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PROPOSAL

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Asylum and Migration Fund

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

During the high migratory flows in 2015 - 2016, the financial and technical support that the EU provided to its Member States contributed to the better managing of the challenges in the areas of asylum, migration and external borders. Indeed, the role of the Union budget has been pivotal in supporting the management of asylum seekers and migrants, in developing search and rescue capacities to save the lives of those attempting to reach Europe, in managing effective returns and in other actions that need a coordinated response framed by the European Agenda on Migration.

The EU budget also is essential to finance common measures for the effective control and surveillance of the Union's external borders to compensate the abolition of internal border controls. For instance, the management of the Union's external borders has taken a major step forward with the establishment of the hotspots approach and a significantly reinforced European Border and Coast Guard Agency (EBCGA). These developments are fully supported by the EU budget.

In October 2017, the European Council reaffirmed the need to pursue a comprehensive approach to migration management that aims to restore control of external borders, reduce irregular arrivals and the number of deaths at sea, and should be based on a flexible and coordinated use of all available Union and Member State instruments.

Against this background, in its 2 May 2018 proposal on the 2021-2027 multi-annual financial framework, the Commission proposed to significantly reinforce the overall Union budget for the management of migration and external borders, by increasing it by over 2.6 times, including an increase to the funding allocated to the decentralised Agencies in this area. This proposal as such does not cover the funding allocated to the Agencies and regulates only the Asylum and Migration Fund that will provide support to the efficient management of migration by the Member States with an envelope of EUR 10 415 000 000 (in current prices).

Article 80 of the Treaty on the Functioning of the European Union expressly states that the common policies of asylum and migration and external borders are based on the principle of solidarity and fair sharing of responsibilities between Member States. EU funding provides the concrete financial means to translate these twin principles into practice.

The Fund will contribute to an EU migration policy that is robust, realistic and fair. A policy that acknowledges the needs of host societies and EU citizens and works closely with the partners worldwide. The Fund will ensure that the EU continues to fulfil our obligations to those in need of international protection, facilitates returning those persons who have no right to stay and support solutions that replace irregular and uncontrolled flows with safe and well-managed pathways. We need to look at the deep seated challenges that sit at the root of irregular migration, such as underdevelopment, demography, lack of opportunities, climate change, and inequality. Only comprehensive migration management, grounded on the principles of solidarity and fair sharing of responsibility, will deliver sustainable results. This includes an adequate distribution of Union funding to ensure that Member States that are most

affected have sufficient capacity to address the challenges they are confronted with, for the benefit of the EU as a whole. In this context, the Commission proposal takes into account the ongoing efforts in reforming the Common European Asylum System and the current state of negotiations on the Dublin Regulation and the Union Resettlement Framework and some elements might need to be adapted to reflect their results once concluded.

The success of the EU's migration management also relies on effective integration policies. To this end, the Cohesion policy Funds and ESF+ in particular will provide support to facilitate the medium and long-term integration of third-country nationals after the initial phase of reception including the integration into the labour market. To complement these efforts, the Fund will support action by national governments, local and regional authorities and civil society groups engaged in fostering the short-term integration of third-country nationals in the host communities, and mutual trust. This proposal will support reception and early integration measures to third-country nationals legally staying in the EU that are generally implemented in the early stage of integration in the period after arrival on EU territory. It will also support Member States in developing horizontal measures such as capacity building, exchanges with the host society, awareness raising campaigns or cooperation and mutual learning between Member States on the integration of third country nationals legally staying in the EU territory.

The Fund will also contribute financially to an effective return policy that is an essential part of a well-managed migration system within the Union. It is also a necessary complement to a credible legal migration and asylum policy, and an important tool in the fight against irregular migration.

The Fund will support and encourage efforts by the Member States with a view to an effective implementation of the Directive 2008/115/EC of the European Parliament and of the Council¹, with a more swift return system going hand-in-hand with the respect of the procedures and standards that allow Europe to ensure a humane and dignified treatment of returnees and a proportionate use of coercive measures, in line with fundamental rights and the principle of *non-refoulement*. For sustainable return policies, the Fund will support an integrated and coordinated approach to return management and cooperation with third countries to meet their obligations by offering support such as capacity building for the management of returns, information and awareness campaigns, and support for reintegration measures.

The Fund will address the continuing needs in the areas of asylum, integration and return while adjusting its scope to support developments and the mandates of the European Border and Coast Guard Agency (EBCGA) and the future European Union Agency for Asylum. Cooperation with non-EU countries and international organisations is crucial to achieving these goals. The Fund will be able to support action in the external dimension that complements action supported by the relevant external instruments.

The main challenge that the proposal aims to address is the need for greater flexibility in the management of the Fund, as compared with the current programming period, but also tools to ensure that funding is steered towards Union priorities and actions with a significant added

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

value to the Union. New mechanisms for the allocation of funding for shared, direct and indirect management are therefore needed to address new challenges and priorities.

The key for the distribution of funding is flexibility in determining the right delivery mode and the themes to which funding should 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 migration 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 composed of a fixed amount of EUR 5 000 000 and an amount allocated based on a distribution key reflecting the needs and pressures experienced by different Member States in three key areas covered by the Fund: asylum, legal migration and integration and countering irregular migration including returns.

The distribution key will take into account various 'stocks' and 'flows' of the categories and reflect these specificities between Member States where some might experience bigger pressures in return and others in the area of integration and are impacted differently at different stages of receiving third country nationals. It is proposed to give 30% weighting to the area of asylum, 30% to the area of legal migration and integration and 40% to the area of countering irregular migration including returns. In this context, within asylum, it is proposed to give a 60% weighting to the number of first time asylum applications, 30% weighting to the number of persons with international protection status in a Member State and a 10% weighting to the number of people resettled. In the area of integration, 60% of weighting is given to the number of first time residence permits and 40% to the total number of third-country nationals in a Member State in a given year. As regards the criteria in the area of countering irregular migration including returns, it takes into account the number of orders to leave (50%) and the effective returns (50%) thereby taking into account the specific situation of a given Member State.

The share for Member States' programmes is 60 % of the total financial 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 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 % should be managed through a thematic facility, which will periodically provide funding for a number of priorities as defined in the Commission financing decisions. This facility offers flexibility in the management of the Fund by allowing the disbursement of 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 of high EU added value, through the programmes of Member States; in this context specific attention will be put on promoting effective returns;
- support for Union actions, managed through direct and indirect management;

- support for resettlement and the solidarity and responsibility efforts between the Member States;
- emergency assistance; and
- support to the European Migration Network.

Actions under the thematic facility would be programmed through annual or multiannual work programmes adopted by Commission Implementing Decision. The facility will make it possible to address new priorities or take urgent action through the delivery mode that is best suited to the policy objective.

Further simplification in the implementation of the Fund management, 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 important to maximise EU added value in the area of migration management and to implement an improved monitoring and evaluation framework so as to strengthen performance-based management. In order to support efforts to ensure a comprehensive approach to the management of migration grounded on solidarity and responsibility among Member States and EU institutions and to fulfil the objective of ensuring a common sustainable Union policy on asylum and immigration, an Asylum and Migration Fund (AMF) should be established to provide Member States with adequate financial resources.

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 by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

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

This Regulation establishing the Asylum and Migration Fund builds on the investments and achievements made with the support of its predecessors: the European Refugee Fund (ERF)², the European Fund for the Integration of third-country nationals (EIF)³ and the European Return Fund (RF)⁴ in 2007-2013, and the Asylum Migration and Integration Fund (AMIF), as established by Regulation (EU) No 516/2014⁵, in 2014-2020.

² Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC (OJ L 144, 6.6.2007, p. 1).

³ Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 168, 28.6.2007, p. 18).

⁴ Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 45).

⁵ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and

The Fund will maintain support for overall EU policies in the area of migration, integration and return, such as support to strengthen and develop the Common European Asylum System (including its external dimension), support for solidarity and responsibility-sharing between the Member States, in particular in favour of those most affected by migration and asylum flows, support for legal migration to the Member States and the development of proactive immigration strategies that respect the integration process of third-country nationals, support to enhance the Member States' capacities and promote fair and effective return strategies and the development of partnerships and cooperation with non-EU countries.

However, an intensified EU policy on migration needs action across the full spectrum of the tools at its disposal. In this respect, the work of Member States supported by the Funds will be more effective if it is complemented and buttressed with the relevant activities of Union agencies, in particular the European Asylum Support Office (EASO) and the European Border and Coast Guard Agency which will play a key role in identifying vulnerabilities and supporting Member States to address them including through joint operations, training and deployment of expertise.

The Fund will work in full complementarity with these agencies for which a significant reinforcement is proposed for the future period. In its Communication '*A Modern Budget for a Union that Protects, Empowers and Defends*', the Commission proposes to allocate an amount of EUR 865 000 000 (in current prices) to Union agencies in the area of migration⁶. This Regulation does not cover the funding for these agencies. Their funding is determined in the regular annual budgetary procedure. Moreover, the Commission proposes to allocate an amount of EUR 12 013 000 000 (in current prices) to support a major scaling up of the European Border and Coast Guard Agency, making it fully operational, with a standing corps of around 10,000 border guards⁷ and a well-functioning European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA).

- **Consistency with other Union policies**

Union migration policy, and by extension the Asylum and Migration Fund, rely on the **synergies** and coherence with relevant EU policies such as border management, internal security, the social inclusion and integration of third-country nationals and the Union external policies that support third countries.

The variety of elements of migration management requires a coordinated approach by a number of Union funding instruments that would support the implementation of the external and internal aspects of the Union policy. The Union external instruments have a key role to play in addressing the root causes of migration, ensuring access to international protection, enhancing border management and pursuing efforts in the fight against migrant smuggling and trafficking of human beings, support the implementation of the return actions as well as the management of the Union legal migration policy. Therefore, migration will be an area of focus in the Union proposals for the Union external instruments. Measures in and in relation to third countries supported through the Fund should be implemented in full synergy and

repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

⁶ COM(2018) 321 final.

⁷ "A Modern Budget for a Union that Protects, Empowers and Defends: The Multiannual Financial Framework for 2021-2027", COM(2018) 321, 2.5.2018.

coherence 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 in respect of the country or region in question. In relation to the external dimension, the Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.

The European Regional Development Fund (ERDF) and the European Social Fund+ (ESF+), on the other hand, include important provisions to cover long term integration of third country nationals while this fund will rather focus on early integration measures. Other programmes such as the European Agricultural Fund for Rural Development (EAFRD) and Erasmus+ will also strengthen the provisions dealing with migrants and refugees. All these instruments will have to work in coherence to maximize the impact of their support.

Synergies will also be ensured with the Justice, Rights and Values Fund that contributes to priorities and objectives related to the better management of migration, the promotion of inclusion and addressing trafficking in human beings. In addition, consistency and synergies will be sought with the Border Management and Visa Instrument as part of the Integrated Border Management Fund and the Internal Security Fund in addition to the Funds mentioned above.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 3(2) of the Treaty on European Union provides 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'.

The legal basis for the proposed Union action can be found in the list of measures contained in Article 77(2) as well as in Article 79(2)(d) of the Treaty on the Functioning of the Union (TFEU), such as the common policy on visas, the checks on persons at external borders, any measures for the gradual establishment of an integrated management system for external borders and the combatting of trafficking in persons.

Attention is also drawn to Article 80 of the TFEU, which underlines that the Union policies set out in chapter 2 of Title V of Part Three of the TFEU and their implementation are to be governed by the principle of solidarity and the fair sharing of responsibility, including its financial implications, between the Member States.

Additionally, the Commission adopted on 29 May 2018 a proposal for a Common Provisions Regulation⁸ 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 AMF is covered by these common provisions.

⁸ Regulation (EU) ...

The different Funds in shared management pursue complementary objectives and share the same management mode, therefore Regulation (EU) .../. [Common Provisions Regulation] sets out a series of general 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.

The Fund will be open to the association of third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to the Asylum and Migration Fund, specifying their contributions and benefits and conditions of participation.

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

The management of migratory flows presents challenges that are increasingly transnational and on such a scale that they cannot be dealt with by the Member States acting alone. Given that dealing with migration requires substantial resources and capacities from the Member States and in order to ensure a comprehensive approach grounded in mutual trust, solidarity, responsibility sharing, cooperation and coordination among Member States and EU institutions, there is clear added value in Union intervention in this area and mobilising the EU budget.

In that context, the Asylum and Migration Fund is expected to add value by ensuring a more efficient use of public funds by strengthening the Common European Asylum System through the establishment of common rules and procedures, developing Member States' capacities to receive persons in need of international protection, promoting the use of legal avenues for migrants, ensuring the Union's long-term competitiveness and the future of its social model, supporting the integration of legally staying third-country nationals and reducing incentives for irregular migration through a sustainable return and readmission policy.

In relation to the external dimension of Home Affairs, partnerships and cooperation with third countries are an essential component of Union migration policy to ensure the adequate management of flows and express solidarity with third countries under migratory pressures through resettlement initiatives. 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 third countries to engage with it on those migration-related issues that are primarily in the interest of the EU and the Member States.

The proposal respects the principle of subsidiarity, because most of the funding will be implemented in accordance with the principle of shared management and respecting the institutional competencies of the Member States, while fully acknowledging that interventions 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 instrument aims to achieve. The

actions envisaged in this proposal address the European dimension of asylum and immigration.

- **Choice of the instrument**

Regulation of the European Parliament and the Council to establish an Asylum and Migration Fund.

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

- **Retrospective evaluations/fitness checks of existing legislation**

The proposal takes into account the results of evaluations of the previous funding instruments. It builds on the *ex post* evaluation of the European Refugee Fund, the European Integration Fund and the European Return Fund⁹ and the interim evaluation of the AMIF (2014-2020 programming period). In terms of the different evaluation criteria, the findings were as follows:

In terms of **effectiveness**, the AMIF has played an important role in improving asylum systems and strengthening reception capacity in the Member States. Due to the migration crisis, the area of asylum was especially prioritised in many countries. The AMIF also registered significant progress regarding the most vulnerable, including unaccompanied minors, and refugees and asylum seekers in regions such as north Africa and the Horn of Africa, thereby increasing the visibility of its external dimension. However, there is limited evidence of increased capacity to develop, monitor and evaluate asylum systems, and, while the EU resettlement programme has made progress, it has made only a limited contribution to establishing, developing and implementing national resettlement programmes.

The AMIF has made good progress as regards the integration of third-country nationals, where mainly short-term integration measures have been prioritised over long-term measures, while limited progress has been made to date on legal migration, probably because of contextual factors. The results of those measures are not yet visible, as integration is a long-term process.

The development of fair, sustainable and effective return strategies has been an objective of growing importance in most Member States and, despite both voluntary and forced return rates steadily increasing with the Fund's support, findings show that the AMIF has made limited contributions to the effective implementation of return strategies.

Solidarity and responsibility-sharing between Member States have been strengthened mainly through emergency assistance, relocation mechanisms and EU resettlement programmes. Available findings suggest that national programmes made limited additional contributions to both the transfer of asylum seekers and the transfer of beneficiaries of international protection, as compared with the relocation mechanism.

The AMIF has made significant contributions to Member States in emergency situations, mainly through emergency assistance, which has been an essential instrument in

⁹ These are the funds preceding the AMIF 2007-2013 programming period.

strengthening solidarity. It has facilitated a swift and targeted response, in coordination and in synergy with the Emergency Support Instrument¹⁰.

As regards **efficiency**, overall, within the limits of available data, the evaluation indicated that the results of the Fund were achieved at reasonable cost in terms of both human and financial resources. Although the start of implementation of the national programmes was delayed, the Fund's overall implementation appears to be on track, thanks to emergency assistance bridging the funding gap and catering to immediate needs, helped by the flexible approach applied to its management. The management and control measures have also been appropriate and effective, with stringent mechanisms to ensure the Fund is correctly implemented and that fraud and irregularities are prevented.

At this stage, there is little evidence of a significant **reduction in the administrative burden**, although the AMIF has led to **simplification** as compared with the past. Several new administrative and managerial procedures were introduced, taking into account the lessons learnt from the previous funds. These include adopting the better regulation guidelines and toolbox, and collecting indicators in order to ensure a more appropriate measurement of performance.

Overall, most of the innovative measures (e.g. simplified cost options, multiannual programming) are considered particularly useful by beneficiaries and appear to have achieved simplification. Despite simplification improvements, the national rules and procedures that apply under the national programmes appear to lead to moderate to high administrative burden, thereby affecting efficiency.

Despite the challenges, the AMIF remains highly **relevant**, since it has proved to be sufficiently flexible, broad and all-encompassing to respond to different needs, and national programmes are in line with the Member States' needs. However, the changing needs that Member States faced during the implementation period call for more flexibility in the financial allocations. Needs vary widely across Member States and different fields (i.e. asylum, integration and return), the volumes and scope of which have fluctuated, but generally increased. The area of asylum was prioritised in many countries. Due to the migration crisis, the scale of the AMIF ended up being different to what was initially envisaged and the original level of funding proved insufficient.

Measures were taken during the Fund's design, planning and programming stages to ensure that it was **coherent** with, complementary to, and aligned with other EU financial instruments and with relevant key EU policy strategies. During the implementation stage, the Commission ensured that EU funds with similar objectives were used in a coordinated way. At national level, the vast majority of Member States ensured coherence and complementarity by establishing coordination mechanisms, mainly in the form of monitoring committees bringing together the authorities involved in the implementation of the funds.

However, there appears to be room for improved communication when it comes to internal coherence among different AMIF implementation mechanisms as some beneficiaries were not very familiar with the actions and projects supported in the AMIF framework, especially Union actions and emergency assistance. Nonetheless, there is little evidence of incoherence, overlaps and duplication, either internally or externally.

¹⁰ COUNCIL REGULATION (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union.

Overall, the AMIF has generated significant **EU added value**, despite its relatively small size as compared with the challenges imposed by the crisis that occurred during this period. The main EU-level benefit arises from the transnational dimension of certain actions (Union actions and the European Migration Network) and EU-level burden-sharing, supported in particular by emergency assistance and the relocation mechanism under national programmes, both of which are proof that the principle of solidarity was applied.

The AMIF brought significant EU added value in terms of:

- (i) ensuring the effective and efficient management of migratory flows at EU level (volume effects);
- (ii) improved procedures relating to migration management and greater know-how and capacity (process effects);
- (iii) allowing Member States to reach more migrants, asylum seekers, refugees and third country nationals (scope effects); and
- (iv) innovations generated at national and European level through the implementation of the actions (role effects).

The absence of AMIF funding would have been detrimental to the quality of the EU response to the migration crisis and Member States' ability to cooperate and implement solutions. An interruption in the support would probably have significant negative consequences and lead to reductions in the scope and quality of actions implemented, and delayed or even suspended implementation of the actions, including on the application of the principles of solidarity, burden-sharing and mutual trust.

The AMIF paid great attention to **sustainability**, through mechanisms put in place during the programming and implementation stages across different implementation mechanisms, although to a lesser extent in the context of emergency assistance (due to the nature of the actions). Greater account could be taken of sustainability criteria in the design of AMIF interventions.

The sustainability of the effects of actions (effects lasting after the intervention ends) and financial sustainability (actions that could continue after AMIF financing ends) vary across implementation mechanisms, Member States and specific objectives, and depend on the adoption of a holistic approach. The sustainability of effects on target groups is likely to differ depending on the focus areas – integration and asylum outcomes are likely to last if they address longer-term needs, while return outcomes are more sustainable if they are based on voluntary return schemes and are supported by efforts for reintegration.

- **Stakeholder consultations**

Two dedicated open public consultations on EU funds in the areas of migration and security ran from 10 January 2018 to 9 March 2018. Overall, respondents stressed the need for simplification in the delivery of home affairs financial 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. Respondents argued that such measures can improve the effectiveness and efficiency of funding instruments and the 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 Internal Security Fund (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 the 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 programmes should be maintained. Non-governmental organisations were of the view that direct management should also be continued.

The consultations confirmed a consensus among key stakeholders on the need for a wider 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, an MFF study was carried out in 2017 and 2018 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
<p>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.</p>	<p>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.</p>
Further considerations and recommendations for improvement	Modifications impact assessment report
<p>(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.</p>	<p>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.</p>
<p>(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?</p>	<p>Please see the modifications made to the report accommodating the main consideration by the Regulatory Scrutiny Board presented above.</p>
<p>(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</p>	<p>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</p>

experience from other EU funds (as orally explained to the Board).	(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 (common to several shared management policy areas) will ensure simplification of the Fund through the use, as far as possible, of common rules, monitoring, control and audits for the implementation of programmes, including through the better use of the simplified cost options. The audit approach will be streamlined to focus more on risk-based audit sampling and 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 Asylum and Migration Fund to support Member States by ensuring common rules and procedures for receiving persons in need of international protection, promoting more legal avenues for migrants, supporting integration of non-EU nationals and reducing incentives for irregular migration through a sustainable return and readmission policy. 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 10 415 000 000 (in current prices) for the Asylum and Migration Fund and EUR 865 000 000 (in current prices) for the relevant decentralised agencies for the 2021-2027 period.

Implementation will be by means of shared or direct/indirect management. The global resources will be allocated as follows: 60 % to the Member States' programmes implemented under shared management; and 40 % to the thematic facility, for specific actions at national or transnational level, Union actions, emergency assistance resettlement, solidarity and responsibility efforts and the European Migration Network. The thematic facility envelope will also be used for the technical assistance at the initiative of the Commission.

5. OTHER ELEMENTS

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

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

The monitoring and evaluation framework will be improved, including through a better methodology for tracking investments across relevant EU funds, to stimulate timely performance and 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 a mechanism to incentivise performance. A mid-term evaluation and a retrospective evaluation will be carried-out by the Commission. These evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016¹¹, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments 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, and 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.

The Member States under shared management are expected to report on the implementation of their programmes regularly and to submit a final performance report at the end of the programming period.

- **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 requires that all actions supported under the Regulation comply with applicable Union and national law. It also sets out the objectives of the Regulation. The proposed scope of these articles largely builds on the current AMIF Regulation, while taking into account new policy developments, such as the European Agenda on Migration, and the need to provide an agile response to evolving migration challenges both within the EU and in cooperation with other countries.

¹¹ 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.

Chapter II — Financial and implementation framework sets out general principles for the support provided under the Regulation and conveys the importance of consistency and complementarities with relevant EU funding instruments. It 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 overall envelope for the Fund and its use through various implementation arrangements.

The second, third and fourth sections describe the implementation framework for the Fund by implementation mode, such as programmes from the Commission and the Member States. It sets out detailed arrangements for the mid-term review and for the implementation of specific actions, Union actions, emergency assistance, technical assistance, financial instruments, budgetary guarantees and operating support.

The final section sets out the necessary provisions on 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. It also covers the applicability of the Common Provisions Regulation to the proposed Regulation, proposes the repeal of the predecessor funding instrument and lays down a number of transitional provisions. The date of the 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 Asylum and Migration Fund

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration and migration systems of Member States, prevent and adequately handle situations of pressure and replace irregular and unsafe arrivals with legal and safe pathways, investing in efficient and coordinated migration management in the Union is key to realising the Union's objective of constituting an area of freedom, security and justice pursuant to Article 67(2) of the Treaty on the Functioning of the European Union.
- (2) The importance of a coordinated approach by the Union and the Member States is reflected in the European Agenda on Migration of May 2015, which stressed the need for a consistent and clear common policy to restore confidence in the Union's ability to bring together European and national efforts to address migration and work together in an effective way, in accordance with the principles of solidarity and fair sharing of responsibility, and was confirmed in its mid-term review of September 2017 and the progress report of March and May 2018.
- (3) In its conclusions of 19 October 2017, the **European Council** reaffirmed the need to pursue a comprehensive, pragmatic and resolute approach to migration management

¹² OJ C , , p. .

¹³ OJ C , , p. .

that aims to restore control of external borders and reduce irregular arrivals and the number of deaths at sea, and should be based on a flexible and coordinated use of all available Union and Member State instruments. The European Council further called to ensure significantly enhanced returns through actions at both EU and Member States level, such as effective readmission agreements and arrangements.

- (4) In order to support efforts to ensure a comprehensive approach to management of migration grounded on mutual trust, solidarity and responsibility sharing among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of the Asylum and Migration Fund (hereinafter referred to as ‘the Fund’).
- (5) 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.
- (6) The Fund should build on the results and investments achieved with the support of its predecessors: the European Refugee Fund established by the Decision 573/2007/EC of the European Parliament and the Council, the European Fund for the Integration of third-country nationals established by the Council Decision 2007/435/EC, the European Return Fund established by the Decision 575/2007/EC of the European Parliament and the Council for the period 2007-2013 and the Asylum, Migration and Integration Fund for the period 2014-2020, as established by Regulation (EU) 516/2014 of the European Parliament and of the Council. It should at the same time take into account all relevant new developments.
- (7) The Fund should support the efficient management of migration flows, *inter alia* by promoting common measures in the area of asylum, including Member States’ efforts in receiving persons in need of international protection through resettlement and the transfer of applicants for or beneficiaries of international protection between Member States, supporting integration strategies and a more effective legal migration policy, so as to ensure the Union’s long-term competitiveness and the future of its social model and reduce incentives for irregular migration through a sustainable return and readmission policy. The Fund should support the strengthening of cooperation with third countries to reinforce management of flows of persons applying for asylum or other forms of international protection, avenues on legal migration and to counter irregular migration and ensure sustainability of return and effective readmission to third countries.
- (8) The migration crisis highlighted the need to reform the Common European Asylum System to ensure that efficient asylum procedures to prevent secondary movements, to provide uniform and appropriate reception conditions for applicants for international protection, uniform standards for the granting of international protection and appropriate rights and benefits for beneficiaries of international protection. At the same time, the reform was needed to put in place a fairer and more effective system of determining Member States’ responsibility for applicants for international protection as well as a Union framework for Member States’ resettlement efforts. Therefore, it is appropriate for the Fund to provide increased support to Member States’ efforts to fully and properly implement the reformed Common European Asylum System.

- (9) The Fund should also complement and reinforce the activities undertaken by the European Union Agency for Asylum (EUAA) established by Regulation (EU)... [EUAA Regulation]¹⁴ with a view to facilitating and improving the functioning of the common European asylum system, by coordinating and strengthening practical cooperation and information exchange between Member States, promoting Union law and operational standards on asylum in order to ensure a high degree of uniformity based on high protection standards as regards procedures for international protection, reception conditions and the assessment of protection needs across the Union, enabling a sustainable and fair distribution of applications for international protection, facilitate convergence in the assessment of applications for international protection across the Union, support the resettlement efforts of the Member States and provide operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.
- (10) The Fund should support the efforts by the Union and the Member States relating to the enhancement of the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under existing Union law.
- (11) Partnerships and cooperation with third countries are an essential component of Union asylum policy to ensure the adequate management of flows of persons applying for asylum or other forms of international protection. With the aim of replacing the unsafe and irregular arrivals with legal and safe arrival to the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, helping achieve the Union's migration policy objectives by increasing the Union's leverage *vis-à-vis* third countries, and of effectively contributing to global resettlement initiatives by speaking with one voice in international fora and with third countries, the Fund should provide financial incentives to the implementation of the Union Resettlement [and Humanitarian Admission] Framework.
- (12) Considering the high levels of migration flows to the Union in the last years and the importance of ensuring the cohesion of our societies, it is crucial to support Member States' policies for early integration of legally staying third-country nationals, including in the priority areas identified in the Action Plan on Integration of third-country nationals adopted by the Commission in 2016.
- (13) In order to increase efficiency, achieve the greatest Union added value and to ensure the consistency of the Union's response to foster the integration of third-country nationals, actions financed under the Fund should be specific and complementary to actions financed under the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF). Measures financed under this Fund should support measures tailor-made to the needs of third-country nationals that are generally implemented in the early stage of integration, and horizontal actions supporting Member States' capacities in the field of integration, whereas interventions for third-

¹⁴ Regulation (EU) No ... of the European Parliament and of the Council of [EUAA Regulation] (OJ L ..., [date], p. ...).

country nationals with a longer-term impact should be financed under the ERDF and ESF+.

- (14) In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and establish coordination mechanisms with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and of the ERDF and wherever necessary with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals.
- (15) The implementation of the Fund in this area should be consistent with the Union's common basic principles on integration, as specified in the common programme for integration.
- (16) It is appropriate to allow those Member States that so wish to provide in their programmes that integration actions may include immediate relatives of third-country nationals, to the extent that this is necessary for the effective implementation of such actions. The term 'immediate relative' should be understood as meaning spouses, partners and any person having direct family links in descending or ascending line with the third-country national targeted by the integration action, and who would otherwise not be covered by the scope of the Fund.
- (17) Considering the crucial role played by local and regional authorities and civil society organisations in the field of integration and to facilitate the access of these entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by local and regional authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions.
- (18) Considering the long-term economic and demographic challenges faced by the Union, it is crucial to establish well-functioning legal migration channels to the Union to maintain the Union as an attractive destination for migrants and ensure the sustainability of welfare systems and growth of the Union economy.
- (19) The Fund should support Member States in setting up strategies organising legal migration, enhancing their capacity to develop, implement, monitor and evaluate in general all immigration and integration strategies, policies and measures for legally staying third-country nationals, including Union legal instruments. The Fund should also support the exchange of information, best practices and cooperation between different departments of administration and levels of governance, and between Member States.
- (20) An efficient return policy is an integral part of the comprehensive migration approach the Union and its Member States pursue. The Fund should support and encourage efforts by the Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council¹⁵, and of an integrated

¹⁵ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as the reintegration of returnees.

- (21) Member States should give preference to voluntary return. In order to promote voluntary return, Member States should envisage incentives such as preferential treatment in the form of enhanced return assistance should be envisaged for the voluntary return of persons. This kind of voluntary return is in the interests of both returnees and the authorities in terms of its cost-effectiveness.
- (22) Voluntary and enforced returns are nevertheless interlinked, with mutually reinforcing effect, and Member States should therefore be encouraged to reinforce the complementarities between these two forms of return. The possibility of removals is an important element contributing to the integrity of the asylum and legal migration systems. The Fund should therefore support actions of Member States to facilitate and carry out removals in accordance with the standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.
- (23) Specific support measures for returnees in the Member States and in the countries of return can improve conditions of return and enhance their reintegration.
- (24) Readmission agreements and other arrangements are an integral component of the Union return policy and a central tool for the efficient management of migration flows, as they facilitate the swift return of irregular migrants. Those agreements and arrangements are an important element in the framework of the dialogue and cooperation with third countries of origin and transit of irregular migrants and their implementation in third countries should be supported in the interests of effective return policies at national and Union level.
- (25) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to counter irregular migration, address incentives for illegal migration or the circumventing of existing legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.
- (26) The employment of irregular migrants creates a pull factor for illegal migration and undermines the development of a labour mobility policy built on legal migration schemes. The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council¹⁶ which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.
- (27) The Fund should support Member States, either directly or indirectly, in their implementation of Directive 2011/36/EU of the European Parliament and of the

¹⁶ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

Council¹⁷ which sets forth provisions on assistance, support and protection of victims of trafficking in human beings.

- (28) The Fund should complement and reinforce the activities undertaken in the field of return by the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 of the European Parliament and of the Council¹⁸, therefore contributing to effective European Integrated Border Management, as defined in Article 4 of that Regulation.
- (29) Synergies, consistency and efficiency should be sought with other Union funds and overlap between actions should be avoided.
- (30) Measures in and in relation to third countries supported through the Fund 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 in respect of the country or region in question and the Union international commitments. In relation to the external dimension, the Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.
- (31) Funding from the Union budget should concentrate on activities where Union intervention can bring added value compared to action undertaken by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the areas of asylum and migration.
- (32) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including 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 asylum and return, if there is a clear risk of a serious breach by the Member State of the Union's values when implementing the *acquis* on asylum and return or if an evaluation report under the Schengen or the European Union Agency for Asylum evaluation and monitoring mechanism has identified deficiencies in the relevant area.
- (33) 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 policy and specific objectives laid down in this Regulation.
- (34) This Regulation should establish the initial amounts to Member States consisting of a fixed amount and an amount calculated on the basis of criteria laid down in Annex I,

¹⁷ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

¹⁸ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

which reflect the needs and pressure experienced by different Member States in the areas of asylum, integration and return.

- (35) These initial amounts should form a basis for Member States' long-term investments. To take account of changes in migration flows and to address needs in the management of asylum and reception systems and integration of legally staying third-country nationals, and counter irregular migration through efficient and sustainable return policy, an additional amount should be allocated to the Member States at mid-term taking into account the absorption rates. This amount should be based on the latest available statistical data as set out in Annex I to reflect the changes in the baseline situation of Member States.
- (36) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that their programmes include actions addressing the specific objectives of this Regulation, that the priorities chosen are in line with the implementation measures as set out in Annex II and that the allocation of resources between the objectives ensures that the overall policy objective can be met.
- (37) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding will be periodically allocated to specific actions, Union actions, emergency assistance, resettlement and to provide additional support for Member States contributing to solidarity and responsibility efforts via a thematic facility.
- (38) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a higher Union contribution.
- (39) Part of the available resources under the Fund could also be allocated to Member States' programmes for the implementation of specific actions in addition to the initial allocation. These specific actions should be identified at Union level and should concern actions which require cooperative effort or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States.
- (40) The Fund should contribute to supporting operating costs related to asylum and return and enable Member States to maintain capabilities which are crucial for that service for the Union as a whole. Such support consists of full reimbursement of specific costs related to the objectives under the Fund and should form an integral part of the Member States' programmes.
- (41) To complement the implementation of the policy objective of this Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund relating to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.
- (42) In order to strengthen the Union's capacity to immediately address unforeseen or disproportionate heavy migratory pressure in one or more Member States characterised by a large or disproportionate inflow of third-country nationals, which

places significant and urgent demands on their reception and detention facilities, asylum and migration management systems and procedures, heavy migratory pressures in third countries due to political developments or conflicts, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.

- (43) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC¹⁹ and should provide financial assistance in accordance with its objectives and tasks.
- (44) 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.
- (45) This Regulation lays down a financial envelope for the entire Asylum and Migration Fund which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management²⁰], for the European Parliament and the Council during the annual budgetary procedure.
- (46) Regulation (EU) No .../... [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.
- (47) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework consisting of this Regulation, Financial Regulation and Regulation (EU) .../2021 [Common Provisions Regulation].
- (48) Regulation (EU) .../2021 [Common Provisions Regulation] establishes the framework for action for ERDF, ESF+, the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the Asylum and Migration Fund (AMF), the Internal Security Fund (ISF) and the Border Management and Visa Instrument (BMVI) as a part of the Integrated Border Management Fund (IBMF), and lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. It is therefore necessary to specify the objectives of AMF, and to lay down specific provisions concerning the type of activities that may be financed by AMF.

¹⁹ 2008/381/EC: Council Decision of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

²⁰ 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

- (49) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the 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.
- (50) In accordance with the Financial Regulation²¹, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council²², Council Regulation (Euratom, EC) No 2988/95²³, Council Regulation (Euratom, EC) No 2185/96²⁴ and Council Regulation (EU) 2017/1939²⁵, 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 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 Council²⁶. In accordance with the Financial Regulation, any person or entity receiving Union funds is to cooperate fully in the protection of the Union's financial interests to grant the necessary rights and access to the Commission, OLAF and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (51) 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 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 of the 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.

²¹ OJ C , , p. .

²² OJ C , , p. .

²³ Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.95, p. 1).

²⁴ OJ C , , p. .

²⁵ Council Regulation (EU) 2017/1371 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).

²⁶ 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).

- (52) Pursuant to Article 94 of Council Decision 2013/755/EU²⁷, 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.
- (53) 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'²⁸, endorsed by the Council in its conclusion of 12 April 2018, relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund supports these Member States with adequate resources to help these regions manage migration sustainably and handle possible situations of pressure.
- (54) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, 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, common indicators and related targets should be established in relation to each specific objective of the Fund. Through these common indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund, in accordance with the relevant provisions of Regulation (EU) .../2021 of the European Parliament and of the Council [Common Provisions Regulation] and this Regulation.
- (55) 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.
- (56) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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 develop further the common monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that these consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016.
- (57) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European

²⁷ 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).

²⁸ COM(2017)623 final.

Parliament and of the Council²⁹. 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 arrangements for providing information to the Commission in the framework of programming and reporting, given their purely technical nature.

- (58) Since the objective of this Regulation, namely to contribute to an effective management of migration flows in the Union, in accordance with the common policy on asylum and international protection and the common immigration policy, cannot be sufficiently achieved by the Member States acting alone and can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (59) In accordance with Article 3 of the Protocol on the position of [the United Kingdom] and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, 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].
- (60) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (61) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) .../2021 [Multiannual Financial Framework Regulation],

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the Asylum and Migration Fund ('the Fund').

²⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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

Article 2

Definitions

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

- (a) 'applicant for international protection' means an applicant as defined in point [x] of Article 2 of Regulation (EU) ... [Asylum Procedure Regulation]³⁰;
- (b) 'beneficiary of international protection' within the meaning of point (2) of Article [2] of Regulation (EU) ... [Qualification Regulation]³¹;
- (c) 'blending operation' means actions supported by the Union budget, including within blending facilities as defined in point (6) of Article 2 of the Financial Regulation, combining non-repayable forms of support or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (d) 'family member' means any third-country national as defined under the Union law relevant to the policy area of action supported under the Fund;
- (e) 'humanitarian admission' within the meaning of Article [2] of Regulation (EU) ... [Union Resettlement [and Humanitarian Admission] Framework]³²;
- (f) 'removal' means 'removal' as defined in point (5) of Article 3 of Directive 2008/115/EC;
- (g) 'resettlement' means 'resettlement' as defined in Article [2] of Regulation (EU) ... [Union Resettlement [and Humanitarian Admission] Framework];
- (h) 'return' means 'return' as defined in point (3) of Article 3 of Directive 2008/115/EC;
- (i) 'third-country national' means any person who is not a citizen of the Union as defined in Article 20(1) of the TFEU. Reference to third-country nationals shall be understood to include stateless persons and persons with undetermined nationality;
- (j) 'vulnerable person' means any person as defined under the Union law relevant to the policy area of action supported under the Fund.

³⁰ OJ C , , p. .

³¹ OJ C , , p. .

³² OJ C , , p. .

Article 3

Objectives of the Fund

1. The policy objective of the Fund shall be to contribute to an efficient management of migration flows in line with the relevant Union *acquis* and in compliance with the Union's commitments on fundamental rights.
2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:
 - (a) to strengthen and develop all aspects of the Common European Asylum System, including its external dimension;
 - (b) to support legal migration to the Member States including to contribute to the integration of third-country nationals;
 - (c) to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries.
3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

Article 4

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 the Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 5 and 6.
3. The objectives of this Regulation shall support actions focusing on one or more target groups within the scope of Articles 78 and 79 of the Treaty on the Functioning of the European Union.

Article 5

Third countries associated to the Fund

The Fund shall be open to third countries in accordance with the conditions laid down in a specific agreement covering the participation of the third country to the Asylum and Migration Fund, provided that the agreement:

- ensures a fair balance as regards the contributions and benefits of the third country participating in the Fund;
- lays down the conditions of participation in the Fund, including the calculation of financial contributions to the Fund and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of the Financial Regulation;
- does not confer to the third country a decisional power on the Fund;
- guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

Article 6

Eligible entities

1. The following entities may be eligible:
 - (a) legal entities established in any of the following countries:
 - (1) a Member State or an overseas country or territory linked to it;
 - (2) third country associated to the Fund;
 - (3) 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.
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 7

General principles

1. Support provided under this Regulation shall complement national, regional and local intervention, and shall focus on adding value to the objectives of this Regulation.
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 in shared, direct or indirect management in accordance with Articles [62(1) (a), (b) and (c)] of the Financial Regulation.

Article 8

Budget

1. The financial envelope for the implementation of the Fund for the 2021-2027 period shall be EUR 10 415 000 000 in current prices.
2. The financial resources shall be used as follows:
 - (a) EUR 6 249 000 000 shall be allocated to the programmes implemented under shared management;
 - (b) EUR 4 166 000 000 shall be allocated to the thematic facility.
3. Up to 0.42 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission as referred to in Article 29 of the Regulation EU ../.. [Common Provisions Regulation].

General provisions on the implementation of the thematic facility

1. The financial envelope referred to in Article 8(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;
 - c) emergency assistance;
 - d) resettlement;
 - e) support to Member States contributing to solidarity and responsibility efforts; and
 - f) European Migration Network.

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 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 Articles 18 and 19(2) of Regulation EU ../.. [Common Provisions Regulation], 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 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 objectives and actions to be supported and specifying the amounts for each of its components as referred to in paragraph 1. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations.

6. The thematic facility shall in particular, support actions falling under the implementation measure 2(b) of Annex II that are implemented by the local and regional authorities or civil society organisations.
7. Following the adoption of a financing decision as referred to in paragraph 5, the Commission may amend the programmes implemented under shared management accordingly.
8. 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 10

Scope

1. This section applies to the part of the financial envelope referred to in Article 8(2)(a), and additional resources to be implemented under shared management according to the Commission decision for the thematic facility referred to in Article 9.
2. Support under this section shall be implemented under shared management in accordance with Article [63] of the Financial Regulation and the Regulation EU ../.. [Common Provisions Regulation].

Article 11

Budgetary resources

1. Resources referred to in Article 8(2)(a) shall be allocated to the national programmes (the 'programmes') implemented by Member States under shared management indicatively as follows:
 - (a) EUR 5 207 500 000 to the Member States in accordance with Annex I;
 - (b) EUR 1 041 500 000 to the Member States for the adjustment of the allocations for the programmes as referred to in Article 14(1).
2. 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 8(2)(b).

Article 12

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 13

Programmes

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with, and respond to, the Union priorities and challenges in the area of migration management and are fully in line with the relevant Union *acquis* and agreed Union priorities. In defining the priorities of their programmes Member States shall ensure that the implementation measures set out in Annex II are adequately addressed.
2. The Commission shall ensure that the European Union Agency for Asylum and the European Border and Coast Guard Agency are associated to the process of developing the programmes at an early stage, as regards the areas of their competence. The Commission shall consult the European Border and Coast Guard Agency and the European Union Agency for Asylum on the draft programmes to ensure consistency and complementarity of the actions of the agencies and those of the Member States.
3. The Commission may associate the European Union Agency for Asylum and European Border and Coast Guard Agency in monitoring and evaluation tasks as

referred to in Section 5 where appropriate in particular in view of ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

4. Further to a monitoring exercise as carried out in accordance with Regulation (EU) [../..] [EUAA Regulation] or the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned shall examine, together with the Commission, and where relevant with the European Union Agency for Asylum and the European Border and Coast Guard Agency, how to address the findings, including any shortcomings or issues of capacity and preparedness, and shall implement the recommendations through its programme.
5. Where necessary, the programme in question shall be amended to take into account the recommendations referred to in paragraph 4. Depending on the impact of the adjustment, the revised programme may be approved by the Commission.
6. In cooperation and consultation with the Commission and the relevant agencies in accordance with their competence, as applicable, resources under the programme may be reallocated with the aim of addressing recommendations, as referred to in paragraph 4 that have financial implications.
7. Member States shall in particular pursue the actions eligible for higher co-financing as listed in Annex IV. In the event of unforeseen or new circumstances or in order to ensure the effective implementation of funding, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to amend the list of actions eligible for higher co-financing as listed in 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) ../2021 [Common Provisions Regulation], shall be based on the types of intervention set out in Table 1 of Annex VI.

Article 14

Mid-term review

1. In 2024, the Commission shall allocate to the programmes of Member States concerned the additional amount referred to in Article 11(1)(b) in accordance with the criteria referred to in paragraphs 1(b) to 5 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 11(1)(a) has not been covered by payment applications submitted in accordance with Article [85] of Regulation (EU) ../2021 [Common Provisions Regulation], 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 of 2025 shall, where appropriate, take into account the progress made in achieving milestones of the performance framework as referred to in Article [12] of Regulation (EU) .../2021 [Common Provisions Regulation] and identified implementation shortcomings.

Article 15

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 11(1), receive an additional amount, provided that it is earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation.
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 16

Resources for the Union Resettlement [and Humanitarian Admission] Framework

1. Member States shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR 10 000 for each resettled person in accordance with the targeted Union resettlement scheme. That contribution shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.
2. The amount referred to in paragraph 1 shall be allocated to the Member States through the amendment of their programme provided that the person in respect of whom the contribution is allocated was effectively resettled in accordance with the Union Resettlement [and Humanitarian Admission] Framework.
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.
4. Member States shall keep the information necessary to allow the proper identification of the resettled persons and of the date of their resettlement.

Resources to support the implementation of Regulation ... [Dublin Regulation]

1. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [10 000] for each applicant for international protection for whom that Member State becomes responsible as from when that Member State is in challenging circumstances as defined in Regulation (EU) ... [Dublin Regulation].
2. A Member State shall receive, in addition to their allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [10 000] for each applicant for international protection allocated to that Member State who is above the benefitting Member State's fair share.
3. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR [10 000] per applicant who has been granted international protection for the implementation of integration measures.
4. A Member State referred to in paragraphs 1 and 2 shall receive an additional contribution of EUR [10 000] per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 11(d) of Regulation (EU) ... [Eurodac Regulation] that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.
5. A Member State shall receive, in addition to its allocation calculated in accordance with Article 11(1)(a), a contribution of EUR [500] for each applicant of international protection transferred from one Member State to another, for each applicant transferred pursuant to point (c) of the first paragraph of Article 34(i) of Regulation (EU) ... [Dublin Regulation] and, where applicable, for each applicant transferred pursuant to point (g) of Article 34 (j) of Regulation (EU) ... [Dublin Regulation].
6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.
7. The additional amounts referred to in paragraphs 1 to 5 shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) ... [Dublin Regulation].
8. 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.

Article 18

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 under objectives in Article 3(2)(a) and (c).
3. The Member States using operating support shall comply with the Union *acquis* on asylum and return.
4. Member States shall justify in the programme and in the annual performance report as referred to in Article 30 the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall, with the European Union Agency for Asylum and the European Border and Coast Guard Agency in line with Article 13, assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available in the light of the monitoring exercises, as carried out in accordance with Regulation (EU) ... [EUAA Regulation] and Regulation (EU) No 1053/2013, which are within the scope of this Regulation.
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 32 to amend the list of specific tasks and services in Annex VII.

SECTION 3

SUPPORT AND IMPLEMENTATION UNDER DIRECT AND INDIRECT MANAGEMENT

Article 19

Scope

Support under this section Union 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 20

Union actions

1. Union actions are transnational projects or projects of particular interest to the Union implemented 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. They 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 (EU) ../. [successor of the Regulation on the Guarantee Fund] shall apply.

Article 21

European Migration Network

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

Article 22

Blending operations

Blending operations decided under this Fund shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

Article 23

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 24

Audits

Audits on the use of the 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 Regulation (EU) [Regulation on the financial rules applicable to the general budget of the Union].

Article 25

Information, communication and publicity

1. The recipients 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 the 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 on 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 26

Emergency assistance

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of an emergency situation resulting from one or more of the following:
 - (a) heavy migratory pressure in one or more Member States characterised by a large or disproportionate inflow of third-country nationals, which places significant and urgent demands on their reception and detention facilities, asylum and migration management systems and procedures;
 - (b) the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC³³;
 - (c) heavy migratory pressure in third countries, including where persons in need of protection may be stranded due to political developments or conflicts, notably where it might have an impact on migration flows towards the EU.
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 11(1) and Annex I, 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 27

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

³³ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

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 comparative conditions:
 - (a) they have been assessed in a call for proposals under the instrument;
 - (b) they comply with the minimum quality requirements of that call for proposals;
 - (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) ../. [Common Provisions Regulation] and Article [8] or Regulation (EU) ../. [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 28

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 32 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 objectives of this Regulation are set 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 32 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 29

Evaluation

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under the Fund.
2. The mid-term and the retrospective evaluation shall be carried out in a timely manner to feed into the decision-making process.

SUB SECTION 2 RULES FOR SHARED MANAGEMENT

Article 30

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).../2021 [Common Provisions Regulation]. The report submitted in 2023 shall cover the implementation of the programme in the period to 30 June 2022.
2. The annual performance report shall in particular set out information on:
 - (a) 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) .../2021 [Common Provisions Regulation];
 - (b) any issues affecting the performance of the programme and the action 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) 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 applicable enabling conditions and their application throughout the programming period;
 - (g) the number of persons resettled with the help of the Fund in line with the amounts referred to in Article 16(1);
 - (h) the number of applicants for or beneficiaries of international protection transferred from one Member State to another in line with Article 17.
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 by 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 33(2).

Article 31

Monitoring and reporting

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) .../... [Common Provisions Regulation] shall be based on the types of intervention set out in Tables 1, 2 and 3 in Annex VI. To address unforeseen or new circumstances or to ensure the effective implementation of the funding, the Commission shall be empowered to adopt delegated acts to amend the types of intervention in accordance with Article 32.
2. These indicators shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) .../2021 [Common Provisions Regulation].

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 32

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 13, 18, 28 and 31 shall be conferred on the Commission until 31 December 2028.
3. The delegation of powers referred to in Articles 13, 18, 28 and 31 may be revoked at any time by the European Parliament or by the Council. 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 simultaneously notify the European Parliament and to the Council thereof.
6. A delegated act adopted pursuant to Articles 13, 18, 28 and 31 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 33

Committee procedure

1. The Commission shall be assisted by the Coordination Committee for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument. 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 30(4).

Article 34

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned under the Asylum, Migration and Integration Fund for the period 2014-2020 established by Regulation (EU) No 516/2014, which shall continue to apply to the actions concerned until their closure.
2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessor, the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014.

Article 35

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 Strasbourg,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

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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 establishing the Asylum and Migration Fund (AMF).

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

Heading 4 (Migration and border management). Title 10. Migration

1.3. The proposal/initiative relates to:

- a new action
- a new action following a pilot project/preparatory action³⁴
- 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 EU will continue to face major challenges in the area of migration in the 2021-2027 programming period. The agenda on migration³⁵, as confirmed by the regular reports on its delivery³⁶, has set out actions to reduce the incentives for irregular migration, efforts to save lives at sea and secure the external borders of the Union, and actions supporting a strong common asylum policy and a new policy on legal migration. With regard to the external dimension, the continuous implementation of the EU-Turkey statement³⁷, the partnership framework³⁸ and the joint actions taken on the central Mediterranean route have reduced the number of arrivals by almost 30 % compared to 2014.

In order to consolidate these trends, the Commission has launched a reform of the Common European Asylum System, with a solidarity and responsibility component in the Dublin system³⁹ and a proposal to establish a permanent EU resettlement framework⁴⁰, under

³⁴ As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

³⁵ COM(2015) 240 final of 13 May 2015.

³⁶ COM(2017) 558 final of 27 September 2017 and COM(2018) 250 final of 14 March 2018.

³⁷ <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>

³⁸ COM(2016) 385 final of 7 June 2016.

³⁹ COM(2016) 270 final of 4 May 2016.

negotiation. The action plan on the integration of third-country nationals⁴¹ and the renewed action plan promoting an effective return policy in the European Union⁴² were launched in 2016 and 2017 respectively. The Commission has also made proposals on legal migration, with the revision of the Blue Card Directive under negotiation⁴³, and is carrying out an evaluation of the legal migration framework to identify weaknesses as well as possible ways of simplifying and streamlining it.

The Fund will support the continued needs in the areas of asylum, integration and return while adjusting its scope to support the relevant future legislative developments and the mandates of the European Border and Coast Guard Agency and the future European Union Agency for Asylum. Cooperation with non-EU countries and international organisations is crucial to achieving these goals. The Fund will be able to support actions in the external dimension, complementary to actions supported by the future external Instrument.

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.

Reasons for action at European level (*ex ante*)

The challenges in the areas of asylum and migration are by their nature interlinked, transnational phenomena and cannot be adequately addressed by the Member States acting alone. Article 80 of the TFEU states that the common policies on asylum, migration and external borders are based on the principle of solidarity and fair sharing of responsibilities between Member States. EU funding is the mechanism which gives effect to the financial implications of this principle. The integrated management of the EU's external borders and the completion of a Common European Asylum System are the most effective ways to share these responsibilities and their financial implications between Member States fairly. EU funding in the area of integration of third-country nationals is indispensable to increase the quality of support to newcomers in the early stages after their arrival, which is a crucial component to ensure their full inclusion in European societies in the long run if they receive permanent protection. The EU's right to act in the area of home affairs derives primarily from Title V of the TFEU ('Area of freedom, security and justice'): common policy on asylum, subsidiary protection and temporary protection, including the partnership and cooperation with third countries (Article 78 of the TFEU) and common immigration policy and return policy, including the conclusion of readmission agreements with third countries (in particular Article 79(2) and (4) of the TFEU).

⁴⁰ COM(2016) 468 final of 13 July 2016.

⁴¹ COM(2016) 377 final of 7 June 2016.

⁴² COM(2017) 200 final of 2 March 2017.

⁴³ COM(2016) 378 final of 7 June 2016.

Expected generated Union added value (*ex post*)

The interim evaluation of the Asylum, Migration and Integration Fund (AMIF) showed that EU funding, being part of the policy response, contributed to policy results and provided added value. Despite their relatively small size in comparison with the challenges raised by the crisis, EU funds have added value by supporting actions with a transnational dimension, boosting national capacities and optimising procedures related to migration management, and enhancing solidarity and responsibility-sharing between Member States, in particular through emergency assistance and the relocation mechanism. The expected generated Union added value of the Fund covers similar areas of intervention, while being able to support the implementation of the future *acquis* as well as policy developments in the areas of asylum, legal migration and integration and return.

1.4.3. Lessons learned from similar experiences in the past

The interim evaluations of the AMIF in the 2014-2020 programming period, as well as the ex post evaluations of funds in the 2007-2013 programming period (instruments under the "Solidarity and Management of Migration Flows" (SOLID) programme) produced the following findings:

Relevance, scope and size

The broad scope of the current AMIF ensured it could support the implementation of the necessary actions at EU level in the area of migration. Significant budget reinforcements were needed due to the migratory crisis. The possibility of providing emergency assistance, through direct management, has contributed to ensuring the relevance of the Fund by increasing its flexibility, but it was used at a significantly higher scale than originally intended, to respond adequately to the unprecedented large-scale migratory challenges. 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. As regards the provision of 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 AMIF is considered effective, contributing to its objectives. The migration crisis impacted its effectiveness, since the challenges that the Fund needed to address increased. The possibility of using emergency assistance was generally highlighted as crucial to ensure the responsiveness of the funds in changing circumstances. The evaluations show that a mix of delivery modes in the areas of migration, border management and security 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 responsible 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 AMIF does not include a financial envelope to be distributed across the national programmes in the framework of the mid-term review, limiting the possibility of providing additional funding to the national programmes. Another limitation relates to the fact that the mid-term review can only be used at a pre-defined time during the

implementation period. The migration and security crises 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 the prioritising of some objectives, 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 (SCOs), multiannual programming) are considered beneficial. Establishing common rules on the implementation of AMIF and the Internal Security Fund (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 too 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. SCOs 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 AMIF there is no mechanism aimed at improving performance, such as, for example, a system of incentives which would further improve the effectiveness and efficiency of the Fund. In the absence of such a mechanism, Member States that perform well in the implementation of the Fund could not be rewarded. This could have increased the effectiveness of the Fund to achieve its objectives.

Coherence

The ex post evaluations underline that some Member States reported that complementarities could be improved with the ESF as regards integration measures, and with the external instruments as regards reintegration activities. The implementation of the current funds shows that steps undertaken during the design, planning and programming stages have facilitated their coherence and complementarity with other EU funding instruments. 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 Union in the area of asylum and migration 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 AMF will act as the Union's dedicated instrument in the area of asylum and migration, in addition to other relevant funding instruments which, from their own perspectives and areas of support, reinforce the asylum and migration policy objectives. It will ensure complementarities with the other funding instruments in the Home Affairs Area, including the Border Management and Visa component of the Integrated Border Management Fund, which will support migration management in the context of the management of the external borders of the Union.

The future ERDF and ESF+ will support migration within their scope of intervention and in a long-term perspective, integrating it in a menu of policy objectives.

Integration support for third-country nationals is a long-term process. The need for investing in this area will continue or even increase over the 2021-2027 period. The groups that are most in need of integration support are asylum applicants likely to be in need of international protection, as well as beneficiaries of international protection and migrants arriving in the EU through family reunification procedures. These groups of persons have specific needs. Dedicated funding to benefit these target groups continues to be necessary, in particular in the early stages of the integration process.

Therefore, the Fund will provide dedicated funding for actions specifically targeting third-country nationals, in particular in the early integration phase for the social and economic inclusion of third-country nationals, including by providing support for education to children, as well as for horizontal measures supporting integration policies and strategies of Member States. For asylum applicants covered by the reformed Dublin scheme, AMF will cover first reception measures, basic assistance and training and will also provide support for those that would need to be returned. Interventions in different thematic areas for long-term measures, such as integration into the labour market and social inclusion support for the integration of third-country nationals will be supported through the future ERDF, the future ESF+ in particular, and other relevant EU funds.

With regard to the **external dimension**, the Fund will be able to support the external projection of internal EU policies. Such support will be complementary to the future external instrument, which will support migration management through its geographical and thematic components. The Fund would continue to support resettlement, capacity building of third-countries to manage migration flows and ensure migrant protection and pre-departure measures by Member States, aimed at facilitating the integration of third-country nationals in the EU. In the area of return, it would continue to support the implementation of readmission agreements with third countries and the reintegration of returnees, as well as actions preventing irregular migration (i.e. information campaigns, data collection and tracking of flows and routes, etc.). In a new development, the Fund would provide the possibility of supporting the development of mobility schemes to the EU in the area of legal migration and a possibility of providing incentives and support to (and in) third countries to accept and reintegrate returnees from the EU in the area of return.

The need for complementarity between EU funding instruments will include a reference regarding the external dimension in Article 10(2).

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) planned⁴⁴

Direct management by the Commission

by its departments, including by its staff in the Union delegations;

by the executive agencies

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

⁴⁴ 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>

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), emergency assistance (shared, or direct or indirect management), transfer and resettlement (shared management) and the European Migration Network (direct management).

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 shall directly monitor the implementation of the actions according to the arrangements described in the respective grant agreements, delegated agreements with international organisations where applicable and contracts with the beneficiaries.

Shared management:

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

The Member States shall 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 shall 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 these 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, the follow-up to those findings and the results of the communication actions.

According to the draft CPR proposal, the Member States shall each year send 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 shall be organised every two years to examine the performance of each programme.

Six times per year, the Member States send 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 shall 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, which 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 of delegating budget implementation tasks to, *inter alia*, 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 management modes 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 CPR should extend the use of the simplified forms of grants such as lump-sums, flat rates and unit costs. It also introduces new forms of payment, 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. 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.

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 ESIF control framework 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 ESIF 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.

2.2.2. *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 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 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 (AFS) 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 cycle⁴⁵, Member States are 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.

⁴⁵ 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 4: 'Migration and border management'	Diff./Non-diff. ⁴⁶	from EFTA countries ⁴⁷	from candidate countries ⁴⁸	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
4	10.02.01 — Asylum and Migration Fund (AMF)	Diff.	NO	NO	NO	NO
4	10.01.01 — Support expenditure for Asylum and Migration Fund (Technical Assistance)	Non-diff.	NO	NO	NO	NO

⁴⁶ Diff. = differentiated appropriations / Non-diff. = non-differentiated appropriations.

⁴⁷ EFTA: European Free Trade Association.

⁴⁸ Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	4	‘Migration and border management’
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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)	917.755	1 438.910	1 457.632	1 611.404	1 630.882	1 650.750	1 665.667	—	10 373.000
	Payments	(2)	91,058	200,725	432,040	1.106,189	1.557,395	1.557,783	1.539,379	3.888,431	10 373.000
Appropriations of an administrative nature financed from the envelope of the programme ⁴⁹	Commitments = Payments	(3)	5.654	5.767	5.882	6.000	6.120	6.242	6.335	—	42.000
TOTAL appropriations for the envelope of the programme	Commitments	=1+3	923.409	1 444.677	1 463.514	1 617.404	1 637.002	1 656.992	1 672.002	—	10 415.000
	Payments	=2+3	96,712	206,492	437,922	1.112,189	1.563,515	1.564,025	1.545,714	3.888,431	10 415.000

⁴⁹ 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.

Heading of multiannual financial framework	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		10.329	11.473	13.046	13.046	13.046	13.046	13.046		87.032
Other administrative expenditure		0.202	0.202	0.202	0.202	0.202	0.202	0.202		1.412
TOTAL appropriations under Heading 7 of the multiannual financial framework	(Total commitments = Total payments)	10.531	11.675	13.248	13.248	13.248	13.248	13.248		88.444

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
TOTAL appropriations	Commitments	933.940	1456.352	1476.762	1630.652	1650.250	1670.240	1685.250	-	10 503.444

across headings of the multiannual financial framework	Payments	107,242	218,167	451,170	1.125,437	1.576,763	1.577,272	1.558,962	3.888,431	10 503.444
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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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HEADING 7 of the multiannual financial framework								
Human resources	10.329	11.473	13.046	13.046	13.046	13.046	13.046	87.032
Other administrative expenditure	0.202	0.202	0.202	0.202	0.202	0.202	0.202	1.412
Subtotal HEADING 7 of the multiannual financial framework	10.531	11.675	13.248	13.248	13.248	13.248	13.248	88.444

Outside HEADING 7 ⁵⁰ of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature	5.654	5.767	5.882	6.000	6.120	6.242	6.335	42.000
Subtotal outside HEADING 7 of the multiannual financial framework	5.654	5.767	5.882	6.000	6.120	6.242	6.335	42.000

TOTAL	16.185	17.442	19.130	19.248	19.368	19.490	19.583	130.444
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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.

⁵⁰ 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.

[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
• Establishment plan posts (officials and temporary staff)							
Headquarters and Commission's Representation Offices	65	73	84	84	84	84	84
Delegations	3	3	3	3	3	3	3
Research							
• External staff (in Full Time Equivalent unit: FTE) — AC, AL, END, INT and JED ⁵¹							
Heading 7							
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	8	8	8	8	8	8
	- in Delegations						
Financed from the envelope of the programme	- at Headquarters	1.					
	- in Delegations	2.					
Research							
Other (specify)							
TOTAL	76	84	95	95	95	95	95

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 95 FTE by 2027 represents the overall staff needed for the implementation and the management of the Fund. It is composed of the staff already working in DG HOME for the AMF (baseline: 66 FTE = 6 CA, 22 AST, 36 AD incl. 1 AD in Delegation, 1 SNE, 1 INT) as of April 2018 and additional staff (+6 AST, +23 AD of which 2 for the Delegations). Please see below the description of tasks for this additional staff:</p> <p>Planning, programming, relation with agencies (+1 AST, + 1 AD): - providing input to the budgetary procedure, - making a link between funds and agencies (e.g.. grants/delegation agreements to agencies)</p> <p>Audits, OLAF, ECA (+5 AD): - performing controls, as described above (<i>ex ante</i> verification, procurement committee,</p>
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⁵¹ AC = contract staff; AL = local staff; END = seconded national expert; INT = agency staff; JPD = junior professionals in delegations.

	<p><i>ex post</i> audits, internal audit, clearance of accounts), - to follow up the audits managed by the IAS and the CoA.</p> <p>Direct management (+2 AST, +3 AD): - preparing annual work programmes/financing decisions, establishing annual priorities, - communicating with stakeholders (potential/actual beneficiaries, Member States, etc.), - managing calls for proposals and calls for tenders and the subsequent selection procedures, - operational management of projects.</p> <p>Shared management (including TF) (+1 AST, + 6 AD): - conducting the policy dialogue with Member States, - managing national programmes, - drafting guidelines to Member States, - developing and managing grant and national programme management IT tools.</p> <p>Synergies with other funds (+2 AD): - coordination with the external dimension funds, - coordination in the context of the CPR, - synergies and complementarity with other funds.</p> <p>Financial management (+2 AST): - financial initiation and financial verification, - accounting, - monitoring and reporting on achievement of objectives, including in Annual Activity Report and Authorizing Officer by sub-delegation reports.</p> <p>Staff for other directorates working on funding matters (+ 4 AD): - 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).</p>
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	+ 2 AD: 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							
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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 ⁵²						
	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).

[...]

⁵² 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.