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European Union

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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Council position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council establishing the Internal Security Fund
– Draft Statement of the Council's reasons

I. INTRODUCTION

1. On 15 June 2018, the Commission put forward a proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund¹ (hereinafter ‘ISF’ or the ‘Fund’) under Heading 5 (Security and defence) of the Multiannual Financial Framework (MFF) 2021-2027.
2. The European Parliament adopted its first-reading position at the plenary session of 13 March 2019.²
3. The European Economic and Social Committee adopted its opinion at the plenary session of 18 October 2018³.
4. The Committee of the Regions did not deliver an opinion on this Fund.
5. On 7 June 2019, the Council adopted a partial general approach⁴ which served as an initial mandate for negotiations with the European Parliament. On 12 October 2020, the Council adopted a full general approach⁵ on the abovementioned proposal.
6. The co-legislators engaged in negotiations in the second half of 2019. At the trilogue on 10 December 2020, the co-legislators secured a provisional agreement, which was presented at the meeting of the Permanent Representatives Committee on 16 December 2020⁶. At the meeting, the text submitted by the Presidency gathered the necessary support from delegations. Work continued on technical level thereafter, notably to finalise some of the recitals, terminology, retroactivity provisions to ensure continuity of funding, and indicators.

1 10154/18 + ADD 1
2 7404/19
3 13774/18
4 10137/19
5 11945/20 + COR 1.
6 13862/1/20 REV 1

7. The Permanent Representatives Committee analysed the final compromise text⁷ with a view to agreement at its meeting on 24 February 2021.
8. On 1 March 2021 European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee confirmed the political agreement. The Chair of the LIBE Committee sent a letter to the Chair of the Permanent Representatives Committee, confirming that, should the Council approve this text at first reading, after legal-linguistic revision, the Parliament would approve the Council's position at its second reading.
9. The Permanent Representatives Committee confirmed the political agreement⁸ at its meeting on 10 March 2021.

II. OBJECTIVE

10. The policy objective of the Fund is to contribute to ensuring a high level of security in the Union, in particular by preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, by assisting and protecting victims of crime as well as by preparing for, protecting against and effectively managing security related incidents, risks and crises within the scope of the Regulation.
11. The Fund will contribute to the following specific objectives: (i) improving and facilitating the exchange of information among and within competent authorities of the Member States and relevant Union bodies and, where relevant, with third countries and international organisations; (ii) improving and intensifying cross-border cooperation, including joint operations among and within Member States' competent authorities in relation to terrorism and serious and organised crime with a cross-border dimension; (iii) supporting the strengthening of the Member States' capabilities in relation to preventing and combating crime, terrorism and radicalisation as well as managing security-related incidents, risks and crises.

⁷ 6106/2/21 REV 1

⁸ 6691/21

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

12. The European Parliament and the Council conducted negotiations with a view to concluding an agreement at the stage of the Council's position at first reading ('early second-reading agreement').
13. The text of the Council's position at first reading reflects the compromise reached in the negotiations between the European Parliament and the Council, facilitated by the Commission. The key elements of this compromise are summarised below.
14. Financing agencies: In Article 17, a paragraph has been added to make Union agencies exceptionally eligible for funding when they assist in the implementation of Union actions falling within the agencies' competence and those actions are not covered by the Union contribution to the budget of the agencies through the annual budget.
15. Actions in and in relation to third countries: A compromise was made with the EP regarding the addition in Article 8 that a significant part of the funding from the thematic facility should support actions in or in relation to third countries "to contribute to external migration management". The wording was changed to "to combatting and preventing crime, amongst others, including drugs trafficking, trafficking in human beings and combatting cross-border criminal smuggling networks".
16. "Intelligence cooperation": The EP position included an amendment introducing the development of a common intelligence culture as a fourth specific objective. As a compromise, provisional agreement was reached on a recital regarding cooperation and information exchange on serious and organised crime and terrorism.
17. Standard equipment: Article 4(3)(b) in the Commission proposal, which would have excluded purchase or maintenance of standard equipment from funding, has been replaced by a recital.

18. Non-eligible actions which should be eligible in emergency situations: In Article 4(3), compared to the Commission proposal, there are a more limited number of non-eligible actions which are eligible in emergency situations. For example, actions with a military or defence purpose remain non-eligible.
19. Purchase of equipment: The percentage of the allocation of a Member State programme which may be used for the purchase of equipment has been raised from 15 % in the Commission proposal to 35 %.
20. Operating support: The percentage of the allocation which may go to operation support has been raised from 10 % to 20 %.
21. Delegated acts versus implementing acts. The Commission will adopt work programmes by implementing acts (examination procedure).

IV. CONCLUSION

22. The Council's position at first reading reflects the compromise agreed between the Council and the European Parliament, with the support of the Commission.
23. The Council believes that its position at first reading represents a balanced compromise and that, once adopted, the new Regulation will play a key role in preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, thereby contributing to guaranteeing a high level of security in the Union.
