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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL establishing the Asylum, Migration and Integration Fund
- Draft statement of the Council`s reasons

I. INTRODUCTION

1. On 13 June 2018, the Commission put forward a proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund¹ (hereinafter referred to as 'AMF' or 'the Fund') under Heading 4 (Migration and Border Management) of the Multiannual Financial Framework (MFF) 2021-2027.
2. The European Parliament (EP) adopted its first-reading position² at the plenary session of 13 March 2019.
3. On 7 June 2019, the Council reached a partial general approach³ which served as a partial mandate to enter into negotiations with the European Parliament in the context of the ordinary legislative procedure.
4. On 18 December 2019, the Committee of Permanent Representatives (Part II) (hereinafter referred to as 'the Committee') was presented with a progress report⁴ on the ongoing negotiations with the European Parliament. The progress report included a Presidency compromise proposal on the allocation criteria (Annex I) which had secured the necessary support pending guidance from EUCO on the issue concerning insular societies and the outcome of the negotiations on the overall MFF 2021-2027.

1 10153/18 + ADD 1

2 7404/19

3 10148/19

4 14616/19

5. The Committee also reached an agreement to update the provisions relevant to CEAS, of the mandate given to the Presidency, on 24 July 2020 with the view to start negotiations with the EP on these provisions.
6. Following the political guidance on the MFF and the Recovery package provided by the European Council in its conclusions⁵ of 21 July 2020, the Council reached a general approach on the entire proposal on 12 October 2020⁶.
7. The inter-institutional negotiations started on 9 October 2019, based on the partial mandate granted on 7 June 2019. In total, six trilogue meetings took place on 9 October and 11 November 2019, 7 October, 12 and 25 November as well as on 9 December 2020, to discuss the political issues and to give guidance to the technical discussions. These were supported by twenty one technical meetings. In addition, a number of technical meetings on horizontal issues were convened in parallel to discuss provisions having a horizontal nature across the three Home Affairs Funds (AMF, BMVI and ISF).
8. At the last trilogue meeting, a provisional agreement on the key political issues was reached between the then German Presidency and the EP Rapporteur. This provisional agreement was presented to the Committee on 16 December 2020 in a progress report⁷ and the Committee approved the progress made on that basis.

⁵ 00010/20

⁶ 11888/20

⁷ 13861/20

9. Further technical work on recitals, retroactivity provisions, annexes and technical alignments resumed in January and the Committee analysed the final compromise text on 24 February 2021⁸.
10. On 1 March 2021, the Committee on Civil Liberties, Justice and Home Affairs of the EP ('LIBE Committee') endorsed the final compromise text. On this basis, the Chair of the LIBE Committee sent a letter to the Presidency confirming that if the consolidated text, as set out in the Annex to that letter, and subject to linguistic revisions, is transmitted formally to the EP as the Council's position at first reading, he would recommend to the members of the LIBE Committee and, subsequently the EP Plenary, to accept the Council's position at first reading without amendments at the EP's second reading.
11. Subsequently, the Committee confirmed the political agreement with a view to reach a second reading with the European Parliament on 10 March 2021⁹.
12. In carrying out its work, the Council took account of the opinion of the Economic and Social Committee adopted on 17 October 2018 and of the Committee of the Regions adopted on 9 October 2018.

⁸ 6111/21

⁹ 6687/21

II. OBJECTIVE

13. 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. The EU budget is also 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. Furthermore, 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.
14. 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. This proposal establishes the Asylum and Migration Fund that will provide support to the efficient management of migration by the Member States.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A) General

15. On the basis of the Commission proposal, the European Parliament and the Council conducted negotiations with a view to concluding an agreement during the Council's position at first reading ('early second reading'). The text of the draft Council position fully reflects the political agreement reached between the co-legislators, facilitated by the Commission.

B) Key political issues

16. The key political issues of the political agreement, as reflected in the Council position at first reading, are the following:

Objectives of the Fund

17. In its proposal, the Commission proposed a simplification of the specific objectives, which included the deletion of the specific objective on solidarity as this is an overarching principle of the Fund which guides all support. In its negotiating mandate, the Council supported the Commission's approach.

18. Both co-legislators agreed that solidarity is an important objective of the Fund. By way of compromise, the political agreement re-introduces the specific objective on solidarity and fair sharing of responsibility (Article 3), thus aligning the objectives of the new AMIF fund with the current Fund.

Flexibility and minimum percentages

19. In light of the experience gained from the migration crisis in 2015, the Commission emphasised the need for a flexible and adaptable AMF. In principle, both co-legislators agree on the need for flexibility. The European Parliament insisted that all objectives of the Fund must be addressed to a certain level, without undermining the overall flexibility. As part of an overall compromise package, the co-legislators agreed on minimum percentages for the allocation of funds towards the specific objectives of the Fund.
20. More specifically, it was agreed that Member States shall allocate a minimum of 15% of the resources allocated to their programmes to each of the specific objectives on common European asylum system (CEAS) and on legal migration, integration and social inclusion (Article 16).

21. It was also agreed that 20% of the resources from the initial allocation to the thematic facility shall be allocated to the specific objective on solidarity and fair sharing of responsibility and 5% of the same resources shall target local and regional authorities implementing integration measures (Article 11).

Scope of support

22. In its proposal, the Commission proposed a flexible approach to the scope of support of the Fund by encouraging, but not restricting, the eligible actions listed in Annex III. The Council mandate called for even more flexibility while the European Parliament insisted that the scope of the Fund should be limited to those actions in Annex III. Support of other actions would have only been possible following amendment of the Annex through a delegated act.
23. By way of compromise, the political agreement reverted back to the original Commission approach for the purposes of the programmes drawn up by Member States (Article 5). However, support from the thematic facility will be restricted to the actions in Annex III, with the exception of support under emergency assistance (Article 11). The Commission has also been empowered to amend Annex III via delegated acts (Article 5).

Criteria for allocation of funding to Member States' programmes

24. The political agreement reached on the criteria for the allocation of funding to the Member States' programmes, including the reporting base line, is largely based on the Council's mandate.
25. By way of compromise, the weighted distribution of the sub-criteria for irregular migration was slightly revised to reflect the compromise reached between the co-legislators, more specifically, 70% in proportion of third country nationals who are subject to a return decision and 30% in proportion to those who have actually left the territory (Annex I).

External dimension

26. The co-legislators had diverging views on this matter. Nevertheless, and in the spirit of compromise, the political agreement reached between the co-legislators acknowledges the need to address the external dimension subject to certain conditions, while respecting the political priorities of the co-legislators.
27. More specifically, the Fund may support actions in or in relation to third countries which contribute towards the objectives of the Fund and subject that they are not development-oriented, they are coordinated with other Union actions and are coherent with Union priorities and the Union's external policy (Article 5).

28. Specific actions concerning cooperation with third countries and support in re-integration have been included in Annex III, thus allowing support of such actions through the thematic facility as well (see point 23 above).
29. Furthermore, the Fund provides for the association of third countries subject to specific safeguards and agreements (Article 7).

Resettlement, humanitarian admission and relocation

30. With regard to the admissions through resettlement (Article 19) and the transfer of applicants for and beneficiaries of international protection between Member States (Article 20), the political agreement foresees higher amounts than the Council mandate. A simpler approach is also included.
31. However, by way of compromise, a slightly lower amount than the Council mandate is foreseen for admissions through humanitarian admission (Article 19).

IV. CONCLUSION

32. The Council position at first reading on the Regulation establishing the Asylum, Migration and Integration Fund fully reflects the political agreement reached in the negotiations between the Council and the European Parliament, facilitated by the Commission.