



Council of the
European Union

039925/EU XXVI. GP
Eingelangt am 25/10/18

Brussels, 25 October 2018
(OR. en)

13554/18

Interinstitutional File:
2018/0248(COD)

JAI 1045
FRONT 363
ASIM 135
MIGR 166
CODEC 1790

COVER NOTE

From:	General Secretariat of the Council
date of receipt:	24 October 2018
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Asylum and Migration Fund - Opinion of the European Committee of the Regions

Delegations will find attached the above-mentioned opinion.

Please note that other language versions should be available at:

<https://dm.cor.europa.eu/CoRDocumentSearch/Pages/opinionssearch.aspx?LANG=EN>



**European Committee
of the Regions**

CIVEX-VI-035

131st plenary session, 8-10 October 2018

OPINION

Asylum and Migration Fund

THE EUROPEAN COMMITTEE OF THE REGIONS

- reiterates the need for a coordinated approach by the EU and the Member States to build a common asylum and migration policy based on the principles of solidarity and fair sharing of responsibility
- welcomes the increases in funding for, migration in the EU budget, but is concerned by the bias in these increases which are far more significant for measures on border protection, than for the AMF. Consequently suggests to increase the overall envelope for the AMF from the EUR 10 415 000 000 currently proposed by the European Commission to EUR 16 188 000 000 (a 2.4-fold increase)
- believes that partnerships and cooperation with third countries are an essential component of EU migration policy and tackling its root causes and that the Fund should therefore provide financial incentives for such cooperation. External development funding should not, however, be instrumentalised solely to prevent migration
- notes the new approach of distinguishing between short-term and long-term integration measures, the latter being financed now from the ESF+. Stresses that the financial provisions for the ESF+ must fully reflect this new task
- welcomes the fact that the new Fund allows a higher co-financing rate (up to 90%), but regrets that its repeated calls to make LRAs partially responsible for the management of the AMF have not been answered
- suggests to give equal weight to the three distribution keys proposed by the European Commission: asylum (33.3%), legal migration and integration (33.3%), and countering irregular migration including returns (33.3%)
- calls for the introduction of minimum allocation and spending requirements for integration (20%) and asylum (20%)
- believes that decentralised cooperation can play an important role in strengthening good governance in origin and transit countries and so reduce migration flows

Rapporteur-General

Peter Bossman (SL/PES), Mayor of the Municipality of Piran

Reference document

COM(2018) 471 final

Opinion of the European Committee of the Regions – Asylum and Migration Fund

I. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2018) 471 final, Recital 42

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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.	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, <i>especially involving vulnerable persons, such as unaccompanied minors</i> , 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 <i>and help in creating infrastructure</i> , in accordance with the framework set out in this Regulation.

Reasons
A line of emergency funding needs to be opened to deal with situations where Member States are overwhelmed by the challenge of dealing with the arrival of vulnerable persons from third countries, unaccompanied minors in particular, requiring specific measures.

Amendment 2

COM(2018) 471 final, Article 3.2

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
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;	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 <i>and to create the</i>

<p>(c) to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries.</p>	<p><i>channels enabling such migration to take place in an ordered and safe way;</i></p> <p>(c) to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries <i>while ensuring that human rights are respected;</i></p> <p><i>(d) to enhance solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows, including through practical cooperation.</i></p>
---	--

Reason
<p>This specific objective is to be found in the current AMIF Regulation and should be expressly stated as a specific objective of the future AMF Regulation.</p>

Amendment 3

COM(2018) 471 final, Article 8

<i>Draft opinion</i>	<i>Amendment</i>
<p><i>Text proposed by the Commission</i></p> <p>Budget</p> <p>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.</p> <p>2. The financial resources shall be used as follows:</p> <p>(a) EUR 6 249 000 000 shall be allocated to the programmes implemented under shared management;</p> <p>(b) EUR 4 166 000 000 shall be allocated to the thematic facility.</p> <p>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].</p>	<p>Budget</p> <p>1. The financial envelope for the implementation of the Fund for the 2021-2027 period shall be EUR 16 188 000 000 in current prices.</p> <p>2. The financial resources shall be used as follows:</p> <p>(a) EUR 10 790 000 000 shall be allocated to the programmes implemented under shared management;</p> <p>(b) EUR 5 398 000 000 shall be allocated to the thematic facility.</p> <p>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].</p>

Reason
<p>The proposed increase for migration and asylum would mirror the 2.4-fold increase in funding allocated to the control of external borders and reflects the fact that in the current proposals no increase in funding appropriations is foreseen under the ESF+ for new task of long-term integration.</p>

Amendment 4

COM(2018) 471 final, Article 9.1

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(...) 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. (....)	(...) 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; g) <i>European integration networks of local and regional authorities.</i> (....)

Reason

Local and regional authorities play a crucial role in the integration of migrants, which is an essential component of migration policies.

Amendment 5

COM(2018) 471 final, Article 9.6

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
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.	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. <i>At least 30% of funding from thematic facility shall be allocated for this purpose.</i>

Reason

Local and regional authorities play a crucial role in the integration of migrants, which is an essential component of migration policies.

Amendment 6

COM(2018) 471 final, Article 13.1

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p><i>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.</i></p>	<p><i>Each Member States shall allocate at least 20% of the resources in its programme to the specific objective referred to in point (a) of the first subparagraph of Article 3(2), and at least 20% to the specific objective referred to in point (b) of the first subparagraph of Article 3(2). Member States may depart from those minimum percentages only where a detailed explanation is included in the national programme as to why allocating resources below this level does not jeopardise the achievement of the objective. As far as the specific objective referred to in point (a) of the first subparagraph of Article 3(2) is concerned, those Member States faced with structural deficiencies in the area of accommodation, infrastructure and services shall not fall below the minimum percentage laid down in this Regulation;</i></p>

Reason
<p>The AMF should support durable solutions to migration and ensure consistency with priorities agreed by the Member States at EU level. Ensuring minimum appropriations for building a functioning asylum system (Article 3(2)(a)) and for the development of legal migration paths and support for integration (Article 3(2)(b)) will contribute to the achievement of the policy objective of this fund (efficient management of migration flows).</p> <p>The proposed wording corresponds to the wording under the current AMIF Regulations.</p>

Amendment 7

COM(2018) 471 final, article 13.7

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>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</p>	<p>Member States shall in particular pursue the actions eligible for higher co-financing as listed in Annex IV. <i>Member States that do not pursue such actions shall include a detailed explanation in the national programmes as to how they are going to ensure that this choice does not jeopardise the achievement of AMF</i></p>

actions eligible for higher co-financing as listed in Annex IV.	<i>specific objectives.</i> 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.
---	---

Reason
Same as for Amendment 6.

Amendment 8

COM(2018) 471 final, Article 21

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.</p> <p>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.</p> <p>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.</p>	<p>1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.</p> <p>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.</p> <p>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.</p> <p>4. The fund shall support European integration networks of local and regional authorities.</p>

Reason
Same as for amendment 4.

Amendment 9

COM(2018) 471 final, article 26.1

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>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:</p> <p>(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;</p> <p>(b) the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC;</p> <p>(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..</p>	<p>The Fund shall provide financial assistance to address urgent and specific needs <i>and to create infrastructure</i> in the event of an emergency situation resulting from one or more of the following:</p> <p>(a) heavy migratory pressure in one or more Member States characterised by a large or disproportionate inflow of third-country nationals, <i>especially involving vulnerable persons, such as unaccompanied minors</i>, which places significant and urgent demands on their reception and detention facilities, asylum and migration management systems and procedures;</p> <p>(b) the implementation of temporary protection mechanisms within the meaning of Directive 2001/55/EC;</p> <p>(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. <i>Measures implemented in third countries in accordance with this article must be consistent with and, where relevant, complementary to Union humanitarian policy and respect fundamental human rights and international legal obligations.</i></p>

Reason
Ensure coherence with other EU policies and respect for fundamental rights.

Amendment 10

COM(2018) 471 final, article 26.2

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
Emergency assistance may take the form of grants awarded directly to the decentralised agencies.	Emergency assistance may take the form of grants awarded directly to the decentralised agencies <i>and to local and regional authorities</i>

	<i>with heavy migratory pressure, in particular those responsible for receiving and integrating unaccompanied immigrant minors.</i>
--	---

Reason
LRA's often have responsibility for receiving and integrating unaccompanied immigrant minors, but frequently lack the capacity to do so.

Amendment 11

COM(2018) 471 final, Annex I (Criteria for the allocation of funding to the programmes under shared management)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>1. The available resources referred to in Article 11 shall be broken down between the Member States as follows:</p> <p>(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only;</p> <p>(b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:</p> <ul style="list-style-type: none"> – 30 % for asylum; – 30 % for legal migration and integration; – 40 % for countering irregular migration including returns. 	<p>1. The available resources referred to in Article 11 shall be broken down between the Member States as follows:</p> <p>(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only;</p> <p>(b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:</p> <ul style="list-style-type: none"> – 33.3 % for asylum; – 33.3 % for legal migration and integration; – 33.3% for countering irregular migration including returns.

Reason
Asylum, legal migration and integration are as important (if not more) as irregular migration/returns for effective management of migration flows.

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

1. agrees that in the context of the evolving migratory challenges, investing in efficient and coordinated migration management in the EU in support of the Member States (MS) and their LRAs is key to realising the Union's objective of establishing an area of freedom, security and justice. Welcomes in this context of the increased attention on, and funding for, migration in the EU budget, but is concerned by the bias in these increases which are far more significant for measures on border protection, than for the AMF. Consequently suggests an increase to AMF equivalent to the increase in funding for external border management, i.e. a 2.4-fold increase.

2. reiterates the need for a coordinated approach by the EU and the Member States to build a common asylum and migration policy based on the principles of solidarity and fair sharing of responsibility.
3. welcomes the establishment of the AMF and other new or revised instruments (IBMF, ESF+, ERDF, NDCI, IPAIII) that financially address both the internal and external dimensions of migration.
4. agrees that effective management of EU external borders is necessary, but is of the view that focusing primarily on border control and less on the other essential aspects of a comprehensive EU migration policy including a reformed EU asylum system, consistent and ambitious policies to facilitate legal migration and support integration, decisive measures to combat human trafficking and strong action to tackle the root causes of migration would not be effective, nor does it reflect the EU's fundamental values.
5. insists that it is essential to ensure synergies, consistency and efficiency between the AMF and other EU funds and policies, notably with the protection of fundamental rights, the promotion of social cohesion and external and development policies.
6. underlines the need to reform the Common European Asylum System to ensure that efficient asylum procedures guarantee the rights of those seeking protection, prevent secondary movements and provide uniform and appropriate reception conditions and standards for granting international protection.
7. believes that partnerships and cooperation with third countries are an essential component of EU migration policy and tackling its root causes and that the Fund should therefore provide financial incentives for such cooperation, including the implementation of the EU Resettlement Framework. External development funding should not, however, be harnessed solely to prevent migration.
8. notes the new approach of distinguishing between short-term and long-term integration measures, the latter being financed now from the ESF+. Stresses that the financial provisions for the ESF+ must fully reflect this new task. Regrets, however, that "integration" has disappeared from the title of the AMF, especially since most short-term integration measures are the responsibility of LRAs.
9. welcomes the fact that the new Fund allows a higher co-financing rate (up to 90%), which may help in particular LRAs under pressure, and especially those with an external border, but regrets that its repeated calls to make LRAs partially responsible for the management of the AMF have not been answered.
10. acknowledges that the AMF will be governed for the first time by the common provisions regulation. This should bring increased involvement of LRAs in planning and implementing national policies, but such positive effects require the full application of the partnership and multi-level governance principles.

11. underlines that the Fund should support Member States in devising coordinated strategies for all aspects of migration, the exchange of information and best practices, as well as cooperation between different administrations and levels of governance, and between Member States.
12. notes in this respect that as regards the allocation of funds to Member States, the proposal provides for a distribution key reflecting their needs and pressures in three key areas; asylum (30%); legal migration and integration (30%); and countering irregular migration including returns (40%); finds also, however, that it is not clear why these three elements are weighted as suggested and hence suggests giving them equal weight.
13. recognises that an efficient return policy is a key element of a comprehensive approach to migration and that the Fund should therefore support the development of common standards for, and coordinated management of return in full compliance with EU law and international human rights and the dignity of the persons concerned, including measures in third countries for the reintegration of returnees.
14. urges Member States in this context to give preference to voluntary return in the interests of both returnees and the authorities of sending and receiving countries.
15. agrees that the Fund should support Member States in their implementation of Directive 2009/52/EC prohibiting the employment of illegally staying third-country nationals and sanctioning employers who infringe that prohibition, and Directive 2011/36/EU on assistance, support and protection of victims of human trafficking.
16. regrets that the Member States are no longer required to allocate at least 20% of the available funding to asylum action and 20% to integration, which creates the risk that countering irregular migration will be prioritised over other action; consequently, calls for the reintroduction of these minimum allocation and spending requirements.
17. believes that decentralised cooperation can play an important role in strengthening good governance in origin and transit countries and so reduce migration flows. Actions such as the Nicosia initiative for capacity-building in Libyan municipalities illustrates to what extent cooperation by LRAs can promote stability and prosperity in our neighbourhood.
18. reiterates its own role in facilitating dialogue and cooperation with LRAs in countries of origin and transit of migrants, for instance through existing bodies and platforms (ARLEM, CORLEAP, Joint Consultative Committees and Working Groups) in order to achieve AMF objectives.
19. is convinced that Member States should be encouraged to use part of their programme allocation to fund in particular:

- integration measures implemented by LRAs and civil society
 - actions to develop effective alternatives to detention
 - assisted voluntary return and reintegration programmes and related activities
 - measures targeting vulnerable applicants for international protection with special reception and/or procedural needs, notably children, in particular those unaccompanied.
20. welcomes the proposed framework for emergency assistance which will allow Member States to face challenges resulting from large or disproportionate inflows of third-country nationals, especially when vulnerable persons, such as unaccompanied minors, are involved; insists that in particular LRAs in these situations need to have access to such assistance.
21. believes that the proposed legislation has clear European added value and therefore that the proposal complies with the principles of subsidiarity and proportionality.

Brussels, 9 October 2018

The President
of the European Committee of the Regions

Karl-Heinz Lambertz

The Secretary-General
of the European Committee of the Regions

Jiří Buriánek

III. PROCEDURE

Title	Asylum and Migration Fund
Reference(s)	COM(2018) 471 final
Legal basis	Article 307 TFEU
Procedural basis	Rule 41(a)
Date of Council/EP referral/Date of Commission letter	Council: 26/07/2018, European Parliament: 02/07/2018
Date of President's decision	19 July 2018
Commission responsible	CIVEX
Rapporteur	Peter Bossman (SL/PES)
Analysis	Sent 27 July 2018
Discussed in commission	20 September 2018
Date adopted by commission	N/A
Result of the vote in commission (majority, unanimity)	N/A
Date adopted in plenary	9 October 2018
Previous Committee opinions	<ul style="list-style-type: none"> – Opinion on the Implementation of the European Agenda on Migration, rapporteur Dimitrios Kalogeropoulos ((EL/EPP), COR-2017-05048-00-00-AC – Opinion on the protection of children in migration, rapporteur Yoomi Renström (SE/PES), COR-2017-02782-00-01-AC – Opinion on Migration on the Central Mediterranean Route, rapporteur Hans Janssen (NL/EPP), COR-2017-01261-00-02-AC – Opinion on the Reform of the Common European Asylum System Package II and a Union Resettlement Framework, rapporteur Vincenzo Bianco (IT/PES), COR-2016-05807-00-00-AC – Opinion on the Reform of the Common European Asylum System, rapporteur Vincenzo Bianco (IT/PES), COR-2016-03267-00-00-AC – Opinion on the Partnership Framework with third countries on Migration, rapporteur Peter Bossman (SL/PES), COR-2016-04555-00-00-AC – Opinion on Legal Migration, rapporteur Olgierd Geblewicz (PL/EPP), COR-2016-03699-00-00-AC – Opinion on the Action Plan on Integration, rapporteur Karl Vanlouwe (BE/EA), COR-2016-04438-00-00-AC – Opinion on the Protection of refugees in their areas of origin: a new perspective 2016, rapporteur Hans Janssen (NL/EPP), COR-2015-06328-00-00-AC – Opinion on the European Agenda on Migration, rapporteur François Decoster (FR/ALDE), COR-2015-02607-00-00-AC
Date of subsidiarity monitoring consultation	-