



EUROPEAN  
COMMISSION

Strasbourg, 12.6.2018  
COM(2018) 473 final

2018/0249 (COD)

Proposal for a

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

**establishing, as part of the Integrated Border Management Fund, the instrument for  
financial support for border management and visa**

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

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

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

The effective protection of our external borders is a prerequisite for ensuring the safe area for the free movement of persons and goods within the Union. This is also among the main objectives of the Union's response to the challenges in the areas of migration and security as outlined in the Commission's Communication on *A European Agenda on Migration*<sup>1</sup>. The Union's objective (under Article 67(3) of the Treaty on the Functioning of the Union (TFEU)) of ensuring a high level of security within an area of freedom, security and justice should be achieved, *inter alia*, through common measures on the crossing of internal borders by persons and on border controls at the Union's external borders, and the common visa policy. The achievement of an internal area without borders where persons and goods can circulate freely brings important benefits, both to European citizens as well as business. The Schengen area is one of the key means through which European citizens can exercise their freedoms, and the internal market can prosper and develop. It is one of the most tangible achievements of the Union which makes it even more necessary to strengthen the efforts aimed at safeguarding its integrity, especially in times of challenges posed by migratory pressure.

The Union budget played a key role in funding a common response to the various dimensions of the migration crisis and the preserving the Schengen area. The Commission proposes to increase support to securing our external borders. This includes the proper management of flows of goods and persons by strengthening external border control and ensuring that Member States have adequate equipment to carry out customs control.

Against this background, on 2 May 2018 the Commission adopted a proposal for the next multiannual financial framework for the period 2021-2027 in which it is suggested to set up a new Integrated Border Management Fund that will provide vital and reinforced support to Member States for securing the common external borders of the Union, with an envelope of EUR 9 318 000 000 (in current prices). A five-fold increase as compared to the current multiannual financial framework for the overall envelope for border management is foreseen for the next period. The Integrated Border Management Fund will contribute to the further development of the common visa policy and ensure European Integrated Border Management at the external borders with a view to managing the efficient crossing of the external borders. This includes addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension and to ensuring a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it. Funding support should be continued to be provided to Member States to build and enhance their capacities in these areas and to reinforce cooperation, including with the relevant Union agencies. The Fund will also play a role in ensuring more uniformity in the performance of customs controls at the external borders, by addressing the current differences between the Member States due to geographical situation and differences in capacities and resources available. Within that framework, the proposed Integrated Border Management Fund (IBMF) will be composed of two instruments: an instrument for financial support for border management and visa and an instrument for

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<sup>1</sup> COM(2015) 240 final of 13 May 2015.

financial support for customs control equipment.<sup>2</sup> This proposal concerns only the instrument for border management and visa. A separate proposal covering the instrument for customs control equipment is presented by the Commission in parallel.

Strengthening the European integrated border management at the external borders, as defined in Regulation (EU) 2016/1624 establishing the European Border and Coast Guard<sup>3</sup>, is a key pillar of EU action and a prerequisite to the normal functioning of the Schengen system. The concept of the European integrated border management brings together a number of components that need to be addressed in a comprehensive and coordinated way, ranging from the area of border control, including the referral of third country nationals in need of protection, the prevention and detection of cross-border crime, search and rescue operations, to risk analyses. Interagency cooperation is also an important component of the European integrated border management, as are solidarity mechanisms, including Union funding, such as the new IBMF, and in particular the instrument for border management and visa.

The EU external borders are common borders requiring collective and joined-up actions by competent national authorities and EU actors and by the Union as a whole. Managing these common external borders is therefore a shared responsibility between the Member States and the European Border and Coast Guard Agency (EBCGA), constituting the two pillars of the European Border and Coast Guard. For the European Border and Coast Guard to implement effectively European integrated border management, a close cooperation between its constituent parts is key. An adequate distribution of dedicated EU financial resources is needed 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 Union as a whole. The instrument for border management and visa will contribute to that.

The efforts of national border guards and customs control authorities that will be supported by the instrument need to be complemented by a strong and fully operational European Border and Coast Guard Agency at the core of a fully integrated EU border management system. This is why the Commission intends to propose a major scaling up of the Agency to fully operational status, with a standing corps of around 10,000 border guards.<sup>4</sup> It also requires a well-functioning European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA).

In the next multiannual financial framework, Union funding under the external action instruments will furthermore provide strengthened support to cooperation with third countries aimed at improving the management of their borders, countering irregular migration and improving the management of migration flows.

The main challenge the proposal aims to address is the need for greater flexibility in managing the future instrument, as compared with the current programming period, but also tools to ensure that funding is steered towards EU priorities and actions with a significant

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and 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).

<sup>4</sup> *A Modern Budget for a Union that Protects, Empowers and Defends: The Multiannual Financial Framework for 2021-2027*, COM(2018) 321, 2.5.2018.

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

The 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 border management systems. The allocation of funding will also fully take into account the need for Member States to focus investments on key EU priorities in accordance with the Union *acquis*.

In addition to a basic amount of EUR 5 000 000 that is envisaged to be allocated to Member States at the beginning of the programming period, the financial envelope foreseen for the programmes of Member States will be allocated based on a distribution key that will reflect the needs and pressure experienced by Member States in the two areas covered by this instrument (border management and visas). Funding will be distributed based on the following weighing: 30% for external land borders, 35% for external sea borders, 20% for airports and 15% for consular offices. For border management, the distribution of resources for external sea and land borders of each Member State will be based on the length of and the pressure on those external borders (70%). Furthermore, the workload at the external sea and land borders will be a factor for the distribution of resources for those borders (30%). The resources for airports will be distributed based on the workload of Member States at those airports. As for the resources for consular offices, 50% of the resources will be distributed taking into account the number of consular offices and the other 50% for the workload at those consular offices as regards the management of visa policy.

The share for the Member States' programmes is approximately 60 % of the total financial envelope. It is proposed that Member States be provided with around 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 % of the overall financial envelope should be managed through the thematic facility, which will periodically provide funding for a number of priorities defined in Commission financing decisions. This facility offers flexibility in the management of the instrument by allowing the disbursement of funds to the technical assistance at the initiative of the Commission and the following components of the thematic facility:

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

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.

The instrument will furthermore maintain support for the functioning of the Special Transit Scheme implemented by Lithuania, in line with the EU's obligations, compensating Lithuania

for the transit visa fees it foregoes and additional costs it incurs as a result of the facilitated transit document (FTD) and facilitated rail transit document (FRTD) scheme, such as the costs of replacing and upgrading equipment and IT systems, and training and operational costs.

Further simplification will be ensured in the implementation of the instrument, in particular by ensuring a coherent approach with rules applicable to the management of other Union Funds ('single rule book'), providing better guidance on the management and control systems and audit requirements, and ensuring that the eligibility rules under shared management make full use of simplified cost options (SCOs). It is also important to maximise EU added value of the actions supported by the instrument and to implement an improved monitoring and evaluation framework so as to strengthen the performance-based management of the funds.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification 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**

The instrument for border management and visa builds on the investments and achievements made with the support of its predecessors: the External Borders Fund in 2007-2013, as established by Decision No 574/2007/EC of the European Parliament and of the Council<sup>5</sup>, and the instrument for external borders and visa as part of the Internal Security Fund (ISF) in 2014-2020, as established by Regulation (EU) No 515/2014 of the European Parliament and of the Council<sup>6</sup>.

The instrument for border management and visa will continue supporting overall EU policies in the area of external border management and visas, such as the strengthening of European integrated border management, the purchase of border management equipment to be used by the European Border and Coast Guard Agency, the common visa policy and relevant IT systems.

Union agencies active in the field of border management, in particular the European Border and Coast Guard Agency, eu-LISA, but also the European Union Agency for Asylum (EUAA) are vital to ensuring security of the borders and the free movement of persons in the Union, working closely together with Member States' authorities. For instance, Member States make sure that IT systems on national level are interoperable and therefore enable information exchange between different authorities, while the agency for large-scale systems (eu-LISA) ensures that information exchange between all IT systems in the Union can function. Full consistency and complementarity will therefore also be ensured in the way the Union budget supports these agencies and Member States through the instrument for border management and visa. It is important to also ensure complementarity with actions implemented by the European Maritime Safety Agency (EMSA) and the European Fisheries

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<sup>5</sup> Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows (OJ L 144, 6.6.2007, p. 22).

<sup>6</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

Control Agency (EFCA), for example by sharing equipment used for maritime and border surveillance to enable the best possible use of resources to strengthen maritime security.

Responding to the key challenges in the field of border management requires forceful actions from both Member States and the Agencies concerned. This is why the Commission proposes to significantly increase the budget allocated in particular to the European Border and Coast Guard Agency. Together with the envisaged budget for eu-LISA, the budgetary contributions will amount to EUR 12 013 000 000 (in current prices) for the next multiannual financial framework. This will allow for the major reinforcement in the role and reach of notably the European Border and Coast Guard Agency, in particular through a standing corps of around 10 000 border guards.<sup>7</sup> The two instruments creating an Integrated Border Management Fund however do not cover the funding allocated to the agencies. Therefore this proposal regulates only the instrument for border management and visa that will provide support to the implementation of European integrated border management at the external border by the Member States, in full synergy with the work of the Union agencies in this area.

- **Consistency with other Union policies**

The Union's policy objective of moving towards European integrated border management concerns an area in which various other EU policy areas complement and reinforce one another. As border management takes place at the external borders, cooperation and coordination between border management authorities and other relevant authorities, in particular customs authorities, is indispensable. In the new multiannual financial framework, strong synergies between funding instruments supporting these authorities will be ensured in order to maximise the impact of the EU budget in the area of migration and borders.

By ensuring that authorities responsible for border management and customs control have the necessary equipment and expertise at their disposal and that they work together in a seamless manner, we can make sure that irregular migration is reduced and that the inflow of dangerous or unwanted goods into the Union is diminished. The two components of the IBMF, the instrument for border management and visa and a newly established instrument for customs control equipment will contribute to this. The former instrument will ensure strong and effective border management while safeguarding the free movement of people, while the latter will support a well-functioning customs union. The former will focus exclusively on actions that relate to checks on persons in the context of border control, while the latter will target actions that relate to the purchase, maintenance and upgrading of equipment for customs control. It will cover equipment that can be used for checks of both goods and persons. This way, synergies between the two instruments forming part of the IBMF will be fully ensured.

Cooperation and coordination with other authorities in the field of migration and security is important to make integrated border management a success. These are authorities dealing with asylum, migration management, return and cross-border crime, as well as actors in the area of maritime security and surveillance.

The Asylum and Migration Fund (AMF) is the proposed future funding instrument that should support the work of national authorities in providing reception to asylum applicants and migrants when they arrive on EU territory as well as returning those who have no right to stay in the EU. The AMF and the instrument for border management and visa will operate in full

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<sup>7</sup> COM(2018) 321 final of 2 May 2018.

synergy to achieve a more significant impact of both Funds in the area of migration and border management. This is important to, for instance reduce the number of irregular migrants coming into the Union, as well as to make sure that those who have no right to stay are returned to their countries of origin.

The new Internal Security Fund (ISF) is the future funding instrument that should contribute to ensuring a high level of security in the Union, in particular by tackling terrorism and radicalisation, organised crime and cybercrime and by assisting and protecting victims of crime, in full coherence with actions supported by the future instrument for border management and visa.

The border management and visa instrument will enable also the purchase of multipurpose equipment for maritime surveillance, in order to maximise synergies in the area of maritime surveillance too.

Measures in and in relation to third countries supported through the instrument will be implemented in full synergy and coherence with, and will complement other actions outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence will be sought with the principles and general objectives of the Union's external action and foreign policy related to the country or region in question. In relation to the external dimension, the instrument for border management and visa will target support to enhance cooperation with third countries and to reinforce key aspects of their border surveillance and border management capabilities in areas of interest to the Union's migration policy and Union's security objectives.

## **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 TFEU, which underlines that these Union policies set out in Chapter 2 of Title 5 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 Regulation<sup>8</sup>, in order to improve the coordination and harmonise the implementation of

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<sup>8</sup> Regulation (EU) ../..

support under shared management, with the main aim of simplifying policy delivery<sup>9</sup>. The instrument for border management and visa will also be covered by this Regulation as regards the shared management part.

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

- **Variable geometry**

The measures proposed based on Article 77(2) TFEU, constitute developments of the Schengen *acquis*. As a consequence, Article 4 of Protocol (No 22) on the position of Denmark applies with regard to that Member State, as well as Article 4 of Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union with regard to Ireland.

The proposed measures constitute developments of the Schengen *acquis* regarding borders and visas to which four countries which are not Member States are associated on the basis of agreements with the Union. Once adopted, notified and accepted, the proposed measures will, as a consequence, apply also to those four countries.

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

Overall, external border management is an area where there is clear added value in Union intervention, as compared with Member States acting alone. The Union is in a better position than Member States to provide a framework for Union solidarity in border control, visa policy and the management of migration flows, and to provide a platform for the development of common IT systems supporting the implementation of these policies.

In that context, the financial support provided under this Regulation therefore contributes in particular to the strengthening of national and European capabilities in those areas. For that purpose, the Regulation aims *inter alia*:

- to support more systematically the services provided by individual Member States in securing the area without internal borders;
- to enhance the inter-agency cooperation between border and other law enforcement authorities; and
- to ensure that Member States have more specialised equipment available to put at the disposal of the European Border and Coast Guard Agency for joint operations in the interest of safeguarding the area without internal borders.

It is fully acknowledged that interventions should take place at an appropriate level and the role of the Union should not go beyond what is necessary.

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<sup>9</sup> COM(2018) 375 of 29 May 2018.



- **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 border management and the common visa policy.

- **Choice of instrument**

Regulation of the European Parliament and of the Council to establish, as part of the Integrated Border Management Fund, the instrument for border management and visa.

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

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

The proposal takes into account the results of evaluations of the previous funding instrument in the area of border management and visa. It builds on the *ex post* evaluation of the External Borders Fund, which was the Fund in the 2007-2013 programming period, and the interim evaluation of the Internal Security Fund instrument for external border and visa (ISF Borders and Visa), which is the Fund in the current (2014-2020) period.

As regards **effectiveness**, the ISF Borders and Visa is considered effective in the areas in which it intervenes, the common visa policy and border management. The Fund helped to facilitate legitimate travel and to reinforce Member States' national capacities in visa issuance. Its contribution to consular cooperation and to strengthening cooperation with third countries was so far limited in many Member States. The development of a common visa policy was supported through the establishment and operation of IT systems, with particular regard to national visa information systems. By reinforcing the border management capacity at the external borders of the Union, the Fund contributed to safeguarding the free movement of persons within the Schengen area. It contributed to the effectiveness of external border controls by supporting measures focused on the purchase, modernisation, upgrade and replacement of border control and surveillance equipment. Due to mainly external factors, limited progress was registered in promoting the development, implementation and enforcement of policies ensuring the absence of any control on persons. The cooperation between Member States was facilitated by the Fund and the cooperation between Member States and the European Border and Coast Guard Agency, including the purchase of equipment to be used in joint operations with the help of the Fund, contributed to solidarity and responsibility-sharing.

Overall, the evaluation, within the limits of data available, indicates that the results of the interventions were achieved at reasonable cost in terms of both human and financial resources. However, most Member States point to a need for additional guidance from the Commission on the implementation of the Fund. The perceived administrative burden can be considered a factor affecting efficiency. Despite a number of measures aimed at simplification and reducing administrative burden, Member States still perceive administrative burden as high and the implementation of the SCOs as problematic. Increased simplification has been noted under direct management.

The Fund's original rationale and objectives are still **relevant** in the aftermath of the migratory crisis. Appropriate mechanisms to address the changing needs were put in place at both the programming and implementation stages. The flexibility offered by ISF Borders and Visa, consisting of transfers of money between different objectives, helped to address the changing needs. However, Member States would appreciate the even greater flexibility that would come from removing the minimum allocations of funds to objectives and reducing the number of national objectives.

The Fund is considered to be **coherent** with other EU and national interventions. Coherence with other EU financing instruments was ensured at the programming stage. Coordinating mechanisms have been put in place to ensure continued coherence at the implementation stage. The monitoring committees and the responsible authorities play key roles in ensuring coherence. The Fund's objectives complement those of other national policies. Complementarity with other EU financing instruments was planned at the programming stage. Coordinating mechanisms have been put in place to ensure complementarity at the implementation stage, but could be further improved. The different implementation modes complement each other.

The Fund ensured **EU added value** through innovative investments in infrastructure and equipment. It supported cooperation between Member States. Training activities enabled by the Fund contributed to the harmonisation of practices between Member States. Greater EU added value could have been expected in the areas of consular cooperation, cooperation with non-EU countries and IT systems.

The **sustainability** of actions funded by ISF Borders and Visa relies on continued EU funding, as national funding appears to be insufficient to ensure a similar level of investment. Training activities play an important role in ensuring the sustainability of actions in the long term.

- **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 strongly emphasised the need for simplification in the delivery of home affairs funding instruments, greater flexibility (specifically in relation to the ability to respond to migration- and security-related crises) and for increased funding and support in areas with high levels of responsibility-sharing (such as border management) and/or cooperation between Member States and with the relevant Union agencies. Responses demonstrate that these measures can improve the effectiveness and efficiency of instruments, and EU added value. Stakeholders also pointed to the need for greater home affairs policy leverage in non-EU countries.

Member States and Schengen-associated countries were consulted in the framework of the AMIF-ISF Committee (representatives of the Member States' responsible authorities for AMIF and ISF). Member States provided input on the main funding priorities, problems, the architecture of the funds and delivery modes. Other key stakeholders and beneficiaries of AMIF and ISF funding through direct and indirect management, such as international organisations and civil society organisations, were also consulted, as were the relevant Union 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 relevant Union agencies, in line with their increasing activities. Stakeholders agreed on the need for more flexibility to be built into the structure of the Funds. They found that, in order to retain sufficient flexibility to be able to react to changing circumstances, the multiannual national programmes should be maintained. Non-governmental organisations were of the view that direct management should also be continued.

These consultations confirmed an overall consensus among key stakeholders on the need to retain a wide scope of action for EU funding in this policy area, including as regards its external dimension, enhancing the impact of home affairs policies, more simplification in delivery mechanisms and 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, *Border management and visas beyond 2020*, was carried out in 2017 by an external contractor, and the impact assessment was also supported by a study prepared by an external contractor 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 for this proposal covered the Asylum and Migration Fund, the new ISF and the IBMF (composed of the instrument for border management and visa and the instrument for customs control equipment). The summary sheet for 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 analysed various policy options in terms of how the funding will be delivered, addressing issues such as coherence and complementarities with other EU funding instruments, the external dimension of migration and security funding, flexibility in a stable financial environment (including the thematic facility), management modes, the possibility of providing emergency assistance and a possible mid-term review mechanism. The preferred option is a mix of options building on the results and recommendations of the *ex post* evaluation of previous Funds and the interim evaluation of current Funds.

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

Main considerations Regulatory Scrutiny Board	Modifications impact assessment report
The report does not explain how increasing EU competence in these areas [of home affairs] and expanded role of agencies will affect the overall	For the Asylum and Migration Fund, the Border Management and Visa Instrument (as part of the Integrated Border Management Fund) and the

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

flexibility provided by the thematic facility. It should explain the advantage of this mechanism over emergency funding in the previous programming period.	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) to present the measurement of the success of the programmes. This will be based on objectives set between Commission and Member States, to be agreed in the national programmes, and the subsequent measurement of achievements towards those objectives, through output and result indicators included in the legal proposals. Reporting requirements for shared management are laid down in the Common Provisions Regulation.

- **Regulatory fitness and simplification**

The Common Provisions Regulation<sup>10</sup> will ensure simplification of the instrument through the use, as far as possible, of common rules for the implementation of programmes. Furthermore, Member States will be encouraged to use even more simplified cost options. The audit approach will be streamlined to focus more on risk-based audit sampling and to follow the 'single audit' principle in order to reduce administrative burden.

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

- **Fundamental rights**

Financial support from the Union budget is indispensable to the implementation of European integrated border management to support Member States in their efforts to manage crossings of the external borders efficiently and to address migratory challenges and potential future threats at those borders, thereby helping to counter serious crime with a cross-border dimension. 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 the next multiannual financial framework includes EUR 8 018 000 000 (in current prices) for the instrument for border management and visa for the 2021-2027 period.

Implementation will be by means of shared, direct or indirect management. The global resources will be allocated as follows: approximately 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 and emergency assistance.

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<sup>10</sup> OJ L [...], [...], p.

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 monitoring and evaluation framework will be improved, *inter alia* through a better methodology for tracking investments across relevant Union funds, so as 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 mechanisms 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 2016, 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 instrument's effects on the ground based on indicators and targets and on a detailed analysis of the degree to which the instrument 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 issues or any potential to further improve the actions or their results and to help maximise the instrument's impact.

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

### • **Detailed explanation of the specific provisions of the proposal**

*Chapter I — General provisions* of the proposed Regulation sets out its purpose, scope and key definitions. It also sets out the objectives of the Regulation. The proposed scope of these articles builds largely on the current Regulation for the Internal Security Fund — Borders and Visa, while taking into account new policy developments, such as the establishment of the European Border and Coast Guard, including the European Border and Coast Guard Agency, the modernisation of the common visa policy and the development of new large-scale IT systems and their interoperability. Strong emphasis is put on supporting actions with a European dimension.

*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 this chapter lays down the common provisions. The proposal indicates an amount for the financial envelope for the instrument and its use through various implementation arrangements.

The second section describes the implementation framework for the shared management part of the instrument, notably as regards the programmes of the Member States. The conditions applying to actions supported under the Regulation are also set out, such as those relating to the purchase of equipment and training activities. The section sets out detailed arrangements

for the mid-term review of Member States' programmes and for the implementation of specific actions and operating support, including the Special Transit Scheme.

The third section lays down the provisions for actions implemented under direct and indirect management, while the fourth section lays down the provisions for emergency assistance, which can be implemented through shared, direct or indirect management.

The fifth and final section sets out necessary provisions on monitoring, reporting, information and communication requirements 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 is stipulated that the Regulation will be binding in its entirety and directly applicable in all Member States from 1 January 2021.

Proposal for a

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

**establishing, as part of the Integrated Border Management Fund, the instrument for financial support for border management and visa**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 77(2) and 79(2)(d) thereof

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>11</sup>,

Having regard to the opinion of the Committee of the Regions<sup>12</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the context of evolving migratory challenges in the European Union, as well as security concerns, preserving the careful balance between free movement of persons on the one hand, and security on the other is of utmost importance. The Union's objective of ensuring a high level of security within an area of freedom, security and justice pursuant to Article 67(3) of the Treaty on the Functioning of the Union (TFEU) should be achieved, among others, through common measures on the crossing of internal borders by persons and on border controls at external borders and the common visa policy.
- (2) Pursuant to Article 80 TFEU, these policies and their implementation should be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States.
- (3) In the Rome Declaration signed on 25 September 2017, leaders of 27 Member States affirmed their determination to a safe and secure Europe and to build a Union where all citizens feel safe and can move freely, where the external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms, as well as a Europe determined to fight terrorism and organised crime.
- (4) The objective of the Union's policy in the field of external border management is to develop and implement European integrated border management at national and Union level, which is a precondition for the free movement of persons within the Union and is a fundamental component of an area of freedom, security and justice.
- (5) European integrated border management, as implemented by the European Border and Coast Guard, established by Regulation (EU) 2016/1624 of the European Parliament and of the

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<sup>11</sup> OJ C [...], [...], p. [...].

<sup>12</sup> OJ C [...], [...], p. [...].



Council<sup>13</sup>, composed of the European Border and Coast Guard Agency and the national authorities responsible for border management, including coast guards to the extent that they carry out border control tasks, is necessary for improving migration management and security.

- (6) Facilitating legitimate travel, while preventing irregular migration and security risks, was identified as one of the main objectives of the Union's response to the challenges in these areas in the Commission's Communication on *A European Agenda on Migration*<sup>14</sup>.
- (7) The European Council of 15 December 2016<sup>15</sup> called for continued delivery on the interoperability of EU information systems and databases. The European Council of 23 June 2017<sup>16</sup> underlined the need to improve interoperability between databases and on 12 December 2017 the Commission adopted a proposal for a Regulation on establishing a framework for interoperability between EU information systems<sup>17</sup>.
- (8) To preserve the integrity of the Schengen area and to strengthen its functioning, Member States have, since 6 April 2017, been obliged to carry out systematic checks against relevant databases on EU citizens who are crossing the EU's external borders. Furthermore, the Commission issued a Recommendation to Member States to make better use of police checks and cross-border cooperation.
- (9) Financial support from the Union budget is indispensable to the implementation of European integrated border management to support Member States in managing the crossing of the external borders efficiently and in addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension while acting in full respect of fundamental rights.
- (10) To promote the implementation of the European integrated border management defined by its components in accordance with Article 4 of Regulation (EU) 2016/1624: border control, search and rescue during border surveillance, risk analysis, cooperation between Member States (supported and coordinated by the European Border and Coast Guard Agency), inter-agency cooperation (including the regular exchange of information), cooperation with third countries, technical and operational measures within the Schengen area related to border control and designed to address illegal immigration and to counter cross-border crime better, use of state-of-the-art technology, quality control and solidarity mechanisms, and to ensure that it becomes an operational reality, Member States should be provided with adequate Union financial support.
- (11) As customs authorities of the Member States have been taking up an increasing number of responsibilities which often extend to the field of security and take place at the external border, ensuring uniformity in carrying out border control and customs control at the external borders needs to be addressed by providing adequate Union financial support to the Member States. This will not only strengthen customs controls but also facilitate legitimate trade, contributing to a secure and efficient customs union.

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<sup>13</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and 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).

<sup>14</sup> COM(2015) 240 final of 13 May 2015.

<sup>15</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/12/15/euco-conclusions-final/>

<sup>16</sup> [European Council conclusions](#), 22-23 June 2017.

<sup>17</sup> COM(2017) 794 final.

- (12) It is therefore necessary to establish the successor fund of the 2014-2020 Internal Security Fund established by Regulation (EU) No 515/2014 of the European Parliament and of the Council<sup>18</sup> by setting up an Integrated Border Management Fund ('the Fund').
- (13) Due to the legal particularities applicable to Title V of the TFEU and the different applicable legal bases regarding the policies on external borders and on customs control, it is not legally possible to establish the Fund as a single instrument.
- (14) The Fund should therefore be established as a comprehensive framework for Union financial support in the field of border management and visa comprising the instrument for financial support for border management and visa ('the instrument') established by this Regulation as well as the instrument for financial support for customs control equipment established by Regulation (EU) No .../...<sup>19</sup> of the European Parliament and of the Council. The framework should be complemented by Regulation (EU) No .../... [Common Provisions Regulation] of the European Parliament and of the Council<sup>20</sup>, to which this Regulation should refer as regards rules on shared management.
- (15) The instrument 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.
- (16) The instrument should build on the results and investments achieved with the support of its predecessors: the External Borders Fund for the period 2007-2013 established by Decision No 574/2007/EC of the European Parliament and of the Council<sup>21</sup> and the instrument for external borders and visa as part of the Internal Security Fund for the period 2014-2020 established by Regulation (EU) No 515/2014<sup>22</sup>, and should extend it to take into account new developments.
- (17) To ensure a uniform and high-quality external border control and to facilitate legitimate travel across the external borders, the instrument should contribute to the development of European integrated border management that includes all the measures involving policy, law, systematic cooperation, burden-sharing, assessment of the situation and changing circumstances regarding crossing points for irregular migrants, personnel, equipment and technology taken at different levels by the competent authorities of the Member States and by the European Border and Coast Guard Agency, acting in cooperation with other actors such as third countries and other EU bodies, in particular the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), Europol and international organisations.
- (18) The instrument should contribute to the improvement of the efficiency of visa processing in terms of detecting and assessing security and irregular migration risks, as well as facilitating visa procedures for *bona fide* travellers. In particular, the instrument should deliver financial assistance to support digitalisation of visa processing with the objective to provide fast, secure and client-friendly visa procedures for the benefit of both visa applicants and consulates. The instrument should also serve to ensure wide consular coverage across the world. The uniform

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<sup>18</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

<sup>19</sup> OJ L [...], [...], p.

<sup>20</sup> OJ L [...], [...], p.

<sup>21</sup> OJ L 144, 6.6.2007, p. 22.

<sup>22</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

implementation of the common visa policy and its modernisation should also be covered by the instrument.

- (19) The instrument should support measures in the territory of the Schengen countries that are linked to border control as part of the development of a common integrated border management system, which strengthens the overall functioning of the Schengen area.
- (20) With a view to improving the management of the external borders, to contribute to preventing and combating irregular migration and to contribute to a high level of security within the area of freedom, security and justice of the Union, the instrument should support the development of large-scale IT systems, based on existing or new IT systems. It should also support the setting-up of interoperability between those EU information systems (Entry-exit system (EES)<sup>23</sup>, the Visa Information System (VIS)<sup>24</sup>, the European Travel Information and Authorisation System (ETIAS)<sup>25</sup>, Eurodac<sup>26</sup>, the Schengen Information System (SIS)<sup>27</sup> and the European Criminal Records Information System for third-country nationals (ECRIS-TCN)<sup>28</sup> in the Member States, in order for these EU information systems and their data to supplement each other. The instrument should also contribute to the necessary developments at national level following the implementation of the interoperability components at central level (European search portal (ESP), a shared biometric matching service (shared BMS), a common identity repository (CIR) and a multiple-identity detector (MID))<sup>29</sup>.
- (21) The instrument should complement and reinforce the activities to implement European integrated border management in line with shared responsibility and solidarity between the Member States and the European Border and Coast Guard Agency representing the two pillars of the European Border and Coast Guard. This means, in particular that, when drawing up their programmes, Member States should take into account the analytical tools and operational and technical guidelines developed by the European Border and Coast Guard Agency as well as the training curricula developed by it, such as the common core curricula for the training of border guards, including its components with regard to fundamental rights and access to international protection. In order to develop complementarity between its mission and the responsibilities of the Member States for the control of the external borders as well as to ensure consistency and to avoid cost inefficiency, the Commission should consult the European Border and Coast Guard Agency on the draft national programmes submitted by the Member States in as far as it falls within the Agency's competencies, in particular on the activities financed under operating support.
- (22) The instrument should support the implementation of the hotspot approach as outlined in the Commission's Communication on *A European Agenda on Migration* and endorsed by the European Council of 25 and 26 June 2015<sup>30</sup>. The hotspot approach provides operational support

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<sup>23</sup> Regulation (EU) 2017/2226 of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

<sup>24</sup> Regulation (EC) No 767/2008/EC of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

<sup>25</sup> COM(2016) 731 final of 16 November 2016.

<sup>26</sup> COM(2016) 272 final/2 of 4 May 2016.

<sup>27</sup> COM(2016) 881 final, 882 final and 883 final of 21 December 2016.

<sup>28</sup> COM(2017) 344 final of 29 June 2017.

<sup>29</sup> COM(2017) 794 final of 12 December 2017.

<sup>30</sup> EUCO 22/15 CO EUR 8 CONCL 3.

to Member States affected by disproportionate migratory pressure at the Union's external borders. It offers integrated, comprehensive and targeted assistance in a spirit of solidarity and shared responsibility as well as with a view to safeguarding the integrity of the Schengen area.

- (23) In the interest of solidarity in the Schengen area as a whole and in the spirit of shared responsibility for the protection of the Union's external borders, where weaknesses or risks are identified, in particular following a Schengen evaluation in accordance with Council Regulation (EU) No 1053/2013<sup>31</sup>, the Member State concerned should adequately address the matter by using resources under its programme to implement recommendations adopted pursuant to that Regulation and in line with vulnerability assessments carried out by the European Border and Coast Guard Agency in accordance with Article 13 of Regulation (EU) 2016/1624.
- (24) The instrument should express solidarity and shared responsibility through financial assistance for those Member States that fully apply the Schengen provisions on external borders and visas as well as those which are preparing for full participation in Schengen, and should be used by the Member States in the interests of the Union's common policy for the management of the external borders.
- (25) In accordance with Protocol No 5 to the 2003 Act of Accession<sup>32</sup> on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, the instrument should bear any additional cost incurred in implementing the specific provisions of the Union *acquis* covering such transit, namely Council Regulation (EC) No 693/2003<sup>33</sup> and Council Regulation (EC) No 694/2003<sup>34</sup>. The need for continued financial support for foregone fees, however, should be dependent upon the visa regime of the Union in force with the Russian Federation.
- (26) To contribute to the achievement of the policy objective of the instrument, Member States should ensure that their programmes address the specific objectives of the instrument, that the priorities chosen are in line with the agreed EU priorities and the implementing measures as set out in Annex II and that the allocation of resources between objectives and actions is proportionate to the challenges and needs they are faced with.
- (27) Synergies, consistency and efficiency should be sought with other EU Funds and overlap between the actions should be avoided.
- (28) Return of third-country nationals who are the subject of return decisions issued by a Member State is one of the components of European integrated border management as outlined in Regulation (EU) 2016/1624. However, due to its nature and objective, measures in the field of return fall outside the scope of support of the instrument and are covered by Regulation (EU) No .../... [new AMF]<sup>35</sup>.
- (29) To acknowledge the important role of the Member States' customs authorities at the external borders and to ensure that they have at their disposal sufficient means to implement their broad

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<sup>31</sup> Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* (OJ L 295, 6.11.2013, p. 27).

<sup>32</sup> OJ L 236, 23.9.2003, p. 946.

<sup>33</sup> Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual (OJ L 99, 17.4.2003, p. 8).

<sup>34</sup> Council Regulation (EC) No 694/2003 of 14 April 2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003 (OJ L 99, 17.4.2003, p. 15).

<sup>35</sup> OJ L [...], [...], p.

scope of tasks at these borders, the instrument for financial support for customs control equipment established by Regulation (EU) No .../... [new Customs Control Equipment Fund] of the European Parliament and of the Council should provide these national authorities with the necessary funding to invest in equipment to carry out customs control as well as equipment that can in addition to customs control serve other purposes such as border control.

- (30) Most customs control equipment may be equally or incidentally fit for controls of compliance with other legislation, such as provisions on border management, visa or police cooperation. The Integrated Border Management Fund has therefore been conceived as two complementary instruments with distinct but coherent scopes for the purchase of equipment. On the one hand, the instrument for border management and visa established by this Regulation will exclude equipment that can be used for both border management and customs control. On the other hand, the instrument for customs control equipment will not only support financially equipment with customs controls as the main purpose but will also allow its use as well for additional purposes such as border controls and security. This distribution of roles will foster inter-agency cooperation as a component of the European integrated border management approach, as referred to in Article 4(e) of Regulation (EU) 2016/1624, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and inter-operability of control equipment.
- (31) Border surveillance at sea is considered one of the coastguard functions performed in the Union maritime domain. National authorities carrying out coast guard functions are also responsible for a wide range of tasks, which may include, but would not be limited to, maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection. The broad scope of coastguard functions brings them under the remit of different Union policies which should seek synergies to achieve more effective and efficient results.
- (32) In addition to the Union cooperation on coastguard functions among the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624, the European Maritime Safety Agency established by Regulation (EC) 1406/2002 of the European Parliament and of the Council<sup>36</sup> and the European Fisheries Control Agency established by Council Regulation (EC) No 768/2005<sup>37</sup>, improved coherence of the activities in the maritime domain should also be achieved at national level. Synergies between the various actors in the maritime environment should be in line with European integrated border management and maritime security strategies.
- (33) To strengthen the complementarity and to reinforce the consistency of maritime activities as well as to avoid duplication of efforts and to alleviate budgetary constraints in an area of costly activities such as the maritime domain, the instrument should support maritime operations of multipurpose character where the main objective is border surveillance but other objectives could additionally be pursued simultaneously.
- (34) Measures in and in relation to third countries supported through the instrument should be implemented in full synergy and coherence with and should complement other actions outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general

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<sup>36</sup> Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

<sup>37</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p. 1).

objectives of the Union's external action and foreign policy related to the country or region in question. In relation to the external dimension, the instrument should target support to enhance cooperation with third countries and to reinforce key aspects of their border surveillance and border management capabilities in areas of interest to the Union's migration policy and Union's security objectives.

- (35) Funding from the Union budget should concentrate on activities where Union intervention can bring added value as compared to actions by Member States alone. As the Union is in a better position than Member States to provide a framework for expressing Union solidarity in border control, common visa policy and the management of migration flows, and to provide a platform for the development of common IT systems underpinning those policies, financial support provided under this Regulation will contribute in particular to strengthening national and Union capabilities in those areas.
- (36) 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 instrument, if it has failed to fulfil its obligations under the Treaties in the areas of border management and visa, if there is a clear risk of a serious breach by the Member State of the Union's values when implementing the *acquis* on border management and visa or if an evaluation report under the Schengen evaluation and monitoring mechanism has identified deficiencies in the relevant area.
- (37) The instrument should reflect the need for increased flexibility and simplification while respecting requirements in terms of predictability, and ensuring a fair and transparent distribution of resources to meet the objectives laid down in this Regulation.
- (38) This Regulation should establish the initial amounts for Member States' programmes calculated on the basis of criteria laid down in Annex I, which reflect the length and the threat levels at land and sea border sections, the workload at the airports and the consulates as well as the number of consulates.
- (39) These initial amounts will form a basis for Member States' long term investments. To take account of changes in the baseline situation, such as the pressure on the Union external border and the workload at the external borders and at consulates, an additional amount will be allocated to the Member States at mid-term and will be based on the latest available statistical data as set out in the distribution key taking into account the state of programme implementation.
- (40) As challenges in the area of border management and visas are constantly evolving there is a need to adapt the allocation of funding to the changes in migration flows, pressure at the border and security threats and steer funding towards the priorities with the highest added value for the Union. To respond to pressing needs, changes in policy and Union priorities and to steer funding towards actions with a high level of added value for the Union, part of the funding will be periodically allocated to specific actions, Union actions and emergency assistance, via a thematic facility.
- (41) 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.
- (42) The instrument should contribute to supporting operating costs related to border management, common visa policy and large-scale IT systems and should thereby enable Member States to maintain capabilities which are crucial for the Union as a whole. Such support consists of full reimbursement of specific costs related to the objectives of the instrument and should form an integral part of the Member States' programmes.
- (43) Part of the available resources under the instrument could also be allocated to Member States' programmes for the implementation of specific actions in addition to their 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, such as the purchase through the national programmes of Member States of technical equipment needed by the European Border and Coast Guard Agency to perform its operational activities, the modernisation of the processing of visa applications, the development of new large-scale IT systems and the setting-up of interoperability between those systems. These specific actions will be defined by the Commission in its work programmes.

- (44) To complement the implementation of the policy objective of this instrument at national level through Member States' programmes, the instrument should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the instrument relating to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.
- (45) In order to strengthen the Union's capacity to immediately address unforeseen or disproportionate migratory pressure, in particular at those border sections where the impact level has been identified in line with Regulation (EU) No 1052/2013 of the European Parliament and of the Council<sup>38</sup> as such that it jeopardises the functioning of the Schengen area as a whole, as well as pressure on the visa sections of Member States' consulates or risks to border security, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.
- (46) The policy objective of this instrument will be also addressed through financial instruments and budgetary guarantee under the policy window(s) [...] of the InvestEU Fund. 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.
- (47) This Regulation lays down a financial envelope for the entire instrument which is to constitute the prime reference amount, within the meaning of [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 management]<sup>39</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (48) Regulation (EU, Euratom) No .../... [new Financial Regulation] ('Financial Regulation')<sup>40</sup> applies to this instrument. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation is to apply to the actions to be implemented in direct or indirect management under the instrument.
- (49) For the purpose of implementation of actions under shared management, the instrument should form part of a coherent framework consisting of this Regulation, the Financial Regulation and Regulation (EU) No .../... [CPR].
- (50) Regulation (EU) No .../... [CPR] establishes the framework for action by the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion

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<sup>38</sup> Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

<sup>39</sup> OJ C [...], [...], p. [...].

<sup>40</sup> OJ C [...], [...], p. [...].

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

- (51) 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.
- (52) In accordance with Regulation (EU) No .../... [new Financial Regulation]<sup>41</sup>, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>42</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>43</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>44</sup> and Council Regulation (EU) 2017/1939<sup>45</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>46</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (53) 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

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<sup>41</sup> OJ C [...], [...], p. [...].

<sup>42</sup> Regulation (EU, Euratom ) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248 18.9.2013, p. 1).

<sup>43</sup> 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).

<sup>44</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>45</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>46</sup> Directive (EU) 2017/1939 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).



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

- (54) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>47</sup>, persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.
- (55) 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*, endorsed by the Council in its conclusion of 12 April 2018, the relevant Member States should ensure that their national programmes address emerging threats the outermost regions are confronted with. The instrument supports these Member States with adequate resources to help the outermost regions as appropriate.
- (56) Pursuant to paragraph 22 and 23 of the Interinstitutional Agreement for Better Law-Making of 13 April 2016<sup>48</sup>, there is a need to evaluate this instrument 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 instrument on the ground. In order to measure the achievements of the instrument, indicators and related targets should be established in relation to each specific objective of the instrument.
- (57) 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 instrument 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 preparation and implementation of the instrument, and reassessed in the context of the relevant evaluations and review processes.
- (58) Through the indicators and financial reporting, the Commission and the Member States should monitor the implementation of the instrument, in accordance with the relevant provisions of Regulation (EU) No .../... [CPR] and this Regulation.
- (59) In order to supplement and amend non-essential elements of this Regulation the power to adopt acts in accordance with Article 290 the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the list actions eligible for higher co-financing as listed in Annex IV, operating support and in order to further develop the common monitoring and evaluation framework. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016<sup>49</sup>.

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<sup>47</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).

<sup>48</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

<sup>49</sup> OJ L 123, 12.5.2016, p. 1.

- (60) 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 Parliament and of the Council<sup>50</sup>. The examination procedure should be used for implementing acts that lay down common obligations on Member States, in particular on the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the modalities of providing information to the Commission in the framework of programming and reporting, given their purely technical nature.
- (61) Participation by a Member State in this instrument should not coincide with its participation in a temporary financial instrument of the Union which supports the beneficiary Member States to finance, among others, actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visas and external border control.
- (62) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*<sup>51</sup> which falls within the areas referred to in Article 1, Points A and B of Council Decision 1999/437/EC<sup>52</sup>.
- (63) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>53</sup> which falls within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>54</sup>.
- (64) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>55</sup> which falls within the area referred to in Article 1, Points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>56</sup>.

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<sup>50</sup> OJ L 55, 28.2.2011, p. 13.

<sup>51</sup> OJ L 176, 10.7.1999, p. 36.

<sup>52</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>53</sup> OJ L 53, 27.2.2008, p. 52.

<sup>54</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>55</sup> OJ L 160, 18.6.2011, p. 21.

<sup>56</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

- (65) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to TEU and TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark should, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement this Regulation in its national law.
- (66) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>57</sup>. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (67) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) .../... [Multiannual Financial Framework Regulation]<sup>58</sup>,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

1. This Regulation establishes the instrument for financial support for border management and visa ('the instrument') as part of the Integrated Border Management Fund ('the Fund').
2. Jointly with Regulation (EU) No .../... [Customs Control Equipment Fund], establishing as part of the [Integrated Border Management Fund]<sup>59</sup> the instrument for financial support for customs control equipment, this Regulation establishes the Fund.
3. It lays down the objectives of the instrument, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

#### *Article 2*

##### **Definitions**

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

- (1) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (2) 'border crossing point' means any crossing point authorised by the competent authorities for the crossing of external borders as notified in accordance with

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<sup>57</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<sup>58</sup> OJ L [...], [...], p.

<sup>59</sup> OJ L [...], [...], p.

Article 2(8) of Regulation (EU) 2016/399 of the European Parliament and of the Council<sup>60</sup>;

- (3) ‘European integrated border management’ means the components listed in Article 4 of Regulation (EU) 2016/1624;
- (4) ‘external borders’ means the borders of the Member States: land borders, including river and lake borders, sea borders as well as their airports, river ports, sea ports and lake ports to which the provisions of Union law on the crossing of external borders apply, including those internal borders at which the controls have not been lifted yet;
- (5) ‘external border section’ means the whole or a part of the external land or sea border of a Member State as defined by Regulation (EU) No 1052/2013;
- (6) ‘hotspot area’ means the hotspot area defined in Article 2(10) of Regulation (EU) 2016/1624;
- (7) ‘internal borders at which the controls have not been lifted yet’ means:
  - (a) the common border between a Member State fully implementing the Schengen *acquis* and a Member State bound to apply the Schengen *acquis* in full, in conformity with its Act of Accession, but for which the relevant Council Decision authorising it to fully apply that *acquis* has not yet entered into force;
  - (b) the common border between two Member States bound to apply the Schengen *acquis* in full, in conformity with their respective Acts of Accession, but for which the relevant Council Decision authorising them to fully apply that *acquis* has not yet entered into force.

### Article 3

#### Objectives of the instrument

1. As part of the Integrated Border Management Fund, the policy objective of the instrument shall be ensuring strong and effective European integrated border management at the external borders while safeguarding the free movement of persons within it, in full compliance with the Union’s commitments on fundamental rights, thereby contributing to guaranteeing a high level of security in the Union.
2. Within the policy objective set out in paragraph 1, the instrument shall contribute to the following specific objectives:
  - (a) supporting effective European integrated border management at the external borders implemented by the European Border and Coast Guard as a shared responsibility of the European Border and Coast Guard Agency and of the national authorities responsible for border management, to facilitate legitimate border crossings, to prevent and detect illegal immigration and cross-border crime and to effectively manage migratory flows;
  - (b) supporting the common visa policy to facilitate legitimate travel and prevent migratory and security risks.
3. Within the specific objectives set out in paragraph 2, the instrument shall be implemented through the implementation measures listed in Annex II.

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<sup>60</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

## *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 instrument shall in particular support the actions listed in Annex III.
2. To achieve the objectives of this Regulation, the instrument may support actions in line with Union priorities as referred to in Annex III in relation to and in third countries, where appropriate, in accordance with Article 5.
3. The following actions shall not be eligible:
  - (a) the actions referred to in paragraph 1(a) of Annex III at those internal borders at which controls have not been lifted yet;
  - (b) the actions related to the temporary and exceptional reintroduction of border control at internal borders as referred to in Regulation (EU) 2016/399;
  - (c) as regards the control of goods:
    - (1) actions of which the exclusive aim or effect is control of goods;
    - (2) purchase, maintenance or upgrading of equipment, excluding means of transport, of which one of the aims or effects is control of goods;
    - (3) other actions under this Regulation of which the primary aim or effect is the control of goods.

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

## *Article 5*

### **Eligible entities**

1. The following entities may be eligible:
  - (a) legal entities established in any of the following countries:
    - (i) a Member State or an overseas country or territory linked to it;
    - (ii) third country listed in the work programme under the conditions specified therein.
  - (b) any legal entity created under Union law or any international organisation.
2. Natural persons are not eligible.
3. Legal entities established in a third country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.
4. Legal entities participating in consortia of at least two independent entities, established in different Member States or overseas countries or territories linked to those states or in third countries, are eligible.

# CHAPTER II

## FINANCIAL AND IMPLEMENTATION FRAMEWORK

### SECTION 1

#### *COMMON PROVISIONS*

##### *Article 6*

##### **General principles**

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

##### *Article 7*

##### **Budget**

1. The financial envelope for the implementation of the instrument for the period 2021-2027 shall be EUR 8 018 000 000 in current prices.
2. The financial envelope shall be used as follows:
  - (a) EUR 4 811 000 000 shall be allocated to the programmes implemented under shared management, of which EUR 157 200 000 for the Special Transit Scheme referred to in Article 16, implemented under shared management;
  - (b) EUR 3 207 000 000 shall be allocated to the thematic facility.
3. Up to 0.52 % of the financial envelope shall be allocated for technical assistance at the initiative of the Commission for the implementation of the instrument.
4. Under the relevant provisions of their association agreements, arrangements shall be made in order to specify the nature and modalities of the participation by countries associated with the implementation, application and development of the Schengen *acquis*. The financial contributions from those countries shall be added to the overall resources available from the Union budget referred to in paragraph 1.

##### *Article 8*

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

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

- (b) Union actions and
- (c) and emergency assistance.

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

2. Funding from the thematic facility shall address priorities with a high added value to the Union or 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 TFEU that puts at risk the legality and regularity of expenditure or the performance of projects.
4. When funding from the thematic facility is implemented in shared management, the Commission shall, for the purposes of Article 18 and Article 19(2) of Regulation (EU) No .../... [CPR], assess whether the foreseen actions are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 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.
6. The Commission shall adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility, identifying the objectives and the 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.
7. Following the adoption of a financing decision as referred to in paragraph 3, the Commission may amend the programmes implemented under shared management accordingly.
8. The financing decisions may be annual or multiannual and may cover one or more components of the thematic facility.

## **SECTION 2**

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

#### *Article 9*

##### **Scope**

1. This section applies to the part of the financial envelope referred to in Article 7(2)(a), and the additional resources to be implemented under shared management according to the Commission decision for the thematic facility referred to in Article 8.
2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and Regulation (EU) No .../... [CPR].

## Article 10

### Budgetary resources

1. Resources referred to in Article 7(2)(a) shall be allocated to the national programmes implemented by Member States under shared management ('the programmes') indicatively as follows:
  - (a) EUR 4 009 000 000 to the Member States in accordance with the criteria in Annex I;
  - (b) EUR 802 000 000 to the Member States for the adjustment of the allocations for the programmes as referred to in Article 13(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 7(2)(b).

## Article 11

### Co-financing rates

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure of a project.
2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.
3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for the 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, including the Special Transit Scheme.
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 instrument for the types of action 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 contribution, or
  - (b) public contribution only.

## Article 12

### 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 border management and visa, and that they 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 implementing measures as set out in Annex II are adequately addressed.
2. The Commission shall ensure that the European Border and Coast Guard Agency and where appropriate, eu-LISA, are associated with the process of developing the programmes of Member States at an early stage, in so far as it falls within the agencies' competencies.



3. It shall consult the European Border and Coast Guard Agency on the draft programmes with a specific emphasis on the activities included under operating support in line with Article 3(2)(a) to ensure consistency and complementarity of the actions of the Agency and those of the Member States regarding border management as well as to avoid double financing and to achieve cost efficiency.
4. The Commission may associate the European Border and Coast Guard Agency, and where appropriate, eu-LISA, with monitoring and evaluation tasks as referred to in Section 5, in particular in view of ensuring that the actions implemented with the support of the instrument are compliant with the relevant Union *acquis* and agreed Union priorities.
5. Following the adoption of recommendations within the scope of this Regulation in accordance with Regulation (EU) No 1053/2013, and the recommendations issued in the framework of carrying out vulnerability assessments in accordance with Regulation (EU) 2016/1624, the Member State concerned shall examine, together with the Commission, the most appropriate approach to address these recommendations with the support of this instrument.
6. The Commission shall, where relevant, associate the European Border and Coast Guard Agency with the process of examination on the most appropriate approach to address the recommendations with the support of this instrument.
7. When implementing paragraph 5, the Member State concerned shall make the implementation of measures to address any identified deficiencies, especially measures to address serious deficiencies and non-compliant assessments, a priority for its programme.
8. Where necessary, the programme in question shall be amended to take into account the recommendations referred to in paragraph 5. Depending on the impact of the adjustment, the revised programme may be approved by the Commission.
9. In cooperation and consultation with the Commission and the European Border and Coast Guard Agency in accordance with the Agency's competencies, the Member State concerned may reallocate resources under its programme, including those programmed for operating support, with the aim of addressing the recommendations referred to in paragraph 5 which have financial implications.
10. Whenever a Member State decides to implement projects with or in a third country with the support of the instrument, the Member State concerned shall consult the Commission prior to the start of the project.
11. Whenever a Member State decides to implement actions with or in a third country with the support of the instrument relating to monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating illegal immigration and cross-border crime or contributing to the protection and saving the lives of migrants, it shall ensure that it has notified the Commission of any bilateral or multilateral cooperation agreement with that third country in accordance with Article 20 of Regulation (EU) No 1052/2013.
12. As regards operating equipment, including means of transport, and communication systems required for effective and secure border control purchased with the support of this instrument, the following shall apply:
  - (a) before launching the purchase procedures to acquire operating equipment, including means of transport, and communication systems with the support of the instrument, the Member States shall ensure that this equipment complies with the standards established by the European Border and Coast Guard Agency, where such standards exist, and shall verify with the European Border and Coast Guard Agency their technical specifications

with the aim of ensuring interoperability of the assets used by the European Border and Coast Guard;

- (b) all large-scale operating equipment for border management, such as aerial and maritime means of transport and surveillance purchased by the Member States shall be registered in the technical equipment pool of the European Border and Coast Guard Agency in view of making these assets available in accordance with Article 39(8) of Regulation (EU) 2016/1624;
  - (c) Member States may decide to purchase items for multi-purpose maritime operations supported by the instrument, provided that these items when operated by the relevant national authorities are involved in border surveillance operations at least 60 % of the total period of use for national purposes within a year. These items shall be registered at the technical equipment pool of the European Border and Coast Guard Agency in view of making these assets available in accordance with Article 39(8) of Regulation (EU) 2016/1624;
  - (d) in order to support the coherent capability development planning for the European Border and Coast Guard and the possible use of joint procurement, Member States shall communicate to the Commission as part of the reporting in line with Article 27 the available multiannual planning for the equipment expected to be purchased under the instrument. The Commission shall transmit this information to the European Border and Coast Guard Agency.
13. Training in the field of border management carried out with the support of this instrument shall be based on the relevant harmonised and quality-assured European education and common training standards for border and coast guarding.
14. Member States shall pursue in particular the actions listed in Annex IV. 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 29 to amend Annex IV.
15. Programming as referred to in Article 17(5) of Regulation (EU) No .../... [CPR] shall be based on the types of intervention set out in Table 1 of Annex VI.

### *Article 13*

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

- 1. In 2024 the Commission shall allocate to the programmes of Member States concerned the additional amount referred to in Article 10(1)(b) in accordance with the criteria referred to in paragraph 1(c) of and in paragraphs 2 to 11 of Annex I. The allocation shall be based on the latest available statistical data for the criteria referred to in paragraph 1(c) and in paragraphs 2 to 11 of Annex I. Funding shall be effective for the period as of the calendar year 2025.
- 2. If at least 10 % of the initial allocation of a programme referred to in Article 10(1)(a) has not been covered by interim payment applications submitted in accordance with Article 85 of Regulation (EU) No .../... [CPR], the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in paragraph 1.
- 3. The allocation of the funds from the thematic facility as from 2025 shall, where appropriate, take into account the progress made in achieving the milestones of the performance framework as referred to in Article 12 of Regulation (EU) No .../... [CPR] and identified implementation shortcomings.

## Article 14

### Specific actions

1. Specific actions are transnational or national projects in line with the objectives of this Regulation for which one, several or all Member States may receive an additional allocation to their programmes.
2. Member States may, in addition to their allocation calculated in accordance with Article 10(1), receive funding for specific actions, provided that it is consequently earmarked as such in the programme and is used to contribute to the implementation of the objectives of this Regulation.
3. 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 15

### Operating support

1. Operating support is a part of a Member State's allocation which may be used as support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
2. A Member State may use up to 30 % of the amount allocated under the instrument to its programme to finance operating support to the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union.
3. Member States using operating support shall comply with the Union *acquis* on borders and visas.
4. Member States shall justify in the programme and in the annual performance reports as referred to in Article 27 the use of operating support to achieve the objectives of this Regulation. Before the approval of the programme, the Commission shall, following a consultation of the European Border and Coast Guard Agency as regards the Agency's competencies in accordance with Article 12(3), assess the baseline situation in the Member States which have indicated their intention to use operating support, taking into account the information provided by those Member States and, where relevant, the information available in the light of Schengen evaluations and vulnerability assessments, including the recommendations following Schengen evaluations and vulnerability assessments.
5. Without prejudice to Article 4(3)(c), 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 29 to amend the specific tasks and services in Annex VII.

## Article 16

### Operating support for the Special Transit Scheme

1. The instrument shall provide support to compensate for foregone fees from visas issued for the purpose of transit and additional costs incurred in implementing the facilitated transit document (FTD) and the facilitated rail transit document (FRTD) scheme in accordance with Regulation (EC) No 693/2003 and Regulation (EC) No 694/2003.

2. The resources allocated to Lithuania for the Special Transit Scheme pursuant to Article 7(2)(a) shall be made available as additional operating support for Lithuania, in line with the eligible actions for operating support within the programme, as referred to in Annex VII.
3. By way of derogation from Article 15(2), Lithuania may use the amount allocated to it in line with Article 7(2)(a) to finance operating support in addition to the amount defined in Article 15(2).
4. The Commission and Lithuania shall review the application of this Article in the event of changes which have an impact on the existence or functioning of the Special Transit Scheme.

### **SECTION 3**

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

##### *Article 17*

##### **Scope**

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

##### *Article 18*

##### **Union actions**

1. Union actions are transnational projects or projects of particular interest to the Union, in line with the objectives of this Regulation.
2. At the Commission's initiative, the instrument may be used to finance Union actions concerning the objectives of this Regulation as referred to in Article 3 and in accordance with Annexes II and 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) No .../... [Successor of the Regulation on the Guarantee Fund] shall apply.

##### *Article 19*

##### **Blending operations**

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

#### *Article 20*

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

The instrument 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 21*

### **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 the Financial Regulation.

#### *Article 22*

### **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 this instrument, its actions and results. Financial resources allocated to this instrument 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 23*

### **Emergency assistance**

1. The instrument shall provide financial assistance to address urgent and specific needs in the event of an emergency situation resulting from an urgent and exceptional pressure where a large or disproportionate number of third-country nationals have crossed, are crossing or are expected to cross the external borders of one or more Member States, in particular at border sections where the impact level has been identified as such that it jeopardises the functioning of the whole Schengen area, or any other situation of urgent and exceptional pressure within the scope of this Regulation that requires immediate action.
2. Emergency assistance may take the form of grants awarded directly to the decentralised agencies.
3. Emergency assistance may be allocated to Member States' programmes in addition to their allocation calculated in accordance with Article 10(1), provided that it is consequently 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 24*

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

1. An action that has received a contribution under the instrument may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. Actions awarded a seal of Excellence certification, or which comply with the following cumulative comparable conditions:
  - (a) they have been assessed in a call for proposals under the 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) No .../... [CPR] and Article 8 of Regulation (EU) No .../... [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 or instrument providing support shall apply.

## **SECTION 5**

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

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

## *Article 25*

### **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 29 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 instrument towards the achievement of the objectives of this Regulation are set out in Annex VIII. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.
4. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where relevant, the Member States.

5. In order to ensure effective assessment of the progress of the instrument towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 29 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 information to be provided by the Member States.

#### *Article 26*

#### **Evaluation**

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

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

#### *Article 27*

#### **Annual performance reports**

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

#### *Article 28*

##### **Monitoring and reporting**

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) No .../... [CPR] 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 Annex VI in accordance with Article 29.
2. The common indicators shall be used in accordance with Articles 12(1), 17 and 37 of Regulation (EU) No .../... [CPR].

### **CHAPTER III**

## **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 29*

##### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 12, 15, 25 and 28 shall be conferred on the Commission until 31 December 2028.
3. The European Parliament or the Council may revoke the delegation of powers referred to in Articles 12, 15, 25 and 28 at any time. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall simultaneously notify the European Parliament and the Council thereof.
6. A delegated act adopted pursuant to Articles 12, 15, 25 and 28 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 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 30*

##### **Committee procedure**

1. The Commission shall be assisted by a Coordination Committee for the Asylum and Migration Fund, the Internal Security Fund and the instrument for border management and



visa. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act. This shall not apply to the implementing act referred to in Article 27(4).

#### *Article 31*

##### **Transitional provisions**

1. This Regulation shall not affect the continuation or modification of the actions concerned under the instrument for external borders and visa as part of the Internal Security Fund for the period 2014-2020, established by Regulation (EU) No 515/2014, which shall continue to apply to those actions until their closure.
2. The financial envelope for the instrument may also cover technical and administrative assistance expenses necessary to ensure the transition between the instrument and the measures adopted under its predecessor, the instrument for external borders and visa as part of the Internal Security Fund for the period 2014-2020, as established by Regulation (EU) No 515/2014.

#### *Article 32*

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

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

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

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

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
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### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

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

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

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

Proposal for a Regulation of the European Parliament and the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for border management and visa (BMVI).

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

Heading 4 (Migration and border management). Title 11. Border management

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

a new action

a new action following a pilot project/preparatory action<sup>61</sup>

the extension of an existing action

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

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

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

Facilitating legitimate travel, while preventing irregular migration and security risks, is a key objective of the agenda on migration. The European integrated border management strategy is being implemented by the European Border and Coast Guard, a close cooperation between its constituent parts, namely the European Border and Coast Guard Agency and the Member States' border guards.

On 14 March 2018, the Commission presented its policy approach to adapt the common visa policy to new challenges, including through a revision of the legal framework of the visa information system (VIS). The Commission also presented a legal proposal that addresses the existing divergent practices among Member States and ensures that visa-issuing rules can play a part in the Union's readmission policy.

To preserve and strengthen the Schengen area, Member States are obliged, since 6 April 2017, to carry out systematic checks against relevant databases on EU citizens who are crossing the EU's external borders. Furthermore, the Commission issued a Recommendation to Member States to make better use of police checks and cross-border cooperation. All of these policy objectives and actions will enable the EU to achieve its main goal of reinforcing the functioning of the Schengen area without internal border control; however, they will need to be underpinned with adequate EU funding.

To make a fully integrated EU border management system functioning, a strong and fully operational European Border and Coast Guard Agency needs to be ensured. Therefore, the Commission proposed to create a standing corps of around 10,000 border guards who would receive the necessary training and financial support thus increasing the national border guard component of the EBCG. Incorporating this

<sup>61</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

significant change may bring about the need to amend the mandate of the EBCG Agency in its capacity of the EU component of the EBCG.

In addition, EU funding should be able to address situations resulting from urgent and exceptional pressure on the EU external borders or other situations that require immediate action which cannot be addressed by Member States acting alone.

Without prejudice to any future policy development, any future leg 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 area of external border management are by their nature interlinked, transnational phenomena and cannot be adequately addressed by the Member States acting alone. Article 80 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 is the most effective way to fairly share these responsibilities and their financial implications between Member States. EU funding in this area is indispensable to ensure a strong and effective integrated border management while safeguarding the free movement of persons in the Schengen area. The EU's right to act in the area of home affairs derives primarily from Title V TFEU (Area of freedom, security and justice): carrying out checks on persons and efficient monitoring of the crossing of external borders (Article 77 TFEU).

#### Expected generated Union added value (ex post)

The challenges in the areas of the management of the external borders and common visa policy cannot be adequately addressed by the Member States acting alone.

The abolition of internal border controls must be accompanied by common measures for the effective control and surveillance of the Union's external borders as well as a common asylum and migration policy. This is necessary in order to preserve the Schengen area as an area without internal border controls, preventing and addressing any secondary movements. Article 80 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 EU is designed to create an area of freedom, security and justice, without internal borders for its citizens. In an era where terrorism and other serious crime operate across borders, both the EU and its Member States have a responsibility towards their citizens to deliver an area of security where individuals are protected, in full compliance with the Charter of Fundamental Rights of the European Union. In this regard, the Treaties envisage the need to ensure a high level of security, including through preventive measures, and through coordination and cooperation

between police, judicial and other competent authorities. Member States have the frontline responsibility for border management and security, but cannot address transnational threats effectively acting on their own. The tools need to be built at European level through which national authorities and, where relevant, international organisations can effectively work together to tackle shared challenges.

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

The proposal takes into account the results of the evaluation of the previous funding instrument in the area of border management and visa.

The scope of the current instrument is found to be sufficiently broad to address the wide array of issues in the areas of border management and visa. The external dimension of the instrument should be strengthened by adding adequate resources to the instrument to cover cooperation with and in third countries that can support the Union's objectives in the area of border management.

The evaluation found furthermore that there is a need for more flexibility, by having a well-balanced mix of shared, direct and indirect management to deliver the instrument, and not deciding on the management mode of the full funding envelope at the beginning of the programming period. This will also make it possible to steer the funds towards Union priorities as well as pressing challenges which cannot always be predicted or planned for from the onset.

Simplification was another topic of the evaluations, more specifically the need to establish common rules for programming, reporting and financial management and align the home affairs Funds with similar EU funding instruments.

Finally, the current common monitoring and evaluation framework should be built upon and further developed to result in a strengthened performance orientation of the instrument, as well as improved and more frequent reporting on the progress in achieving targets and milestones.

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

A number of other EU instruments will provide support to activities which are complementary to the activities that will be financed under this instrument.

First, the Customs Control Equipment Fund, which will together with this instrument support actions at the EU external borders aimed at ensuring a high level of security in the Union. Where this instrument will focus on control on persons, the Customs Control Equipment Fund will deal with the control on goods. The Customs Control Equipment Fund will fund all equipment, with the exception of the means of transport, of which at least one purpose is customs control. This can also include border management purposes, making the two funds complementary to one another.

Further synergies will be with the Asylum and Migration Fund. Whereas this instrument will support migration management in the context of border control, the Asylum and Migration Fund will do so as regards the asylum resettlement and return procedures.

This instrument will furthermore support the follow-up of relevant security research results, by providing support to the practical application and deployment of the results of such research.

The external dimension components of this instrument will support actions in and in relation to third countries which cater primarily for EU interests and objectives, have a direct impact in the EU and its Member States and ensure continuity with activities implemented in the territory of the EU. This funding will be designed and implemented in coherence with EU external action and foreign policy, by for example requiring that Member States consult the Commission prior to launching actions in or with third countries.

Finally, synergies will also be ensured with EU funding in the area of maritime surveillance and security as this instrument will enable, amongst others, the purchase of multipurpose equipment and means of transport. This will lead to maximisation of the available funding and will further foster the cooperation between relevant authorities on the maritime dimension.

## 1.5. Duration and financial impact

### limited duration

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

### unlimited duration

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

## 1.6. Management mode(s) planned<sup>62</sup>

### Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies<sup>63</sup>

### Shared management with the Member States

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

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

## Comments

The proposed instrument will be implemented in shared, 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.

<sup>62</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: <https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

<sup>63</sup> The programme might be (partially) delegated to an executive agency, subject to the outcome of the cost/benefit analysis and related decisions to be taken, and to the related administrative appropriations for programme implementation in the Commission and the executive agency being adapted accordingly.

## **2. MANAGEMENT MEASURES**

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

*Specify frequency and conditions.*

Direct/indirect management:

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

Shared management:

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

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

At the end of the period, each Member State will submit a final performance report. The final report should focus on the progress made towards achieving the objectives of the programme and should give an overview of the key issues that affected the programme's performance, the measures taken to address those issues and the assessment of the effectiveness of 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 and the follow-up given to those findings and the results of the communication actions.

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

A review meeting between the Commission and each Member State will be organised every two years to examine the performance of each 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 will carry out a mid-term and a retrospective evaluation of the actions implemented under this Fund, in line with the Common Provisions Regulation. 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 amongst 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 CPR proposal, which provides for an 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 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 Common Provisions Regulation. The new Financial Regulation and the 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 payments, based on the results achieved, instead of the cost. Beneficiaries will be able to receive a fixed amount of money if they prove that certain actions such as training courses or delivery of emergency assistance have taken place. This is expected to simplify the control burden both at beneficiary and Member State level (e.g. check of bills and receipts for costs).

For shared management, the CPR proposal<sup>64</sup> builds on the management and control strategy in place for the 2014-2020 programming period but introduces some measures aimed at simplifying the implementation and reducing the control burden at the level of both beneficiaries and Member States. The new developments include:

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

The programme authorities will submit to the Commission interim payment claims based on expenditure incurred by beneficiaries. The 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 CPR caps the Commission's interim payments at 90 %, given that at this moment only part of the national controls have been carried out. The Commission will pay the remaining balance following the annual clearance of accounts exercise, upon receipt of the assurance package from the programme authorities. Any irregularities detected by the Commission or the European Court of Auditors after the transmission of the annual assurance package may lead to a net financial correction.

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

Shared management:

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

<sup>64</sup> COM(2018) 375 final.

Provisions Regulation and their 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 other DGs managing funds under shared management.

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 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-compliance stem from poor financial management of the grants awarded to the beneficiaries, missing or inadequate supporting documents, incorrect public procurement, and costs not budgeted.

Consequently the risks are mainly due to:

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

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

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

Shared management:

The cost of controls is expected to remain the same or potentially be reduced for Member States. For the present (2014-2020) programming cycle, as of 2017, the

cumulative cost of control by the Member States is estimated at approximately 5 % of the total amount of payments requested by the Member States for the year 2017.

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

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

Direct/indirect management:

The cost of controls amounts to approximately 2.5 % of the payments made by DG HOME. This is expected to stay stable or slightly decrease in the event of the use of SCOs being broadened 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 prevention, detection and reparation of fraud, ensuring inter alia that its internal anti-fraud related controls are fully aligned with the Commission's anti fraud strategy (CAFS) and that its fraud risk management approach is geared to identifying fraud risk areas and adequate responses.

As regards shared management, Member States will ensure the legality and regularity of expenditure included in their accounts submitted to the Commission. In this context, Member States will take all required actions to prevent, detect and correct irregularities, including fraud. As in the present (2014-2020) programming cycle<sup>65</sup> 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.

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<sup>65</sup> Commission Delegated Regulation (EU) N 1042/2014 of 25 July 2014, Annex I; Commission Delegated Regulation (EU) N°2015/1973 of 8 July 2015.

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

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

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading No 4: 'Migration and border management'	Diff./Non-diff <sup>66</sup> .	from EFTA countries <sup>67</sup>	from candidate countries <sup>68</sup>	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
4	11.02.01 — Border Management and Visa Instrument (BMVI)	Diff.	NO	NO	YES	NO
4	11.01.01 — Border Management and Visa Instrument (BMVI) (Technical Assistance)	Non-diff.	NO	NO	YES	NO

<sup>66</sup> Diff. = differentiated appropriations / Non-diff. = non-differentiated appropriations.

<sup>67</sup> EFTA: European Free Trade Association.

<sup>68</sup> 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)

<b>Heading of multiannual financial framework</b>	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)	605.643	1 152.796	1 165.153	1 244.444	1 257.299	1 270.410	1 280.255	—	7 976.000
	Payments	(2)	39,834	73,210	308,262	830,687	1,223,613	1,211,502	1,206,009	3,082,882	7 976.000
Appropriations of an administrative nature financed from the envelope of the programme <sup>69</sup>	Commitments = Payments	(3)	5.654	5.767	5.882	6.000	6.120	6.242	6.335	—	42.000
<b>TOTAL appropriations for the envelope of the programme</b>	Commitments	=1+3	611.297	1 158.563	1 171.035	1 250.444	1 263.419	1 276.652	1 286.590	—	8 018.000
	Payments	=2+3	45,488	78,977	314,144	836,687	1,229,733	1,217,744	1,212,344	3,082,882	8 018.000

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

<sup>69</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former ‘BA’ lines), indirect research, direct research.

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	Post 2027	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
<b>TOTAL appropriations under Heading 7 of the multiannual financial framework</b>	(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	Post 2027	TOTAL
<b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b>	Commitments	621.83	1 170.24	1 184.28	1 263.69	1 276.67	1 289.90	1 299.84	-	8 106.44
	Payments	56,02	90,65	327,39	849,93	1.242,98	1.230,99	1.225,59	3.082,88	8 106.44

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

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

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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<b>HEADING 7 of the multiannual financial framework</b>								
Human resources	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
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>10.531</b>	<b>11.675</b>	<b>13.248</b>	<b>13.248</b>	<b>13.248</b>	<b>13.248</b>	<b>13.248</b>	<b>88.444</b>

<b>Outside HEADING 7<sup>70</sup> of the multiannual financial framework</b>								
Human resources								
Other expenditure of an administrative nature	5.654	5.767	5.882	6.000	6.120	6.242	6.335	42.000
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>	<b>5.654</b>	<b>5.767</b>	<b>5.882</b>	<b>6.000</b>	<b>6.120</b>	<b>6.242</b>	<b>6.335</b>	<b>42.000</b>

<b>TOTAL</b>	<b>16.185</b>	<b>17.442</b>	<b>19.130</b>	<b>19.248</b>	<b>19.368</b>	<b>19.490</b>	<b>19.583</b>	<b>130.444</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>70</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.



### 3.2.2.1. Estimated requirements of human resources

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

*Estimate to be expressed in full time equivalent units*

Years	2021	2022	2023	2024	2025	2026	2027
<b>• Establishment plan posts (officials and temporary staff)</b>							
Headquarters and Commission's Representation Offices	65	73	84	84	84	84	84
Delegations	3	3	3	3	3	3	3
Research							
<b>• External staff (in Full Time Equivalent unit: FTE) — AC, AL, END, INT and JED <sup>71</sup></b>							
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						
	- in Delegations						
Research							
Other (specify)							
<b>TOTAL</b>	<b>76</b>	<b>84</b>	<b>95</b>	<b>95</b>	<b>95</b>	<b>95</b>	<b>95</b>

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

Description of tasks to be carried out:

Officials and temporary staff	<p>The staff of 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 ISF (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><b>Planning, programming, relation with Agencies (+1 AST, + 2 AD):</b></p> <ul style="list-style-type: none"> <li>- providing input to the budgetary procedure,</li> <li>- making a link between funds and agencies (e.g. grants/delegation agreements to agencies) including 1 AD exclusively for the relation with Frontex.</li> </ul> <p><b>Audits, OLAF, ECA (+5 AD):</b></p> <ul style="list-style-type: none"> <li>- performing controls, as described above (<i>ex ante</i> verification, procurement committee, <i>ex post</i> audits, internal audit, clearance of accounts),</li> <li>- to follow up the audits managed by the IAS and the CoA.</li> </ul> <p><b>Direct management (+2 AST, +2 AD):</b></p> <ul style="list-style-type: none"> <li>- preparing annual work programmes/financing decisions, establishing annual priorities,</li> <li>- communicating with stakeholders (potential/actual beneficiaries, Member States, etc.),</li> <li>- managing calls for proposals and calls for tenders and the subsequent selection</li> </ul>
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<sup>71</sup> AC = contract staff; AL = local staff; END = seconded national expert; INT = agency staff; JPD = junior professionals in delegations.

	<p>procedures, - operational management of projects.</p> <p><b>Shared management (including TF) (+2 AST, + 6AD):</b> - 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><b>Synergies with other funds (+2 AD):</b> - coordination with the external dimension funds, - coordination in the context of the CPR, - synergies and complementarity with other funds.</p> <p><b>Financial management (+1 AST):</b> - financial initiation and financial verification, - accounting, - monitoring and reporting on achievement of objectives, including in annual activity report and authorising officer by sub-delegation reports.</p> <p><b>Staff for other directorates working on funding matters (+ 4 AD):</b> - 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	+ <b>2 AD</b> : To accompany the development of policy implementation in the home affairs area, and in particular its external dimension, EU delegations will need to be equipped with sufficient home affairs expertise. This could be staff from the European Commission and/or the European External Action Service.

### 3.2.3. Third-party contributions

The proposal/initiative:

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

Appropriations in EUR million (to three decimal places)

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

### 3.3. Estimated impact on revenue

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

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative <sup>72</sup>						
	2021	2022	2023	2024	2025	2026	2027
Article .....							

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

The exact amount will be determined by bilateral agreements between the Commission and individual Schengen-associated countries. The agreement will be negotiated in the future.

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

[...]

<sup>72</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after the relevant deduction for collection costs.