorism, cannot be managed by individual Member States alone and without the financial and technical support of the EU. In an era where terrorism and other serious crime operate across border, its Member States remain with a responsibility towards their citizens to deliver public security, in full compliance with EU fundamental rights, but the EU can support these actions. In this regard, the Treaties envisage the need to ensure a high level of security, including through preventive measure and through coordination and cooperation between police, judicial and other competent authorities.

The decentralised Agencies, European Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) play key operational, coordination and supporting roles in the implementation of the EU priorities, objectives and activities in the security area.

The Internal Security Fund is set up to facilitate cross border cooperation and exchange of information between Member State law enforcement officials and other relevant authorities, in particular by enabling the interoperability of the different EU information systems for security making borders and migration management more effective and efficient and by facilitating joint operational actions as well as by providing support for training, for the construction of essential security-relevant facilities, for the setting up the collection and for processing of passenger name records in-line with the relevant EU *acquis* and the purchase of necessary technical equipment. It aims at intensifying cross-border operational cooperation in relation to the prevention, detection and investigation of cross-border crime and at supporting efforts aimed at strengthening the capabilities to prevent such crime including terrorism in particular through increased cooperation between public authorities, civil society and private partners from across the Member States.

In its Communication on *A Modern Budget for a Union that Protects, Empowers and Defends*<sup>1</sup>, the Commission proposes to multiply the Union funding to internal security by factor 1.8 as compared to the current period 2014-2020 to ensure a high level of security in the Union and at same time to reinforce the role of the decentralised Agencies in this area. This proposal however does not cover the funding allocated to the Agencies and regulates only the Internal Security Fund that will contribute to ensuring a high level of security in the

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<sup>1</sup> COM(2018) 321 final of 2 May 2018.

Union. The financial envelope for the Internal Security Fund in the period 2021-2027 will be EUR 2.5 billion (in current prices).

The main challenge the proposal aims to address is the need for greater flexibility in managing the future Fund, as compared with the current programming period, but also tools to ensure that funding is steered towards EU priorities and actions with a significant added value to the Union. New mechanisms for the allocation of funding between shared, direct and indirect management are needed to address new challenges and priorities.

The funding is implemented through shared management by the Member States and direct/indirect management by the Commission.

The key for the distribution of funding is flexibility in determining the right delivery mode and the themes to which funding needs to be allocated, while maintaining a critical mass of upfront funding for structural and large, multiannual investments in line with Member States' needs for the further development of their security systems. The allocation of funding will also take fully into account the need for Member States to be fully compliant with the Union *acquis* and the need to focus investments on key EU priorities.

The allocation of the funding to the programmes of the Member States will be based on a distribution key of three criteria 1) the gross domestic product, 2) size of the territory and 3) population of the state. It is proposed to weigh the different criteria as follows: 45% to inverse proportion to the gross domestic product, 40% to proportion to the size of population and 15% to proportion to the size of the territory of the Member State.

The share for Member States' programmes is 60 % of the total envelope of the Fund. It is proposed that Member States be provided with 50 % of the envelope at the beginning of the programming period, while retaining the possibility of topping up the envelope periodically. It is envisaged that one fixed top-up of 10 % of the funding envelope will be made at mid-term (technical adjustment of the distribution key subject to financial performance, according to which a Member State should have submitted payment claims covering at least 10 % of the initial amount of payment appropriations).

The remaining 40 % of the overall financial envelope should be managed through the thematic facility, which will periodically provide funding for a number of priorities defined in the Commission financing decisions. This facility offers flexibility in the management of the Fund by disbursing funds to the technical assistance at the initiative of the Commission and to the following components:

- support for specific actions, providing additional funding for dedicated actions with high EU added value, through the Member States' national programmes;
- support for Union actions, managed through direct and indirect management; and
- emergency assistance.

The programming of the actions under the thematic facility would be implemented through annual and multiannual work programmes adopted by Commission Implementing Decision. The facility will make it possible to address new priorities or take urgent action and to implement them through the delivery mode that is best placed to achieve the policy objective.

Further simplification is needed in the implementation of the instrument, in particular by ensuring a coherent approach with rules applicable to the management of other Union Funds

(‘single rule book’), providing better guidance on the management and control systems and audit requirements, and ensuring that the eligibility rules under shared management make full use of simplified cost options (SCOs). It is also important to maximise EU added value in the areas of intervention and to implement an improved monitoring and evaluation framework so as to strengthen the performance-based management of the funds.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification of the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on the European Union received by the European Council on 29 March 2017.

- **Consistency with existing policy provisions in the policy area**

The Internal Security Fund builds on the investments and achievements of its predecessor instruments:

- (i) the ‘security and safeguarding liberties’ programme, which consisted of specific programmes for the ‘prevention of and fight against organised crime’ (ISEC) and for the ‘prevention, preparedness and consequence management of terrorism and other security-related risks’ (CIPS) in the period 2007-2013;
- (ii) the instrument for police cooperation, preventing and combating crime and crisis management (ISF-P), which was established by Regulation (EU) No 513/2014<sup>2</sup> and formed part of the Internal Security Fund in the period 2014-2020 and
- (iii) the drugs policy part of the Justice programme established by Regulation (EU) No 1382/2013<sup>3</sup> in the period 2014-2020.

The above instruments have supported overall EU policies in the area of internal security, e.g. on police cooperation, preventing and combating crime (including counterterrorism, reinforcing coordination and cooperation between Member States’ law enforcement authorities and Europol), and crisis management (protection of people and critical infrastructure) and combatting smuggling of drugs.

Work under the Internal Security Fund will need to be consistent with that of the European Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). The Fund will work in full complementarity with these agencies. In its Communication *A Modern Budget for a Union that Protects, Empowers and Defends*<sup>4</sup>, the Commission proposes to allocate an amount of EUR 1 128 000 000 (in current prices) to Union agencies in the area of security. This Regulation does not cover the funding for these agencies. Their funding is determined in the regular annual budgetary procedure.

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<sup>2</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>3</sup> Regulation (EU) No 1382/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Justice Programme for the period 2014 to 2020.

<sup>4</sup> COM(2018) 321 final (2.5.2018).

- **Consistency with other Union policies**

The scale and importance as well as the evolving and crosscutting nature of security threats requires a coordinated EU response and intervention of all EU instruments. Security is a cross-cutting issue and the Internal Security Fund without synergies with other funding instruments cannot provide an effective EU response. Security is therefore addressed in several Union programmes. In the first place, security will be addressed in synergy and coherence with the Asylum and Migration Fund and the Integrated Border Management Fund (consisting of the instrument for border management and visa and the customs control equipment instrument). Surveillance i.e. detection of smuggling of illegal goods, explosives, precursors, illegal migration and security screenings at the external borders are key to maintaining the EU's overall security. Another key element of synergy with migration and border policies will come with the major scaling up of the European Border and Coast Guard Agency to fully operational status, with a standing corps of around 10,000 border guards.<sup>5</sup>

Furthermore synergy and coherence is important with Cohesion Policy Funds, with the security research part of Horizon Europe, the Digital Europe programme, the Justice programme and the Rights and Values programme. Given the intrinsic connections between security and justice on the ground, there will also be particular synergies between the Internal Security Fund and the Justice programme in terms of providing adequate protection to crime victims, funding joint investigation teams and judicial training, ensuring interoperability with the European criminal records information system, improving detention conditions and inter-agency cooperation in the fields of justice and security, including via justice-related agencies such as Eurojust and the European Public Prosecutor's Office. In the area of drugs policy there are synergies with the European Social Fund+ in particular its health component. Synergies will be sought also in the area of security of infrastructure and public spaces, cybersecurity and the prevention of radicalisation. ESF+ can play an important role in preventing radicalisation through better integration and ERDF as well as InvestEU can play a key role in increasing the security of investments in infrastructure throughout the Union and cybersecurity can be addressed through increasing the security of IT systems. This issue is like security a cross-border and cross-sectoral phenomena and an important element of the Digital Europe programme and therefore synergies with the Internal Security Fund need to be ensured.

Security in global issues and actions beyond the borders of the Union can have a significant impact on the internal security of the Union. Therefore measures in and in relation to third countries will continue to be supported through the Fund but 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 including the instrument for pre-accession assistance. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action and foreign policy related to the country or region in question. In relation to the external dimension, the Fund should enhance cooperation with third countries in areas of interest to the Union's internal security, such as countering terrorism and radicalisation, cooperation with third country law enforcement authorities in the fight against terrorism (including detachments and joint investigation teams), serious and organised crime and corruption, trafficking in human beings and migrant smuggling. Security is also closely linked to defence and in the area of

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<sup>5</sup> "A Modern Budget for a Union that Protects, Empowers and Defends: The Multiannual Financial Framework for 2021-2027", COM(2018) 321, 2.5.2018.

defence the Union has to take greater responsibility for protecting its interest, values and the European way of life.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The EU's right to act in the area of home affairs derives in particular from Article 3(2) of the Treaty on European Union (TEU), which states that 'the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime'.

Union action is justified on the grounds of the objectives referred to in Article 67 of the Treaty on the Functioning of the European Union (TFEU), which sets out the means to constitute an area of freedom, security and justice. Attention is also drawn to Article 80 TFEU, which underlines that these Union policies 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.

This Regulation is based on Articles 82(1), 84 and 87(2) TFEU, which constitute compatible legal bases in the light of the specific legal circumstances that apply to decision-making under Title V of the TFEU.

This Regulation will provide financial support on the basis of common Union policies (strategies, programmes and action plans), legislation, practical cooperation, and threat and risk assessments. Consequently, the programme that currently provides financial support in this policy area (ISF-Police) should be repealed with effect from 1 January 2021, subject to transitional rules.

Additionally, the Commission adopted on 29 May 2018 a proposal for a Common Provisions Regulation<sup>6</sup> in order to improve the coordination and harmonise the implementation of support under shared management, with the main aim of simplifying policy delivery. The shared management part of ISF is covered by these common provisions.

The different Funds in shared management pursue complementary objectives and share the same management mode, therefore Regulation (EU) No [CPR] sets out a series of common principles such as partnership. That Regulation also contains the common elements of strategic planning and programming, including provisions on the Partnership Agreement to be concluded with each Member State, and sets out a common approach to the performance orientation of the Funds. Accordingly, it includes enabling conditions and arrangements for monitoring, reporting and evaluation. Common provisions are also set out with regard to eligibility rules, financial management and management and control arrangements.

- **Subsidiarity (for non-exclusive competence)**

The management of security threats presents challenges that cannot be dealt with by the Member States acting alone. Overall, this is an area where there is clear added value in Union intervention and in mobilising the EU budget.

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<sup>6</sup> COM(2018) 375 of 29 May 2018.

In the area of security, serious and organised crime, terrorism and other security-related threats are increasingly cross-border in nature. Transnational cooperation and coordination between law enforcement authorities is essential if these threats are to be prevented and addressed, for example through the exchange of information, joint investigations, interoperable technologies and common threat and risk assessments. Financial support under this Regulation will help to strengthen national and European capabilities in those policy areas, facilitating the establishment of a Union framework for expressing solidarity and a platform for the development of common IT systems underpinning these policies.

Dealing with the security of the EU requires substantial resources and capabilities from the Member States. Improved operational cooperation and coordination involving the pooling of Member States' resources creates economies of scale and synergies, thereby ensuring more efficient use of public funds and reinforcing solidarity, mutual trust and responsibility-sharing for common EU policies. This is particularly relevant in the area of security, where financial support for all forms of cross-border joint operation is essential to improve cooperation between police, customs, border guards and judicial authorities.

In relation to the external dimension of home affairs, it is clear that the adoption of measures and the pooling of resources at EU level will increase significantly the leverage that the EU needs to persuade other countries to engage with it on those security-related issues that are primarily in the interest of the EU and the Member States.

This proposal respects the principle of subsidiarity, as most of the funding will be implemented under shared management in line with the institutional competencies of the Member States, while fully acknowledging that intervention should take place at an appropriate level and the role of the Union should not go beyond what is necessary.

- **Proportionality**

The proposal complies with the proportionality principle, and falls within the scope for action in the area of freedom, security and justice, as defined in Title V of the TFEU. The objectives and corresponding funding levels are proportional to what the Fund aims to achieve. The actions envisaged by this proposal address the European dimension of police cooperation.

- **Choice of instrument**

Regulation of the European Parliament and of the Council to establish an Internal Security Fund.

### **3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- ***Ex post* evaluations/fitness checks of existing legislation**

The proposal takes into account the results of evaluations of the previous funding instruments for police cooperation. It builds on the *ex post* evaluation of CIPS and ISEC, which were the instruments in the 2007-2013 programming period, and the interim evaluation of the Internal Security Fund, the instrument for police cooperation, preventing and combating crime, and crisis management, which is the Fund in the current (2014-2020) period. In terms of the different evaluation criteria, the findings were as follows:

The police instrument (ISF-P) has been mainly **effective** and has contributed to a high level of security in the Union by preventing and combating cross-border, serious and organised crime, including terrorism, and reinforcing coordination and cooperation between law-enforcement authorities. It has also helped to improve Member States' ability to manage security-related risks and crises effectively and, to a lesser extent, to protect people and critical infrastructures against terrorist attacks and other security-related incidents. The evidence indicates that it has helped to enhance cooperation and coordination among Member States and European bodies, and to improve Member States' ability to develop comprehensive threat and risk assessments, although it has funded relatively few projects at national and Union level. Several Union actions have been funded in the area of early warning and cooperation on crisis prevention (e.g. the ATLAS network).

However, to date the ISF-P has made limited progress in reinforcing Member States' administrative and operational ability to protect critical infrastructure, protecting victims, developing training schemes and exchange programmes, and taking action with non-EU countries and international organisations, although most projects relating to these operational objectives are still ongoing.

Concerning **efficiency**, overall, within the limits of available data, the evaluation indicated that the results of the instrument were achieved at reasonable costs in terms of both human and financial resources. Some Member States have put in place national efficiency measures. However, most Member States face problems with the EU guidance, common indicators and reporting/monitoring calendar. Despite simplification improvements, the perceived administrative burden can be considered to have undermined efficiency.

The single set of procedures for the three funds (Internal Security Fund-Police, Internal Security Fund - Borders and Visa instrument (ISF-BV) and the Asylum, Migration and Integration Fund (AMIF)) was found to lead to simplification. The few Member States that used the simplified cost option acknowledged its efficiency in reducing the administrative burden. However, the simplification measures and measures to reduce administrative burden have only partially achieved their intended goals. In spite of simplification improvements, there is little evidence, at this stage, of a significant reduction in the administrative burden. Monitoring, reporting and control measures are still perceived as burdensome and Member States have asked for further guidance to comply with EU requirements. The reporting requirements and the irrelevance of some indicators were also reported as adding to the administrative burden.

The instrument's original rationale and objectives are still **relevant** in the aftermath of the migratory and security crisis. Appropriate mechanisms have been put in place to address the changing needs at both the programming and the implementation stages. The flexibility offered by the instrument (possibility of transferring funding between objectives) helped in addressing the changing needs; however, Member States would appreciate the even greater flexibility that would come from reducing the number of national objectives and abandoning minimum allocation levels per objective.

The instrument is considered to be **coherent** and its objectives **complementary** to those of other national policies. Coherence and complementarity with other EU financing instruments were ensured at the design, programming and implementation stages. Coordinating mechanisms have been put in place to ensure coherence and complementarity at the implementation stage. The monitoring committee and the responsible authorities play key roles in ensuring coherence. Different implementation modes have been mutually

complementary. However, there appears to be some room for improvement in relation to EU agencies and to internal coherence, as there is little awareness among beneficiaries about actions and projects in the ISF framework.

Overall, the instrument has ensured **EU added value** in terms of improving cross-border cooperation, exchange of knowledge and best practices, trust among Member States' law enforcement authorities and the application and implementation of key EU policies (process effects). It has also helped to broaden the scope and improve the quality of the actions in terms of investment in under-prioritised or highly specialised areas. The purchase of state-of-the-art equipment has enhanced the national authorities' ability to perform specialised interventions with a wider scope. The instrument has also led to a broadening of the types of knowledge-exchange and law-enforcement training (scope effects). It has contributed to the harmonisation of EU-level research on crime prevention, facilitated increased investments and focused on long-term measures in this area. It has also enabled high-volume investments, especially in IT systems, training and specialised equipment (volume effects). The absence of ISF-P funding would have been detrimental to the quality of the EU response to cross-border cooperation and to Member States' ability to implement innovative solutions (role effects).

The instrument's sustainability has been ensured through the alignment and complementarity of its actions with actions developed in response to national priorities or EU requirements. Comprehensive measures and mechanisms ensuring sustainability were put in place at the programming and implementation stages, under both shared and direct management. However, the ongoing implementation of most projects makes it difficult to establish whether the effects on the target groups and on specific areas will continue to last.

- **Stakeholder consultations**

Two dedicated open public consultations on EU funds in the areas of migration and security ran from 10 January to 9 March 2018. Overall, respondents strongly emphasised the need for simplification in the delivery of home affairs funding instruments, greater flexibility (specifically in relation to the ability to respond to migration and security-related crises) and increased funding and support in areas with high levels of responsibility-sharing (asylum and border management) and/or cooperation between Member States and with home affairs agencies. Responses demonstrate that these measures can improve the effectiveness and efficiency of instruments, and EU added value. Stakeholders also pointed to the need for greater home affairs policy leverage in third countries.

Member States' responsible authorities were consulted in the framework of the AMIF-ISF Committee. Member States provided input on the main funding priorities, problems, the architecture of the funds and delivery modes. Other key stakeholders and beneficiaries of AMIF and ISF funding through direct and indirect management, such as international organisations and civil society organisations, were also consulted, as were home affairs agencies.

Stakeholders concurred that in order to maximise EU added value, EU spending should reflect EU-level priorities and policy commitments and support the implementation of the EU home affairs *acquis*. They called for sufficient funding to be made available to face current and newly emerging challenges. Sufficient funding should also be made available for home affairs agencies, in line with their increasing activities. Stakeholders agreed on the need for more flexibility to be built into the structure of the funds. They found that, in order to retain sufficient flexibility to be able to react to changing circumstances, the multiannual national

programmes should be maintained. Non-governmental organisations were of the view that direct management should also be continued.

These consultations confirmed an overall consensus among key stakeholders on the need to retain a wide scope of action for EU funding, including as regards its external dimension, enhancing the impact of home affairs policies, more simplification in delivery mechanisms and greater flexibility, in particular to respond to emergencies.

- **Collection and use of expertise**

Work on the preparation of the future financial instruments for home affairs started in 2016 and continued into 2017 and 2018. As part of this work, MFF studies were carried out in 2017 to support the impact assessment which was launched in September 2017. These studies brought together available results from evaluations of the existing financial instruments and from the stakeholder consultations, and explored the problems, objectives and policy options, including their likely impact, as examined in the impact assessment.

- **Impact assessment**

An impact assessment has been carried out for the proposal. The impact assessment covered the following: the Asylum and Migration Fund, Internal Security Fund and the Integrated Border Management Fund, which is composed of the Instrument for Border Management and Visa and the Instrument for Customs Control Equipment. The summary sheet of the impact assessment and the positive opinion of the Regulatory Scrutiny Board can be found on the following website <http://ec.europa.eu/transparency/regdoc/?fuseaction=ia>.

The impact assessment report analyses different policy options in terms of how the funding will be delivered, addressing the coherence and complementarities with other EU funding instruments, the external dimension of the migration and security funding, flexibility in a stable financial environment (including thematic facility), implementation modalities (shared, direct and indirect management), the possibility to provide emergency assistance as well as the mid-term review mechanism. The preferred option is a mix of options building on results and recommendations of the ex-post evaluation of the previous Funds (2007-2013 programming period) and the interim evaluations of the current Funds (2014-2020 programming period).

The impact assessment addresses the recommendations made by the Regulatory Scrutiny Board. The table below outlines the main considerations and recommendations for improvement received for the Asylum and Migration Fund, the Border Management and Visa Instrument (as part of the Integrated Border Management Fund) and the Internal Security Fund and how the impact assessment report was amended to reflect these.

Main considerations Regulatory Scrutiny Board	Modifications impact assessment report
The report does not explain how increasing EU competence in these areas [of home affairs] and expanded role of agencies will affect the overall system.	For the Asylum and Migration Fund, the Border Management and Visa Instrument (as part of the Integrated Border Management Fund) and the Internal Security Fund, the report has been revised to explain how the extension of EU competence and larger role of Agencies affects the roles of the respective Funds (section 3.2). Having a key role in the implementation

	of Union migration and security policies, Home Affairs Agencies will have an important role during the programming phase of national programmes while their monitoring activities would feed into the mid-term review. An expanded mandate of the Agencies would not have as purpose to substitute the current tasks performed by Member States but rather to enhance and upgrade actions of the Union and its Member States in the area of migration, border management and security
<b>Further considerations and recommendations for improvement</b>	<b>Modifications impact assessment report</b>
(1) The report should present the main changes in the programme structure and the priorities compared to the current programming period. Moreover, the report should clarify the scope of the external component of the programme, i.e. its complementarity with the external instruments.	The report has been revised to present the main changes to the programme structure compared to the current programming period (section 3.2) and to clarify the scope of the external component and its complementarity with the external instruments (section 3.3). The objectives of the Funds are based on the scope of their predecessors which, in general, were considered sufficiently broad to support the implementation of EU policy priorities, providing EU added value. Adaptations to priorities and actions reflect policy developments and the need for synergies with other EU Funds. Interventions in the external dimension will be designed and implemented in coherence with EU external action and foreign policy, in particular with the EU's external Instrument.
(2) The report should also explain how the extension of EU competence and larger role for agencies affects the roles of the respective programmes. Does it increase the need for actions at national level, for delegation to the agencies, or reduce the priority of some interventions?	Please see the modifications made to the report accommodating the main consideration by the Regulatory Scrutiny Board presented above.
(3) The Board understands that the new mechanism for performance reserves was still under development when drafting the report. Its final version should however update and clarify the chosen mechanism and justify it in the light of experience from other EU funds (as orally explained to the Board).	The report has been revised to update and clarify the preferred mechanism, taking into account experience from other EU Funds and developments in the framework of preparing the future Common Provisions Regulation for shared management (section 4.1.4). No dedicated performance reserve is presented in the preferred option. A minimum level of financial implementation is included for allocating top-up funding in the technical adjustment at mid-term while performance elements would be taken into account when providing additional funds via the thematic facility.
(4) The report should clarify how the new emergency mechanism will function within the envelopes of each of the three funds for migration and security, and that the use of emergency assistance should be limited due to the new flexibility provided by the thematic facility. It should explain the advantage of this mechanism over emergency funding in the previous programming period.	The report has been revised to provide clarifications on how the new emergency mechanism will function (section 4.1.3). Emergency assistance provided through the Funds should be complementary to the Emergency Aid Reserve (at the level of the EU budget) and be used in clearly defined situations. Due to the flexibility embedded in the thematic facility, the use of emergency assistance is expected to be more limited than in the current programming period. Emergency assistance may be implemented through shared, direct or indirect management.

(5) The monitoring arrangements are not well developed. The report should clarify how the programmes' success will be defined and measured.

The report has been revised (section 5.1) to present the measurement of the success of the programmes. This will be based on objectives set between Commission and Member States, to be agreed in the national programmes, and the subsequent measurement of achievements towards those objectives, through output and result indicators included in the legal proposals. Reporting requirements for shared management are laid down in the Common Provisions Regulation.

- **Regulatory fitness and simplification**

The Common Provisions Regulation<sup>7</sup> (common to all shared management policy areas) will ensure simplification of the Fund through the use, as far as possible, of common rules for the implementation of programmes. Furthermore, Member States will be encouraged to increase the use of simplified cost options. The audit approach will be streamlined to focus more on risk-based audit sampling and to follow the 'single audit' principle in order to reduce administrative burden.

Further simplification under direct management will be achieved through the use of common Commission-wide IT tools (e-Grants management system).

- **Fundamental rights**

Financial support from the Union budget is indispensable to the implementation of the ISF to support Member States in their efforts to ensure 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 while acting in full respect of fundamental rights. These objectives will be pursued in full compliance with the Union's commitments on fundamental rights. This will be monitored closely during the implementation of the Fund.

#### **4. BUDGETARY IMPLICATIONS**

The Commission's proposal for a multiannual financial framework includes EUR 2 500 000 000 (in current prices) for the Internal Security Fund for the 2021-2027 period.

Implementation will be by means of shared or direct/indirect management. The financial envelope shall be used as follows: 60% will be allocated to the Member States' programmes to be implemented under shared management, while 40% will be allocated to the thematic facility and used for specific actions at national or transnational level, Union actions and emergency assistance. The thematic facility envelope will be used also for the technical assistance at the initiative of the Commission.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The monitoring and evaluation framework, including an improved tracking methodology for investments across relevant EU funds, will be improved to stimulate timely performance and

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<sup>7</sup> Regulation (EU) X

to ensure that evaluations can provide effective input for any future revisions of policy interventions. This will be done through better indicators, closer cooperation with relevant partners and mechanisms to incentivise performance. A mid-term evaluation and a retrospective evaluation will be carried out by the Commission. These will be carried out in line with paragraph 22 and 23 of the Interinstitutional Agreement of 13 April 2016, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessment of options for further action. The evaluations will assess the Fund's effects on the ground based on indicators and targets and on a detailed analysis of the degree to which the fund can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any lacks, problems or any potential to further improve the actions or their results and to help maximise their impact.

In term of reporting, the Member States are expected to report on the implementation of their programmes in accordance with the modalities set out in this Regulation and in the Common Provisions Regulation.

- **Detailed explanation of the specific provisions of the proposal**

*Chapter I — General provisions* of the proposed Regulation sets out its purpose, scope and key definitions. It also sets out the objectives of the Regulation and the scope of the support to be provided. The proposed scope of these Articles builds largely on the current Regulation for the Internal Security Fund-Police, while taking into account new policy developments, such as the European agenda on security, the fight against terrorism, serious and organised crime and cybercrime, and the new interoperability agenda.

*Chapter II — Financial and implementation framework* sets out general principles for the support provided under the Regulation and conveys the importance of consistency and complementarity with relevant EU funding instruments. The chapter furthermore stipulates the delivery modes for the actions supported under the Regulation: shared, direct and indirect management. The proposed mix of delivery modes is based on the positive experience with this combination in the implementation of the current funding instrument.

The first section of the chapter lays down the financial framework. The proposal indicates an amount for the financial envelope for the Fund and its use through various implementation arrangements.

The second, third and fourth sections describe the implementation framework for the Fund, such as programmes from the Commission and the Member States. The conditions applying to actions supported under the Regulation are also set out, such as those relating to the purchase of equipment and training activities. The section sets out detailed arrangements for the mid-term review of Member States' programmes and for the implementation of specific actions, Union actions, emergency assistance, technical assistance, blending operations, and operating support.

The fifth and final section sets out the necessary provisions on annual performance reports by Member States, monitoring and evaluation.

*Chapter III — Transitional and final provisions* contains provisions on the delegation of power to the Commission to adopt delegated acts, and on the Committee procedure. The date of entry into force of the proposed Regulation is set and it is stipulated that the Regulation

will be binding in its entirety and directly applicable in all Member States in accordance with the Treaties, from 1 January 2021.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**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>8</sup>,  
Having regard to the opinion of the Committee of the Regions<sup>9</sup>,  
Acting in accordance with the ordinary legislative procedure,  
Whereas:

- (1) Ensuring internal security, which is a competence of the Member States, is a shared endeavour to which the EU institutions, relevant Union agencies and Member States should jointly contribute. In the period 2015 to 2020, the Commission, the Council of the European Union and the European Parliament have defined common priorities as set out in the European Agenda on Security of April 2015<sup>10</sup>, which were reaffirmed by the Council in the renewed Internal Security Strategy of June 2015<sup>11</sup> and by the European Parliament in its Resolution of July 2015<sup>12</sup>. That shared strategy aimed at providing the strategic framework for the work at Union level in the area of internal security, and defined the main priorities for action to ensure an effective Union response to security threats for the period 2015-2020, namely tackling terrorism and preventing radicalisation, disrupting organised crime and fighting cybercrime.
- (2) In the Rome Declaration signed on 25 September 2017, leaders of 27 Member States affirmed their determination to a safe and secure Europe and to build 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.
- (3) The European Council of 15 December 2016 called for continued delivery on the interoperability of EU 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 adopted a proposal for a Regulation on

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<sup>10</sup> COM(2015) 185 final of 28 April 2015.

<sup>11</sup> Council Conclusions of 16 June 2015 on the renewed European Union Internal Security Strategy 2015-2020.

<sup>12</sup> European Parliament resolution of 9 July 2015 on the European Agenda on Security (2015/2697(RSP)).

establishing a framework for interoperability between EU information systems (Police and judicial cooperation, asylum and migration)<sup>13</sup>.

- (4) 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, among others, 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 Member States, including with relevant Union agencies and other relevant Union bodies, and with relevant third countries and international organisations.
- (5) To achieve this objective, actions should be taken at Union level to protect people and goods from increasingly transnational threats and to support the work carried out by Member States' competent authorities. Terrorism, serious and organised crime, itinerant crime, drug trafficking, corruption, cybercrime, trafficking in human beings and arms, among others, continue to challenge the internal security of the Union.
- (6) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared to action by Member States alone. In-line with Articles 84 and 87(2) of the TFEU, funding should support measures to promote and support the action of Member States in the field of crime prevention and police cooperation involving all the Member States' competent authorities concerning especially information exchange, increased operational cooperation and supporting efforts to strengthen capabilities to combat and to prevent crime. 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 of the TFEU.
- (7) To preserve the Schengen *acquis* and to strengthen its functioning, Member States have, since 6 April 2017, been obliged to carry out systematic checks against relevant databases on EU citizens who are crossing the EU's external borders. Furthermore, the Commission issued a Recommendation to Member States to make 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 the rule of law, a strong attention to the global perspective and the necessary coherence with the external dimension of security should be key principles guiding the Union and Member States' action towards the development of an effective and genuine security union.
- (8) To contribute to the development and implementation of an effective and genuine security union aiming at ensuring a high level of internal security throughout the European Union, Member States should be provided with adequate Union financial support by setting up and managing an Internal Security Fund ('the Fund').
- (9) The Fund should be implemented in full compliance with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union and with the Union's international obligations as regards fundamental rights.
- (10) Pursuant to Article 3 of the Treaty on European Union (TEU), the Fund should support activities which ensure the protection of children against violence, abuse, exploitation and neglect. The Fund should also support safeguards and assistance for

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<sup>13</sup> COM(2017) 794 final.

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 will support actions aimed at addressing the main security threats and in particular tackling terrorism and radicalisation, serious and organised crime and cybercrime and assisting and protecting victims of crime. The Fund will ensure that the Union and its Member States are well equipped also to address evolving and emerging threats with a view to implementing 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) Within the comprehensive framework of the Fund, the financial assistance provided through the Fund should in particular support police and judicial cooperation and prevention in the fields of serious and organised crime, illicit arms trafficking, corruption, money laundering, drug trafficking, environmental crime, exchange of and access to information, terrorism, trafficking in human beings, exploitation of illegal immigration, child sexual exploitation, 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 the effective management of security-related risks and crises, including through the development of common policies (strategies, policy cycles, programmes and action plans), legislation and practical cooperation.
- (13) The Fund should build on the results and investments of its predecessors: the Prevention and fight against crime (ISEC) programme and 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>14</sup>, and should be extended it to take into account new developments.
- (14) 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 participation and involvement of civil society, including non-governmental organisations, as well as the industrial sector in the development and implementation of security policy, including where relevant with involvement of other relevant actors, Union agencies and other Union bodies, third countries and international organisations in relation to the objective of the Fund.
- (15) Within the comprehensive framework of the Union's anti-drugs strategy, which advocates a balanced approach based on a simultaneous reduction in supply and demand, the financial assistance provided under this Fund should support all actions aimed at preventing and combating trafficking in drugs (supply and demand reduction), and in particular measures targeting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including

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<sup>14</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).

possession and purchase with a view to engaging in drug trafficking activities. The Fund should in particular cover the prevention aspects of the drugs policy. To bring further synergies and clarity in the drugs-related area, these elements of drugs-related objectives — which in 2014-2020 were covered by the Justice programme — should be incorporated into the Fund.

- (16) With a view to ensuring that the Fund makes an effective contribution to a higher level of internal security throughout the European Union, to the development of a genuine security union, it should be used in a way that adds most value to the action of the Member States.
- (17) In the interests of solidarity within the Union, and in the spirit of shared responsibility for the security therein, where weaknesses or risks are identified, in particular following a Schengen evaluation, the Member State concerned should adequately address the matter by using resources under its programme to implement recommendations adopted pursuant to Council Regulation (EU) No 1053/2013<sup>15</sup>.
- (18) To contribute to the achievement of the objectives of the Fund, Member States should ensure that the priorities of their programmes address the specific objectives of the Fund, that the priorities chosen are in-line with the implementing measures as set out in Annex II and that the allocation of resources between objectives ensures that the overall policy objective can be met.
- (19) Synergies, consistency and efficiency should be sought with other EU funds and overlap between the actions should be avoided.
- (20) The Fund should be coherent with and complementary to other Union financial programmes in the field of security. Synergies will be sought ensured in particular with the Asylum and Migration Fund, the Integrated Border Management Fund consisting of the border management and visa instrument established by Regulation (EU) X and the customs control equipment instrument established by Regulation (EU) X as well as the other Cohesion Policy Funds covered by Regulation (EU) X [CPR], the security research part of the Horizon Europe programme established by Regulation (EU) X, the Rights and Values programme established by Regulation X, the Justice programme established by Regulation EU X, the Digital Europe programme established by Regulation EU X and the InvestEU programme established by Regulation EU X. Synergies should be sought in particular on security of infrastructure and public spaces, cybersecurity and the prevention of radicalisation. Effective coordination mechanisms are essential to maximise the effective achievement of policy objectives, exploit economies of scale and avoid overlaps between actions.
- (21) Measures in and in relation to third countries supported through the Fund 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, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action and foreign policy related to the country or region in question. In relation to the external dimension, the Fund should enhance cooperation with third countries in areas of interest to the

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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).

Union's internal security, such as countering terrorism and radicalisation, cooperation with third country law enforcement authorities in the fight against terrorism (including detachments and joint investigation teams), serious and organised crime and corruption, trafficking in human beings and migrant smuggling.

- (22) Funding from the Union budget should concentrate on activities where 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 will contribute in particular to strengthening national and Union capabilities in the security area.
- (23) A Member State may be deemed not to be compliant with the relevant Union *acquis* as regards the use of operating support under this 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 the Member State of the Union's values when implementing the *acquis* on security or if an evaluation report under the Schengen evaluation and monitoring mechanism identified deficiencies in the relevant area.
- (24) The Fund should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the objectives laid down in this Regulation.
- (25) This Regulation should establish the initial amounts to Member States calculated on the basis of criteria laid down in Annex I.
- (26) These initial amounts should form the basis for Member States' long-term investments in security. To take account of changes in security threats or in the baseline situation, an additional amount should be allocated to the Member States at mid-term based on the latest available statistical data, as set out in the distribution key, taking into account the state of programme implementation.
- (27) As challenges in the area of security are constantly evolving, there is a need to adapt the allocation of funding to changes in security threats and steer funding towards the priorities with the highest added value for the Union. To respond to pressing needs, changes in policy and Union priorities and to steer funding towards actions with a high level of Union added value, part of the funding will be periodically allocated to specific actions, Union actions and emergency assistance via a thematic facility.
- (28) Member States should be encouraged to use part of their programme allocation to fund actions listed in Annex IV benefiting from a higher Union contribution.
- (29) Part of the available resources under the Fund could also be distributed for the implementation of specific actions which require cooperative effort amongst Member States or where new developments in the Union require additional funding to be made available to one or more Member States. These specific actions should be defined by the Commission in its work programmes.
- (30) The Fund should contribute to supporting operating costs related to internal security and enable Member States to maintain capabilities which are crucial to the Union as a whole. Such support consists of full reimbursement of a selection of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes.
- (31) To complement the implementation of its policy objective 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 relating to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.

- (32) In order to strengthen the Union's capacity to react immediately to security-related incidents or newly emerging threats to the Union, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation. Emergency assistance should therefore not be provided to support mere contingency and long-term measures or to address situations where the urgency to act results from inadequate administrative organisation and insufficient operational planning on the part of the competent authorities.
- (33) In order to ensure the necessary flexibility of action and respond to emerging needs, it should be made possible for decentralised agencies to be provided with the appropriate additional financial means to carry out certain emergency tasks. In instances where the task to be undertaken is of such urgent nature that an amendment of their budgets could not be finalised in time, decentralised agencies should be eligible as beneficiaries of emergency assistance, including in the form of grants, consistent with priorities and initiatives identified at Union level by the EU institutions.
- (34) The policy objective of this Fund will be also addressed through financial instruments and budgetary guarantee under the policy windows of the InvestEU. 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 a clear European added value.
- (35) This Regulation lays down a financial envelope for the Internal Security Fund (ISF) which is to constitute the prime reference amount, within the meaning of paragraph X of the Interinstitutional Agreement of X between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>16</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (36) Regulation (EU, Euratom) No [the new FR]<sup>17</sup> (the 'Financial Regulation') applies to this Fund. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation is to apply to the actions to be implemented in direct or indirect management under ISF.
- (37) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework consisting of this Regulation, the Financial Regulation and the Common Provisions Regulation (EU) No X<sup>18</sup>.
- (38) Regulation (EU) No X [CPR] establishes the framework for action by the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the

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<sup>16</sup> OJ C 373, 20.12.2013, p. 1.  
[http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC)

<sup>17</sup> Full reference

<sup>18</sup> Full reference

Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the Asylum and Migration Fund (AMIF), Internal Security Fund (ISF) and the instrument for border management and visa (BMVI), as a part of the Integrated Border Management Fund (IBMF), and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for EU funds implemented under shared management. Additionally it is necessary to specify the objectives of the Internal Security Fund in this Regulation, and to lay down specific provisions concerning the activities that may be financed with the support of this Fund.

- (39) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the objectives of the actions and to deliver results, taking into account, in particular, the costs of control, the administrative burden, and then expected risk of non-compliance. This should include consideration of 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.
- (40) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>19</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>20</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>21</sup> and Council Regulation (EU) 2017/1939<sup>22</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may 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 criminal offences affecting the financial interests of the Union. In accordance with Council Regulation (EU) 2017/1939, the European Public Prosecutor's Office may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>23</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (41) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to

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<sup>19</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>20</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

<sup>21</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>22</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>23</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).

this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.

- (42) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>24</sup>, persons and entities established in overseas countries and territories (OCTs) 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.
- (43) Pursuant to Article 349 of the TFEU and in line with the Commission Communication "A stronger and renewed strategic partnership with the EU's outermost regions"<sup>25</sup>, endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their programmes address the specific challenges the outermost regions face. The Fund supports these Member States with adequate resources to help these regions as appropriate.
- (44) Pursuant to paragraph 22 and 23 of the Interinstitutional Agreement for Better Law-Making of 13 April 2016<sup>26</sup>, there is a need to evaluate this Fund on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden, in particular on Member States. These requirements, where appropriate, can 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.
- (45) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate actions and to the achievement of an overall target of 25% of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes.
- (46) Through these 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) No X [CPR] and this Regulation.
- (47) 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 as listed in Annex IV, operating support and in order to further develop 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

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<sup>24</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>25</sup> COM (2017)623 final.

<sup>26</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016.

- (48) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission. These powers should be exercised in accordance with 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<sup>27</sup>. The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the modalities of providing information to the Commission in the framework of programming and reporting, given their purely technical nature.
- (49) 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.
- (50) 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, 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 / has notified its wish to take part in the adoption and application of this Regulation].
- (51) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No X laying down the multiannual financial framework<sup>28</sup>,

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### *Article 1*

##### **Subject matter**

1. This Regulation establishes the Internal Security Fund ('the Fund').
2. It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules providing for such funding.

#### *Article 2*

##### **Definitions**

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

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<sup>27</sup> OJ L 55, 28.2.2011, p. 13.

<sup>28</sup> Council Regulation (EU, Euratom) No XXX.

- (a) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining 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;
- (b) 'crime prevention' 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>29</sup>;
- (c) 'critical infrastructure' means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, 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;
- (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;
- (e) 'EMPACT actions' means actions undertaken in the framework of the European multidisciplinary platform against criminal threats (EMPACT)<sup>30</sup>. EMPACT is a structured multidisciplinary cooperation platform of the relevant Member States, Union institutions and agencies, as well as third countries, international organisations and other public and private partners to address prioritised threats of organised and serious international crime under the EU Policy Cycle;
- (f) 'EU Policy Cycle' refers to an intelligence-led and multidisciplinary initiative with the aim to fight the most important serious and organised crime threats to the Union by encouraging cooperation between the Member States, the Union institutions, the agencies and where relevant third countries and organisations;
- (g) 'exchange of and access to information' means the secure collection, storage, processing, analysis and exchange of information relevant to the authorities referred to in Article 87 TFEU as well as to Europol in relation to the prevention, detection, investigation, and prosecution of criminal offences, in particular cross-border organised crime;
- (h) 'judicial cooperation' means judicial cooperation in criminal matters;
- (i) 'LETS' means the European Law Enforcement Training Scheme, aimed at equipping law enforcement officers with the knowledge and skills they need to prevent and combat cross-border crime effectively through efficient cooperation, as outlined in the Commission Communication of 27 March 2013 on establishing a European LETS<sup>31</sup> and further referred to in the CEPOL Regulation<sup>32</sup>;

<sup>29</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>30</sup> Conclusions of the Council of Justice and Home Affairs Ministers, 8 and 9 November 2010.

<sup>31</sup> COM(2013) 172 establishing a European Law Enforcement Training Scheme (LETS).

- (j) ‘organised crime’ means punishable conduct relating to participation in a criminal organisation, as defined in Council Framework Decision 2008/841/JHA<sup>33</sup>;
- (k) ‘preparedness’ means any measure aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents;
- (l) ‘Schengen evaluation and monitoring mechanism’ means the verification of the correct application of the Schengen *acquis* as laid down in Regulation (EU) No 1053/2013, including in the area of police cooperation;
- (m) ‘tackling corruption’ covers all areas outlined in the United Nations Convention against corruption, including prevention, criminalisation and law enforcement measures, international cooperation, asset recovery, technical assistance and information exchange;
- (n) ‘terrorism’ means any of the intentional acts and offences as defined in Directive (EU) 2017/541 of the European Parliament and of the Council on combating terrorism<sup>34</sup>.

### *Article 3*

#### **Objectives of the Fund**

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.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
  - (a) to increase the exchange of information among and within the Union law enforcement and other competent authorities and other relevant Union bodies as well as with third countries and international organisations;
  - (b) 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; and
  - (c) 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.
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.
4. Actions funded shall be implemented in full respect for fundamental rights and human dignity. In particular, actions shall comply with the provisions of the Charter of Fundamental Rights of the European Union, Union data protection law and the European Convention for the Protection of Human Rights and Fundamental

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<sup>32</sup> Regulation (EU) 2015/2219 of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL).

<sup>33</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>34</sup> Directive (EU) 2017/741 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).

Freedoms (ECHR). In particular, wherever possible, special attention shall be given by Member States when implementing actions to the assistance and protection of vulnerable persons, in particular children and unaccompanied minors.

#### *Article 4*

##### **Scope of support**

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.
2. To achieve the objectives of this Regulation, the Fund may support the actions in-line with Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 5.
3. The following actions shall not be eligible:
  - (a) actions limited to the maintenance of public order at national level;
  - (b) 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;
  - (c) actions with a military or defence purpose;
  - (d) equipment of which at least one of the purposes is customs control;
  - (e) coercive equipment, including weapons, ammunition, explosives and riot sticks, except for training;
  - (f) informant rewards and flash money<sup>35</sup> outside the framework of an EMPACT action.

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

#### *Article 5*

##### **Eligible entities**

1. The following entities may be eligible:
  - (a) legal entities established in any of the following countries:
    - (i) a Member State or an overseas country or territory linked to it;
    - (ii) third country listed in the work programme under the conditions specified therein.
  - (b) any legal entity created under Union law or any international organisation.
2. Natural persons are not eligible.

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<sup>35</sup> 'Flash money' is genuine cash which is shown (exhibited) during a criminal investigation as proof of liquidity and solvency to the suspects or other persons who have information about availability or delivery or who act as intermediaries, in order to carry out a fictitious purchase aimed at arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group.

3. Legal entities established in a third country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.
4. Legal entities participating in consortia of at least two independent entities, established in different Member States or overseas countries or territories linked to those states or in third countries, are eligible.

## **CHAPTER II**

### **FINANCIAL AND IMPLEMENTATION FRAMEWORK**

#### **SECTION 1**

##### **COMMON PROVISIONS**

###### *Article 6*

###### **General principles**

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

###### *Article 7*

###### **Budget**

1. The financial envelope for the implementation of the Fund for the period 2021-2027 shall be EUR 2 500 000 000 in current prices.
2. The financial envelope shall be used as follows:
  - (a) EUR 1 500 000 000 shall be allocated to the programmes implemented under shared management;
  - (b) EUR 1 000 000 000 shall be allocated to the thematic facility.
3. Up to 0.84 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission for the implementation of the Fund.

###### *Article 8*

###### **General provisions on the implementation of the thematic facility**

1. The financial envelope referred to in Article 7(2)(b) shall be allocated flexibly through the thematic facility using shared, direct and indirect management as set out in work programmes. Funding from the thematic facility shall be used for its components:

- (a) specific actions;
- (b) Union actions; and
- (c) emergency assistance.

Technical assistance at the initiative of the Commission shall also be supported from the financial envelope for the thematic facility.

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.
3. When funding from the thematic facility is granted in direct or indirect management to Member States, it shall be ensured that selected projects are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure or the performance of projects.
4. When funding from the thematic facility is implemented in shared management, the Commission shall, for the purposes of Article 18 and Article 19(2) of the Regulation (EU) No [CPR], assess whether the foreseen actions are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure or the performance of the projects.
5. The Commission shall establish the overall amount made available for the thematic facility at under the annual appropriations of the Union budget. The Commission shall adopt financing decisions as referred to in Article [110] of the Financial Regulation for the thematic facility identifying the objectives and actions to be supported and specifying the amounts for each of its components as referred to paragraph 1. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations.
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.
7. These financing decisions may be annual or multiannual and may cover one or more components of the thematic facility.

## **SECTION 2**

### **SUPPORT AND IMPLEMENTATION UNDER SHARED MANAGEMENT**

#### *Article 9*

##### **Scope**

1. This section applies to the part of the financial envelope referred to in Article 7(2)(a) and the additional resources to the implemented under shared management according to the Commission 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 the Regulation (EU) No [CPR].

## *Article 10*

### **Budgetary resources**

3. Resources referred to in Article 7(2)(a) shall be allocated to the national programmes implemented by Member States under shared management ('the programmes') indicatively as follows:
  - (a) EUR 1 250 000 000 to the Member States in accordance with the criteria in Annex I;
  - (b) EUR 250 000 000 to the Member States for the adjustment of the allocations for the programmes as referred to in Article 13(1).
4. Where the amount referred to in paragraph 1(b) is not allocated, the remaining amount may be added to the amount referred to in Article 7(2)(b).

## *Article 11*

### **Co-financing rates**

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure of 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.
6. The Commission decision approving a programme shall set the co-financing rate and the maximum amount of support from this Fund for the types of actions referred to in paragraphs 1 to 5.
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.

## *Article 12*

### **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 line with the relevant Union *acquis* and agreed Union priorities. In defining these priorities of their programmes, Member States shall ensure that the implementing measures as set out in Annex II are adequately addressed in the programme.
2. The Commission shall ensure that the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training

(CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) are associated to the development of the programmes at an early stage, as regards the areas of their competence. Specifically, Member States shall consult Europol on the design of their actions in particular when including EU policy cycle or EMPACT actions or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT) in their programmes. Prior to including training in their programmes, Member States shall coordinate with CEPOL in order to avoid overlaps.

3. The Commission may associate the Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) where appropriate in the monitoring and evaluation tasks as specified in Section 5 in particular in view of ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.
4. 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. This ceiling may be exceeded only in duly justified cases.
5. In their programmes, Member States shall give priority to addressing:
  - (a) Union priorities and *acquis* in the area of security in particular information exchange and interoperability of IT systems;
  - (b) recommendations with financial implications made in the framework of Regulation (EU) No 1053/2013 on the Schengen evaluation and monitoring mechanism in the area of police cooperation;
  - (c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption.
6. Where necessary, the programme shall be amended to take into account the recommendations referred to in paragraph 5. Depending on the impact of the adjustment, the revised programme may be approved by the Commission.
7. Member States shall pursue in particular the actions listed in Annex IV. In the event of unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex IV.
8. Whenever a Member State decides to implement projects with or in a third country, with the support of the Fund, the Member State concerned shall consult the Commission prior to the start of the project.
9. Programming as referred to in Article 17(5) of Regulation (EU) No [CPR] shall be based on the types of intervention set out in Table 1 of Annex VI.

### *Article 13*

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

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in Article 10(1)(b) in accordance with

the criteria referred to in paragraph 2 of Annex I. Funding shall be effective for the period as of the calendar year 2025.

2. If at least 10 % of the initial allocation of a programme referred to in Article 10(1)(a) has not been covered by interim payment applications submitted in accordance with Article 85 of Regulation (EU) No [CPR], the Member State concerned shall not be eligible to receive the additional allocation for the programme referred to in paragraph 1.
3. The allocation of the funds from the thematic facility as from 2025 shall, where appropriate, take into account the progress made in achieving the milestones of the performance framework as referred to in Article 12 of Regulation (EU) No [CPR] and identified implementation shortcomings.

#### *Article 14*

#### **Specific actions**

1. Specific actions are transnational or national projects in line with the objectives of this Regulation for which one, several or all Member States may receive an additional allocation to their programmes.
2. Member States may, in addition to their allocation calculated in accordance with Article 10(1), receive funding for specific actions, provided that it is earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation, including covering newly emerging threats.
3. The funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme.

#### *Article 15*

#### **Operating support**

1. Operating support is a part of a Member State's allocation which may be used as support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
2. A Member State may use up to 10 % of the amount allocated under the Fund to its programme to finance operating support for the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
3. A Member State using operating support shall comply with the Union *acquis* on security.
4. Member States shall justify in the programme and in the annual performance reports, as referred to in Article 26, the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to request operating support, taking into account the information provided by those Member States as well as recommendations from quality control and evaluation mechanisms such as the Schengen evaluation mechanism and other quality control and evaluation mechanisms.
5. Operating support shall be concentrated on specific tasks and services as laid down in Annex VII.

6. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend the specific tasks and services in Annex VII.

### **SECTION 3**

#### **SUPPORT AND IMPLEMENTATION UNDER DIRECT AND INDIRECT MANAGEMENT**

##### *Article 16*

##### **Scope**

Support under this section shall be implemented either directly by the Commission in accordance with point (a) of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that Article.

##### *Article 17*

##### **Union actions**

1. Union actions are transnational project or projects of particular interest to the Union, in line with the objectives of this Regulation.
2. At the Commission's initiative, the Fund may be used to finance Union actions concerning the objectives of this Regulation as referred to in Article 3 and in accordance with Annex III.
3. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
5. The evaluation committee, assessing the proposals, may be composed of 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. The provisions laid down in [Article X of] Regulation X [successor of the Regulation on the Guarantee Fund] shall apply.

##### *Article 18*

##### **Blending operations**

Blending operation decided under this Fund shall be implemented in accordance with the InvestEU Regulation<sup>36</sup> and Title X of the Financial Regulation.

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<sup>36</sup> Full reference.

### *Article 19*

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

The Fund may support technical assistance measures implemented at the initiative of, or on behalf of, the Commission. Those measures may be financed at the rate of 100%.

### *Article 20*

#### **Audits**

Audits on the use of Union contribution carried out by persons or entities, including by other than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Regulation (EU) No [Regulation on the financial rules applicable to the general budget of the Union].

### *Article 21*

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

1. The recipient of Union funding shall acknowledge the origin and ensure the visibility of the Union funding, in particular when promoting the actions and their results by providing coherent, effective and proportionate targeted information to multiple audiences, including media and the public.
2. The Commission shall implement information and communication actions relating to the Fund and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives of this Regulation.

## **SECTION 4**

### **SUPPORT AND IMPLEMENTATION UNDER SHARED, DIRECT AND INDIRECT MANAGEMENT**

### *Article 22*

#### **Emergency assistance**

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of an emergency situation resulting from a security-related incident or newly emerging threat within the scope of this Regulation which has or may have a significant adverse impact on the security of people in one or more Member States;
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 their allocation calculated in accordance with Article 10(1), provided that it is earmarked as such in the programme. This funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme.
4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

### *Article 23*

#### **Cumulative, complementary and combined funding**

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 each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and 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. Actions awarded a seal of Excellence certification, or which comply with the following cumulative comparable 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 may not be financed under that call for proposals due to budgetary constraints.

may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund+ or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [67] of Regulation (EU) X [CPR] and Article [8] or Regulation (EU) X [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply.

## **SECTION 5**

### **MONITORING, REPORTING AND EVALUATION**

#### **Sub-section 1 Common provisions**

### *Article 24*

#### **Monitoring and reporting**

1. In compliance with its reporting requirements pursuant to Article [43(3)(h)(i)(iii)] of the Financial Regulation, the Commission shall present to the European Parliament and the Council information on performance in accordance with Annex V.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex V in order to make the necessary adjustments to the information on performance to be provided to the European Parliament and the Council.
3. The indicators to report on progress of the Fund, towards the achievement of the specific objectives set out in Article 3, are set out in Annex VIII. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.
4. The performance reporting system shall ensure that data for monitoring programme implementation and results 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 relevant Member States.

5. In order to ensure effective assessment of the progress of the Fund towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 28 to amend Annex VIII to review and complement the indicators where necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including for project information to be provided by the Member States.

#### *Article 25*

#### **Evaluation**

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under this Fund.
2. The mid-term and the retrospective evaluation shall be carried out in a timely manner to feed into the decision-making process in accordance with the timeline set out Article 40 of Regulation (EU) No [CPR].

#### **Sub-section 2 Rules for shared management**

#### *Article 26*

#### **Annual performance reports**

1. By 15 February 2023 and by the same date of each subsequent year up to and including 2031, Member States shall submit to the Commission the annual performance report as referred to in Article 36(6) of Regulation (EU) No [CPR]. The report submitted in 2023 shall cover the implementation of the programme until 30 June 2022.
2. The annual performance report shall in particular include information on:
  - (a) the progress in the implementation of the programme and in achieving the milestones and targets, taking into account the latest data as required by Article 37 of Regulation (EU) No [CPR];
  - (b) any issues affecting the performance of the programme and the actions taken to address them;
  - (c) the complementarity between the actions supported by the Fund and support provided by other Union funds, in particular those in or in relation to third countries;
  - (d) the contribution of the 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 enabling conditions and their application throughout the programming period.
3. The Commission may make observations on the annual performance report within two months of the date of its receipt. Where the Commission does not provide observations within that deadline, the report shall be deemed to have been accepted.

4. 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. This implementing act shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

#### *Article 27*

#### **Monitoring and reporting**

1. Monitoring and reporting, in accordance with Title IV of Regulation (EU) No [CPR], shall be based on types of intervention set out in Tables 1, 2 and 3 of Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts to amend Annex VI in accordance with Article 28.
2. The indicators shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) No [CPR].

### **CHAPTER III**

## **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 28*

#### **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 Articles 12, 15, 24 and 27 shall be conferred on the Commission until 31 December 2028.
3. The European Parliament or the Council may revoke the delegation of powers referred to in Articles 12, 15, 24 and 27 at any time. A decision of revocation 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 on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council thereof.
6. A delegated act adopted pursuant to Articles 12, 15, 24 and 27 shall enter into force only if neither the European Parliament nor the Council has expressed an objection within two months of being notified of it or if, before the expiry of that period, they 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 the Council.

## *Article 29*

### **Committee procedure**

1. The Commission shall be assisted by a Coordination Committee for the Asylum and Migration Fund, the Internal Security Fund and the Instrument for Border Management and Visa. 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 the Committee delivers no opinion, the Commission shall not adopt the draft implementing act. This shall not apply to the implementing act referred to in Article 26(4).

## *Article 30*

### **Transitional provisions**

1. Regulation (EU) No 513/2014 is repealed with effect from 1 January 2021.
2. Without prejudice to paragraph 1, this Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under the Police Instrument of the Internal Security Fund, which shall continue to apply to those actions concerned until their closure.
3. 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 under its predecessor, the Police Instrument of the Internal Security Fund established by Regulation (EU) No 513/2014.

## *Article 31*

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

This Regulation shall enter into force on the twentieth day following that 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 Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and the Council on the Internal Security Fund (ISF)

#### 1.2. Policy area(s) concerned (*Programme cluster*)

Heading 5 (Security and defence); Title 12. Security

#### 1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action<sup>1</sup>

the extension of an existing action

a merger or redirection of one or more actions towards another/a new action

#### 1.4. Grounds for the proposal/initiative

##### 1.4.1. Requirement(s) to be met in the short or long term, including a detailed timeline for roll-out of the implementation of the initiative

The Fund should build on the results and investments made with the support of its predecessors, namely supporting the overall EU policies in the area of internal security, such as police cooperation, preventing and combating crime and crisis management (protection of people, public spaces and critical infrastructure), fight against drugs.

In addition, EU funding should be able to address situations resulting from newly emerging security threats or other situations that require immediate action which cannot be addressed by Member States acting alone.

Without prejudice to any future policy development, any future proposal in this area will include its own separate legislative financial statement for which the corresponding financial resources could be covered either by the envelope of this Fund or by any other additional funding available in the MFF envelope.

##### 1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

The management of security threats presents challenges which cannot be dealt with by the Member States acting alone.

In the area of security, serious and organised crime, terrorism and other security-related threats are increasingly cross-border in nature. Transnational cooperation and coordination between law-enforcement authorities is essential to successfully prevent and fight these crimes, for example through the exchange of

<sup>1</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

information, joint investigations, interoperable technologies and common threat and risk assessments. The financial support provided under this Regulation contributes in particular to strengthening national and European capabilities in those policy areas, putting the Union in a better position to provide a framework for expressing Union solidarity and to provide a platform for the development of common IT systems underpinning these policies.

Dealing with the security of the EU requires substantial resources and capabilities from the Member States. Improved operational cooperation and coordination involving the pooling of resources in areas such as training and equipment creates economies of scale and synergies, thereby ensuring a more efficient use of public funds and reinforcing solidarity, mutual trust and responsibility-sharing for common EU policies among Member States. This is particularly relevant in the area of security, where financial support for all forms of cross-border joint operation is essential to improve cooperation between police, customs, border guards and judicial authorities.

In relation to the external dimension of home affairs, it is clear that the adoption of measures and the pooling of resources at EU level will increase significantly the EU leverage necessary to persuade third countries to engage with the EU on security-related issues that are primarily in the interest of the EU and the Member States.

#### 1.4.3. *Lessons learned from similar experiences in the past*

The interim evaluation of the ISF-P of the 2014-2020 programming period and the *ex post* evaluations of funds of the 2007-2013 period ('prevention of and the fight against crime' (ISEC) and 'prevention, preparedness and consequence management of terrorism and other security-related risks' (CIPS)) produced the findings indicated below. It is worth noting that ISF-P is the first EU funding programme in this policy field implemented also through shared management with the Member States; previous funds were implemented only directly by the Commission.

##### – Relevance, scope and size

The broad scope of the current ISF-P ensured it could support the implementation of the necessary actions at EU level in the area of security. The flexibility offered by the Fund (possibility of transferring funding between objectives) helped to address the changing needs, but Member States would appreciate even more flexibility by abandoning the minimum allocations of funds to objectives and reducing the number of national objectives. Furthermore, allocations fixed at the beginning of the programming period, on the basis of statistical data, do not reflect changes in the needs of Member States during the implementation period. When providing additional financial support during the programming period, the distribution key established at the beginning of the programming period does not allow for flexibility, potentially affecting the effectiveness and efficiency of the Fund.

##### - Effectiveness

The current ISF-P is considered effective, contributing to its objectives. The evaluations show that a mix of delivery modes in the areas of security, migration and border management allowed for an effective way to achieve the objectives of the Funds. The holistic design of the delivery mechanisms should be maintained. On the other hand, the evaluations point to the remaining lack of flexibility, to be balanced with predictability as Member States authorities and beneficiaries need financial and

legal certainty to plan the implementation of the Fund throughout the programming period, as a limitation to their effectiveness. The current ISF-P does not include a financial envelope to be distributed across the national programmes in the framework of the mid-term review, limiting the possibility to provide additional funding to the national programmes. Another limitation relates to the fact that the mid-term review can be used only at a pre-defined time during the implementation period. The migration crisis and the increased security threats in the EU in recent years have shown that flexibility was needed from the beginning of the programming period onwards to be able to react to changes on the ground. The interim evaluations also noted the need for a clear intervention logic, and that more focused national programmes would increase the effectiveness by allowing for some objectives to be prioritised, and the importance of a full monitoring and evaluation system, for both direct and shared management. Designed at an early stage, it ensures a consistent and uniform monitoring of progress and effectiveness from the outset.

- Efficiency (including simplification and reduction of administrative burden)

Stakeholders have noted progress in the simplification of the procedures. Innovative measures (simplified cost options, multiannual programming) are considered beneficial. Establishing common rules on the implementation of AMIF and the ISF supported the links of the management of the three funding instruments, leading to close cooperation between — and in some cases the unification of — the entities responsible for the management of the two funds.

However, the administrative burden is still perceived to be high by both administrations and beneficiaries, undermining the efficiency of the Funds. For example, even though the use of national eligibility rules has the potential to reduce administrative burden, eligibility rules that are applied at times remain too heavy. Simplified cost options are not applied to the full extent. There is also a relatively high administrative burden for both Member States and the Commission in the provision of emergency assistance through direct management. This entails setting up a detailed grant agreement in a short period of time and more detailed reporting requirements towards the Commission for the beneficiaries (compared to shared management). There is a need for a sufficient level of technical assistance to facilitate the successful management of the Fund and for further efforts to simplify access to the Funds for potential beneficiaries by providing information regarding actions and funding opportunities. Furthermore, in the current ISF-P there is no mechanism aiming at improving performance, such as, for example, a system of incentives which would further improve the effectiveness and efficiency of the Funds. In the absence of such a mechanism, Member States that perform well in the implementation of the Funds could not be rewarded. This could have increased the effectiveness of the Funds to achieve their objectives.

- Coherence

The Fund is considered to be coherent and its objectives are complementary to other national policies. Coherence and complementarity with other EU financing instruments have been ensured during the design, programming and implementation stages. Coordinating mechanisms have been put in place to ensure coherence and complementarity at the implementation stage. The format of the funds (national programmes aiming at long-term capacities, emergency assistance aiming at alleviating immediate pressure and Union actions designed to support transnational cooperation) was considered as positive. Nevertheless, ensuring coherence and

synergies remains challenging in three main areas: supporting asylum and integration objectives through the ESIFs, supporting border management, and return and reintegration measures as well as developing protection systems in third countries and, finally, ensuring coherence between the interventions of EU funds in the area of security.

#### *1.4.4. Compatibility and possible synergy with other appropriate instruments*

The objectives of the Fund in the area of security will be supported through a fully coordinated set of funding instruments, including both their internal and external aspects. It is important to avoid overlaps with funding provided through other EU instruments by establishing dividing lines and effective coordination mechanisms.

The future ISF will act as the Union's dedicated instrument in the area of security. Complementarities will be ensured in particular with the Cohesion Policy, the Integrated Border Management Fund consisting of the instrument for border management and visa and the customs control equipment instrument, the security research part of Horizon Europe and the future 'rights and values' programme. Synergies will be sought in particular on border management and customs control equipment, security of infrastructure and public spaces, cybersecurity and the prevention of radicalisation. Effective coordination mechanisms are essential to maximise the effectiveness in the achievement of policy objectives, exploit economies of scale and avoid overlaps between actions.

Measures in and in relation to third countries supported through the Fund should be taken in synergy and coherence with other actions outside the Union supported through Union external assistance instruments. In particular, in implementing such actions, coherence should be sought with the principles and general objectives of Union external action and foreign policy related to the country or region in question. In relation to the external dimension, the Fund will target support to improve cooperation with third countries in areas of interest to the Union's internal security, such as in particular countering terrorism and radicalisation, trade and transport security, cooperation with third country law enforcement authorities in the fight against terrorism (including detachments and joint investigation teams), organised crime and corruption as well as trafficking in human beings and migrant smuggling.

## 1.5. Duration and financial impact

### limited duration

- in effect from 1.1.2021 to 31.12.2027
- Financial impact from 2021 to 2027 for commitment appropriations and from 2021 for payment appropriations.

### unlimited duration

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

## 1.6. Management mode(s) planned<sup>2</sup>

### Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies<sup>3</sup>

### Shared management with the Member States

### Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

## Comments

The proposed Fund will be implemented in shared, or direct or indirect management. The largest part of the resources will be allocated to the national programmes in shared management. The remaining part will be allocated to a thematic facility and could be used for specific actions (implemented by the Member States nationally or transnationally), Union actions (direct/indirect management) and emergency assistance (shared, or direct or indirect management).

<sup>2</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

<sup>3</sup> The programme might be (partially) delegated to an executive agency, subject to the outcome of the cost/benefit analysis and related decisions to be taken, and to the related administrative appropriations for programme implementation in the Commission and the executive agency being adapted accordingly.

Technical assistance at the initiative of the Commission will be implemented by direct management.

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

Direct/indirect management:

The Commission will directly monitor the implementation of the actions according to the arrangements set out in the respective grant agreements, delegated agreements with international organisations where applicable and contracts with the beneficiaries.

Shared management:

Each Member State will establish a management and control systems for its programme and ensure the quality and the reliability of the monitoring system and of data on indicators, in accordance with the Common Provision Regulation (CPR). In order to facilitate a swift start of implementation, it is possible to ‘roll-over’ existing well-functioning management and control systems to the next programming period.

In this context, Member States will be asked to set up a monitoring committee in which the Commission shall participate in an advisory capacity. The monitoring committee will meet at least once a year. It will review all issues that affect programme progress towards achieving its objectives.

The Member States will send an annual performance report, which should set out information on the progress in the implementation of the programme and in achieving the milestones and targets. It should also raise any issues affecting the performance of the programme and describe the action taken to address them.

At the end of the period, each Member States will submit a final performance report. The final report should focus on the progress made towards achieving the objectives of the programme and should give an overview of the key issues that affected the programme’s performance, the measures taken to address those issues and the assessment of the effectiveness of those measures. In addition, it should present the contribution of the programme to tackling the challenges identified in the relevant EU recommendations addressed to the Member State, the progress made in achieving the targets set out in the performance framework, the findings of the relevant evaluations and the follow-up given to those findings and the results of the communication actions.

According to the draft CPR proposal, the Member States will send each year an assurance package, which includes the annual accounts, the management declaration and the audit authority’s opinions on the accounts, the management and control system and the legality and regularity of the expenditure declared in the annual accounts. This assurance package will be used by the Commission to determine the amount chargeable to the Fund for the accounting year.

A review meeting between the Commission and each Member State will be organised every two years to examine the performance of each programmes.

The Member States send six times per year data for each programme broken down by specific objectives. These data refer to the cost of operations and the values of common output and result indicators.

In general:

The Commission will carry out a mid-term and a retrospective evaluation of the actions implemented under this Fund, in line with the CPR. The mid-term evaluation should be based in particular on the mid-term evaluation of programmes submitted to the Commission by the Member States by 31 December 2024.

## **2.2. Management and control system(s)**

### *2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

Both the *ex post* evaluations of the DG HOME 2007-2013 funds and the interim evaluations of the current DG HOME funds show that a mix of delivery modes in the areas of migration and home affairs allowed for an effective way to achieve the objectives of the funds. The holistic design of the delivery mechanisms is maintained and includes shared, direct and indirect management.

Through shared management, Member States implement programmes that contribute to the policy objectives of the Union and are tailor-made to their national context. Shared management ensures that financial support is available in all participating States. Furthermore, shared management allows for funding predictability and for Member States, who are most knowledgeable of the challenges they are faced with, to plan their long-term endowments accordingly. Top-up funding for specific actions (which require cooperative effort among Member States or where new developments in the Union require additional funding to be made available to one or more Member States) and for resettlement and transfer activities can be implemented through shared management. In a new development, the Fund can also provide emergency assistance through shared management, in addition to direct and indirect management.

Through direct management, the Commission supports other actions that contribute to the common policy objectives of the Union. The actions enable tailor-made support for urgent and specific needs in individual Member States ('emergency assistance'), support transnational networks and activities, test innovative activities that could be scaled up under national programmes and cover studies in the interest of the Union as a whole ('Union actions').

Through indirect management, the Fund retains the possibility to delegate budget implementation tasks to, among others, international organisations and home affairs agencies for particular purposes.

Bearing in mind the different objectives and needs, a thematic facility is proposed under the Fund as a way to balance the predictability of multiannual allocation of funding to the national programmes with flexibility in disbursing funding periodically to actions with a high level of added value to the Union. The thematic facility will be used for specific actions in and among Member States, Union actions, emergency assistance, resettlement and relocation. It will ensure that funds can be allocated and transferred among the different modalities above, on the basis of a two-year programming cycle.

The payment arrangements for shared management are described in the draft CPR proposal, which provides for annual pre-financing, followed by a maximum of four interim payments per programme and year based on the payment applications sent by the Member States during the accounting year. As per the draft CPR proposal, the pre-financing is cleared within the final accounting year of the programmes.

The control strategy will be based on the new Financial Regulation and on the CPR. The new Financial Regulation and the draft proposal for the CPR should extend the use of the simplified forms of grants such as lump-sums, flat rates and unit costs. They also introduce new forms of payments, based on the results achieved, instead of the cost. Beneficiaries will be able to receive a fixed amount of money if they prove that certain actions such as training courses or delivery of emergency assistance have taken place. This is expected to simplify the control burden both at beneficiary and Member State level (e.g. check of bills and receipts for costs).

For shared management, the draft CPR proposal builds on the management and control strategy in place for the 2014-2020 programming period but introduces some measures aimed at simplifying the implementation and reducing the control burden at the level of both beneficiaries and Member States. The new developments include:

- the removal of the designation procedure (which should make it possible to speed up the implementation of the programmes);
- management verifications (administrative and on-the-spot) to be carried out by the managing authority on a risk basis (compared to the 100 % administrative controls required in the 2014-2020 programming period). Furthermore, under certain conditions, the managing authorities may apply proportionate control arrangements in line with the national procedures;
- conditions to avoid multiple audits on the same operation/expenditure.

The programme authorities will submit to the Commission interim payment claims based on expenditure incurred by beneficiaries. The draft CPR proposal allows the managing authorities to carry out management verifications on a risk basis and also provides for specific controls (e.g. on-the-spot controls by the managing authority and audits of operations/expenditure by the audit authority) after the associated expenditure has been declared to the Commission in the interim payment claims. In order to mitigate the risk of reimbursing ineligible expenditure, the draft CPR caps the Commission's interim payments at 90 %, given that at this moment only part of the national controls have been carried out. The Commission will pay the remaining balance following the annual clearance of accounts exercise, upon receipt of the assurance package from the programme authorities. Any irregularities detected by the Commission or the European Court of Auditors after the transmission of the annual assurance package may lead to a net financial correction.

#### 2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

Shared management:

DG HOME has not been facing important risks of errors in its spending programmes. This is confirmed by the recurrent absence of significant findings in the annual reports of the Court of Auditors. Furthermore, DG HOME has already revised its legal basis (Regulation (EU) 2015/378 and Delegated Regulation (EU) 1042/2014) to align further to the control framework of the Cohesion Policy and its assurance

model and to continue to maintain a low level errors in its spending programmes. This effort of alignment continues with the current proposal, where the Control Framework is consistent with the Cohesion Policy DGs.

In shared management, the general risks in relation to the implementation of the current programmes concern the under-implementation of the Fund by the Member States and the possible errors derived from the complexity of rules and weaknesses in management and control systems. The draft CPR simplifies the regulatory framework by harmonising the rules and management and control systems across the different Funds implemented under shared management. It also enables risk-differentiated control requirements (e.g. risk-based management verifications, possibility for proportionate control arrangements based on national procedures, limitations of audit work in terms of timing and/or specific operations).

Direct/indirect management:

Based on the recent analysis of the main causes and types of most commonly detected errors in *ex post* audits, the main areas of non-compliances stem from poor financial management of the grants awarded to the beneficiaries, missing or inadequate supporting documents, incorrect public procurement, and costs not budgeted.

Consequently the risks are mainly due to

- ensuring quality of selected projects and their subsequent technical implementation, unclear or incomplete guidance provided to beneficiaries or insufficient monitoring;
- risk of inefficient or non-economic use of funds awarded, both for grants (complexity of reimbursing actual eligible costs coupled with limited possibilities to check eligible costs at the desk) and for procurement (sometimes limited number of economic providers with the required specialist knowledge, entailing insufficient possibilities to compare price offers);
- risk relating to the capacity of (especially) smaller organisations to effectively control expenditure as well as to ensure the transparency of operations carried out;
- reputational risk for the Commission, if fraud or criminal activities are discovered; only partial assurance can be drawn from the third parties' internal control systems due to the rather large number of heterogeneous contractors and beneficiaries, each operating their own control system, often rather small in size.

Most of these risks are expected to be reduced thanks to a better design of calls for proposals, guidance to beneficiaries, targeting of proposals and the better use simplified costs and cross-reliance on audits and assessments as included in the new Financial Regulation.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of 'control costs ÷ value of the related funds managed'), and assessment of the expected levels of risk of error (at payment & at closure)*

Shared management:

The cost of controls is expected to remain the same or potentially be reduced for Member States. For the present (2014-2020) programming cycle, as of 2017, the cumulative cost of control by the Member States is estimated at approximately 5 % of the total amount of payments requested by the Member States for the year 2017.

This percentage is expected to decrease with efficiency gains in implementation of the programmes and increase in payments to Member States.

With the risk-based approach to management and controls being introduced in the draft CPR coupled with enhanced drive to adopt simplified cost options (SCOs), the cost of controls for Member States is expected to be reduced further.

Direct/indirect management:

The cost of controls amounts to approximately 2.5 % of the payments made by DG HOME. This is expected to stay stable, or decrease slightly in the event of the broader use being made of SCOs in the next programming period.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

Fraud prevention and detection is one of the objectives of internal control as stipulated in the Financial Regulation and a key governance issue, which the Commission has to address throughout the whole expenditure life cycle.

In addition, DG HOME's anti-fraud strategy (ASF) mainly aims at the prevention, detection and reparation of fraud ensuring inter alia that its internal anti-fraud related controls are fully aligned with the Commission's anti-fraud strategy (CAFS) and that its fraud risk management approach is geared to identifying fraud risk areas and adequate responses.

As regards shared management, Member States will ensure the legality and regularity of expenditure included in their accounts submitted to the Commission. In this context, Member States will take all required actions to prevent, detect and correct irregularities, including fraud. As in the present (2014-2020) programming cycle<sup>4</sup>, Member States will be obliged to put in place procedures for detection of irregularities and anti-fraud and to report to the Commission irregularities, including suspected fraud and established fraud in the areas of shared management. Anti-fraud measures will remain a cross-cutting principle and obligation for Member States.

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<sup>4</sup> Commission Delegated Regulation (EU) N 1042/2014 of 25 July 2014, Annex I; Commission Delegated Regulation (EU) N°2015/1973 of 8 July 2015.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading No 5: 'Security and Defence'	Diff./Non-diff <sup>41</sup> .	from EFTA countries <sup>42</sup>	from candidate countries <sup>43</sup>	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
5	12.02.01 — Internal Security Fund (ISF) <sup>44</sup>	Diff.	NO	NO	NO	NO
5	12.01.01 — Support expenditure for Internal Security Fund (Technical Assistance)	Non-diff.	NO	NO	NO	NO

<sup>41</sup> Diff. = differentiated appropriations / Non-diff. = non-differentiated appropriations.

<sup>42</sup> EFTA: European Free Trade Association.

<sup>43</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

<sup>44</sup> In the context of CIS, DG BUDG suggested a further breakdown into specific objectives. Given the existence of the thematic facility, DG HOME does not agree to take this suggestion on board at this stage.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	5	‘Security and Defence’
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			2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
Operational appropriations (split according to the budget lines listed under 3.1)	Commitments	(1)	224.811	341.107	345.694	384.921	389.693	394.560	398.214	—	2 479.000
	Payments	(2)	23.212	51.821	105.901	265.329	373.387	371.677	369.230	918.443	2 479.000
Appropriations of an administrative nature financed from the envelope of the programme <sup>45</sup>	Commitments = Payments	(3)	2.827	2.884	2.941	3.000	3.060	3.121	3.167	—	21.000
<b>TOTAL appropriations for the envelope of the programme</b>	Commitments	=1+3	227.638	343.991	348.635	387.921	392.753	397.681	401.381	—	2 500.000
	Payments	=2+3	26.039	54.705	108.842	268.329	376.447	374.798	372.397	918.443	2 500.000

<sup>45</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former ‘BA’ lines), indirect research, direct research.

<b>Heading of multiannual financial framework</b>	7	‘Administrative expenditure’
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This section should be filled in using the ‘budget data of an administrative nature’ to be firstly introduced in the [Annex to the Legislative Financial Statement](#), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
Human resources		5.942	6.943	6.943	6.943	6.943	6.943	6.943		47.600
Other administrative expenditure		0.202	0.202	0.202	0.202	0.202	0.202	0.202		1.412
<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)	6.144	7.145	7.145	7.145	7.145	7.145	7.145		49.012

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
<b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b>	Commitments	233.782	351.136	355.780	395.066	399.898	404.826	408.526	-	2 549.012
	Payments	32.182	61.849	115.987	275.474	383.592	381.943	379.542	918.443	2 549.012

### 3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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<b>HEADING 7 of the multiannual financial framework</b>								
Human resources	5.942	6.943	6.943	6.943	6.943	6.943	6.943	47.600
Other administrative expenditure	0.202	0.202	0.202	0.202	0.202	0.202	0.202	1.412
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>6.144</b>	<b>7.145</b>	<b>7.145</b>	<b>7.145</b>	<b>7.145</b>	<b>7.145</b>	<b>7.145</b>	<b>49.012</b>

<b>Outside HEADING 7 of the multiannual financial framework</b>								
Human resources								
Other expenditure of an administrative nature	2.827	2.884	2.941	3.000	3.060	3.121	3.167	21.000
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>	<b>2.827</b>	<b>2.884</b>	<b>2.941</b>	<b>3.000</b>	<b>3.060</b>	<b>3.121</b>	<b>3.167</b>	<b>21.000</b>

<b>TOTAL</b>	<b>8.971</b>	<b>10.029</b>	<b>10.086</b>	<b>10.145</b>	<b>10.205</b>	<b>10.266</b>	<b>10.312</b>	<b>70.012</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[For guidance related to possible delegation of programme implementation tasks to executive agencies, see p. 8/9 above].

### 3.2.2.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

Years	2021	2022	2023	2024	2025	2026	2027
<b>• Establishment plan posts (officials and temporary staff)</b>							
Headquarters and Commission's Representation Offices	38	45	45	45	45	45	45
Delegations	2	2	2	2	2	2	2
Research							
<b>• External staff (in Full Time Equivalent unit: FTE) — AC, AL, END, INT and JED</b>							
Heading 7							
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	3	3	3	3	3	3
	- in Delegations						
Financed from the envelope of the programme	- at Headquarters						
	- in Delegations						
Research							
Other (specify)							
<b>TOTAL</b>	<b>43</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>50</b>

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	<p>The staff of 50 FTE by 2027 represents the overall staff needed for the implementation and the management of the Fund. It is composed of staff already working in DG HOME for the ISF (baseline: 33 FTE = 3 CA, 11 AST, 19 AD) as of April 2018 and additional staff (+3 AST, +14 AD of which 2 for the Delegations). Please see below the description of tasks for these additional staff:</p> <p><b>Planning, programming, relation with agencies (+ 1 AD):</b></p> <ul style="list-style-type: none"> <li>- providing input to the budgetary procedure,</li> <li>- making a link between funds and agencies (e.g. grants/delegation agreements to agencies)</li> </ul> <p><b>Audits, OLAF, ECA (+3 AD):</b></p> <ul style="list-style-type: none"> <li>- performing controls, as described above (<i>ex ante</i> verification, procurement committee, <i>ex post</i> audits, internal audit, clearance of accounts),</li> <li>- to follow up the audits managed by the IAS and the CoA.</li> </ul> <p><b>Direct management (+1 AST, +2 AD):</b></p> <ul style="list-style-type: none"> <li>- preparing annual work programmes/financing decisions, establishing annual priorities,</li> <li>- communicating with stakeholders (potential/actual beneficiaries, Member States, etc.),</li> <li>- managing calls for proposals and calls for tenders and the subsequent selection procedures,</li> <li>- operational management of projects.</li> </ul> <p><b>Shared management (including TF) (+1 AST, + 3AD):</b></p> <ul style="list-style-type: none"> <li>- conducting the policy dialogue with Member States,</li> </ul>
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	<ul style="list-style-type: none"> <li>- managing national programmes,</li> <li>- drafting guidelines to Member States,</li> <li>- developing and managing grant and national programme management IT tools.</li> </ul> <p><b>Synergies with other funds (+1 AD):</b></p> <ul style="list-style-type: none"> <li>- coordination with the external dimension funds,</li> <li>- coordination in the context of the CPR,</li> <li>- synergies and complementarity with other funds.</li> </ul> <p><b>Financial management (+1 AST):</b></p> <ul style="list-style-type: none"> <li>- financial initiation and financial verification,</li> <li>- accounting,</li> <li>- monitoring and reporting on achievement of objectives, including in annual activity report and authorising officer by sub-delegation reports.</li> </ul> <p><b>Staff for other directorates working on funding matters (+ 2 AD):</b></p> <ul style="list-style-type: none"> <li>- Policy officers involved in the implementation of the funds (e.g. evaluation of technical reports from direct management beneficiaries, review of annual implementation reports for shared management, operational management of projects).</li> </ul>
External staff	The tasks are similar to those of officials and temporary agents, except for tasks that cannot be fulfilled by external personnel.
Personnel in delegations	<b>+ 2 AD:</b> To accompany the development of policy implementation in the home affairs area, and in particular its external dimension, EU delegations will need to be equipped with sufficient home affairs expertise. This could be staff from the European Commission and/or the European External Action Service.

### 3.2.3. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body	MS							
TOTAL appropriations co-financed	tbd							

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue

please indicate if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative <sup>46</sup>						
	2021	2022	2023	2024	2025	2026	2027
Article .....							

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

<sup>46</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after the relevant deduction for collection costs.